**AGENDA**

**Monday, March 30, 2015**

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

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

**1. Call to Order**

**2. Pledge of Allegiance**

**3. Roll Call**

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

03-16-2015

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

Appeal No. 2015-16 Use Variance to allow a Multi-Tenant Building with a Drive-Thru Use - 5201 N. Main St.

**6. Report of Special Committee**

**7. Ordinances on First Reading**

**8. Resolutions**

R2015-14 Declaratory Resolution - Wellpet, LLC - 1121 West 11th St.

**9. Ordinances on Second Reading**

P.O. NO. 2015-04 Rezone from C-1 General Com to R-1 Single Family - 502 West 6th St. (Assigned to Land Use Planning Committee)

P.O. NO. 2015-05 Amend PUD for Signage - Northwest corner of Jefferson Blvd and Byrkit Ave (Assigned to Land Use Planning Committee)

P.O. NO. 2015-06 Amend PUD to allow for Childcare Services - 235 W. University Drive (Assigned to Land Use Planning Committee)

P.O. NO. 2015-07 Amend PUD to allow for a Hotel - Toscana Park (Gumwood Rd) (Assigned to Land Use Planning Committee)

**10. Privilege of the Floor – Non-Agenda Items**

**11. Unfinished Business**

R2015-13 Use Variance to allow a Drop-Off Donation Center corner of 1231 LWW and Logan St

**12. New Business**

**13. Adjournment**

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

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
March 16, 2015

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday March 16, 2015, at 7:00 p.m. The meeting was called to order by Council Vice President Banicki and all were asked to stand for the Pledge of Allegiance.

**Roll Call. Roll Call.**
**Present: John Reisdorf, Ron Banicki, Kat Voelker, John Roggeman, Mike Compton, Mike Bellovich, Dan Bilancio, Matt Mammolenti. Absent/Excused: Woody Emmons.**

The minutes from the March 2. 2015 meeting were approved as received from the City Clerk's Office.

Deputy Clerk Hazen read a letter from the Board of Zoning Appeals Recommendations from there, March 10, 2015 Public Hearing.

The Board, with a vote of 3-0, forwarded a favorable recommendation subject to the following conditions:

1. The tower shall not exceed more than 195' in height.
2. An Administrative Site Plan shall be submitted for the property. The site plan shall be consistent with the general standards identified in the schematic site plan submitted.
3. Care shall be taken to preserve a significant number of trees west and south of the proposed tower location. Existing trees to be preserved shall be surveyed and identified on the Administrative Site Plan and shall be subject to staff review and approval. Placement of the tower may need to be shifted to the east, but should maintain a 5' setback. Existing vegetation shall be supplemented with new evergreen trees depending on the ability to save existing vegetation. Evergreen trees shall be plated in sparse areas and shall not exceed a 15' X 15' triangular spacing with a minimum installed height of 8'.
4. The proposed access shall be paved.

**APPEAL #15-11** An appeal submitted by Maurice Bokhart (purchaser) on behalf of Thomas W. Mittler Family Trust (owner) requesting a Use Variance for **403 South Main Street** to permit the warehousing, resale, detailing, and rental of high-end, luxury automobiles.

The Board, with a vote of 3-0, forwarded a favorable recommendation subject to the following conditions:

1. Outdoor parking of vehicles may be allowed. However, vehicles shall be parked only in the existing on-site parking spaces and the required number of parking spaces for industrial, one (1) space per employee at maximum shift, shall be maintained. A site plan shall be submitted showing location of proposed parking.

2. A grease/grit interceptor shall be installed per the Department of Engineering.
3. No Auto-mechanical and/or auto-body work may be performed on the property.

**APPEAL #15-12** An appeal submitted by Kai Nielson (leaseholder) on behalf of Bruce Gafill III (Owner) requesting a Use Variance for **1231 Lincolnway West** to permit a collection/distribution center in a C-1 General Commercial District and various Developmental Variances for parking, landscape, and setbacks.

The Board, with a vote of 3-0, forwarded a favorable recommendation.

**PETITION #15-05** A request submitted by the City of Mishawaka Redevelopment Commission requesting to rezone **502 West Sixth Street** from C-1 General Commercial District to R-1 Single Family Residential District.

The Commission, with a vote of 7-0, forwarded a favorable recommendation.

**PETITION #15-06** A request submitted by Black Gold LLC requesting an amendment to the Highlands Development Planned Unit Development for signage at the **northwest corner of Jefferson Boulevard and Byrkit Avenue**.

The Commission, with a vote of 7-0, forwarded a favorable recommendation subject to the following conditions:

1. To allow the development sign and the individual outlot sign to be combined into a single sign.
2. To allow this sign to have a maximum 135 square feet of display area to include name of the development, name/logo of fuel brand, LED price sign, and five additional business signs.
3. To allow the overall height of this sign to be 13'6", consisting of a 3' base, 9' sign cabinet, and 1'6" architectural enclosure on top.

**PETITION #15-07** A request submitted by DF Properties LLP requesting to amend the Park Plus Planned Unit Development to permit childcare services at **235 West University Drive**.

The Commission, with a vote of 7-0, forwarded a favorable recommendation.

**PETITION #15-08** A request submitted by Toscana Realty, LLC, requesting to amend the Toscana Park Planned Unit Development to permit a hotel with maximum height of 59', and an additional freestanding monument sign located on Gumwood Road.

The Commission, with a vote of 7-0, forwarded a favorable recommendation subject to the following conditions:

1. The maximum building height for the hotel shall be limited to 59'.
2. The total number of parking spaces for the existing commercial uses may be reduced to 4 parking spaces per 1000 sf of building area for the internal non-outlot portion of the development.
3. An additional free-standing monument sign may be installed along Gumwood Road for the identification of the hotel subject to Staff review and approval of a signage master plan for Gumwood Road which includes signage for the outlot parcels. Signage shall comply with the overlay signage district standards.

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 **PROPOSED ORDINANCE NO. 2015-04** opening it for public hearing.

**PROPOSED ORDINANCE NO. 2015-04**

**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 1066" OF THE CITY MISHAWAKA, INDIANA**

(Rezone from C-1 General Commercial to R-1 Single Family 502 West 6th Street)
(Assigned to Land Use Planning)

Deputy Clerk Hazen opened **PROPOSED ORDINANCE NO. 2015-05** For public hearing no vote would be taken at this meeting.

**PROPOSED ORDINANCE NO. 2015-05**

**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 1066" OF THE CITY MISHAWAKA, INDIANA**

(Amend PUD for Signage – Northwest corner of Jefferson Blvd. and Byrkit Ave)
(Assigned to Land Use Planning Committee)

Deputy Clerk Hazen opened **PROPOSED ORDINANCE NO. 2015-06** For public hearing no vote would be taken at this meeting.

**PROPOSED ORDINANCE NO. 2015-06**

**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 1066" OF THE CITY MISHAWAKA, INDIANA**

(Amend PUD to allow for Childcare Services – 235 West University Drive)
(Assigned to Land Use Planning Committee)

Deputy Clerk Clerk opened **PROPOSED ORDINANCE NO. 2015-07** For public hearing no vote would be taken at this meeting.

**PROPOSED ORDINANCE NO. 2015-07**

**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 1066" OF THE CITY MISHAWAKA, INDIANA**

(Amend PUD to allow for a Hotel – Toscana Park (Gumwood Road)
(Assigned to Land Use Planning Committee)

Deputy Clerk Hazen read **RESOLULTION NO. 2015-07** Honoring Penn High School State Champion Wrestler Chase Osborn.

**RESOLUTION NO. 07**

**Honoring Penn High School State Champion Wrestler Chase Osborn.**

Brad Harper 58181 Apple Road, Osceola, Head Coach for Penn High School Wrestlers said he was proud of Chase Osborn for his great grade point average and was a team player all the way, he was very humble and won his matches as a champion.

Mr. Roggeman said winning a state championship was very difficult and he wanted Chase to know how proud he was of him and for him. He also was glad to hear that he had a good grade point average as well. Mr. Roggeman said he would be watching Chase as he moved forward.

The question was called for at 7:11 p.m. on **RESOLUTION NO. 2015-07** the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Dan Bilancio, John Reisdorf, John Roggeman, Kat Voelker, Matt Mammolenti, Mike Bellovich, Mike Compton, Ron Banicki.

Deputy Clerk Hazen read **RESOLULTION NO. 2015-08** Honoring Penn High School State Champion Wrestler Kobe Woods.

**RESOLUTION R2015-08**

**Honoring Penn High School State Champion Wrestler Kobe**

Brad Harper, head Coach for Penn High School Wrestlers said he was very proud of Kobe Woods, a junior, with a great grade point average, he was a great leader and worked with younger wrestlers. Coach Harper said it will be great having him back next year.

Mr. Roggeman congratulated both young men for their accomplishments, saying they have set goals for themselves and reached those goals.

Question was called for at 7:22 p.m. on **RESOLUTION NO. R2015-08** the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Dan Bilancio, John Reisdorf, John Roggeman, Kat Voelker, Matt Mammolenti, Mike Bellovich, Mike Compton, Ron Banicki.

Deputy Clerk Hazen read **RESOLUTION NO. R2015-09** Honoring the 2015 Penn High School Wrestling Team.

**RESOLUTION R2015-09**

**Honoring the Penn High School Wrestling Team**

Al Smith 912 Homewood Avenue strongly encouraged the Mishawaka Council to pass this Resolution for this highly talented group of young men.

Coach Chad Hersberger thanked the City and Council for honoring them Coach Harper's determination and hard work has paid off.

Coach Brad Harper said he has been building this team for 8 years it was not only the champions that won this it took points from the team wrestlers. He said he took five guys in a room and told them it was up to them to get as many points as they could to win this. Coach Harper said Joey Mammolenti pinned his opponent for contributing points to the team as a whole, which helped them win it all. Mr. Harper said Mishawaka was his home he wrestled under Coach Al Smith; it was great to come home with this championship.

Dr. Jerry Thacker Superintendent, 747 River Point Place said excellence happens by design not chance. He said he was very proud of the representation of these student athletes.

Mr. Compton thanked Dr. Thacker for what they do at Penn High School. He said it took hard work by everyone involved to get this far.

Mr. Banicki said all the time, dedication put into this was unbelievable sports and academics go hand and hand, great job.

Question was called for at 7:45 p.m. on **RESOLUTION NO. R2015-09** the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Dan Bilancio, John Reisdorf, John Roggeman, Kat Voelker, Matt Mammolenti, Mike Bellovich, Mike Compton, Ron Banicki.

Deputy Clerk Hazen read **RESOLUTION R2015-10** opening it for public hearing.

**RESOLUTION R2015-10**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION ADOPTING A WRITTEN FISCAL PLAN AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTIES LOCATED AT:** South of 226 South Elder Road, Mishawaka, Indiana

Ken Prince, City Planner said over an acre of this property was split and part of it was in the city and the other in the county when annexed they would be hooking to city services.

Question was called for at 7:48 p.m. on **RESOLUTION NO. R2015-10** the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Dan Bilancio, John Reisdorf, John Roggeman, Kat Voelker, Matt Mammolenti, Mike Bellovich, Mike Compton, Ron Banicki.

Deputy Clerk Hazen read **RESOLUTION R2015-11** opening it for public hearing.

**RESOLUTION R2015-11**

**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 AT:** West and Adjacent to Tanglewood Trace, Mishawaka, Indiana

Ann Hayes, 814 Marietta Street, South Bend with Verison Wireless said they need a Cell Tower at Grape and Day Road to enhance the coverage. She said they talked with the neighbors, Joers Floor Covering and St. Pius who owns land in that vicinity. Ms. Hayes said everyone was in agreement with the 195 foot monopole enclosed by a chain link fence the existing trees will remain in place and they would be working with the city regarding the landscaping.

Mr. Roggeman asked if the 195 foot pole was normal. Ms. Hayes said that was as high as they could go with it not having lights on it.

Mr. Mammolenti asked if they received support from the neighbors how was that done. Ms. Hayes stated a sample letter they wrote to the surrounding neighbors was enclosed in their packet and they also went door to door.

Question was called for at 7:54 p.m. on **RESOULTION R2015-11** the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Dan Bilancio, John Reisdorf, John Roggeman, Kat Voelker, Matt Mammolenti, Mike Bellovich, Mike Compton, Ron Banicki.

Deputy Clerk Hazen read **RESOLUTION NO. R2015-12** opening it for public hearing.

**RESOLULTION R2015-12**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED**
**AT:** 403 South Main Street Mishawaka, Indiana

Maurice Bokhart 16400 Kern Road, Mishawaka, said he was requesting a rezoning for a used car show room at 403 South Main Street that is presently zoned Light Industrial. Mr. Bilancio asked for the times of operation. Mr. Bokhart said 8:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 2:00 p.m. on Saturday.

Ms. Voelker asked if he thought there would be a parking issue. Mr. Bokhart stated all displayed vehicles would be inside the building and they are high end cars that sell mostly on the internet, very little parking would be needed. He said it would employees mostly.

Ms. Voelker asked why he decided to do this here. Mr. Bokhart explained he has lived here his entire life school and church, Fort Wayne has a successful business doing this so he felt why not Mishawaka.

Mr. Mammolenti asked how many vehicles he would have in this display area. Mr. Bokhart said it was a 9,000 square foot show room so it would take a while to accumulate, he anticipates 20 to 23, and the showroom would hold approximately 30. He said some of the cars would be on consignment. Mr. Mammolenti asked how fast do these vehicles move. Mr. Bokhart stated 60 to 90 days. Mr. Mammolenti asked how these cars would be delivered? Mr. Bokhart replied that most of them would be shipped.

Mr. Banicki asked how many properties would be involved in the rezoning. Mr. Bokhart said from Main Street to Spring Street along the RR track, it would all be classified under one tax ID number. Mr. Banicki asked how many employees he would have. Mr. Bokhart said 2.

Question was called for at 8:03 p.m. on **RESOLUTION NO. R2015-12** the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Dan Bilancio, John Reisdorf, John Roggeman, Kat Voelker, Matt Mammolenti, Mike Bellovich, Mike Compton, Ron Banicki.

Deputy Clerk Hazen read **RESOLUTION NO. R2015-14** opening it for public hearing.

**RESOLUTION NO. R2015-13**

**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: 1231 LINCOLNWAY WEST**

Greg Keil 1126 Lincoln Way East said he was representing Planet Aid said this building has been vacant for 10 years and needs repair and landscaping. He said it would be used for a regional drop off center with 2 boxes West of Building and 1 drop box inside. He said there would be staff people outside and piling up would be watched.

Ms. Voelker asked if there would be any panel trucks parked outside overnight. Mr. Keil said no, this would be only a consolidation center that would be checked on twice a day. He said they anticipate 2 to 3 thousand pounds a day and 75 thousand to 100 thousand pounds a week, they would be hiring someone locally to stop and check on the site twice a day to make sure nothing was left outside.

Ms. Voelker asked if they were not keeping the houseware items what do they do with those things. Mr. Hinterleiter said they receive houseware items on average totaling up to 2,500 pounds or more they donate to the Salvation Army.

Mr. Mammolenti asked how many times they empty and move these bins of clothing and shoes. Mr. Hinterleiter said twice a month they move it to Fort Wayne and Cleveland, Ohio. Mr. Mammolenti asked if a couch or a TV was dropped off how long would it be before they removed it from the site. Mr. Hinterleiter said they would be paying a good wage to someone to manage, cut the grass, and do inside and outside cleaning and it will be checked twice a day Monday through Saturday.

Mr. Banicki said Lincolnway was the gateway to Mishawaka how can they be reassured it will always be cleaned up. Mr. Hinterleiter stated there would be surveillance cameras and they could monitor from their hub office. He said they pay higher wages to have more responsible people. Mr. Hinterleiter said they have 11 employees 7 have been with them for 9 years.

Ms. Voelker asked about the many windows this building has. Mr. Hinterleiter stated you would not be able to see in these windows.

Mr. Bokhart 16400 Kern Road said there was a vacant house next to this vacant garage and having this distribution center located here may hinder the chances of that property selling. He said he also had a problem with local money not staying local

Ms. Voelker made a motion to post pone this to the next Council Meeting, March 30, 2015 with a second by Mr. Reisdorf the motion carried.

Deputy Clerk Hazen read **PROPOSED ORDINANCE NO. 2015-03** opening for public hearing. She stated this would be a vote only.

**PROPOSED ORDINANCE NO. 2015-03**

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

(Annex and Zone I-2 Heavy Industrial – South of Conrail RR adjacent to 226 S. Elder)

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Dan Bilancio, John Reisdorf, John Roggeman, Kat Voelker, Matt Mammolenti, Mike Bellovich, Mike Compton, Ron Banicki. Thus it becomes (**ORDINANCE NO. 5479)**

**NEW BUSINESS**

Mr. Roggeman said he wanted to congratulate Matt Mammolenti for his induction into the Mishawaka High School Hall of Fame. Each of the council members congratulated Matt on such a great accomplishment. Mr. Roggeman said he wanted to name for the record all of the inductees:

Jennifer Zimmerman
Mark Adams
Vince Gresham
Mary Hintz
Andrea Harban
Tom Klaer
Matt Mammolenti
Mike O'Keefe

Adjournment 8:36 p.m.

Chief Deputy City Clerk Mary Ellen Hazen___
Chief Deputy City Clerk Mary Ellen Hazen

Ron Banicki _____
Ron Banicki, Vice President
Presiding Officer

RECEIVED
DEBORAH S. BLOCK, MMC
MAR 26 2015
CITY CLERK
MISHAWAKA, IN

Date: March 20, 2015

Mishawaka Board
of Zoning Appeals

RE: Land Use and Variance Requests

FOR: Relaxation Investments LLC
509 West Washington Street
South Bend, Indiana 46601

Petition Address: 5201 North Main Street,
~~Granger~~ MISH, Indiana 46530~~-~~ 45

The undersigned appellants respectfully show the Board:

1). That they are the owners of the below-described real estate located in the City of Mishawaka, Indiana, to-wit:

That part of the Northeast Quarter of Section 33, Township 38 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, being described as follows: Commencing at the Northwest corner of the Northeast Quarter of said section 33; thence S. 00°-00'-05" W. along the West line of the Northeast Quarter of said Section 33 a distance of 777 feet to a point; thence N. 89°-59-55" E. along the North line of land conveyed to Meijer, Inc. in Deed Record 94-19282 and said line extended a distance of 871.30 feet to a point; thence N. 00°-00'-05" E. along the Northerly line of said Meijer land a distance of 300 feet to a point; thence N. 89°-59'-55" E. along the Northerly line of said Meijer land a distance of 450 feet to a point; thence S. 00°-00'-05" W. along the East line of said Meijer land a distance of 300 feet to the Southwest corner of land conveyed to David R. Garfin in Deed Record 97-37787; thence S. 70°-00'-05" E. along the Southerly line of said Garfin land a distance of 299.79 feet to the Southeast corner of said Garfin land on the Westerly line of Main Street; thence S. 19°-59'-55" W. along the Westerly Line of said Main Street a distance of 238.95 feet to the place of beginning of this description: thence N. 70°-02'-35" W. a distance of 319.00 feet to a point on the Easterly line of said Meijer land; thence S. 00°-00'-05" W. along the East line of said Meijer land a distance of 217.38 feet to a point; thence S. 70°-00'-05" E. along the Northerly line of said Meijer land a distance of 244.52 feet to a rebar on the West line of said Main Street; thence N. 19°-59'-55" E. along the West line of said Main Street a distance of 204.50 feet to the point of beginning.
Containing 1.32 acres more or less.
Subject to all legal highways, easements and restrictions of record.

ALSO Commonly known as 5201 North Main Street, ~~Granger~~ MISH, Indiana 46530~~-~~ 45

MAR 25 2015

2). The above described real estate presently has a Zoning classification of "C-1" COMMERCIAL DISTRICT" under the Zoning Ordinance of the City of Mishawaka.

3). The Appellants have been the owners of the property as shown in the records of the County Auditor's Office. The property is

AP 15-16

presently vacant. The Appellants have been approached by an interested party who desires to acquire the property and develop a multi-tenant building on the site which would contain a "Potbelly Sandwich Shop" restaurant with drive-thru, a "Qdoba" restaurant with no drive-thru and two small retail tenants. Access would be from Main Street as well as an existing driveway along the South property line which services the Meijer facility from said Main Street.

Based on discussions with the City's Planning staff and review of the City's Zoning Ordinance, a multi-tenant building which includes more than two tenants requires a "C-2" Commercial District classification. The "C-2" zoning also carries with it extensive setback requirements for buildings, parking & pavement, a minimum acreage limit and limitation on building coverage. The proposed restaurant with a drive-thru requires a "C-7" Commercial District classification. Based on the existing zoning ordinance, this proposed development would require a property with a split zoning and a request for approval of several developmental variances from the zoning standards. The preference from discussions with the Planning Commission staff was to request a "Land Use" Variance for the proposed number of tenants in a single building and to allow for the restaurant with a drive-thru facility. The proposed development would also require only a few variances from the developmental standards to allow for a reduction in parking and parking spaces within 5 ft. of a property line. By going through the request for a "Land-Use" variance, this would leave the property as "C-1" Commercial which fits with the surrounding area and would allow the placement of any necessary restrictions on the proposed commercial use. As mentioned above, the request for the "Land Use" variance also requires approval of a few Variances to allow the property to be developed within the "C-1" Commercial District. The Variances relate to developmental standards required for "C-1" Commercial uses. The Variances are in regards to the location of pavement for parking of vehicles, and the number of parking spaces being provided for the proposed uses.

4). After discussions with the Mishawaka Planning Staff and as stated above, it was determined that in order to allow for the proposed commercial development, the best procedure would be to request approval of Land Use Variance in an "C-1" Commercial District for a four (4) Unit multi-tenant building with a restaurant containing a drive-thru facility. This process would help to maintain the existing Commercial character of the area and not introduce a more intense Zoning classification into the established commercial use area. This would help maintain the existing character of the area.

5). The Appellants are also requesting a few Variances from Developmental standards for the "C-1" Commercial District classification for the operation of the multi-tenant building with a restaurant containing a drive-thru facility.

The first Variance request is to allow for parking spaces to encroach into the 5 ft. wide setback along the West property line to a minimum of 1 foot. This request will allow for the proposed development to maximize the landscape area along the Main Street

frontage where over-story deciduous trees and a small shrub screen planting area will be placed to enhance the Main Street streetscape. Over-story trees will also be placed along the sites side and rear yard areas as well. The Appellants do not believe approval of this Variance would adversely affect any surrounding property.

The last Variance request is to allow a reduction in the amount of on-site parking spaces being provided for the proposed two small retail uses and two restaurant uses. Per the zoning ordinances the parking requirement for retail uses is 5 spaces per 1,000 square feet of gross floor area under the "C-2" Commercial Shopping Center District. The proposed plan would provide 4 spaces per 1,000 square feet of gross floor area for retail uses which would be 16 spaces instead of the required 20 spaces. Retail uses under other Commercial District classifications only require 4 spaces per 1,000 square feet of gross floor area. The Appellants believe by matching the 4 spaces per 1,000 sq.ft. requirement, they are meeting the intent of the zoning ordinance. The two restaurant uses, "Potbelly Sandwich Shop" and "Qdoba" would be required to provide 50 spaces at 10 spaces per 1,000 sq.ft. of floor area. The proposed development would provide 22 spaces for the "Potbelly Sandwich Shop" instead of 24 spaces for their approximate 50 seat restaurant and 23 spaces for the "Qdoba" instead of 26 spaces for their approximate seat restaurant. The Appellants would ask for the parking space reduction for each restaurant use. The Appellants would also agree to allow the approval of the parking reduction for the restaurant uses to be tied to the two stated restaurants. That condition would allow the staff the ability to require the Appellants to re-apply for a parking variance reduction if the restaurant(s) were to change franchises and a different named restaurant were to move into the development, that the staff felt required more parking. The Appellants do not believe approval of this Variance would adversely affect any surrounding property.

6). The Appellants and contingent purchasers would state that if the proposed Land Use Variance and Developmental standard Variances were approved, it would not adversely affect the adjacent properties or the surrounding neighborhood. The Appellants and contingent purchasers would hope that the Board Members would agree, that the allowing the proposed multi-tenant building with a restaurant containing a drive-thru facility, meets the intent of the requested Land Use Variance and Developmental standards within the "C-1" Commercial District.

For the above stated reasons, the Appellants and contingent purchasers would contend that approval of the Land Use Variance and Developmental standards Variances would not be injurious to the public health, safety, morals and general welfare of the Community. The use and value of the area adjacent to the property included in the above requests will not be affected in a substantially adverse manner. The need for the above requested Land Use Variance and Developmental standard Variances arises from a condition peculiar to the Appellant's property and that the strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the Appellant's property. The Appellants and

contingent purchasers would also state that approval of the requested Land Use Variance and Developmental standard Variances would not interfere substantially with the Comprehensive Plan for this entire area.

The Appellants and contingent purchasers therefore prays and respectfully requests a hearing on this appeal and that after such hearing the Board recommends approval of the Land Use Variance and approves the requested Developmental standard Variances.

For Relaxation Investments, LLC
509 West Washington Street
South Bend, Indiana 46601
232-5988
THOMAS M. WALZ, MANAGING MEMBER

LEGAL DESCRIPTION

That part of the Northeast Quarter of Section 33, Township 38 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, being described as follows: Commencing at the Northwest corner of the Northeast Quarter of said section 33; thence S. 00°-00'-05" W. along the West line of the Northeast Quarter of said Section 33 a distance of 777 feet to a point; thence N. 89°-59-55" E. along the North line of land conveyed to Meijer, Inc. in Deed Record 94-19282 and said line extended a distance of 871.30 feet to a point; thence N. 00°-00'-05" E. along the Northerly line of said Meijer land a distance of 300 feet to a point; thence N. 89°-59'-55" E. along the Northerly line of said Meijer land a distance of 450 feet to a point; thence S. 00°-00'-05" W. along the East line of said Meijer land a distance of 300 feet to the Southwest corner of land conveyed to David R. Garfin in Deed Record 97-37787; thence S. 70°-00'-05" E. along the Southerly line of said Garfin land a distance of 299.79 feet to the Southeast corner of said Garfin land on the Westerly line of Main Street; thence S. 19°-59'-55" W. along the Westerly Line of said Main Street a distance of 238.95 feet to the place of beginning of this description: thence N. 70°-02'-35" W. a distance of 319.00 feet to a point on the Easterly line of said Meijer land; thence S. 00°-00'-05" W. along the East line of said Meijer land a distance of 217.38 feet to a point; thence S. 70°-00'-05" E. along the Northerly line of said Meijer land a distance of 244.52 feet to a rebar on the West line of said Main Street; thence N. 19°-59'-55" E. along the West line of said Main Street a distance of 204.50 feet to the point of beginning.
Containing 1.32 acres more or less.
Subject to all legal highways, easements and restrictions of record.

ALSO Commonly known as 5201 North Main Street, ~~Granger~~ Mish, Indiana 46530 ~~30~~ 45.

Mishawaka Board of Zoning Appeals
Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

March 20, 2015

RE: Relaxation Investments LLC,
Land Use & Variance Requests for
5201 North Main Street, ~~Granger~~ Mish, In:

Dear Board Members and Council Members,

This letter is to inform the Board Members that we have granted authority to Danch, Harner & Associates to represent us at the Mishawaka Board of Zoning Appeals meeting at which our Land Use Variance and Developmental Standard Variance Requests will be heard.

If you have any questions concerning this matter, please feel free to give me a call at 232-5988.

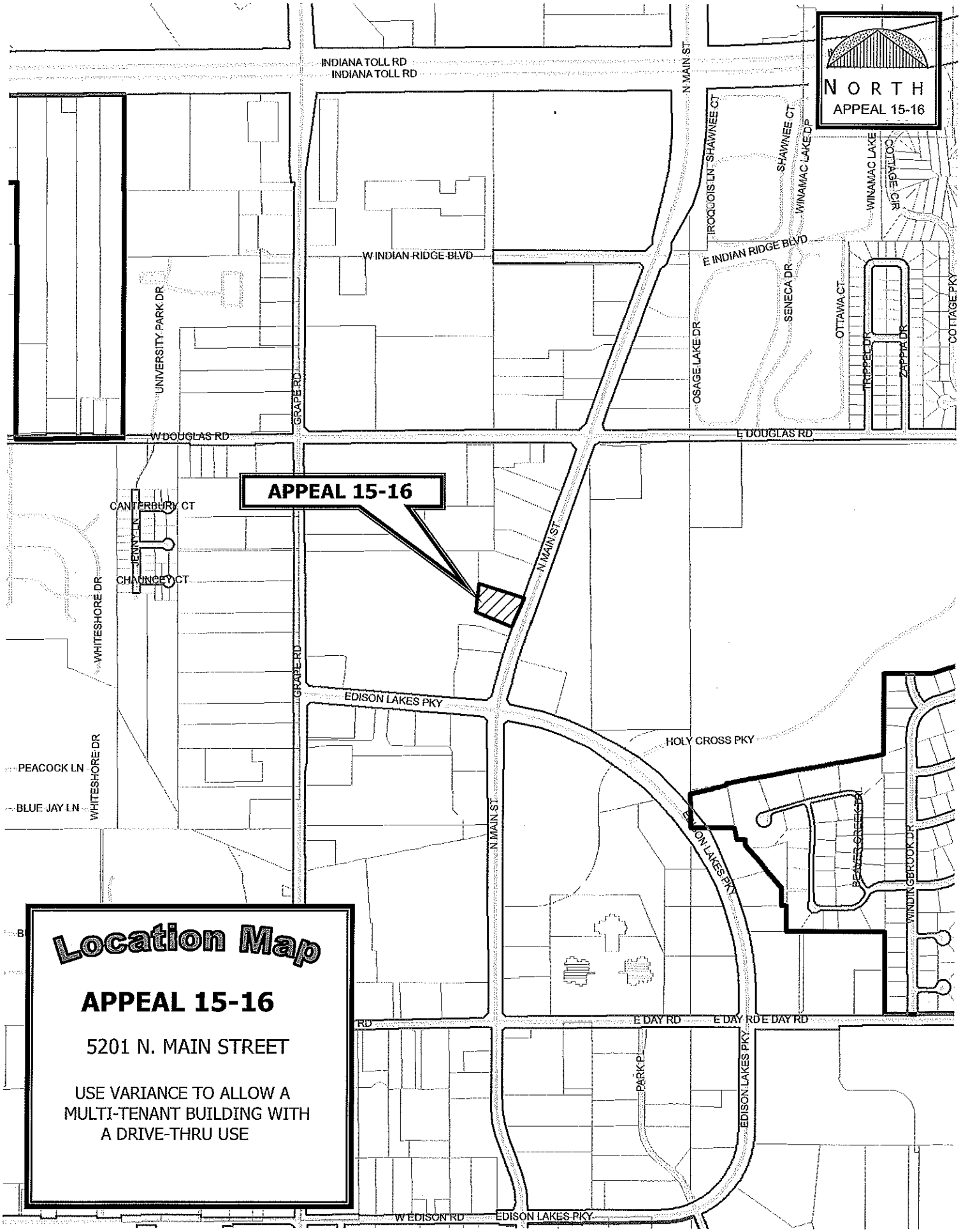
Sincerely,

Managing Member

For Relaxation Investments LLC
THOMAS M. WACL, MANAGING MEMBER

File No. 150120

MAR 25 2015




# Location Map

## APPEAL 15-16

5201 N. MAIN STREET

USE VARIANCE TO ALLOW A MULTI-TENANT BUILDING WITH A DRIVE-THRU USE

RECEIVED
DEBORAH S. BLOCK, MMC
MAR 25 2015
CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. R 2015- 14

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

**WellPet L.L.C .**

DECLARATORY RESOLUTION

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

A lot or parcels of land described as follows:

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

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

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

More commonly known as 1121 West 11th Street

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

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

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

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

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

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

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

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

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

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

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

**ADOPTED** by the Common Council of the City of Mishawaka, Indiana, St. Joseph County, Indiana, this 30th day of March, 2015.

_____
Dale "Woody" Emmons, President

ATTEST:

_____
Deborah S. Block, City Clerk

PRESENTED by me to the Mayor of the City of Mishawaka, Indiana, on this _____ day of _____, 2015.

_____
Deborah S. Block, City Clerk

APPROVED AND SIGNED by me this _____ day of _____, 2015, at _____ o'clock ____.M.

_____
David A. Wood, Mayor

# CITY OF MISHAWAKA

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

March 25, 2015

RECEIVED
DEBORAH S. BLOCK, MMC
MAR 25 2015
CITY CLERK
MISHAWAKA, IN

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

Re: Declaratory Resolution 2015-14, Tax Abatement- WellPet LLC, 1121 West 11th Street

Dear Council Members and Clerk:

Attached is Declaratory Resolution 2015-14 for a tax abatement request that has been filed for consideration at your Monday March 30th Meeting. The request is for WellPet LLC which is proposing to add equipment to their manufacturing facility at 1121West 11th Street, in the City of Mishawaka. WellPet is looking to invest approximately $1,800,000 in equipment for a new high speed packaging line that they are hoping to install in late 2015. They are looking to retain their current 115 employees and add an additional 4 jobs as a result of the investment. In working with staff, they are requesting a standard five - year abatement on the proposed equipment. A copy of their application and relevant materials has been attached for your review and information with the staff prepared resolution.

As you are aware, Tax Abatement requests before the Common Council are considered in two steps. The first step is the Declaratory Resolution where the abatement is essentially accepted for consideration. Once the Declaratory Resolution is approved, the Clerk's Office has specific advertising requirements to notify other taxing entities within the jurisdiction that could be impacted by the abatement. This allows for input from those other taxing units prior to the Council's consideration and vote on the request. The second step is the hearing and consideration of a confirming resolution where the merits of the request are considered. The only item being considered at the March 30th meeting is the declaratory resolution, which staff is recommending approval of to allow the appropriate advertising to take place. If approved, staff will prepare a more detailed analysis of the request as part of your consideration of the confirming resolution.

Please do not hesitate to contact me with any questions.

Sincerely,

Kenneth B. Prince, ASLA, AICP
City Planner

Cc: David A. Wood, Mayor



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

WellPet
at the heart of all we do

March 17, 2015

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

Dear Mr. Prince,

WellPet, a manufacturer of natural pet food and treats, is requesting a 5 year, Personal Property Abatement for new equipment for our Mishawaka facility. It is a new High Speed Packaging Line that will allow us to increase our production capacity and invest in our community. The project is approximately $1.8 million dollars and is proposed for install in late 2015.

Today our small bag packaging machines, which are an integral part of our production process, are a constraint due to the speed at which they pack. A more efficient, high-speed, packaging line will opportunity for more production. In addition, the market is indicating increased demand for smaller bagged consumer product. This investment positions WellPet for additional employment and investment in the Mishawaka community.

The High Speed Packaging Line is another example of WellPet's continued desire to strengthen the city in which we do business. In the last 5 years, we have invested more than $23 million into our facility, more than tripling our workforce (35 to 115). We have sparked investment in the community related to the development and ongoing business. This new project will also provide similar benefits to Mishawaka including adding an additional 4 employees. We are committed to nutritional innovation, product quality, and safety. Continually investing in our facility allows us to bring the best and safest natural foods to the pets who depend on us.

No abatement was sought in 2012 for the $20 million investment. As a result, the tax increase associated with it is a limiting factor for our further expansion. An abatement for the High Speed Packaging Line would benefit WellPet by allowing us to further expand our facility in the future.

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

Thank you,

Michelle Tatgenhorst
Plant Controller

# STATEMENT OF BENEFITS
# PERSONAL PROPERTY

State Form 51764 (R3 / 12-13)
Prescribed by the Department of Local Government Finance

**FORM SB-1 / PP**

**PRIVACY NOTICE**

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

*INSTRUCTIONS*

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

## SECTION 1 TAXPAYER INFORMATION

| Name of taxpayer | Name of contact person |
|---|---|
| WellPet LLC | Michelle Tatgenhorst |

| Address of taxpayer *(number and street, city, state, and ZIP code)* | Telephone number |
|---|---|
| 1011 West 11th Street | ( 574 ) 259-7834 |

## SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT

| Name of designating body | Resolution number (s) |
|---|---|
| Mishawaka Common Council | |

| Location of property | County | DLGF taxing district number |
|---|---|---|
| 1121 West 11th Street., Mishawaka, IN 46544 | St. Joseph | 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 | ESTIMATED 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 | Salaries | Number retained | Salaries | Number additional | Salaries |
|---|---|---|---|---|---|
| 115 | $3,898,000 | 115 | $3,898,000 | 4 | $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.( | | | | | | | |
| Plus estimated values of proposed project | 1,800,000.0( | | | | | | | |
| Less values of any property being replaced | | | | | | | | |
| Net estimated values upon completion of project | 16,705,633.( | | | | | | | |

## 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)* |
|---|---|
| Michelle Tatgenhorst | 03/17/2015 |

| Printed name of authorized representative | Title |
|---|---|
| Michelle Tatgenhorst | Controller |

## FOR USE OF THE DESIGNATING BODY

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

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

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

1. Installation of new manufacturing equipment; ☐ 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 $ _____ cost with an assessed value of $ _____.

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

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

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

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

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

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

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

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

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

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

**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.

# City of Mishawaka
## Building - Community Development - Planning

APPLICATION FOR DESIGNATION AS AN ECONOMIC REVITALIZATION AREA

# PERSONAL PROPERTY TAX ABATEMENT

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

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

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

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

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

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

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

WellPet LLC

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

Name and Title: Michelle Tatgenhorst, Plant Controller

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

Telephone: 574-259-7834 ext. 243

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

Name and Title: Michelle Tatgenhorst, Plant Controller

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

Telephone: 574-259-7834 ext. 243

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

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

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

   c) Taxing District Number: 71-023

   d) Council District Number: 1st District

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

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

   Land: $115,800

   Improvements: $3,584,200

   Inventory: $0

Equipment: $7,793,930

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

7. Does your firm currently conduct manufacturing operations at this location? If so, how long has your company been at this location? Yes. We purchased this existing facility 6 years ago.

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

b) Please list any special certifications/designations.
AIB

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

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

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

Approximately 100,000 sq ft

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

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

11. Briefly describe the equipment to be installed by your company. High Speed Packaging Line that can pack the pet food in a more efficient manner

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

13. What is the anticipated date for installation to begin? July 1, 2015

14. What is the anticipated date for project completion? November 1, 2015

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

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

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

    _____

    b) What is the estimated value of the equipment to be purchased for which personal property tax abatement is being requested? (If possible, please provide a written quote or estimate attached to this application.) __$1.8 Million__

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

    a) Are your employees represented by a union? If so, by whom? _____No_____

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

| | | | |
|---|---|---|---|
| Skilled | 2 | Average hourly wage rate for skilled positions | $21.45 |
| Semi-skilled | 94 | Average hourly wage rate for unskilled positions | $16.10 |
| Clerical | 2 | Average hourly wage rate for clerical positions | $14.50 |
| Salaried | 17 | Average salary (per hour) for salaried positions | $31.11 |
| TOTAL NUMBER OF TEMPORARY/ON-CALL EMPLOYEES (if any) | | | 0 |
| TOTAL NUMBER OF EXISTING EMPLOYEES (permanent and full-time) | | | 115 |

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

d) Approximate value of benefits for existing and new employees on a per hour basis (i.e. benefits are valued at an additional $3.00 per hour, etc.) _____$6.05/hr_____

e) What is the total dollar amount spent on retained salaries? _____$3,898,000_____

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

| | | | |
|---|---|---|---|
| Skilled | _____ | Average hourly wage rate for skilled positions | _____ |
| Semi-skilled | 2 | Average hourly wage rate for unskilled positions | $14.25 |

| | | | |
|---|---|---|---|
| Clerical | _____ | Average hourly wage rate for clerical positions | _____ |
| Salaried | 2 | Average salary (per hour) for salaried positions | $34.00 |
| TOTAL NUMBER OF NEW EMPLOYEES (permanent and full-time) | | | 4 |

g) What is the total dollar amount to be spent on new salaries? $200,000

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

Current hourly employees $18.85

Retained hourly employees $18.85

New hourly employees $24.13

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

Inside St. Joseph County: 1 %

Outside St. Joseph County, but inside Indiana: 1 %

Outside Indiana, but within 500 miles 33 %

Outside of 500 miles 57 %

Outside of the United States: 9 %

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

Inside St. Joseph County: 1 %

Outside St. Joseph County, but inside Indiana: 1 %

Outside Indiana, but within 500 miles: 40 %

Outside 500 miles of Indiana: 48 %

Outside of the United States: 10 %

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

1. Menu Food Inc – Detroit, MI
2. Badger Ingredients, Inc – Carefree, AZ
3. US International Media – Los Angeles, CA
4. C.H. Robinson Worldwide, Inc. – Minneapolis, MN
5. C.F. Foods, Inc. – Pawnee City, NE

17. Please give a detailed description of what the impact on your business will be if the new manufacturing equipment is not installed (e.g. loss of jobs, contract cancellations, loss of production, change in location, etc.). Given that pets are members of the family, more and more pet parents want to feed their pets high-quality, safe, natural pet food and treats. As such, the demand for WellPet products has increased significantly over the past few years. If we do not install this new packaging line, we will be limiting our ability to meet our increased customers' and consumers' demands. Additional requests for our natural products will need to be moved to outside co-manufacturer partners to help us produce our products. These partners are outside Mishawaka and St. Joseph County.

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

The increase in our customer demand continues to outpace the efficiencies gained by process improvements at the Mishawaka plant. It is necessary to reduce the current constraint of our small bag lines. The sales trends indicate continued push for product sold in smaller sized bags. The new high speed packaging line provides increased throughput. This positions WellPet for continued growth in employment, revenue generation for the community and fulfillment of our customers' and consumers' requests.

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

No

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

No

21. Miscellaneous Attachments Required:

- Attach the legal description of the property where the equipment is to be located, marked Exhibit A, and hereby incorporated herein.

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

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

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

Michelle Taylor

Signature of Owner or Authorized Representative

Controller

Title

3/17/15

Date

WellPet
at the heart of all we do

**High Speed Packaging Line:**

An Overview March 2015

The High Speed Packaging Line was designed to fill the growing consumer demand for smaller size packaging. The line itself will be constructed in our packaging hall and will contain several major components that will allow us to meet the demands of our growing business.

Product will be manufactured as it currently is today at a rate of 10,000 lbs per hour and delivered to the beginning of the high speed line. Here it will be transferred by a conveyor to feed the scale. A duplexing product scaling system is a part of the high speed bagger. As product is evenly fed onto the vibratory feed system it pushes outward to fill automatic scaling units. Once the optimum weight is reached by the scales, product is deposited into a holding dump station in the high speed bagger.

When the bags have been filled they will discharge from the bagger in two lanes. The bags will then be combined to travel in single file across a product check scale that will verify that the proper weight has been delivered into the bag.

After being check weighed the standup pouch product will travel into an automated packer unit and be packed into corrugated boxes. If the product is being packed into quad pouches the product will travel through a different conveyor section and be delivered to the bundler. The bundler will arrange the packages into the proper configuration and wrap them with clear shrink film. Once they are wrapped the package will continue into the heat tunnel. Here heat will be applied to the process to shrink the film around the pet food packages.

Once discharged from either of these stations product will travel fully cased across one more check scale to ensure that the proper number of packages is in a case. Once complete the package will be palletized and sent to the warehouse for storage until shipping.

EXHIBIT A
P91

SD rcvd

Hold For Meridian Title Corp.
Commercial Department

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

Transfer 794
Taxing Unit 7654
Date 2/13/09

Grantee's Address:
1101 W. 11th St.
Mishawaka, In. 46544

16-1161-646309 - Parcel VI
16-1161-646306 - Parcel V
16-1161-646602 - Parcel III
16-1161-646603 - Parcel II
16-1161-646468 - Parcel I

## GENERAL WARRANTY DEED

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

**Parcel I:**

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

**Parcel II:**

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

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

**Parcel III:**

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

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

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

3

EXHIBIT B
PG 2

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

**Parcel IV:**

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

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

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

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

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

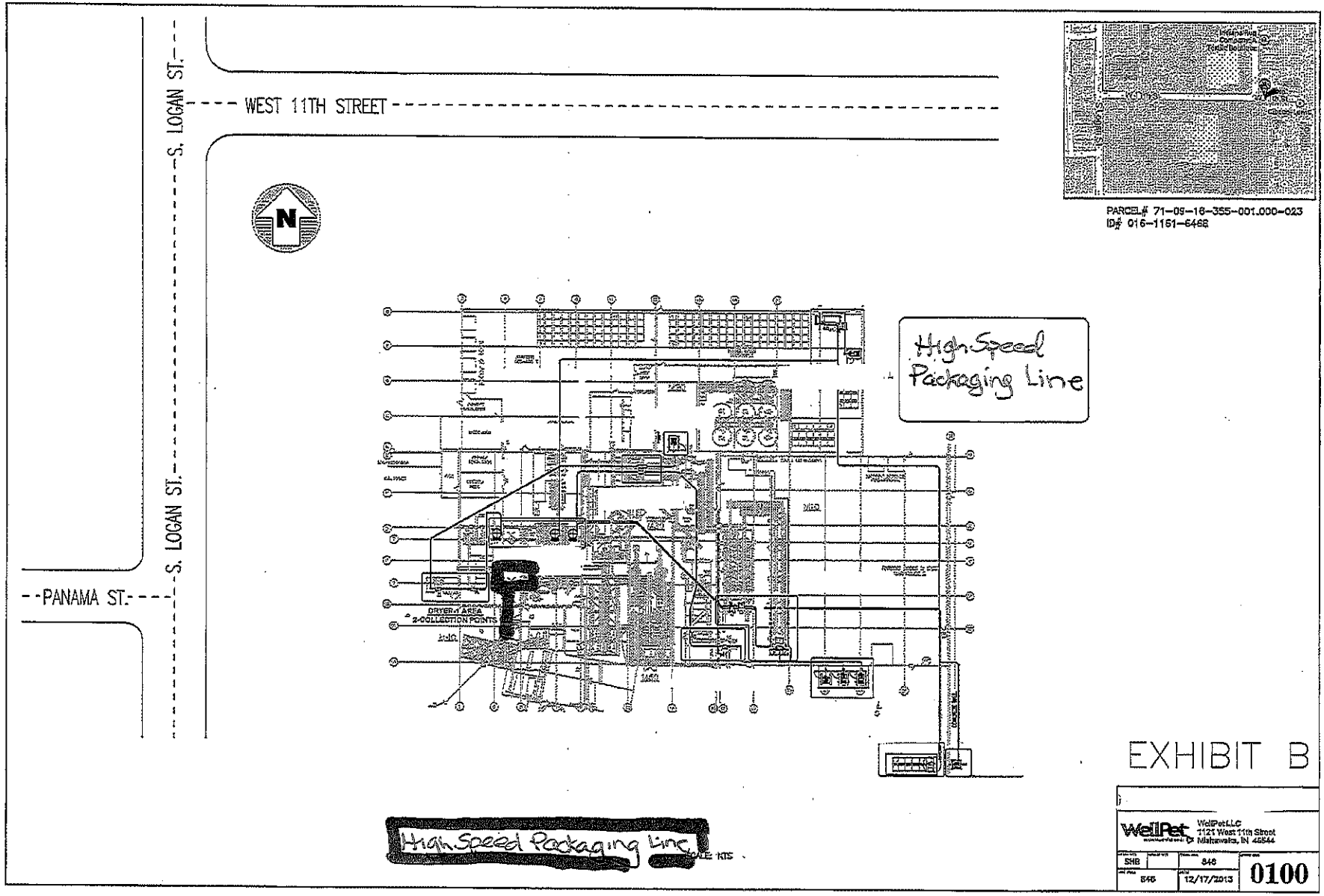
IN WITNESS WHEREOF, Grantor has executed this General Warranty Deed as of this 28th day of January, 2009.

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

By: [signature]
Name: Nicholas Dellop
Its: V.P.

1327910

0804315


WEST 11TH STREET
S. LOGAN ST.
S. LOGAN ST.
PANAMA ST.
N
High Speed Packaging Line
DRYER-1 AREA
2-COLLECTION POINTS
High Speed Packaging Line
PARCEL# 71-09-16-355-001.000-023
ID# 016-1161-6468
EXHIBIT B
WellPet
WellPet LLC
1121 West 11th Street
Mishawaka, IN 46544
SHB
546
12/17/2013
0100

RECEIVED
DEBORAH S. BLOCK, MMC

MAR 12 2015

CITY CLERK
MISHAWAKA, IN

1st Reading 3-16-15
2nd Reading
Passed
Failed
Continued To

PETITION 15-05

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2015-04

ORDINANCE NO. _____

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

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

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

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

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

Lot 22, Tallieus 1st Subdivision

COMMON ADDRESS: 502 West Sixth Street

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

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

1. There are commercial zonings to the east and southeast of this property, but the neighborhood surrounding the property is primarily residential in nature, and its proposed use as a single family dwelling would be compatible to the area;

2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as an commercial project, staff feels that the most desirable use for this property is single-family use;

3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;

Proposed Ordinance No: 15-04

Ordinance No: _____

4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,

5. The City's Comprehensive Plan calls for general commercial but its proposed use as a single family home is compatible and consistent with the historic residential uses in the area.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____day of _____, 2015, at _____ o'clock ___.M.

_____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this _____ day of _____, 2015, at _____ o'clock ____.M.

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

APPROVED by me this _____ day of _____, 2015, at _____o'clock ____.M.

_____
David A. Wood, Mayor

# CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF BUILDING, COMMUNITY DEVELOPMENT & PLANNING

RECEIVED
DEBORAH S. BLOCK, MMC
FEB 25 2015
CITY CLERK
MISHAWAKA, IN

February 18, 2015

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 City of Mishawaka Redevelopment Commission respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to wit:

*Lot 22 Tallieus 1st Subdivision, City of Mishawaka, Indiana, recorded in the Office of the Recorder of St. Joseph County, Indiana.*

*Commonly known as property located at 502 West 6th Street*

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 General Commercial District and desires said real estate to be rezoned to R-1 Single-Family Residential

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

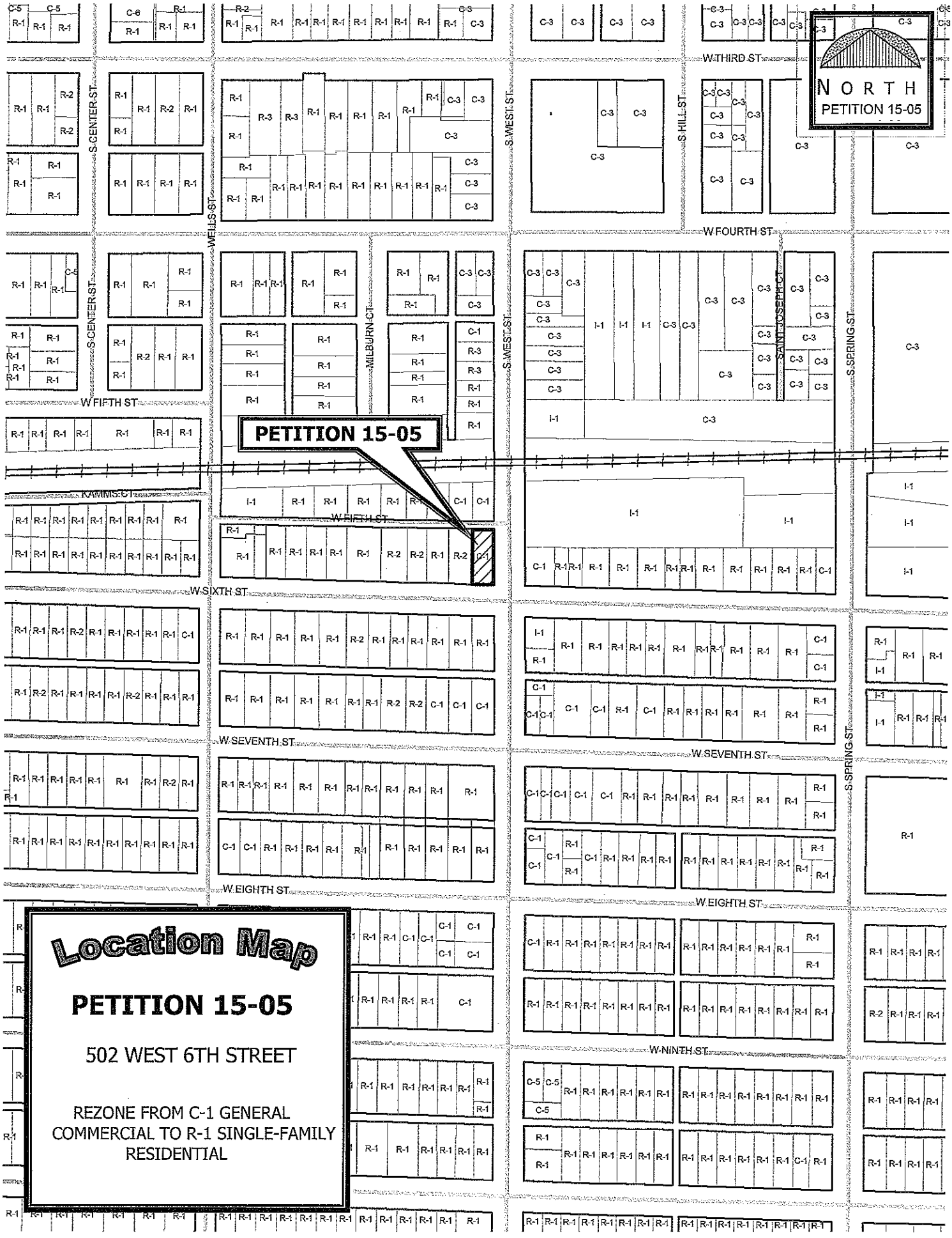
Kenneth B. Prince, ASLA, AICP
City Planner

CONTACT PERSON:

| | |
|---|---|
| Name: | Greg Shearon |
| Address: | 600 East Third Street |
| Day Phone Number: | 258-1625 |
| Fax Number: | 968-6999 |
| Email: | gshearon@mishawaka.in.gov |



Pet 15-05


NORTH
PETITION 15-05
PETITION 15-05
W THIRD ST
W FOURTH ST
W FIFTH ST
W SIXTH ST
W SEVENTH ST
W EIGHTH ST
W NINTH ST
S CENTER ST
WELLS ST
S WEST ST
S HILL ST
MILBURN CT
SAINT JOSEPH CT
S SPRING ST
KAMMS CT
Location Map
PETITION 15-05
502 WEST 6TH STREET
REZONE FROM C-1 GENERAL COMMERCIAL TO R-1 SINGLE-FAMILY RESIDENTIAL

RECEIVED
DEBORAH S. BLOCK, MMC
MAR 12 2015
CITY CLERK
MISHAWAKA, IN

1st Reading 3-16-15
2nd Reading
Passed
Failed
Continued To

PETITION 15-06

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2015-05

ORDINANCE NO. _____

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

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

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

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

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

LOT NUMBERED ONE (1) AS SHOWN ON THE RECORDED PLAT OF JEFFERSON & BYRKIT MINOR SUBDIVISION, RECORDED JUNE 3, 2014, AS DOCUMENT NO. 1412585 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA

COMMON ADDRESS: Northwest Corner of Jefferson Boulevard and Byrkit Street

which real estate is now classified as S-2 Planned Unit Development District and shall hereafter be amended to allow for revised signage standards for Lot One (1) subject to the following:

1. To allow the development sign and the individual outlot sign to be combined into a single sign.
2. To allow this sign to have a maximum 135 square feet of display area to include name of the development, name/logo of fuel brand, LED price sign, and five additional business signs.
3. To allow the overall height of this sign to be 13'6", consisting of a 3' base, 9' sign cabinet, and 1'6" architectural enclosure on top.

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

Proposed Ordinance No: 2015-05

Ordinance No: _____

1. Existing Conditions – Even though the site is vacant, several uses including multi-family residential, office/retail spaces, a bank with drive-up window, and a convenience/fuel center have already been approved for the site.

2. Character of Buildings in Area - The character of the buildings proposed within this development and the surrounding area is commercial and residential.

3. The most desirable/highest and best use – Given the parcel's location on the corner, and potentially more utilized intersection, a centralized sign is the highest and best use.

4. Conservation of property values - The proposed amendment will not be injurious to property values in the surrounding area, because the uses are not changing and there are still conditions put on the signage.

5. Comprehensive Plan- The proposed amendment is consistent with the Comprehensive Plan identifying this area for residential uses and service commercial uses.

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 _____, 2015, at _____ o'clock ___.M.

_____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this _____ day of _____, 2015, at _____ o'clock ____.M.

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

APPROVED by me this _____ day of _____, 2015, at _____o'clock ____.M.

_____
David A. Wood, Mayor

2-17-15

Honorable Members of the Common Council
Mishawaka, IN
And
Mishawaka City Plan Commission
Mishawaka, IN

RECEIVED
DEBORAH S. BLOCK, MMC
FEB 25 2015
CITY CLERK
MISHAWAKA, IN

Re: Petition for PUD Amendment

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

See attached Legal

Petitioner owns 100% of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for a convenience store and fuel dispensing.

Petitioner desires said real estate to be amended to allow the combination of the overall development sign (80sf sign and 12'ht) together with the individual project sign (60sf sign and 8'ht) into a single sign (135sf and 12'ht) with a masonry base (3'ht) and an architectural surround (13'-6"ht). Requested sign to include: name of the development, name/logo of the fuel brand, LED price sign, and (5) additional business signs.

See attached sign schematic.

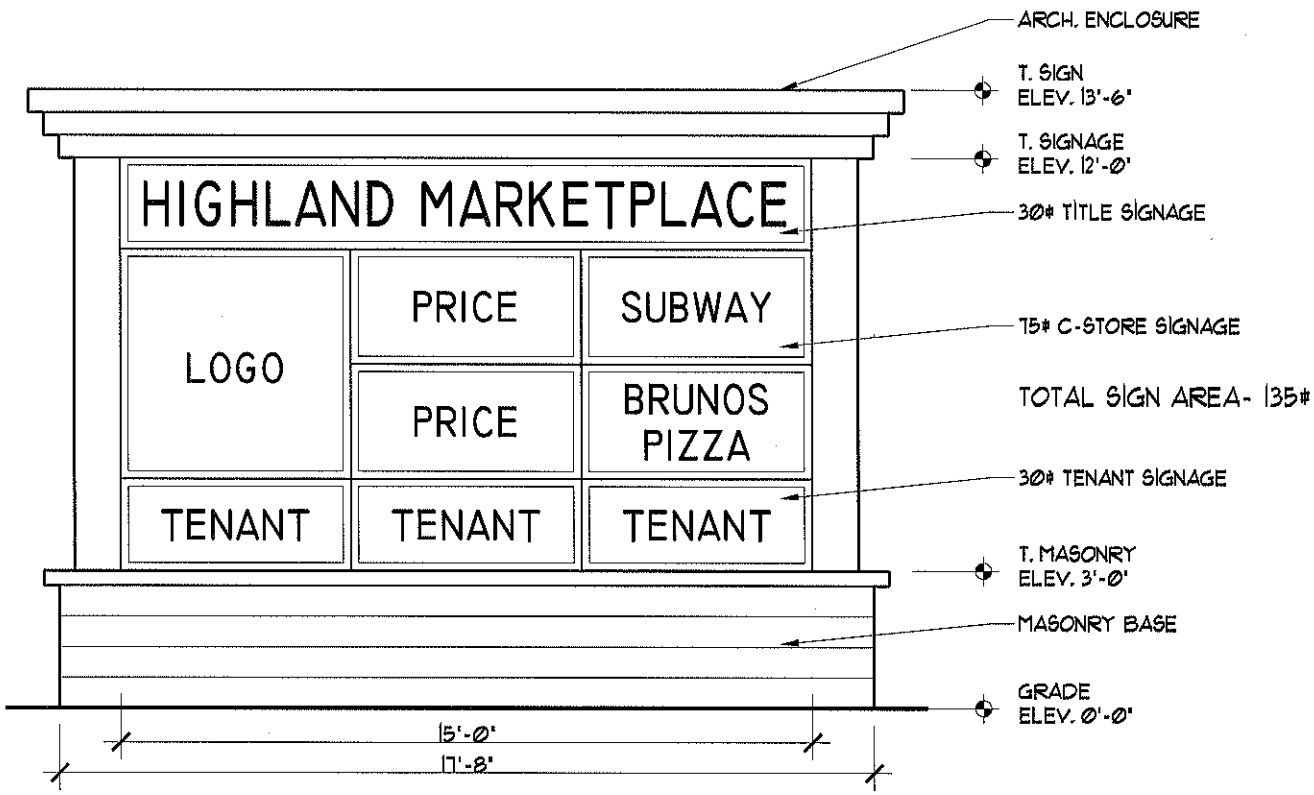
Signature of property owner

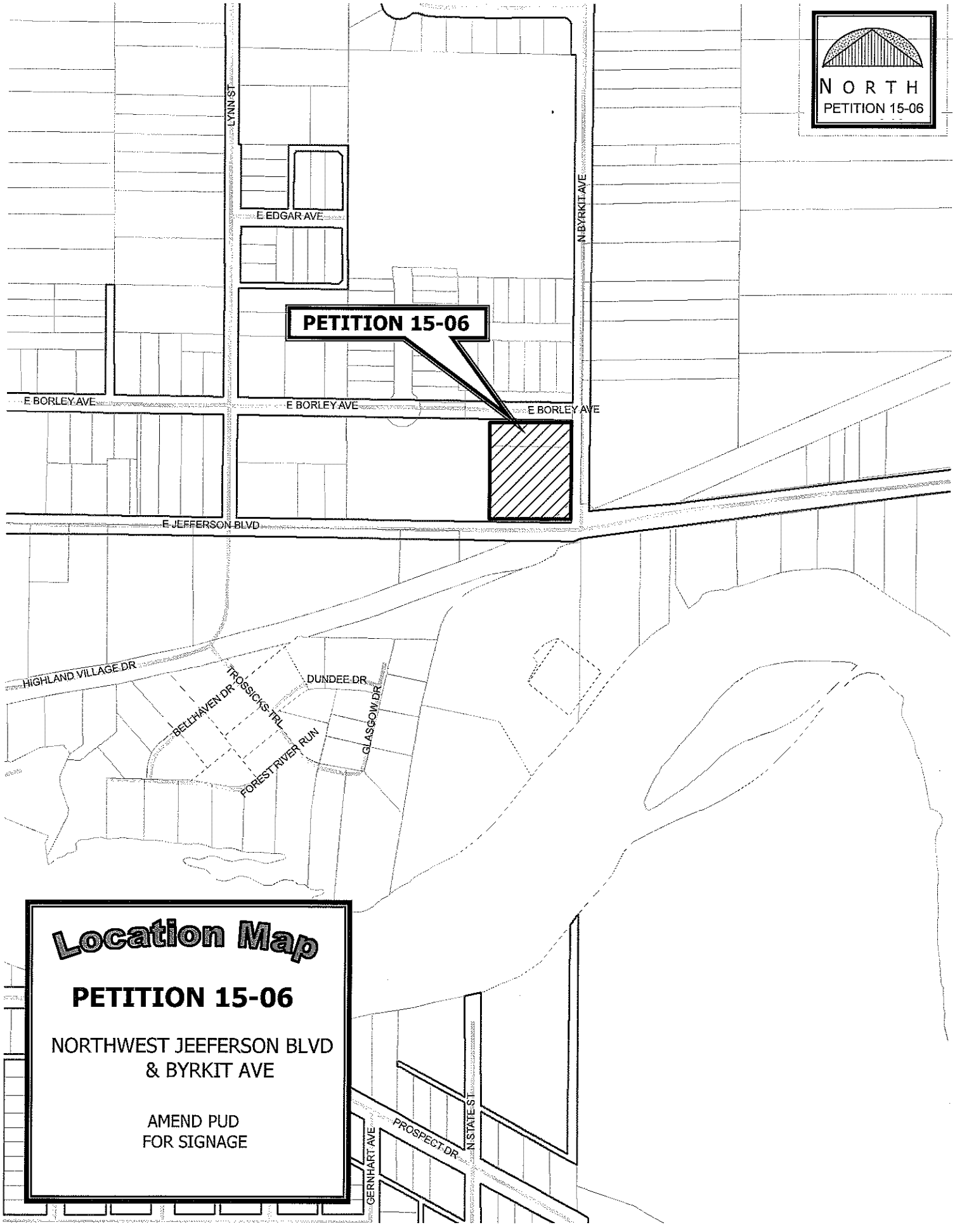
Trout Moser
Black Gold LLC

Contact Person:

Phillip A Troyer Architect
1510 W Ludwig Rd, Fort Wayne IN 46825
260-489-2810

Pet 15-06


ARCH. ENCLOSURE
T. SIGN
ELEV. 13'-6"
T. SIGNAGE
ELEV. 12'-0"
30# TITLE SIGNAGE
HIGHLAND MARKETPLACE
LOGO
PRICE
SUBWAY
PRICE
BRUNOS
PIZZA
TENANT
TENANT
TENANT
75# C-STORE SIGNAGE
TOTAL SIGN AREA- 135#
30# TENANT SIGNAGE
T. MASONRY
ELEV. 3'-0"
MASONRY BASE
GRADE
ELEV. 0'-0"
15'-0"
17'-8"




# Location Map

## PETITION 15-06

NORTHWEST JEEFERSON BLVD
& BYRKIT AVE

AMEND PUD
FOR SIGNAGE

RECEIVED
DEBORAH S. BLOCK, MMC
MAR 12 2015
CITY CLERK
MISHAWAKA, IN

PETITION 15-07

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2015-06

ORDINANCE NO. _____

1st Reading 3-16-15
2nd Reading
Passed
Failed
Continued To

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

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

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

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

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

Lot 5 being a parcel of land being a part of the Northeast Quarter of Section 28, Township 38 North, Range 3 East, Clay Township, St. Joseph County, Indiana and being more particularly described as commencing at the Southeast corner of the Northeast Quarter of said Section 28; thence North 0°-34'-41" East along East line of said Northeast quarter, a distance of 915.81 feet; thence South 89°-35'-28" West, a distance of 450.86 feet to the place of beginning also being the Southwest corner of a parcel of land conveyed to Midas Realty; thence continuing South 89°-35'28" West, a distance of 523.88 feet; thence North 0°-24'-32" West, a distance of 91.89 feet to the South right-of-way line of University Drive, thence along a non-tangent curve to the left having a radius of 994.93 feet and a central angle of 14°-13'-25" and limited in length by a chord which bears North 66°-37'-58" East, a distance of 246.36 feet; thence North 59°-31'-13" East, a distance of 105.76 feet; thence along a curve to the right having a radius of 914..93 feet and a central angle of 14°-21'-05" and limited in length by a chord which bears North 66°-41'-44" East, a distance of 228.57 feet to the Northwest corner of said Midas Realty parcel; thence South 0°-28'-44" West along the West line of said Midas parcel, a distance of 332.00 feet to the place of beginning containing 2.54 acres more of less. Located on the south side of University Drive approximately 415 feet west of North Main Street, Mishawaka, Indiana.

COMMON ADDRESS: 235 West University Drive

which real estate is now classified as S-2 Planned Unit Development District and shall hereafter be amended to allow for hourly, drop-in child care.

Proposed Ordinance No: 15-06

Ordinance No: _____

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

1. Existing Conditions – The use will be located in an existing building with other commercial uses, including a restaurant and a hair salon.

2. Character of Buildings in Area - The character of the buildings proposed within this development and the surrounding area is commercial.

3. The most desirable/highest and best use – Because of the parcel's location on University Drive, the most desirable use for the property is commercial.

4. Conservation of property values - The proposed amendment will not be injurious to property values in the surrounding area, because the nature of the hourly, drop-in child care does not put an increase on parking with drop/off pick up routines like a traditional child care would.

5. Comprehensive Plan- The proposed amendment is consistent with the Comprehensive Plan identifying this area for service commercial uses.

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 _____, 2015, at _____ o'clock ___.M.

_____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this _____ day of _____, 2015, at _____ o'clock ____.M.

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

APPROVED by me this _____ day of _____, 2015, at _____o'clock ____.M.

_____
David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC
FEB 25 2015
CITY CLERK
MISHAWAKA, IN

February 13, 2015

To: ~~Board of Zoning Appeals~~ Plan Commission
City of Mishawaka, Indiana

The undersigned Owner on behalf of Appellant, Denise Cunningham dba Free Time Kids Playcare, Inc respectfully shows the Board:

1. I, DF Properties, LLP, am the Owner of the following described real estate located within the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana, to-wit:

   BEG 915.81' N & 450.86' W FROM SE COR E ½ NE ¼ SEC 28-38-3E 523.83' W 91.89' N 246.36' NE 105.76' NE 228.57' NE 332.5' 10 POB 2 60 AC M OR L

   UNIVERSITY DRIVE (TIMES SQUARE)
   235 W. UNIVERSITY DR.
   MISHAWAKA, IN 46545

2. The above-described real estate presently has a zoning classification of S-2 Planned Unit Development under the Zoning Ordinance of the City of Mishawaka. The S-2 Planned Unit Development, basically means that conditions are written specifically for a property. As such, the only uses currently permitted at Times Square are C-2 Shopping Center uses, (permitted uses outlined under municipal code, chapter 137, zoning). The C-2 District does not permit Childcare or day care operations by right.

3. Appellant proposes to occupy the above-described property in the following manner: as an hourly, drop-in childcare facility.

4. The Zoning Ordinance of the City of Mishawaka requires that commercial C-2 shopping center district has been established to "promote the grouping of contiguous buildings, stores, offices and other uses on a lot in a manner which constitutes an organized, architecturally harmonious, efficient, and convenient shopping center, and to provide a means for permitting the establishment of such centers as part of the development of the city". Section 137-325 - Intent

5. Strict adherence to the Ordinance requirements for C-2 District would create an unusual hardship due to the manner of services which the hourly, drop-in childcare would provide. This service does not fall in the grouping details listed in #4 above.

6. 1) Will approval be injurious to the public health, safety, morals or general welfare of the community? NO

   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

   3) Does the need for the variance arise from some condition peculiar to the property involved? No

FEB 18 2015

Pet 15-07

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? NO
5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? NO

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

Signature of Property Owner

AR Slagel

Print Name Here

Aaron Slagel

**CONTACT PERSON:**
Name: Aaron Slagel
Address: 1336 E. 510 S. Lafayette, IN 47909
Day Phone Number: 765- 412-4272 / 765- 427-2415
Fax Number:
Email aaron slagel @ msn. com

Name: Denise Cunningham
Address: 51180 Bridlewood Cr
Granger, IN 46530

Phone: 219-771-0771 (cell)
email: freetimekidsplaycare @aol. comm

February 13, 2015

Department of Building – Community Development – Planning
City Hall
600 E Third St., Room 201
Mishawaka, IN 46544

RE: Proposed Use Variance – Times Square

To whom it may concern,

Please accept this letter on behalf of I, Aaron Slagel/Gary Standiford, authorized members of DF Properties, LLP, Owner of University Drive - Time Square Shopping Center located at 235 University Dr., Mishawaka, IN 46545. We permit Denise Cunningham, dba Free Time Kids Playcare, Inc, Proposed Tenant to act as our authorized agent ONLY WITH RESPECT TO THE ZONING USE VARIANCE required specific to her business as an hourly, drop-in childcare facility. Such use is not currently specifically permitted under the S-2 zoning classification. We permit her to appear on our behalf to at the following meetings only, BZA Hearing Date, Tuesday, March 10, 2015 and at the Common Council Hearing, Monday, March 16th only.

Thank you.

Sincerely,
DF Properties, LLP

AR Slagel
Its authorized agent

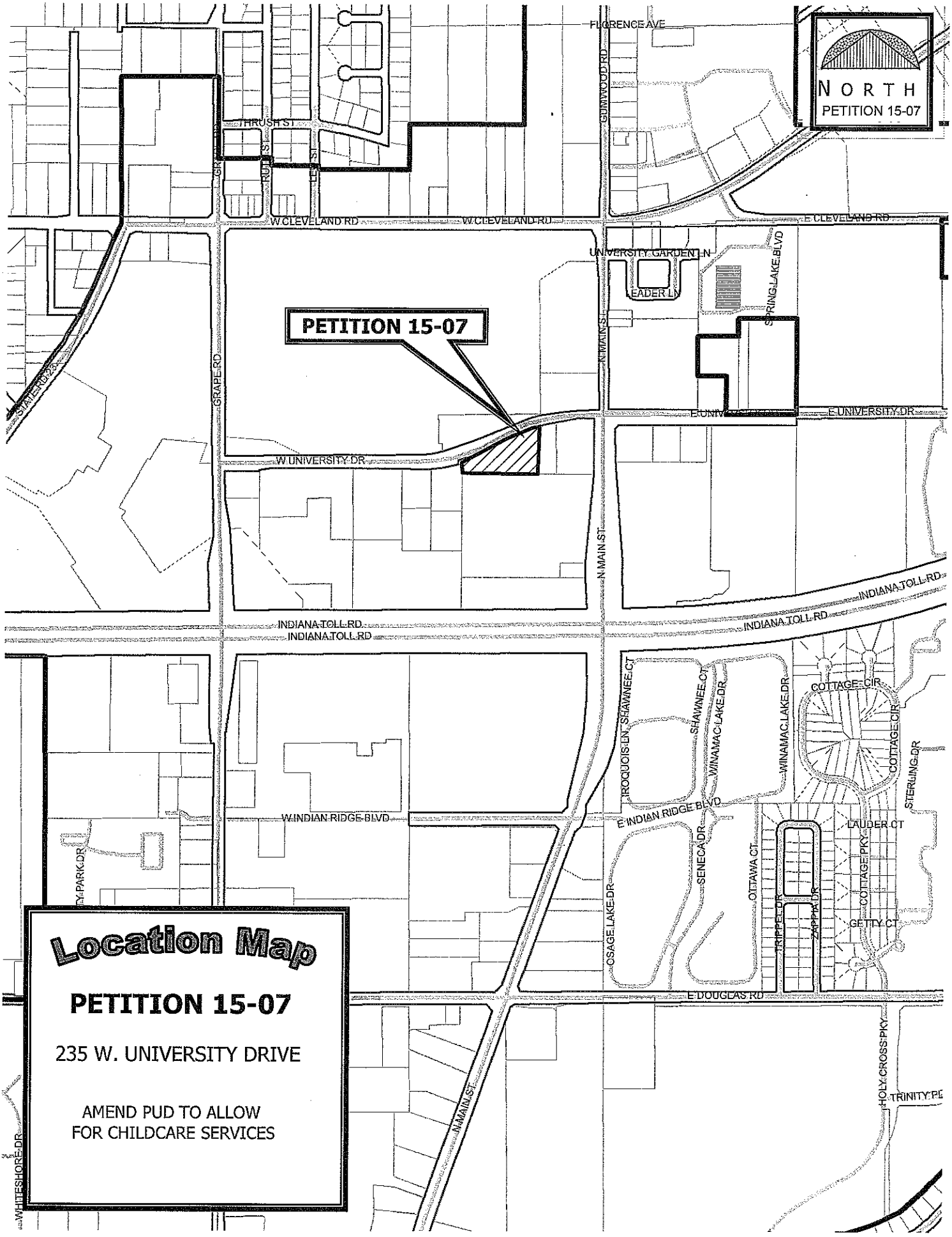
Aaron Slagel
Print Name Here

Address: 1336 E. S10 S.
Laf., IN 47909

Day Phone Number: 765-412-4272

Email: aaron slagel @ msn.com

FEB 18 2015


NORTH
PETITION 15-07
PETITION 15-07
FLORENCE AVE
GUMWOOD RD
THRUSH ST
W.CLEVELAND RD
E.CLEVELAND RD
UNIVERSITY GARDEN LN
LEADER LN
SPRING LAKE BLVD
STATE RD 23
GRAPE RD
N.MAIN ST
E.UNIVERSITY DR
W.UNIVERSITY DR
INDIANA TOLL RD
COTTAGE CIR
IROQUOIS LN
SHAWNEE CT
WINAMAC LAKE DR
STERLING DR
W.INDIAN RIDGE BLVD
E.INDIAN RIDGE BLVD
LAUDER CT
SENECA DR
OTTAWA CT
COTTAGE PKY
OSAGE LAKE DR
TRIPPEL DR
ZAPPIA DR
GETTY CT
E.DOUGLAS RD
HOLY CROSS PKY
TRINITY PL
WHITESHORE DR
Location Map
PETITION 15-07
235 W. UNIVERSITY DRIVE
AMEND PUD TO ALLOW
FOR CHILDCARE SERVICES

RECEIVED
DEBORAH S. BLOCK, MMC
MAR 12 2015
CITY CLERK
MISHAWAKA, IN

PETITION 15-08

1st Reading 3-16-15
2nd Reading
Passed
Failed
Continued To

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2015-07

ORDINANCE NO. _____

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

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

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

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

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

LOT 23A, AS SHOWN ON THE PLAT OF TOSCANA PARK P.U.D. PHASE III, RECORDED NOVEMBER 15, 2012, AS INSTRUMENT #1236793 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

COMMON ADDRESS: Toscana Park Shopping Center

which real estate is now classified as S-2 Planned Unit Development District and shall hereafter be amended to allow for a hotel within the internal non-outlot portion of the Planned Unit Development and the following amended PUD standards/conditions:

1. The maximum building height for the hotel shall be limited to 59'.
2. The total number of parking spaces for the existing commercial uses may be reduced to 4 parking spaces per 1000 sf of building area for the internal non-outlot portion of the development.
3. An additional free-standing monument sign may be installed along Gumwood Road for the identification of the hotel subject to Staff review and approval of a signage master plan for Gumwood Road which includes signage for the outlot parcels. Signage shall comply with the overlay signage district standards.

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

Proposed Ordinance No: 2015-07

Ordinance No: _____

1. Existing Conditions - The proposal is in keeping with the existing area by maintaining commercial uses.
2. Character of Buildings in Area- The character of the buildings located in the Toscana Park PUD is commercial. The proposed facility will be commercial in nature.
3. The most desirable/highest and best use - Due to the presence of the commercial activity in the surrounding area, the most desirable/highest use is the proposed commercial use.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area, because the proposed use is compatible with the surrounding commercial area.
5. Comprehensive Plan - This area was not identified within The Comprehensive Plan. However, the proposed is consistent with the commercial development of the area.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____day of _____, 2015, at _____ o'clock ___.M.

_____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this _____ day of _____, 2015, at _____ o'clock ____.M.

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

APPROVED by me this _____ day of _____, 2015, at _____o'clock ____.M.

_____
David A. Wood, Mayor

DocuSign Envelope ID: A3C628D6-5FCD-4815-9A2D-E551BC5F3221

RECEIVED
DEBORAH S. BLOCK, MMC
FEB 25 2015
CITY CLERK
MISHAWAKA, IN

DATE: February 18, 2015

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

FEB 18 2015

RE: **PETITION FOR PUD AMENDMENT**
**Lot 23A Toscana Park PUD, Phase III**

Pet 15-08

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

LOT 23A, AS SHOWN ON THE PLAT OF TOSCANA PARK P.U.D. PHASE III, RECORDED NOVEMBER 15, 2012 AS INSTRUMENT #1236793 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

The above described parcel of land contains the following property:
Lot 23A Toscana Park PUD, Phase III on
Gumwood Road, Granger, IN 46530

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for a mixed use commercial development allowing all C-1 General Commercial uses.

The purpose of this petition is to revise the approved preliminary site plan and its associated conditions to allow for a hotel use. Accompanying this petition is a drawing showing the boundary of the above-described parcel of real estate, preliminary site plan showing the proposed use, and supporting documentation.

Petitioner desires said real estate to be amended as follows:

1. To allow for hotel use

2. To allow for a maximum building height of 59 feet

3. To allow for a blended parking requirement of 4 parking spaces per 1,000 sq. ft. of building area for the current lot 23A

4. To allow for an additional freestanding monument sign located along Gumwood Road

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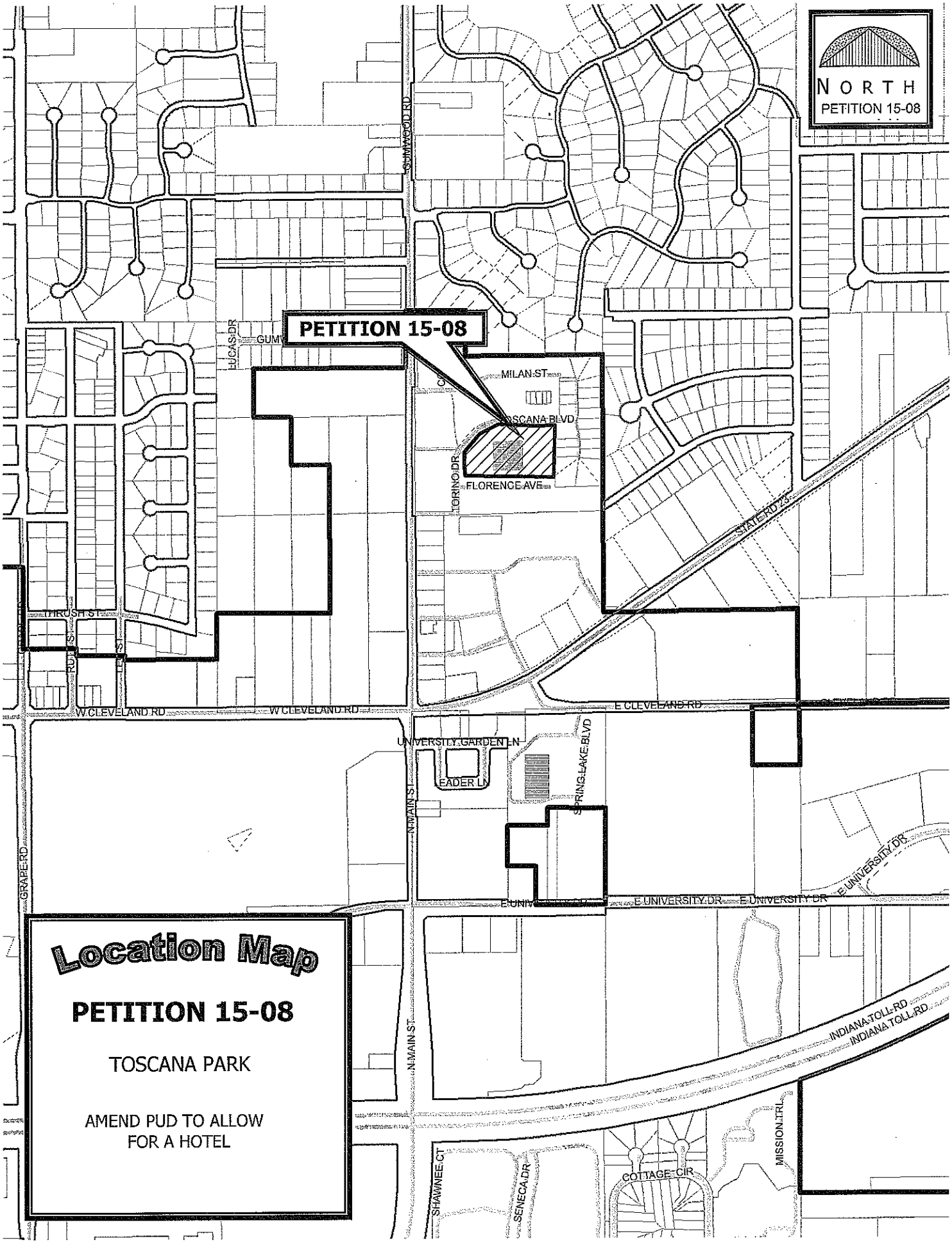
Wherefore, Petitioner prays and respectfully requests that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted amending the PUD of the above described parcel of land located in the City of Mishawaka.

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

DocuSigned by:
By: Ryan Rams
Ryan Rams

Toscana Realty, LLC
P.O. Box 540
South Bend, IN 46624

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


NORTH
PETITION 15-08
PETITION 15-08
SUNWOOD RD
LUCAS DR
GUM
MILAN ST
TOSCANA BLVD
TORINO DR
FLORENCE AVE
STATE RD 23
THRUSH ST
RUE ST
LE ST
W CLEVELAND RD
W CLEVELAND RD
E CLEVELAND RD
UNIVERSITY GARDEN LN
EADER LN
SPRING LAKE BLVD
N MAIN ST
GRAPE RD
E UNIVERSITY DR
E UNIVERSITY DR
E UNIVERSITY DR
INDIANA TOLL RD
INDIANA TOLL RD
MISSION TRL
SHAWNEE CT
SENECA DR
COTTAGE CIR
Location Map
PETITION 15-08
TOSCANA PARK
AMEND PUD TO ALLOW
FOR A HOTEL

RECEIVED
DEBORAH S. BLOCK, MMC
MAR 12 2015
CITY CLERK
MISHAWAKA, IN

APPEAL #15-12

RESOLUTION NO. 2015- 13

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:

**1231 Lincolnway West, Mishawaka, Indiana**

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

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

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

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

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **1231 Lincolnway West, Mishawaka, Indiana**, more particularly known and described as follows:

> Lots 110 and 111 Adam S. Bakers 1st, except North part split to State per Transfer 11790, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

The Use Variance will allow the installation of a donation drop-off/collection center.

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

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

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because all state and local building codes will be adhered to during construction and/or improvements to the existing structure.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the proposed use is less intense that what is allowed under the C-1 General Commercial zoning.

3. The need for the variance arises from some condition peculiar to the property in that it is located on a commercial zoned property and the Ordinance does not specify the proposed use as an allowable use in any of the zoning districts.

4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought because the zoning does not allow for the specific proposed use within commercially zoned properties. The only means by which to allow the proposed use is through the use variance process;

5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates commercial uses for this area.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of_____, 2015, at _____o'clock _____ .m.

_____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this _____day of _____2015, at _____ o'clock ___m.

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

APPROVED by me this _____ day of_____, 2015, at _____o'clock _____.m.

_____
David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

FEB 25 2015

CITY CLERK
MISHAWAKA, IN

February 16, 2015

Board of Zoning Appeals
City of Mishawaka
600 East Third Street
Mishawaka, IN 46544

FEB 18 2015

RE: **Planet Aid Building and Site Developmental Variance**
**1231 Lincolnway West, Mishawaka, IN 46544**

~~Bd~~ APL 15-02

Dear Members of the Mishawaka Board of Zoning Appeals,

1. I, Kai Nielsen, am the leaseholder or the project on the following described real estate located in the City of Mishawaka, Penn Township, St Joseph County, State of Indiana, to-wit:

   *Legal Description:* *Lots 110 111 Ex N Pt For St Adam S Bakers 1st 03-04 Split To State For St Per Tr 11790 1-6-03*

   Common Address: *1231 Lincoln Way West, Mishawaka, IN 46544*

2. The above-described real estate presently has a zoning classification of *C-1 General Commercial* under the Zoning Ordinance of the City of Mishawaka.

3. Appellant proposed to occupy the above-described property in the following manner:
   Site:
   Attached is an existing and proposed site plan for the Planet Aid project. The Appellant proposes that the site be approved with minimal changes. The existing building was originally a service station and most recently occupied as a pizza carry out restaurant. The present building has been vacant for about 8 to 10 years. The use as proposed is a drop off collection center for donated clothing. Two exterior bins are proposed at the west part of the site, set against the building. Each bin is 4' wide x 4' long' x 6.5' tall. Parking for patron drop-off is provided as noted on the site plan for short duration. The building is not planned to be an occupied facility, just a cold storage collection/distribution center for the Mishawaka regional area. No office or restroom is planned.

   The present curb cuts on Lincoln Way West and Logan are proposed to remain without any changes. The existing concrete drive/parking areas north and west of the building is proposed to remain without any changes. Three new trees are proposed on the south west portion of the landscaped area of the site. The proposed patron traffic anticipated will entail short term parking while dropping off donating clothing and depositing the goods in the collection bins and collection slot throughout the day. Staff will regularly visit the building two times a day for pick-up and monitor the condition of the site and building. There will be no commercial truck parked at the property, other than short term pick-up or delivery. No goods are allowed to be dropped off other than clothing to be deposited in the drop-off slot on the north side or the bins on the west side. No drop-offs are allowed outside the building.

   The present storm drainage will not change. The roof drains to the south at a gutter line and a single downspout to a splash block onto the grass lawn. The scrub vegetation at the south side will be removed. The lawn area will be improved and the grass will be mowed and maintain in an attractive manner.

   Building:
   The existing exterior finishes are painted concrete block, some infill painted vertical wood siding, glass and aluminum window frames, steel columns, metal soffit. The proposed

upgrades will entail repair of broken glass at the windows, repair of the canopy overhang, tuck-pointing the concrete block wall as needed and repainting the entire exterior of each side of the building. The interior will be cleaned up, damaged materials replaced, but given the fact that the use is non-occupied cold storage distribution center, no offices or restrooms are planned to be part of the improvements. The building will have power, interior lighting and emergency lighting, but no heating or plumbing.

The proposed exterior finishes are planned with the Planet Aid corporate blue and yellow paint for 30% of the exterior finish. The remaining 70% is proposed as a compatible tan color. Attached are the exterior colored elevations which show the materials along with their location and proposed color.

4. Appellant desires to retain the existing building as is with basic repair and upgrades to maintain the building exterior finish as outlined above. No additions are proposed and the present drive, curb cut and drainage is proposed to remain without change.

5. *USE VARIANCE:* The Appellant requests approval of the Use Variance as a Drop-off Collection/Distribution center within a C-1 General Commercial Zoning district (Section 137-300).

*DEVELOPMENTATL VARIANCE:* In addition, the Appellant requests the following Developmental Variances for the project;

1. Landscape variance from that required in Article VII, Section 105 to that provided on the Site Plan.
2. Parking: Existing concrete drive, curb cuts, parking and drainage to remain as is. The Ordinance requires 4.25 or 5 parking spaces, but we request a variance to provide 3 parking spaces as proposed on the Site Plan.
3. Setbacks, Side Yard: The existing building encroaches into the existing East side yard 5' setback. Provide a variance to allow for the existing setback of approximately 4'.
4. Setbacks, Front Yard: 0-ft pavement setback for the area that encroaches into the ROW at the corner.

6. The strict adherence to the Ordinance requirements would create an unusual hardship as follows;
   a. Given the encroachment into the sideyard setback would require a tear-down and re-build of the structure toward the east part of the lot which is impractical.

7. In compliance with the requirements for filing this appeal for a Use Variance and Developmental Variances, the following points are noted:
   A. The approval will not be injurious to the public health, safety, morals or general welfare of the community because this use of the building as a donation drop-off collection center will provide for a much needed service to the community. The size of lot and building size is a good fit for the re-use and the original use as a gas station is impractical as it is too small of a site. The present vacant building would be brought back to functional use and would clean-up a building that is been in need of repair and has been vacant for 10 years. The location of the facility is ideal in serving the larger community and the traffic patterns would be low volume, dispersed throughout the day and safe.
   B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner in that the building will be repaired and properly maintained. Even though the building will not be an occupied building, Planet Aid staff will visit the building and site regularly to keep things in order.
   C. Strict application of the terms of this chapter of the Ordinance will result in practical difficulties in the use of the property in that the setbacks and present curb cuts if compliant with the ordinance requirements would require demolition and rebuilding of the entire site in a different geometry. Granting this variance will allow economical reuse of this one-story masonry building on a corner lot.

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

Signature of Leaseholder

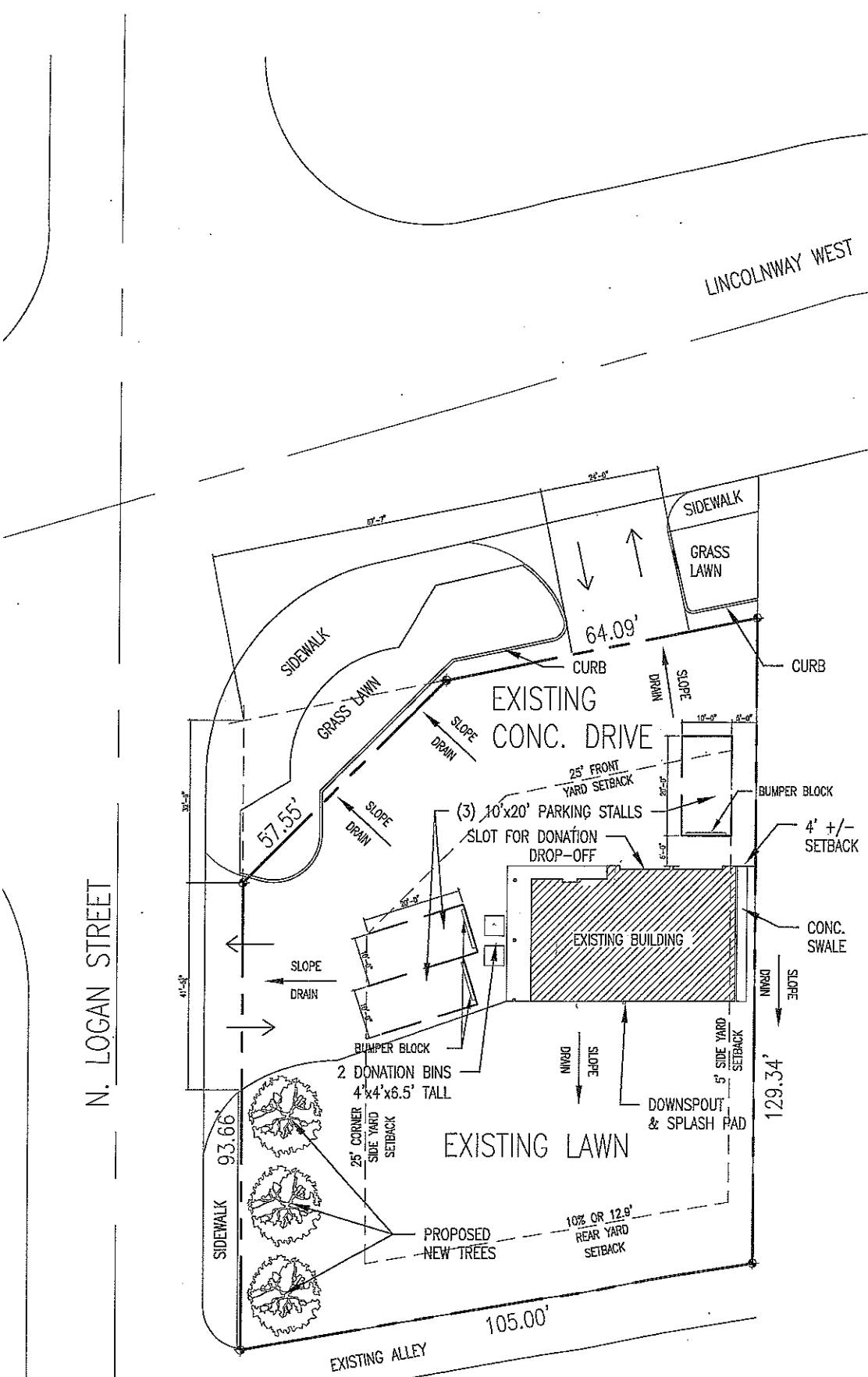
Signature of Property/Title Owner

Kai Nielsen RM planned Aid

Printed name of Leaseholder

Printed name of Property/Title Owner

Contact Person: Gregory A. Kil, NCARB, AIA Architect
Kil Architecture/Planning
1126 Lincolnway East
South Bend IN 46601
(574) 288-2654 office phone
(574) 288-2420 office fax
gkil@kilarchitecture.com




## TABULATED DAT

TOTAL PARCEL SIZE =

EXISTING ZONIN

C-1 GENERAL CO

BUILDING SIZE:

1064.6 SQ. FT.

BUILDING USE:

DROP-OFF COLLE

SITE ACREAGE:

BUILDING

DRIVE

LANDSCAPE

TOTAL:

NON-PERMIABLE CON

AREA TO REMAIN UNC

PARKING:

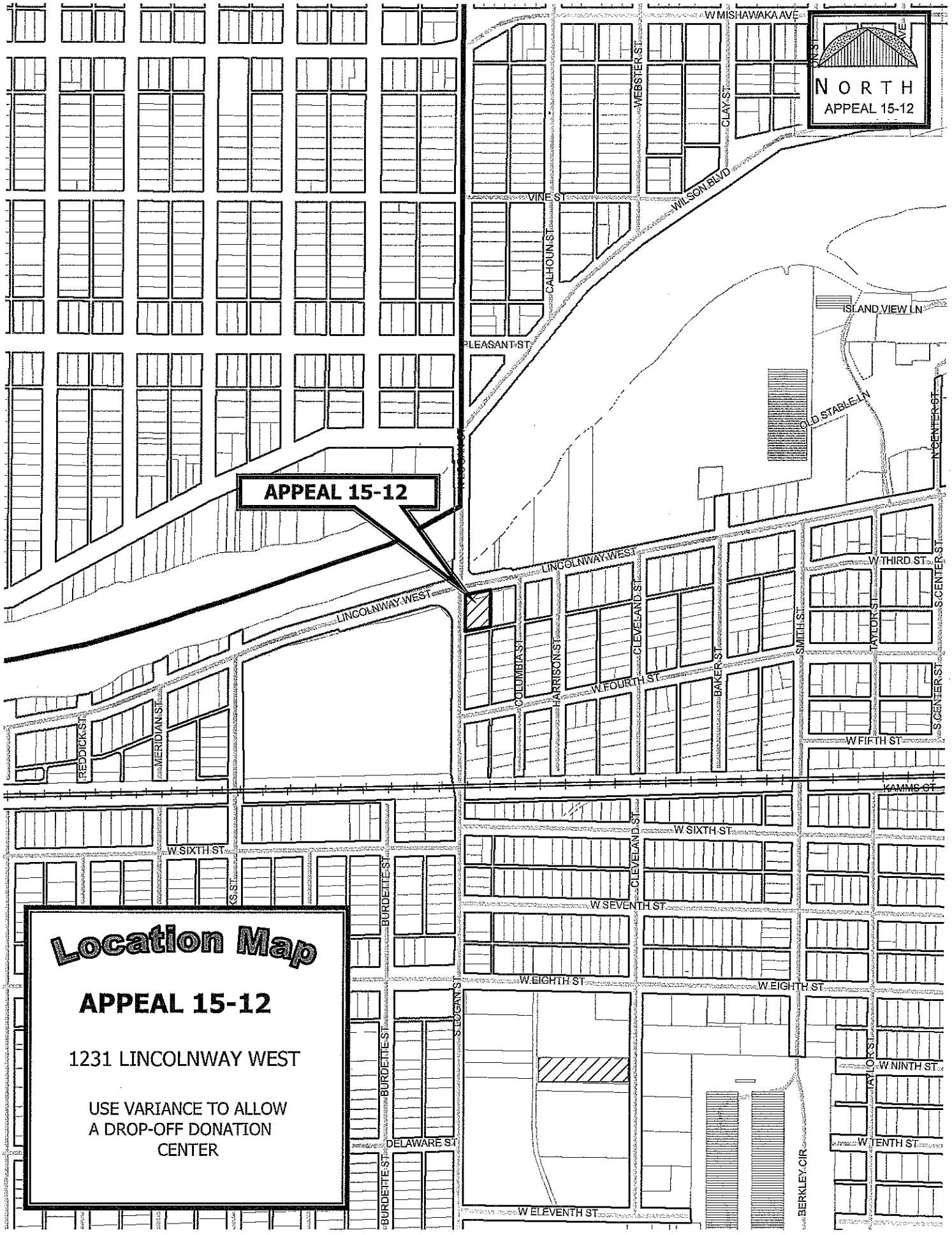
4 SPACES PER 100

1065 SQ. FT. = (4.25

3 PROVIDED

1 PROPOSED SITE PLAN

SCALE: 1:30




# Location Map

## APPEAL 15-12

1231 LINCOLNWAY WEST

USE VARIANCE TO ALLOW
A DROP-OFF DONATION
CENTER