AGENDA

Monday, April 20, 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

March 30, 2015

5. Petitions, Communications, Remonstrance and Memorials

A letter from the Board of Zoning Appeals regarding recommendations from their April 14, 2015 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2015-08 Animal Control Ordinance

8. Resolutions

R2015-15 Confirming Tax Abatement Resolution - Wellpet LLC 1121 West 11th St.

R2015-16 Use Variance to allow a Multi-Tenant Building with a Drive-Thru Use - S of 5209 N. Main St.

R2015-17 2014 Tax Abatement Compliance Reports

9. Ordinances on Second Reading

10. Privilege of the Floor – Non-Agenda Items

11. Unfinished Business

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

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 30, 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 30, 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.
Present: John Reisdorf, Ron Banicki, Kat Voelker, John Roggeman, Mike Compton, Mike Bellovich, Dan Bilancio. Absent/Excused: Woody Emmons, Matt Mammolenti.

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

The minutes from the March 16, 2015 meeting were approved as received from the City Clerk's Office.

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

APPEAL NO. 2015-16 **Use Variance to allow a Multi-Tenant Building with a Drive-Thru Use – 5201 North Main Street**

Clerk Block read **RESOLULTION NO. R2015-14** opening it for public hearing.

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

WellPet LLC

Declaratory Resolution

Michelle L. Tatgenhorst, Controller of WellPet LLC 1121 West 11th Street, Mishawaka, said she was asking for consideration on the designation of their location as an Economic Revitalization area for the purposes of tax abatement. She said under this designation they would install a 1.8 million dollar High Speed Packaging line that would add capacity to their high quality manufacturing facility. Ms. Tatgenhorst said in the last five years WellPet has invested more than 23 million dollars to support their mission of creating the healthiest products for their pets and also support their community. She said they have expanded their employment base from 35 to 115 employees and brought businesses and revenues into Mishawaka. Ms. Tatgenhorst said this current capital investment, the High Speed Packaging Line, was just one of more upcoming additional investments they are currently investigating. She said abatement for the High Speed Packaging Line would benefit WellPet by allowing them to continue their investment and expanding their facility, in return they are committed to retaining their current 115 employees and increasing their employment base by 4. Ms. Tatgenhorst said with the support of the community and the City Council they could make this investment.

Ken Prince, City Planner said just to add to what Ms. Tatgenhorst, this was a Declaratory Resolution that allows for advertisement the Confirming Resolution would be in April. He said WellPet was asking for the standard 5 year Tax Abatement that was noted in their letter, with the 1.8 million dollar investment and the addition of four jobs it tells part of the story. Mr. Prince stated a year ago for their last expansion they indicated they were adding 6 additional jobs and at that time they had and existing workforce of 91 which would rise to 97 and as you can see they have expanded that to 115 with the anticipation of adding 4 more employees with this High Speed Packaging Line so he feels that was a significant part of the deliberation on the request.

Question was called for at 7:08 p.m. on **RESOLUTION NO. R2015-14** the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7). **Yes:** Dan Bilancio, John Reisdorf, John Roggeman, Kat Voelker, Mike Bellovich, Mike Compton, Ron Banicki.

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)

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

Ken Prince said this was a City owned property formerly Squads 2nd Precinct on the North West corner of 6th and West Street they would like to rezone to R1 Single Family Residence, the City would like to put a house there as part of their partnership with Habitat For Humanity.

Question was called for at 7:11 p.m. on **RESOLUTION NO. R2015-14** the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7). **Yes:** Dan Bilancio, John Reisdorf, John Roggeman, Kat Voelker, Mike Bellovich, Mike Compton, Ron Banicki. Thus it becomes **ORDINANCE NO. 5480.**

Clerk Block read **PROPOSED ORDINANCE NO. 2015-05** opening it for public hearing.

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)

Mr. Roggeman reported the Land Use Plan Committee recommended this proposed ordinance should be presented as to the Council as a whole and moved for acceptance of same upon a second by Mr. Reisdorf the motion carried.

Mr. Roggeman said it was customary to continue the proposal if no one was present to speak for or against it, he made a motion to continue this proposed ordinance until the next meeting, passed by a voice vote.

Clerk Block read **PROPOSED ORDINANCE NO. 2015-06** opening it for public hearing

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)

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

Denise Cunningham 51180 Bridleworks Circle, Granger said she was the owner of Free Time Kids Play Care. She said on behalf of DF properties she was requesting an amendment to the PUD to allow for Child Care Services at 235 West University Drive. She said they are an hour drop in child care for child six weeks to 12 years of age; they would be open Monday through Sunday with extended evening and weekend hours. Ms. Cunningham said they would normally be used for short term care to allow for shopping, meetings, date nights, for any other reason of need for short term care with no appointment needed.

Ms. Voelker asked if her business was a franchise. Ms. Cunningham stated it was not. Ms. Voelker asked what training she had, when parents drop their children off and they are in an unfamiliar place how does she handle that. Ms. Cunningham said they were a secured facility, all of the staff would be trained in first aid and CPR, AED certified, criminal back ground checks, drug testing , and they would have routine training with 12 hours annual service. She said they would allow parents to stay with their children until they feel comfortable, they would have an activity listing throughout the day so they have a set schedule.

Ms. Voelker asked if there was a model they were following. Ms. Cunningham said there are several she has been researching but none in Indiana are like hers, they would be similar to Wee Village in the state of Oregon.

Mr. Reisdorf asked how many staff members she would have. Ms. Cunningham stated to start out they would have 3 full time staff, they would be sticking to the child to staff racial recommended by state law. Mr. Reisdorf asked what the child to staff racial was. Ms. Cunningham explained the state guidelines for 6 weeks to twelve months there would be 4 to 1, for 1 year olds to 2 year olds there would be 5 to one, for three 3 year olds there would be 10 to 1, for 4 years old there would be 12 to one and 5 year olds there would 15 to 1.

Ms. Voelker asked if she was licensed, Ms. Cunningham stated since they were considered a drop in child care service they were legal licensed exempt.

Mr. Compton asked if they were operating somewhere else at this time. Ms. Cunningham stated no they were not; this was all brand new. Mr. Compton asked if this was her first time in day care, she replied it was. Mr. Compton asked her if she was aware how busy the street was that she was located on. Ms. Cunningham said the day care would all be inside and as far as traffic coming in and out she feels it would be a good flow, there was plenty of parking there and it is primarily short term parking anyway.

Mr. Roggeman asked if she has gotten any feedback from the other tenants surrounding her. Ms. Cunningham said she has not, there was currently a restaurant and a beauty salon and both of those would be able to utilize her service.

Mr. Reisdorf asked what her rate would be for the day care service. Ms. Cunningham said it would only be 4 hours of care they would not have all day care, during the summer they are planning on having day camps for school aged children. She said she plans to have a member program and a nonmember program, with the nonmember rate being just a little higher than the nonmember.

Sandy Heighgan said she was a commercial broker with Coldwell Banker Commercial and she was helping Denise find a location for her site. She said in the last 18 months Ms. Cunningham has done a tremendous amount of homework, and has gone to multiple facilities, and watched the traffic pattern for safe ingress and egress. She said the site they have decided on was the old Macri's Delli on University Drive, it has been very well thought out.

Question was called for at 7:23 p.m. on **PROPOSED ORDINANCE NO. 2015-06** the Vote: Motion carried by unanimous roll call vote (summary: Yes = 7). Yes: Dan Bilancio, John Reisdorf, John Roggeman, Kat Voelker, Mike Bellovich, Mike Compton, Ron Banicki**. Thus it becomes Ordinance No. 5481**

Clerk Block read **PROPOSED ORDINANCE NO. 201-07** opening it for public hearing.

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 1966" OF THE CITY MISHAWAKA, INDIANA
(Amend PUD to allow for a Hotel – Toscana Park (Gumwood Road)

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

Daryl Knip, PE with Abonmarche Consultants, Inc. 750 Lincolnway East, South Bend, representing the property owned by Toscana Reality. He said they were requesting approval to amend the existing PUD to allow for the construction of a hotel and amend the standards to allow for the hotel to be four stories and up to 59 feet tall the same as Hampton Inn in the adjacent development. Mr. Knip stated in addition they are requesting a blended parking racial of 4 spaces per thousand square feet and to allow for a monument sign along Gumwood Road. He said at the Plan Commission Meeting there was discussion regarding a fence between the existing Villas and the commercial development; and they would be installing a fence between the two properties. Mr. Knip said subsequently they have prepared a drawing for the owner with the length and location of the fence and he was currently soliciting bids Ms. Voelker asked what hotel. Mr. Knip said it was the Holiday Inn Express.

Question was called for at 7:7:26 p.m. on **PROPOSED ORDINANCE NO. 2015-07** Vote: Motion carried by unanimous roll call vote (summary: Yes = 7). Yes: Dan Bilancio, John Reisdorf, John Roggeman, Kat Voelker, Mike Bellovich, Mike Compton, Ron Banicki. **Thus it becomes ORDINANCE NO. 5482.**

PRIVILEGE OF THE FLOOR

Dennis Corrrell 3834 Dudley Drive, Mishawka wanted to speak on Planet Aid. Vice President Banicki stated that would have to be done at the April 20th meeting when the representatives from Planet Aid were present. Mr. Banicki stated he and the Council was in receipt of his e-mail messages and have taken the information into consideration.

Barkley Garrett 211 Miami Club Drive said he wanted to bring to the Council's attention the American Institute of Philanthropy, which is a charity watch group that judges all non-profits and how they use their funds. He said if you take a look at this web site they give a letter grade for all non-profits based on how much revenue was taken in verses how much actually was received by the constituents the non-profit supports. Mr. Garrett said many of the non-profits in our area received A and B grades, meaning the funds actually reached the people that were in need, others received grades of F. He said if the Council should happen to receive a variance request from a company or institution that received an F he would hope they would not support and organization like that, it would not be an organization we would want in our community. Mr. Garrett asked the Council to please do their research.

UNFINISHED BUSINESS

Clerk Block read **RESOLUTION NO. R2015-13** opening it for public hearing.

RESOLUTION NO. R2015-13

A RESOLUTION OF THE COMMO0N 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

Clerk Block said she received a fax from Brian Hinterleiter asking for a continuance of this Resolution to the next Common Council meeting.

Mr. Compton made a motion to continue **RESOLUTION NO. R2015** to the April 20th meeting, with a second by Mr. Reisdorf the motion carried by a voice vote.

NEW BUSINESS

Mr. Reisdorf said he would be speaking for Mr. Mammolenti in his absence, due to services for his father; the Twin Branch Neighborhood Watch Meeting would be at 7:00 p.m. April 16th. He said the speaker would be the Director of MAOG James Turnwald speaking specifically about the drop off points between Transpo and the Neighborhood Trolley.

Mr. Compton said he sees a Boy Scott in the audience and asked if he was present to earn a badge and asked to introduce himself. He said his name was Connor Murray, from Schmucker Middle School working for his Citizenship badge. Mr. Compton thanked him for coming.

Vice President Banicki said as a reminder the next Council meeting would be on Monday April 20th.

Adjournment at: 7:37 p.m.

City Clerk Debbie L. Block ___________	Ron Banicki _______________
City Clerk Debbie L. Block	Ron Banicki, Vice President Presiding Officer

City of Mishawaka

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

RECEIVED
DEBORAH S. BLOCK, MMC
APR 15 2015
CITY CLERK
MISHAWAKA, IN

April 15, 2015

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
April 14, 2015, Public Hearing

Honorable Members:

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

APPEAL #15-16 An appeal submitted by Relaxation Investments LLC requesting a Use Variance at **5201 North Main Street** to allow a multi-tenant building with a drive-thru use.

The Board, with a vote of 4-0, recommended approval subject to the following conditions:

1. Parking shall be provided at a minimum of five (5) spaces per 1,000 sqft of building area.
2. Uses shall be limited to those identified in the C-1 General Commercial Zoning District.
3. Signage shall be limited to one (1) monument for the entire complex as identified in the Main Street Signage Overlay.
4. Current stormwater management standards and grease-traps shall be implemented per City of Mishawaka Engineering Department. Improvements to right-of-way and access drives, such as turn lanes, etc... shall be implemented as determined by the City of Mishawaka Engineering Department.

Respectfully,

Kari Myers

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Jeff Ballard

STAFF REPORT

Location: South of 5209 N Main Street Date: April 14, 2015

Appeal: 15 - 16 Prepared By: GGS

GENERAL INFORMATION

Applicant:	South of 5209 N Main Street
Status:	Property Owner
Request:	Use variance for to allow a multi-tenant building with drive-thru and a developmental variance for pavement setback
Zoning Classification:	C-1 General Commercial
Lot Size:	1.32 acres
Applicable Regulations:	Section 137-42 Board of Zoning Appeals

SPECIAL INFORMATION

Area Development Pattern:	North:	C-1 General Commercial
	South:	C-1 General Commercial
	East:	C-1 General Commercial
	West:	C-1 General Commercial
Thoroughfare:	North Main Street	
School District:	South Bend Community School Corporation	
Township:	Clay	
Public Utilities:	All utilities are available to the site	
Comprehensive Plan:	Commercial	

ANALYSIS

The appellant is requesting a use variance to allow for a (4) unit multi-tenant building with a restaurant containing a drive-thru facility. The proposed multi-tenant building will be located on 1.32 acres of vacant land located just south of Lazy Boy at 5201 North Main Street. Two of the (4) tenant spaces are proposed for general retail use. The remaining two tenant spaces will consist of proposed restaurant uses, Potbelly Sandwich Shop and Qdoba. A drive-thru is proposed for the Potbelly's, which will be located at the southern end of the building.

The property is zoned C-1 General Commercial. The C-1 zoning classification only allows for a maximum of (2) separate tenants/uses on the property. In order to allow for the proposed multi-tenant building, the property would need to be rezoned to C-2 Shopping Center Commercial. However, the drive-thru restaurant use would not be allowed under the C-2 zoning classification and would need a zoning classification of C-7 Automobile Oriented Restaurant Commercial. The only means by which to allow the multi-tenant use with the drive-thru restaurant use is via the use variance process.

In addition to use variance, the appellant is also requesting a few developmental variances. The first variance request is to allow a minimum pavement setback of 1-ft along the west property line. Development standards for general commercial properties require a minimum 5-ft pavement setback. Upon review of the site plan submitted, the Staff could not find any hardship for the requested pavement setback request. The site can be re-designed to accommodate the required pavement setback without reducing the planned parking and vehicular circulation. Therefore, the Staff would recommend denial of this variance request.

The second developmental variance requested is for a reduction in the number of parking spaces. In the appeal submit by the appellant, proposed parking was broken down and determined by the proposed uses of retail and restaurant. However, after reviewing the proposed development, the Staff feels that parking determination is more appropriate when based on the total square footage of the multi-tenant building. For multi-tenant shopping center type developments the standard parking ratio is (5) parking spaces per 1000 sf of building area, regardless of whether tenant spaces are a retail or restaurant use. Such a parking ratio would not hinder another small restaurant type use that would desire to occupy one of the (2) remaining tenant spaces in the proposed development. Therefore, instead of the requested variances for parking, the Staff would recommend the parking ratio of (5) spaces 1000 sf of building area be maintain as part of a condition of approval with the use variance request.

The total square footage of the proposed multi-tenant building is 9006 sf. Based on the recommended (5) spaces per 1000 sf of building area, the total number of parking spaces required would be (25). According to the preliminary site plan, a total of (61) parking spaces have been provided.

RECOMMENDATION

The Planning Staff recommends approval of Appeal 15-16 to allow a use variance for a (4) unit multi-tenant building with one drive-thru restaurant on property south of 5209 North Main Street use subject to the following condition:

1. Parking shall be provided at a minimum of (5) spaces per 1000 sf of building area.
2. Uses shall be limited to those identified in the C-1 General Commercial Zoning District.
3. Signage shall be limited to one monument for the entire complex as identified in the Main Street Signage Overlay.
4. Current stormwater management standards and grease-traps shall be implemented per City of Mishawaka Engineering Department. Improvements to right-of-way and access drives, such as turn lanes, etc... shall be implemented as determined by the City of Mishawaka Engineering Department.

This recommendation is based upon the following findings of fact:

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 adjacent properties are zoned commercial and the proposed use is consistent with those in the surrounding area.

3. The need for the variance arises from some condition peculiar to the property in that the property is zoned C-1 General Commercial and the City of Mishawaka Zoning Ordinance does not have a zoning classification that would allow for the proposed multi-tenant use with the drive-thru restaurant use.

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 combined multi-tenant use and the drive-thru restaurant use. The only means by which to allow the two uses 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.

The Planning Department recommends **denial** of Appeal 15-16 for a developmental variance to allow for a 1-ft minimum pavement setback along the west property line. This recommendation is based on the following finding of fact:

1. Approval will be injurious to the public health, safety, morals and general welfare of the community because the 1-ft pavement setback is not of a substantial safe distance for vehicular movement occurring on this property and the adjacent property to the west.

2. The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner because the 1-ft pavement setback does not allow sufficient space for landscape buffering between this property and property to the west.

3. Strict application of the terms of this chapter will not result in practical difficulties in the use of the property because the site plan can be redesigned as to adhere to the required 5-ft pavement setback and still provide needed parking and efficient vehicular movement through the site.

ATTACHMENTS

Photographs, Appeal, Location Map

View looking northwest onto site

View looking west onto site

1st Reading 4-20-15
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2015-08

ORDINANCE NO. ___________

AN ORDINANCE AMENDING CHAPTER 91 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, REGARDING ANIMAL CONTROL

WHEREAS, the Common Council for the City of Mishawaka recognizes that the control of domestic and wild animals within the City is in the best interest of the animals and the citizens of Mishawaka;

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

Section 1. Chapter 91: Animals, is hereby deleted in its entirety and replaced with the language attached hereto as Exhibit A.

Section 2. This Ordinance shall be in full force and effect from and after its passage, signing, and attestation.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of May, 2015, at ______o'clock _____.M.

____
Dale "Woody" Emmons
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this ______ day of May, 2015, at _________o'clock ____.M.

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

APPROVED by me this _____ day of May, 2015, at ________ o'clock _____.M.

____
David A. Wood, Mayor

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR **DEPARTMENT OF LAW**

April 16, 2015

Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

Mr. President and Honorable Members of the Council:

I respectfully request your approval of the attached proposed ordinance, amending Chapter 91 of the Municipal Code of the City of Mishawaka. If approved, the language attached as Exhibit A will replace and update the language in Mishawaka's Animal Control Ordinance.

The original impetus for making changes was to remove breed-specific language pertaining to dangerous dogs. Currently the ordinance designates as dangerous what are commonly known as "Pit Bulls," whether the animal has exhibited aggressive or dangerous behavior or not. The proposed amended ordinance would remove specific references to Pit Bulls as dangerous dogs. A Pit Bull could of course be designated a dangerous dog, but it would only be based upon dangerous behavior as defined in the ordinance.

In the interest of efficiency, Council members Michael Compton and Dan Bilancio, along with Code Enforcement Director George Obren and I, determined to review the entire ordinance for any other changes that might be appropriate at this time. As a result, we are proposing some minor language changes, as well as changing the expiration for registrations and other licenses from December 31 to "one calendar year from the date of issue." We believe this is represents an improvement for residents.

Finally, we were approached with a proposal to introduce a "Trap, Neuter, Return" ("TNR") program in the City of Mishawaka. TNR is a program through which free-roaming (sometimes referred to as "feral") cats are humanely trapped; sterilized and medically treated; and returned to the outdoor locations where they were found, in an effort to control the feral cat population. The practice has been successfully utilized in various US communities, was adopted in neighboring South Bend in 2014, and is endorsed by both the American Society for the Prevention of Cruelty to Animals (ASPCA) and The Humane Society of the United States. The proposed amended ordinance includes provisions intended to adopt the practice for the City of Mishawaka, at no financial cost to the City.

I would like to thank Council Members Compton and Bilancio for their hard work, research, and patience in preparing the proposed ordinance.

Geoffrey D. Spiess
Corporation Counsel
600 East Third Street
Mishawaka, Indiana 46544
(574) 258-1702
fax: (574) 254-0197

Lawrence J. Meteiver
Deputy City Attorney
600 East Third Street
Mishawaka, Indiana 46544
(574) 258-1702
fax: (574) 254-0197

David V. Bent
Deputy City Attorney
320 West Fourth Street
Mishawaka, Indiana 46544
(574) 255-3680
fax: (574) 255-3969

Robert C. Beutter
Deputy City Attorney
4100 Edison Lakes Parkway
Mishawaka, Indiana 46545
(574) 243-4100
fax: (574) 232-9789

I will be available to answer questions at second reading of the proposed amended ordinance. In the meantime, please feel free to contact me at gspiess@mishawaka.in.gov or 574-258-1702 if you would like to discuss any of the proposed amendments.

Thank you in advance for your consideration.

Sincerely,

Geoff Spiess
Corporation Counsel

EXHIBIT A

Sec. 91.01. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means to deposit, leave, drop-off or otherwise dispose of any live animal on public or private property without providing the requisite care prescribed under this chapter.

A.D.B.A. means the American Dog Breeders Association.

Agent means any person 18 years or older who is authorized by the animal's owner to act on such owner's behalf.

A.K.C. means the American Kennel Club.

Altered animal means any animal that has been operated on to prevent it from procreating.

Animal means any live, nonhuman, vertebrate, or invertebrate creature that is domestic, wild, or exotic.

Animal control agency means any governmental or private entity charged with or contracted with and given authority for the enforcement of the provisions of this chapter for and on behalf of the city.

Animal control commission means the governing board established by this chapter.

Animal control officer means a person authorized to carry out the provisions of this chapter.

Animal performances or exhibitions means any spectacle, performance, display, act, exhibition, or event in which animals are used.

Animal shelter means a facility or vehicle operated by a governmental or private entity for the purpose of providing or promoting animal welfare and the humane treatment of animals.

At large means an animal that is:

(1) Not on a leash and is off the property of its owner, its owner's agent, or its keeper;

(2) On a leash that does not adequately confine the animal to the property of its owner, its owner's agent, or its keeper; or

(3) On a leash that is not otherwise under the immediate control of a person physically capable of restraining the animal.

Restrictions pertaining to at large animals shall not apply to free-roaming cats.

Attack dog means any dog that is trained to attack upon command or those that do attack or have attacked another animal or human being. This definition excludes K-9 dog corps in use by law enforcement agencies.

Auction means any place or facility where animals are regularly bought, sold, or traded by any means, except for those facilities otherwise defined in this chapter as animal shelters. This definition shall also include the groups that sponsor such events.

Bite means to seize, tear, wound, or cut with the teeth, resulting in a break in the skin.

Breeder means any person or for-profit business or corporation which harbors or keeps any animals, and allows or causes those animals to procreate, for the purpose of selling the offspring.

Cattery means any person engaged in keeping more than three unaltered cats.

Circus means any performances, which are given for a fee, by traveling companies on vacant lots, using tents, or some other kind of temporary enclosure, for sheltering the public. Circuses are also subject to the licensing provisions set forth in this chapter.

Controlled animal means any animal not defined as a domestic animal, with the exception of small, nonpoisonous aquatic or amphibious animals, nonpoisonous reptilian animals, small cage birds, and psittacine, and whose possession requires a valid city controlled animal permit. The term "controlled animal" shall include, but not be limited to, the following:

(1) All poisonous animals, including rear-fang snakes.

(2) Apes: chimpanzees (*Pan*), gibbons (*Hylobates*), gorillas (*Gorilla*), orangutans (*Pongo*), and siamangs (*Symphalangus*);

(3) Baboons (*Papio*, *Mandrillus*);

(4) Bears (*Ursidae*);

(5) Bison (*Bison*);

(6) Cheetahs (*Acinonyx jubatus*);

(7) Crocodilians (*Crocodilia*);

(8) Constrictor snakes, such as boa, python, and anaconda;

(9) Coyotes (*Canis latrans*);

(10) Deer (*Cervidae*), including all members of the deer family, such as white-tailed deer, elk, antelope, and moose;

(11) Elephants (*Elephas* and *Loxodonta*);

(12) Game cocks and other fighting birds;

(13) Hippopotami (*Hippopotamidae*);

(14) Hyenas (*Hyaenidae*);

(15) Jaguars (*Panthera onca*);

(16) Leopards (*Panthera pardus*);

(17) Lions (*Panthera leo*);

(18) Lynxes (*Lynx*);

(19) Monkeys;

(20) Ostriches (*Struthio*);

(21) Piranha fish (*Characidae*);

(22) Pumas (*Felis concolor*), also known as cougars, mountain lions, and panthers;

(23) Rhinoceroses (*Rhinocerotidae*);

(24) Sharks (class *Chondrichthyes*);

(25) Snow leopards (*Panthera uncia*);

(26) Spiders and insects which are poisonous;

(27) Tigers (*Panthera tigris*);

(28) Walking Catfish; or

(29) Wolves (*Canis lupus*).

Criminal trespass shall have the meaning set forth in IC 35-43-2-2.

Dangerous animal means:

(1) Any animal which:

a. Has attacked or bitten another animal while off the property of its owner, its owner's agent, or its keeper;

b. Has attacked, attempted to attack, bitten, or seriously injured any human being, without provocation, whether on or off the property of its owner, its owner's agent, or its keeper;

c. Has a history, documented with a public agency or its designee, of attacking or biting any humans or domestic animals;

d. Has a known propensity, tendency, or disposition to attack, to cause injury, or to otherwise threaten or endanger the safety of humans or domestic animals;

e. Has been found to be at large and has been documented to be at large by an animal control officer on three or more separate occasions in a 12-month period and has at any time been documented to show aggressive behavior; or

(2) No animal shall be considered a dangerous animal if the animal causes injury or damage to a person while that person is:

a. Committing or attempting to commit a criminal offense against the owner or agent of the owner;

b. Committing a criminal trespass upon the premises occupied by the owner, agent, or keeper of the animal; or

c. Teasing, tormenting, abusing, or assaulting the animal.

(3) No K-9 patrol dogs or police dogs owned or kept by a law enforcement agency shall be considered a dangerous animal when used in the line of duty or for law enforcement purposes.

Designee means a person, organization, or entity selected, appointed, or nominated for a particular purpose or duty.

Domestic animal means any animal that is a member of one of the following species:

(1) Dog (*Canis familiaris*);

(2) Cat (*Felis cattus* or *Felis domesticus*);

(3) Cattle (*Bos domesticus, Bos taurus,* or *Bos indicus*);

(4) Horse (*Equus caballus*);

(5) Donkey (*Equus asinus*);

(6) Sheep (*Ovis aries*);

(7) Goat (*Capra hircus*);

(8) Rabbit (*Oryctolagus cuniculus*);

(9) Mouse (*Mus musculus*);

(10) Rat (*Rattus*);

(11) Guinea pig (*Cavis procellus*);

(12) Hamster (*Mesocriecetus auratus*);

(13) Gerbil (*Gerbillus*);

(14) Cow or ox (*Bovine*);

(15) Pigeon, homing, or racing;

(16) Chicken, turkey, goose, duck;

(17) Swine;

(18) Chinchillas;

(19) Mink;

(20) Ferrets;

(21) Bisons;

(22) Llamas; and

(23) All other animals defined in IC 15-2.1-2-15

Eartipping means the removal of the distal one-quarter of a cat's left ear to indicate the cat has been spayed or neutered and vaccinated as part of a trap-neuter-return program for feral cats.

Escape-proof enclosure means a facility secured by latch, lock, or bolt and is an enclosure or kennel, fully contained by wire (minimum of 11-gauge), six-sided (including the top), of which one can be a concrete or brick floor, and that an animal cannot escape from without opening a lock or bolt.

Exotic animal means any animal whose normal native habitat is not indigenous to the continental United States, excluding Alaska and Hawaii. This definition does not include fish, furbearing animals commercially bred for the furrier trade, and birds protected under federal laws and regulations.

Exposed to rabies means any human or nonhuman, warm-blooded mammal that has been bitten or exposed to any other animal known or reasonably suspected to have been infected with rabies.

Exterminator means any person or company who receives payment for the removal of nuisance animals from commercial or private property.

Fight means a conflict between two or more animals that is intentionally organized for such purpose.

Foster animal means any animal that is being harbored for the purposes of permanent adoption placement. All individuals with foster animals in the city must work with an established agency and adhere to the provisions of this chapter.

Fowl means any kind of wild or domestic bird, excluding homing or racing pigeons, canaries, parrots, or similar types of birds normally kept in cages.

Free-roaming cat means any unowned, outdoor cat.

Harboring means the actions of any person that permit an animal habitually to remain, to be lodged or to be fed within one's home, store, enclosure, yard, or place of business or any premises on which such person resides or controls. An animal shall be presumed harbored if it is fed or sheltered for three consecutive days or more.

Health care provider means any clinic, physician, veterinarian, nurse, E.M.T., paramedic, first responder, hospital, emergency room, urgent care clinic, or veterinary clinic or hospital.

Humane officer means any person or agency designated by the state or the city as a person who is qualified to perform the duties required by the law of this city and state regarding animals.

Keeper means any person, other than the owner, who has actual or constructive possession of an animal for the purpose of managing, controlling, or caring for such animal. A person shall be construed as a keeper of an animal even if he does not have the owner's permission.

Kennel means any premises wherein any person engages in the business of boarding, breeding, buying, letting, or keeping more than three dogs for the purpose of hire, training for a fee, or selling.

Leash means a cord, chain, rope, strap, or other such physical restraint.

Microchip means a tiny computer chip, implanted underneath the skin of an animal, that contains identification information relating to that animal. For the purposes of this chapter, only standard 125 mz chips implanted in the universal location for small animals are acceptable.

Muzzle means a device constructed of strong, soft material or metal, designed to fasten over the mouth of an animal, without interfering with its vision or respiration or causing injury to the animal, to prevent the animal from biting any person or other animal.

Nip or *scratch* means to pinch or squeeze with the teeth or claws, not necessarily breaking the skin or damaging any tissue.

Not-for-profit means a business, association, or entity established or organized as a not-for-profit corporation under state law or recognized as not for profit by the Internal Revenue Service or the state department of revenue. The term "for-profit" means all other types of businesses, associations, or entities.

Off property means beyond the legal boundaries of the real property on which the owner, agent, or keeper resides.

Owner means any person 18 years of age or older having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or having property rights to any animal covered by this chapter.

Performing animal exhibition means any spectacle, display, act, exhibit or event other than a circus, in which performing animals are used.

Pet means any animal kept for pleasure rather than utility.

Pet shop means any person, group of persons, partnership, or corporation, whether operated separately or in connection with another business enterprise, which sells or barters animals.

Police dogs or *K-9 patrol dogs* means professionally trained dogs used by public safety officers for law enforcement or investigative purposes and activities.

Provoked means to deliberately arouse, incite, or excite.

Public nuisance animal means any animal that endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" shall include, but not be limited to:

(1) Any animal found running at large;

(2) Any animal, whether or not on the property of its owner, that without provocation molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way;

(3) Any animal that chases or interferes with motor vehicles in a public right-of-way;

(4) Any animal that attacks other animals;

(5) Any animal that damages, soils, defiles, or defecates on any property other than that of its owner;

(6) Any animal that makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(7) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(8) Any animal in heat that is not confined or restrained so as to prevent attraction or contact with other animals;

(9) Any animal in any section of a public park, playground, school yard, or other recreational area that is found running at large;

(10) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;

(11) Any animal that trespasses on the private property of persons other than the owner of the animal; or

(12) Any animal determined to be a dangerous animal.

Rabies vaccination means an injection, licensed by the U.S.D.A. and approved by the state board of health, given to a dog, cat, or other animal by a licensed veterinarian to prevent the spread of rabies.

Restraint means the securing of an animal by leash or lead, or confining it within the real property limits of its owner or agent.

Riding school or *stable* means any place that provides, for a fee, boarding and/or riding instructions for a horse, pony, donkey, mule, or burro.

Rodeo means a performance featuring bronco riding, steer wrestling, calf roping, greased pig contest, or bull riding.

Serious injury or *death* means:

(1) Any bodily injury, which is caused by an animal and is medically documented, that:

a. Creates a substantial risk of death;

b. Causes serious permanent disfigurement, unconsciousness, or extreme pain; or

c. Results in a permanent or protracted loss or impairment of a bodily member or organ.

(2) This definition shall not include any nip from an animal.

Service animal means any animal that is trained to assist a disabled person.

Stray means any animal that is not under restraint and/or upon reasonable inquiry by an animal control officer does not appear to have an owner.

Trap-Neuter-Return means a management technique in which homeless, free-roaming cats are humanely trapped, evaluated and sterilized by a licensed veterinarian, vaccinated against rabies, and then returned to the habitat in which they were found.

U.K.C. means the United Kennel Club.

Unconfined dangerous animal means a dangerous animal which is not securely confined indoors, not under restraint, or not confined in a securely enclosed and locked pen or structure upon the premises of the owner, agent, or keeper of such animal.

Unprovoked means without incitement or stimulation.

U.S.D.A. means the United States Department of Agriculture.

Veterinarian means any person licensed and accredited to practice veterinary medicine in the state.

Wild animal means any animal not a domestic or exotic animal, with the exception of small, nonpoisonous aquatic or amphibious animals and small cage birds, which are normally found in the wild state.

Zoological park means any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals, which is operated by a person, partnership, corporation, or governmental agency that is established for educational purposes and is properly zoned for such use, and which possesses valid licenses and permits as required under federal or state law.

Sec. 91.02. - General animal care requirements.

Every owner or his agent residing within the corporate limits of the city shall see that each of his animals:

(1) Is kept in a clean, sanitary, and healthy manner and is not confined so as to be forced to stand, sit, or lie in its own excrement;

(2) Has sufficient and wholesome food and water, which is proper and nutritional for that species of animal;

(3) Lives in a structure, meeting minimum veterinary standards, which will protect that animal from all elements of the weather and will allow that animal to stand, sit, and lie down without restriction, and which is kept in a sanitary manner;

(4) If ill, diseased, or injured, receives proper veterinary care as necessary to promote the good health of the animal and prevent the transmittal of a disease to other animals or human beings;

(5) Is not beaten, ill-treated, overloaded, over-worked, tormented, or otherwise abused or neglected, or involved in any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans;

(6) Is not physically altered in any manner by anyone other than a veterinarian, except for tattooing for identification purposes and grooming;

(7) Is not abandoned, neglected, or tortured;

(8) Does not become a public nuisance;

(9) Does not become a dangerous animal;

(10) In the case of a dog or cat over the age of three months, is properly vaccinated against rabies by a licensed veterinarian annually, or upon such frequency as may be specified by state law, and such animals shall be licensed as required by this chapter and state law;

(11) Is properly restrained and not at large;

(12) During mating season, is kept in a secure enclosure in such a manner that it cannot come into contact with another animal of the same species, except for planned breeding;

(13) No animal may be induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a situation which will cause or is likely to cause excessive physical injury or suffering.

Sec. 91.03. - Sale of animals as novelties or use as prize prohibited; exceptions.

(a) Sale of animals as novelties or use as prize prohibited.

(1) No person shall display, sell, offer for sale, barter, or give away any animal, reptile, fish, or bird as a novelty or as an advertising device.

(2) No rabbit, chick, gosling, duckling, turkey, or other fowl may be dyed or otherwise colored artificially; nor shall any dyed or artificially colored rabbits, chicks, goslings, ducklings, turkeys, or other fowl be sold, offered for sale, displayed, used as barter, or given away.

(b) This section shall not be construed to prohibit the sale or display of natural chicks, ducklings, goslings, turkeys, or other domestic fowl in proper brooder facilities by hatcheries or stores engaged in the business of selling them to be raised for commercial purposes. Nor shall this section prohibit a pet shop holding a valid permit under this chapter, or a legitimate humane society or animal shelter, from humanely caring for, adopting out, or selling animals as pets.

Sec. 91.04. - Motor vehicle accidents involving animals.

Any person operating a motor vehicle who knowingly hits, runs over, or causes injury to an animal shall immediately notify the police department. Such notice shall include the motorist's name, address, phone number, type of animal hit, and the location of the animal.

Sec. 91.05. - Animals in motor vehicles.

No animal shall be left in a motor vehicle when the conditions in that vehicle would constitute a health hazard to that animal, or when the weather would constitute a health hazard to such animal confined in said motor vehicle; nor shall any person transport any animal in an unenclosed truck bed or open section of any vehicle unless the animal is enclosed in a cage which is securely fastened to the vehicle. At the request of a humane officer, a law enforcement officer may act to remedy the hazard by any means, including gaining entry to impound the endangered animal.

Sec. 91.06. - Poisoning of animals.

(a) No person shall deposit, dispose, or place any poisonous substance on any public or private property within the corporate limits of the city, if a human or domestic animal is reasonably likely to consume or come into contact with such substance.

(b) A person shall not be liable under subsection (a) of this section for leaving common rat or mouse poisons or insecticides, in any form, on his property if the person exercises reasonable care in restricting a domestic animal's access to such poisons so that only the targeted rodents or insects are exposed to said poisons.

Sec. 91.07. - Trapping of animals restricted.

No person shall trap animals or fowl within the city limits, unless such traps are approved by an animal care facility and used for the control of nuisance animals. This prohibition shall not apply to any trap specifically designed to kill rats, mice, gophers, or moles unless the property owner is unaware of their placement. Persons who believe that this section is being violated shall file their grievance with the animal control commission for review. This section does not apply to City-approved practitioners of Trap-Neuter-Return.

Sec. 91.08. - Maximum number of dogs or cats.

(a) No person shall keep more than a total of three dogs or cats over the age of six months per household in any residential area zone. These restrictions mean a total of three animals, for example, two dogs and one cat, or two cats and one dog, but in no event shall the total number exceed three of such animals per household.

(b) This restriction shall not apply to property which is at least one-third of an acre of land (14,520 square feet); however, any person owning more than three of such animals must comply with subsection (c) of this section.

(c) Persons desiring to have more than three animals who meet the regulation set forth in subsection (b) of this section must have a minimum of 1,000 additional square feet for each additional animal.

Sec. 91.09. - Acreage requirements for certain domestic animals; prohibition of swine.

(a) Any person desiring to keep any of the following domestic animals or fowl in the city must have a minimum of five contiguous acres of land in the city, upon which the animals would be kept and which acreage must be enclosed by a fence to confine such animals:

    (1) Cow, ox, cattle, calves, or other livestock;

    (2) Donkey, ass, burro, or mule;

    (3) Sheep;

    (4) Goat, except pygmy goat (see subsection (e) of this section);

    (5) Chickens, roosters, geese, turkeys, ducks, or other fowl, except racing or homing pigeons;

    (6) Bees;

    (7) Horses;

    (8) Bison;

    (9) Llamas; or

    (10) Swine, except potbelly pig (see subsection (b) of this section).

The maximum number of such animals which may be maintained on such property shall be determined in light of current animal husbandry and veterinary standards.

(b) In no event shall the shelter and feeding station for any of the animals or fowl designated in subsection (a) of this section be closer than 50 feet from the adjoining property line.

  (1) Nothing in this section shall be deemed or construed to prohibit the keeping of bees in a hive, stand, or box located or kept within a zoological park, school, or university building for the purpose of study or observation, as long as the public safety is ensured.

  (2) Bees must be kept in accordance with the following provisions:

    a. If bee colonies are kept within 50 feet of any exterior boundary of the property on which the hive, stand, or box is located, a barrier shall be erected that will prevent bees from flying through it.

    b. Fresh, clean watering facilities for bees shall be provided on the said premises.

    c. The bees and equipment shall be kept in accordance with the provisions of state statutes.

(c) Any person desiring to raise rabbits or pets or racing or homing pigeons within the city must keep such animals and birds in safe and sanitary conditions so that a public nuisance is not created.

(d) No person may keep within the city, as presently or hereinafter established, any swine, pig pens, or hog sties. Possession of said items constitutes a public nuisance.

(e) Potbellied pigs and pygmy goats shall be allowed only on a lot with a minimum of two acres of land for each individual animal, and all other sections of this chapter shall be added hereto.

Sec. 91.10. - Owners or agents responsible for removing animal wastes and dead animals.

(a) Any owner or his agent taking the owner's dog or cat outside of the owner's real property limits must immediately remove any excrement deposited by the animal on any public or private property, except in the case of a guide dog for a blind person or service dog for a deaf or physically disabled person.

(b) The owner of any dead animal shall remove and properly dispose of the animal within 24 hours after its death. The real property owner is responsible for removal of any strange animal carcass on his real property.

Sec. 91.11. - Animal bites.

(a) If any person is a victim of an animal bite, he shall immediately notify the county health department, city police department, or animal control agency of the incident, and provide a description of the animal and an identification, if possible, of the owner. A written report shall be forwarded to the animal control agency. When an animal is determined to have bitten a person, the animal shall be confined in quarantine for a period of not less than ten days.

(b) If the animal's owner which has bitten a person presents proof of current rabies inoculations, the animal may be left in the charge of the owner, under quarantine, unless, in the judgment of the humane officer or police officer and based upon considerations of public safety, the humane officer determines it should be removed to an animal shelter or veterinary hospital for the period of observation.

(c) In addition to any other legal obligations prescribed by law, the owner shall pay for all costs incurred in the quarantine and/or impoundment of the animal before such animal will be released. If the owner is unable or unwilling to pay for said costs, the animal may be humanely euthanized, and the owner shall still remain liable to the animal shelter for any costs incurred in said quarantine and/or impoundment.

(d) If the owner of the quarantined animal cannot be determined, or if the owner does not furnish proof of current rabies inoculation, the animal shall be impounded under the authority and discretion of the city animal control agency and confined in the city's animal control facility or an approved animal care facility for a period of observation of not fewer than ten days.

(e) Animal control officers shall be empowered to enter onto private property for the purpose of impounding animals which are known to have bitten a person and shall obtain legal process to do so if necessary.

(f) Unless otherwise provided, the city and any of its agents shall comply with the standards set forth in IC 15-2.1-6-1 through IC 15-2.1-6-13, entitled "Rabies."

Sec. 91.12. - Vaccination of dogs, cats and ferrets required.

(a) No animal owner or his agent shall keep or harbor a dog, cat or ferret over the age of three months unless it has been vaccinated according to the board of animal health requirements by a licensed veterinarian with anti-rabies vaccine. This requirement does not apply to free-roaming cats.

(b) The owner shall maintain proof of an animal's vaccination so that it can be presented to the city or its agents upon request.

(c) Failure to comply with the provisions of this section shall subject the owner of said unvaccinated dog, cat or ferret to being issued an ordinance violation citation, subjecting the owner to a fine as set forth in section 14-24

Sec. 91.13. - Interference with humane officer prohibited.

No person shall interfere with or impede a humane officer or any other authorized agent in the performance of his duties as set forth in this chapter.

Sec. 91.14. - Spaying, neutering, and microchipping of adopted animals.

(a) Any dog or cat adopted from a local humane society, animal care facility, or animal adoption agency shall be spayed or neutered by a licensed veterinarian within 30 days of adoption if the dog or cat is over three months of age. If the dog or cat is less than three months of age upon adoption, it shall be spayed or neutered by a licensed veterinarian upon reaching the age of six months. A dog or cat shall not be spayed or neutered if a licensed veterinarian certifies that said animal is physically unable to undergo such an operation within the time limitations. The individual adopting the dog or cat must sign a written agreement with the adopting facility guaranteeing that such animal shall be neutered or spayed within the time limitations specified in this section.

(b) Any dog or cat adopted from a local humane society, animal care facility, or animal adoption agency shall be microchipped by a licensed veterinarian, or person supervised by a licensed veterinarian, before leaving the animal shelter.

Sec. 91.15. - Exclusion of service dogs prohibited.

No person owning, operating, or maintaining any public place of business to which the general public is invited for any business purpose shall exclude therefrom any dog that has been trained to assist the blind, the hearing-impaired, or the physically disabled. However, such dog must be in the company of the handicapped person for whom it was trained to assist or in the company of a licensed obedience service trainer.

Sec. 91.16. - Confinement by other than city officials; notice required.

Unless authorized by the owner of an animal, no person shall hold or retain possession of any animal of which he is not the owner for more than 24 hours without first reporting the possession of the animal to a humane officer, or an animal control agency, or its designee. When reporting possession of an animal, such person shall give his name and address, a description of the animal, a true and complete statement of the circumstances under which he took possession of the animal, and the precise location where the animal is confined.

Sec. 91.17. - Breaking into animal shelter prohibited.

It shall be unlawful for any person to break into any animal shelter where animals are impounded by the city or in any way remove or assist in the removal of any animal from the described property, without lawful permission.

Sec. 91.18. - Dangerous and poisonous animals prohibited.

No person shall harbor or possess within the city any poisonous animal (whether by birth or otherwise), reptile, amphibian, fish, or insect, or any animal that poses a threat to the public health and safety. Such animal may be impounded by the animal control agency and disposed of in a manner determined to be in the best interest of the animal and the public.

Sec. 91.19. - Impoundment procedures.

(a) An animal control officer, humane officer, or police officer may immediately seize, impound, or confine any of the following animals:

(1) Any dog or cat without a valid license tag;

(2) Any animal running at large;

(3) Any animal constituting a public nuisance;

(4) Any unattended animal that is ill, injured, or otherwise in need of care;

(5) Any unattended animal that is reasonably believed to have been abused or neglected;

(6) Any animal that is reasonably suspected of having rabies;

(7) Any animal charged with being dangerous or determined to be dangerous by the animal control agency;

(8) Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested, or evicted from his regular place of residence;

(9) Any unattended animal that is exhibiting aggressive or dangerous behavior and is not sufficiently confined to its own property.

Parts (1), (2), (3), and (9) above shall not apply to ear-tipped, free-roaming cats.

(b) If any dangerous, ferocious, or vicious animal is found at large and cannot be safely impounded, an animal may be tranquilized, slain, or humanely euthanized to prevent harm or undue suffering by a police officer, an animal control officer, or a humane officer.

(c) Impounded dogs and cats that are not properly licensed must be kept for no fewer than two days before being adopted out or humanely euthanized.

(d) If dogs and cats licensed under this chapter are impounded by the animal control agency, an attempt shall be made by the humane officer to return the animal to the owner, as indicated on the records of the animal control agency, as soon as is practical after the time of the impoundment. If the attempt to return the animal is impossible or without success, the animal control agency shall send a written notice to the owner at the address indicated in the records of the animal control agency, that this agency has in its possession this animal and that unless this animal is claimed by the owner within 14 days from the date of its impoundment, the animal may be placed for adoption or humanely euthanized. This process shall only apply for a first time violation. On any subsequent violation, the impounded dogs or cats licensed under this chapter shall be kept for no fewer than five days to permit their owners to claim them. After the fifth day, if their owners have not claimed the animal and paid the required fees, the dog or cat may be placed for adoption or humanely euthanized.

(e) All other impounded animals, except dogs and cats specifically covered herein, shall be under the authority of the humane officer. The animals shall be held at least one day, after which time the animal shelter shall have the authority to take whatever action is necessary with regard to adoption or euthanasia of such animals.

(f) The city animal control agency shall have authority to take whatever action is reasonably necessary, including humane euthanization, to deal with a sick or injured animal, for the welfare of the animal and for the safety of humane officers and the public.

(g) Nothing contained herein shall limit the animal shelter's authority to take whatever action is reasonably necessary to provide veterinary care by a licensed veterinarian for a sick or injured animal.

(h) All impounded dogs and cats claimed by their owners shall be permanently microchipped for identification purposes.

(i) Any animal impounded in an animal control facility, if not reclaimed by its owner as provided for herein, shall thereby become the property of the animal control agency and, if not adopted by the public, shall be humanely euthanized.

(j) Reclaiming procedures of impounded animals.

(1) An owner who is reclaiming an impounded animal shall pay the animal control agent for all fees and expenses incurred while the animal is impounded. Such fees and expenses shall include, but are not limited to: redemption fee, boarding fee, microchip identification fee, permit and licensing fee, vaccination expenses, veterinary service expenses, and any other expenses reasonably incurred for the benefit of the animal.

(2) No unlicensed dog or cat shall be released from an animal shelter without a city pet license being issued in accordance with this chapter, except a dog or cat less than three months old. Before a city pet license is issued for a dog or cat, the owner must show proof that the animal has been vaccinated against rabies. If the owner cannot show such proof and the shelter where the animal is impounded does not have licensed veterinary services on site to administer such vaccination, the owner can gain release of his dog or cat by showing a receipt for prepaid veterinarian charges for rabies vaccination and agreeing to get his dog or cat vaccinated for rabies by a licensed veterinarian within 48 hours after such release. After showing proof within 72 hours after release that the owner's dog or cat actually received a rabies vaccination, the owner shall be issued a license tag. Failure of the animal owner to obtain such vaccination after such release shall constitute a breach of the release agreement and shall entitle the city animal control agency to regain possession of the animal.

(k) Licensed animal (reclaiming).

(1) An owner redeeming an impounded but licensed animal shall pay no redemption fee to the city, but shall pay for any and all costs incurred by the animal control agency under this chapter.

(2) An animal impounded for a second time within a 12-month period shall not be released to its owner unless the owner pays a redemption fee of $25.00 to the animal control agency and pays for any and all expenses incurred by said agency under this chapter.

(3) Such redemption fee shall increase by an additional $25.00 per impoundment for each subsequent time within a 12-month period that the same animal or any other animal belonging to the same owner becomes impounded. Any animal impounded, pursuant to the provisions of this chapter, on three separate occasions shall be considered a dangerous animal.

(l) Reclaiming unlicensed animal.

(1) An owner redeeming an impounded but unlicensed animal shall pay to the animal control agency a redemption fee of $50.00 before the animal is released.

(2) Such redemption fee shall increase by an additional $25.00 per impoundment for each subsequent time within a 12-month period that the same or any other unlicensed animal belonging to the same owner becomes impounded.

(m) Any impounded animal which is not required to be licensed under the provisions of this chapter may be redeemed by its owner for a fee of $25.00. Any animal impounded on three separate occasions shall be considered a nuisance animal under this chapter. The city animal control agency shall collect all such licensing and redemption fees for the city and shall account and pay over to the city controller such amounts of such fees as required by the animal control contract between the city and the animal control agency.

(n) An animal's owner shall be liable for any expenses, including veterinary services, transportation or handling expenses incurred by the local humane society, animal care facility, animal shelter, or any other agency under this chapter.

(o) When impoundment is authorized under this section and the animal is not found by animal control officials or the police, the animal control agency is authorized to obtain a court order requiring the animal's owner to present the animal at the time and place of the agency's choosing.

Sec. 91.20. - Protected animals.

(a) No person shall possess, offer for sale, attempt to buy or own within the city any of the following animals of either thoroughbred or hybrid stock or pedigree:

(1) All wild cats of the family *felidae*.

(2) Polar bear (*Thalarctos maritimus*).

(3) Red wolf (*Canis niger* and hybrids).

(4) Vicuna (*Vicugna*).

(5) Alligator.

(6) Caiman or crocodile of the order of *crocodilia*.

(7) Gray or timber wolf (*Canis lupus* and hybrids).

(8) Sea otter (*Enhydra lutris*).

(9) Pacific ridley turtle (*Lepidochelys olivacea*).

(10) Atlantic green turtle (*Chelonia mydas*).

(11) Mexican ridley turtle (*Lepidochelys kempi*).

(b) No person shall buy, sell, or offer for sale or own a native or foreign species or subspecies of mammal, bird, amphibian, or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress), as amended.

(c) No person shall import or cause to be imported into this city any part of the plumage, skin, or dead body of any species of hawk, owl, or eagle. This division shall not be construed to forbid or restrict the importation or use of the plumage, skin, body, or any part thereof legally collected for use by American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

(d) This section shall not be construed to prevent the importation, possession, purchase, or sale of any species to any person or organization licensed to present a circus or carnival pursuant to this Code.

(e) A humane officer may seize and impound any animal being offered for sale or owned in violation of this section. In addition to any fine issued for violation of this section, the person violating any provision of this section shall be responsible for any and all costs expended by the animal control agency in transporting, keeping and/or handling the animal.

Sec. 91.21. - Keeping certain animals prohibited.

(a) No person shall keep, maintain, or have in his possession or under his control, within the city, any poisonous reptile or any other dangerous or carnivorous wild animal or reptile, any vicious or dangerous domesticated animal, or any other animal or reptile of wild, vicious, or dangerous propensities.

(b) No person shall keep, maintain or have in his possession or under his control, within the city, any of the following animals of either thoroughbred or hybrid stock or pedigree:

(1) Any animal poisonous by birth or otherwise, including rear-fang snakes;

(2) Apes such as chimpanzee (*Pan*), gibbons (*Hylobates*), gorillas (*Gorilla*), orangutans (*Pongo*), and siamangs (*Symphalangus*);

(3) Baboons (*Papio*, *Mandrillus*);

(4) Bears (*Ursidae*);

(5) Bison (*Bison*);

(6) Cheetahs (*Acinonyx jubatus*);

(7) Crocodilians (*Crocodilia*);

(8) Constrictor snakes including, but not limited to, boa, python, and anaconda;

(9) Coyotes (*Canis latrans*);

(10) Deer (*Cervidae*), such as white-tailed deer, elk, antelope, and moose;

(11) Elephants (*Elephas and Loxodonta*);

(12) Game cocks and other fighting birds;

(13) Hippopotami (*Hippopotamidae*);

(14) Hyenas (*Hyaenidae*);

(15) Jaguars (*Panthera onca*);

(16) Leopards (*Panthera pardus*);

(17) Lions (*Panthera leo*);

(18) Lynxes (*Lynx*);

(19) Monkeys, old world (*cercopithecidae*), new world;

(20) Ostriches (*Struthio*);

(21) Piranha fish (*Characidae*);

(22) Pumas (*Felis concolor*), such as cougars, mountain lions, and panthers;

(23) Rhinoceroses (*Rhinocero tidae*);

(24) Sharks (class *Chondrichthyes*);

(25) Snow leopards (*Panthera uncia*);

(26) Spiders and insects which are poisonous;

(27) Tigers (*Panthera tigris*);

(28) Wolves (*Canis lupus* and hybrids);

(29) Monitor lizard; or

(30) Wild animals.

(c) The provisions of this section shall not apply to institutions of higher learning, zoological parks, or circuses if:

(1) Their location conforms to the provisions of city ordinances.

(2) All animals and animal quarters are kept in accordance with the animal care requirements in this chapter.

(3) Animals are confined in such a manner so as to prevent their escape and protect the public from coming in direct contact with them.

(d) In addition to any fine issued for violation of this section, the person violating any provision of this section shall be responsible for any and all costs expended by the animal control agency in transporting, keeping and/or handling the animal.

Sec. 91.22. - Seizure of certain animals.

(a) No person shall harbor, own, or confine on his premises any wild animal (*ferae naturae*). Wild animals shall include, but are not limited to, raccoons, skunks, foxes, squirrels, chipmunks, porcupines, wolves, and woodchucks.

(b) Zoological parks, animal care facilities, circuses or carnivals properly licensed pursuant to this chapter, and persons possessing a valid wildlife permit from the state department of conservation are exempt from this section.

(c) Any person who owns, possesses, or harbors any wild animal in violation of this section may have the animal seized and impounded.

(d) In addition to any fine issued for violation of this section, the person violating any provision of this section shall be responsible for any and all costs expended by the animal control agency in transporting, keeping and/or handling the animal.

Sec. 91.23. - Serious injury or death.

(a) If an animal kills or causes serious injury, the animal shall be deemed a dangerous animal, pursuant to section 14-1, and the animal shall be humanely impounded. The owner shall be responsible for the costs of caring for the animal during the period of impoundment, including, but not limited to, costs of boarding and veterinary treatment, if necessary. If the owner institutes an appeal pursuant to section 14-56, and the animal is ultimately determined not to be a dangerous animal, the owner shall not be charged the costs of boarding the animal.

(b) Upon the impoundment of the animal pursuant to this section, the owner shall be given 48 hours to show or apply for a license pursuant to section 14-56 or to appeal the determination that the animal is a dangerous animal pursuant to section 14-1

(c) If the owner fails to appeal or to show proof of or apply for a license within 48 hours of impoundment, or if the owner waives in writing all ownership interests in the animal, the owner's right to possession, title, custody, and care of said animal shall be forfeited, and the animal may be humanely euthanized.

(d) If the owner's appeal is denied, the owner shall have 48 hours after the denial to apply for a license pursuant to section 14-56 and 14 days after the denial to actually obtain a dangerous dog permit. The failure to apply within 48 hours of the denial constitutes waiver of ownership rights in the animal.

(e) The owner of an animal which kills or causes serious injury to a person who is found guilty of criminal trespass as heretofore described shall not be subject to the violation provisions set forth herein.

(f) If a conflict arises between the provisions of this section and other sections of this chapter, the provisions of this section shall prevail due to the public health and safety concerns.

Sec. 91.24. - Penalty.

Any person who violates any provision in this chapter is subject to citations and prosecution through the ordinance violations bureau. A fine schedule is located in section 2-2(b).

Secs. 91.25—91.49. - Reserved.

ARTICLE II. - REGISTRATION AND LICENSING

Sec. 91.50. - Performing animal license.

(a) No person shall operate or maintain a performing animal/animal exhibition without first having obtained a license from the animal control agency.

(b) The applicant shall describe the proposed location, the purposes for which it is maintained, and the dates and hours of such performances. The application shall be accompanied by the written approval of the department of code enforcement showing compliance with the local and state regulations governing the location of and sanitation at the establishment, the written approval of the building, zoning, and public health and safety regulations.

(c) The applicant shall provide proof of insurance executed by a company legally authorized to do business in the state. The liability limits shall not be less than the amounts set forth under state law.

(d) Each license for any performing animal exhibition shall cost $100.00 per day and shall be valid for no more than five consecutive days.

(e) Licenses for such performing animal exhibitions shall not be transferable from one owner to another or to different premises.

(f) Any license issued under the provisions of this section may be suspended or revoked for violation of any local, county, or state law regulating such establishments, upon notice and hearing to the licensee as provided in section 2-420

Sec. 91.51. - Pet registration.

(a) This section does not pertain to any dangerous animal, attack dog or free-roaming cats.

(b) Any person owning, keeping, harboring, or having custody of any dog or cat over the age of three months must obtain a pet registration for such animal. No pet registration shall be required of any municipal animal control facility or governmental agency, or for a service dog. Animals belonging to those agencies or persons will be issued complimentary registration tags.

(c) A written application for such registration shall be made to the city animal control agency or city controller's office. The applicant shall include his name and address, a description of the animal, payment of the appropriate fee, a valid rabies certificate, and written verification by a licensed veterinarian that the pet has been spayed or neutered. This application must be made within 30 days after either obtaining a dog or cat over three months of age, or after a younger animal attains the age of three months. This requirement shall not apply to a nonresident keeping a dog or cat within the city for not longer than 30 days.

(d) A durable tag stamped with a registration number and year of issuance will be provided to pet registration holders for each registration granted. Dogs and cats must wear their tags at all times, except when involved in any organized show, obedience demonstration, training situation, when under the care of a licensed veterinarian, or when properly kenneled.

(e) No such registration shall be issued for a dog or cat unless the animal owner provides proof of current and effective rabies vaccination.

(f) Owners wishing to purchase a multiyear pet license, may do so at participating veterinarians. Multiyear licenses are issued only to animals that are current on rabies vaccinations, have been properly microchipped, and spayed or neutered. Multiyear licenses are renewable at a participating veterinarian's office every three years, upon update of rabies vaccinations.

Sec. 91.52. - Pet shop permit.

(a) No person shall operate a pet shop without first obtaining from the city or its agent a pet shop permit and paying the necessary fees. Any person holding a pet shop permit shall furnish, at the time of sale, to each customer purchasing a dog or cat a written statement containing the following information:

(1) Date of sale;

(2) Name, address, and telephone number of the purchaser and permit holder;

(3) Permit holder's number;

(4) Species, breed, description, age, and sex of dog or cat sold;

(5) The animal's origin, its owner's name and address, and its health papers, as required under state law;

(6) Vaccination and parasite medication administered to the animal, date administered, and the name of the veterinarian or person who administered the same;

(7) Guarantee of good health for a period of not less than one week, with recommendation to have the animal examined by a licensed veterinarian.

(b) The permit holder shall retain a copy of said written statement for a period of 12 months from the date of sale, and provide a duplicate copy to the licensing authority if the purchaser resides within the corporate limits of the city.

(c) The permit holder shall also deliver to the purchaser at the time of sale a written statement of the registration and licensing requirements applicable to the purchased animal if the purchaser resides within the corporate limits of the city. Such statement shall be prepared by the city and provided by the animal control agency.

(d) All pet shops shall take care to house animals in a sanitary manner and to provide appropriate veterinary services, humane care, and housing according to the needs of individual species.

(e) Pet shop permits shall cost $100.00, annually.

Sec. 91.53. - Breeder permits.

(a) No person shall operate as a breeder without first obtaining from the city or its agent a breeder permit and paying the necessary fees. Any person holding a breeder permit shall furnish, at the time of sale, to each customer purchasing a dog or cat a written statement containing the following information:

(1) Date of sale;

(2) Name, address, and telephone number of the purchaser and permit holder;

(3) Permit holder's number;

(4) Species, breed, description, age, and sex of dog or cat sold;

(5) The animal's origin, its owner's name and address, and its health papers, as required under state law;

(6) Vaccination and parasite medication administered to the animal, date administered, and the name of the veterinarian or person who administered the same;

(7) Guarantee of good health for a period of not less than one week, with recommendation to have the animal examined by a licensed veterinarian.

(b) The permit holder shall retain a copy of said written statement for a period of 12 months from the date of sale and provide a duplicate copy to the licensing authority if the purchaser resides within the corporate limits of the city.

(c) The permit holder shall also deliver to the purchaser at the time of sale a written statement of the registration and licensing requirements applicable to the purchased animal if the purchaser resides within the corporate limits of the city. Such statement shall be prepared by the city and provided by the animal control agency.

(d) All breeders shall take care to house animals in a sanitary manner and to provide appropriate veterinary services, humane care, and housing according to the needs of individual species.

(e) There shall be four types of breeder's permits.

(1) Minor breeder permit.

a. Any owner or person having custody of a dog or cat that has delivered a litter, who chooses not to relinquish the animal to the animal control agency and does not choose to have the animal neutered or spayed, shall be required to purchase a minor breeder permit for the sum of $50.00 per animal, plus any applicable kennel/cattery permit fees.

b. Each permit will be valid for one year from issuance.

c. No litter may be delivered from the permitted cat or dog or on the owner's property during the existence of a minor breeder's permit. Such an unauthorized litter will result in the property and/or animal owner being required to obtain a major breeder permit.

d. A permit is needed whether the litter was a result of an intentional pregnancy or not.

(2) Major breeder permit.

a. Any owner or person having custody of a dog or cat that has delivered more than one litter in 12 months time who chooses not to relinquish the animal to the animal control agency and does not choose to have the animal neutered or spayed, shall be required to purchase a major breeder permit for the sum of $100.00 per animal, plus any applicable kennel/cattery permit fees.

b. Each permit will be valid for one year from issuance.

c. A permit is necessary whether the pregnancies were intentional or not.

(3) Combination permit.

a. Any owner or person operating a kennel or a cattery and wishing to be a major or minor breeder shall obtain a combination permit annually.

b. The annual fee is $150.00.

c. The combination permit will replace the need for obtaining individual permits for each activity, but all requirements for each permit shall be met before a combination permit will be issued.

(4) Dangerous dog breeder.

a. A person who intends to breed any dangerous animal shall apply for a license to breed such animals from the animal control agency and the city's duly authorized agent. The applicant shall specify in the application the breed, age, sex, and license number of such animal that the person intends to use for breeding. The application shall be accompanied by a fee of $200.00. The applicant must address the following items when completing said application:

1. Description of the physical facilities where the breeding will take place;

2. Authorization to inspect said breeding facilities to ensure compliance with this section and section 14-56

3. Consent to comply with all zoning and public safety laws.

b. If the animal control agency or the city's duly authorized agent is satisfied that the applicant meets the requirements under this section, he shall issue a local breeder's license to the applicant; however, a breeder's license shall not be issued to anyone convicted of an offense against an animal as set forth in IC 35-46-3-1.

c. The licensee must notify the department of code enforcement, the animal control agency, or the city's duly authorized third party of the birth of all offspring of such animal within 48 hours of such births.

d. No person shall breed such animals unless the person has been issued a breeder's license under this section.

Sec. 91.54. - Kennel/cattery permit.

Any owner or person operating a kennel or cattery must comply with all animal care and acreage requirements within this article. In addition, such owners or persons must obtain an annual permit according to the following schedule:

(1) 4—15 animals .....$ 50.00

(2) 16—25 animals 75.00

(3) 26 or more animals 100.00

Sec. 91.55. - Public nuisance animal permit.

(a) *License required; appeal from determination of dangerous animal.* A person shall not own, harbor, possess, or keep a public nuisance animal unless such animal is licensed under this section or an application for licensing of such animal under this section is pending. Any person whose pet has been determined to be a nuisance animal may file an appeal within 48 hours after such determination. The appeal shall be in writing, accompanied by a nonrefundable appeal fee of $25.00, and be directed to the animal control agency and the department of code enforcement. Free-roaming cats are exempt from this requirement.

(b) *Application for license; form; accompanying information.* Any owner of a public nuisance animal shall apply to the animal control agency or the city's agent for the licensing of said animal. The application shall be on a form provided by the city's agent and shall be accompanied by the following:

(1) A valid driver's license or state-issued picture identification showing the owner's name and current address;

(2) Proof that the applicant owns said animal and is 18 years of age or older;

(3) One copy of the current immunization and health records for said animal showing that the animal received a current rabies vaccination by a licensed veterinarian;

(4) Proof that the animal has been microchipped by a licensed veterinarian.

(c) *Confinement of animal.* The nuisance animal shall be confined, at all times, within an escape-proof dwelling, kennel or appropriate animal control commission-approved fenced-in yard. All exterior doors or gates shall be locked in such a way that the animal cannot remove or unlock it. When such animal is not confined within a dwelling, kennel, or yard, it shall be reined or tethered to its master, owner, or keeper who shall maintain control over the animal to prevent injury to any person or animal.

(d) *Permit tag.* The nuisance animal shall wear a permit tag issued by the animal control agency stating that the animal is registered as a nuisance animal.

(e) *Assignment of license number.* When licensing an animal not previously licensed under this section, the animal control agency or its designee shall microchip the animal and assign a specific license number to said animal, without duplication, which number shall remain the same for the life of the animal.

(f) *Lost or escaped animal.* If the animal is lost or escapes, the owner or the owner's agent shall report said incident immediately to the city animal control agency.

(g) *Inspection of premises where animal is kept.* The animal control agency shall visually inspect the premises where the animal is kept. The inspection will consist of the cage, or if there is no cage, the officer will inspect the escape-proof habitat dwelling, doors, windows, and screen opening to determine if, in fact, they are escape-proof. The animal control agency must be satisfied that the owner has met all licensing requirements before issuing or renewing a permit.

(h) *Revocation of permit.* If a nuisance animal permit is revoked, the owner shall not be reissued another permit.

(i) *Determination of nuisance animal; time limit for obtaining permit.* If the animal control agency and/or department of code enforcement determines that an animal should be deemed a nuisance animal, the owner shall have a maximum of 14 days to obtain the proper permit. If the permit is not obtained within the 14-day period, the animal shall be impounded. The animal will then be held a maximum of ten days so that a permit can be issued. If a permit is still not obtained, the animal shall be adopted or euthanized.

(j) *Violation of chapter provisions.* If the owner of a nuisance animal violates any provisions of this chapter, the animal shall be impounded immediately and held until an animal control commission hearing. At such hearing, the animal control commission shall determine whether in fact a violation of this chapter has occurred. If the commission determines that a violation of this chapter has occurred, it shall have the authority to impose a fine and/or order the animal into the custody of the humane society for adoption or euthanized.

(k) *Change of owner.* If a nuisance animal changes owner, the new owner must apply for a new permit. The original owner's permit shall not be transferable to the new owner. The original owner shall notify the animal control agency that the animal has been sold or given away.

(l) *Change of address; notification of animal control agency.* The owner of a nuisance animal shall notify the animal control agency if the address changes where the animal is being kept. The owner must report the new address so an inspection can be made of the premises.

(m) *Expiration of license.* All licenses issued under this article shall expire one calendar year from the date of issue, unless authorized, in writing, by the animal control commission pursuant to other provisions in this chapter.

(n) *Animal running at large, stolen, etc.* The owner, or owner's agent, of an animal required to be licensed under this article shall notify the city police department and the city's animal control agency within four hours if said animal is running at large, has been stolen, or has attacked a person or a domestic animal.

Sec. 91.56. - Dangerous animal/attack dog permit.

(a) *License required; appeal from determination of dangerous animal.* A person shall not own, harbor, possess, or keep an attack dog or any other dangerous animal unless such animal is licensed under this section or an application for licensing of such animal under this section is pending. Any person whose pet has been determined to be a dangerous animal may file an appeal within 48 hours after such determination. The appeal shall be in writing, accompanied by a nonrefundable appeal fee of $25.00, and shall be directed to the animal control agency and the department of code enforcement.

(b) *Application for license; form; accompanying information.* Any owner of an attack dog or other dangerous animal shall apply to the animal control agency or the city's agent for licensing of said animal. The application shall be on a form provided by the city's agent and shall be accompanied by the following:

(1) A valid driver's license or state-issued picture identification showing the owner's name and current address;

(2) Proof that the applicant owns said animal and is 18 years of age or older;

(3) One copy of a registration certificate issued for said animal by the A.K.C. and/or A.D.B.A., if available and applicable;

(4) One copy of the current immunization and health records for said animal showing that the animal received a current rabies vaccination by a licensed veterinarian;

(5) Proof that the applicant has insurance coverage for not less than $300,000.00 for any injury, damage, or loss caused by said animal;

(6) Four photographs of said animal from four different sides taken not more than one month before the date of the application. Such photographs shall consist of a front, back, left, and right side view of the animal;

(7) Proof that the animal has been microchipped by a licensed veterinarian;

(8) The name, address, and phone number of the animal's previous owner.

(c) *Confinement of animal.* The dangerous animal/attack dog shall be confined, at all times, within a habitable escape-proof dwelling or an escape-proof cage made of at least 11-gauge wire with at least six feet high sides, a wood or wire roof, and a brick or cement floor. The cage door also shall be locked with a padlock. When such animal is not confined within a habitable dwelling or an escape-proof cage, it shall be muzzled and reined or tethered to its master, owner, or keeper who shall maintain control over the animal to prevent injury to any person or animal.

(d) *Permit tag.* The dangerous animal/attack dog shall wear a permit tag issued by the animal control agency stating that the animal is registered as a dangerous animal/attack dog.

(e) *Assignment of license number.* When licensing an animal not previously licensed under this section, the animal control agency or its designee shall assign a specific license number to said animal, without duplication, which number shall remain the same for the life of the animal.

(f) *Lost or escaped animal.* If the animal is lost or escapes, the owner or owner's agent shall report said incident immediately to the city animal control agency.

(g) *Posting of signs on property where animal will be kept.* The owner of a dangerous animal/attack dog shall post signs on his property where such animal will be kept, clearly visible from the closest street, advising the general public about such animal's presence on the premises. Such signs shall be supplied by the animal control agency after applicant pays for the permit. The permit, shall not be issued until the owner posts the signs, and the animal control agency inspects the property to verify proper posting of the signs. The cost of the signs is nonrefundable, and they will belong to the applicant even if the permit is reissued or revoked.

(h) *Persons convicted of certain felonies not to be issued a license.* No person shall be issued an attack dog/dangerous animal permit if they have been convicted of a felony involving violence, drugs, animal cruelty or animal fighting.

(i) *Inspection of premises where animal is kept.* The animal control agency shall visually inspect the premises where the animal is kept. The inspection will consist of the cage, or if there is no cage, the officer will inspect the escape-proof habitat dwelling, doors, windows, and screen opening to determine if, in fact, they are escape-proof. Also, the inspection will consist of the placement of warning signs, the animal leash, the muzzle, and the padlock for the cage. The animal control agency must be satisfied that the owner has met all licensing requirements before issuing or renewing a permit.

(j) *Revocation of permit.* If an attack dog/dangerous animal permit is revoked, the owner shall not be reissued another permit.

(k) *Exemption from provisions of section.* Duly authorized members of the police department or other law enforcement agencies including, but not limited to, game wardens, conservation officers, and other law enforcement officers shall be exempt from the provisions of this section if the animal is used for law enforcement duties.

(l) *Failure to notify animal control department or code enforcement department of address of dangerous animal.* If the animal control agency and/or department of code enforcement is notified of an address where an attack dog is being kept or harbored, and that animal and owner of the property has not been in violation of any section of this chapter, the owner shall have a maximum of 14 days to obtain the attack dog/dangerous animal permit. If the permit is not obtained within the 14-day period, the animal shall be impounded. The animal will then be held a maximum of ten days so that a permit can be issued. If a permit is still not obtained, the animal shall be euthanized.

(m) *Violation of chapter provisions.* If the owner of a dangerous animal/attack dog violates any provisions of this chapter, the animal shall be impounded immediately and held until an animal control commission hearing. At such hearing, the animal control commission shall determine whether in fact a violation of this chapter has occurred. If the commission determines that a violation of this chapter has occurred, it shall have the authority to impose a fine and/or order the animal euthanized. A dangerous animal/attack dog shall not be euthanized until after the animal control commission has rendered a final decision.

(n) *Change of owner.* If an attack dog/dangerous animal changes owner, the new owner must apply for a new permit. The original owner's permit shall not be transferable to the new owner. The original owner shall notify the animal control agency that the animal has been sold or given away.

(o) *Notification of address change.* The owner of an attack dog/dangerous animal shall notify the animal control agency if the address changes where the animal is being kept. The owner must report the new address so an inspection can be made of the premises.

(p) *Expiration of license.* All licenses issued under this article shall expire one calendar year from the date of issue.

(q) *Fighting.* No person shall fight, bait, conspire to fight or bait, or keep, train, or transport for the purpose of fighting or baiting, any animal required to be licensed under this chapter. A person who violates this section shall be reported by the department of code enforcement or its designated agent to the county prosecutor's office for prosecution under IC 35-46-3-8 et seq.

(r) *Notification by owner/agent.* The owner, or owner's agent, of an animal required to be licensed under this chapter shall notify the city police department and the city's animal control agency within four hours if said animal is running at large, has been stolen, or has attacked a person or a domestic animal.

Sec. 91.57. - Permit exemptions.

(a) No permits shall be required for the following organizations or animals:

  (1) The city animal control agency;

  (2) A state-licensed veterinary hospital/ clinic;

  (3) Birds held under state or federal falconry permits; or

  (4) Service dogs specifically trained to assist their disabled owner.

(b) All other animal care provisions of this chapter shall apply to such exempt persons or entities.

(Code 1985, § 91.30; Ord. No. 3092, 9-18-1987; Ord. No. 3105, 10-5-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 91.58. - Issuance of permits; additional requirements.

(a) *Application.*

(1) *Information to be included.* A person may register or apply for a permit with the city animal control agency. The applicant shall include, on the appropriate forms, the following information: his name, address, and phone number; the type of permit requested; the number and description of animals; proof of a valid rabies vaccination by a licensed veterinarian, if required by law; information regarding sterilization; and the appropriate registration or permit fee. Appropriate state and federal permit numbers must be provided in cases involving wildlife or federally protected animals, or any animal which requires any state or federal permit.

(2) *Compliance with applicable federal, state and local laws.* All applicants shall comply with all other applicable federal, state and local laws, and the applicant shall not have been convicted of any cruelty to animal offense pursuant to the state code.

(3) *On-site inspection.* Applicants for permits shall allow, upon reasonable notice, the city animal control agency to conduct on-site inspections prior to the issuance of any permit and/or at any time during the valid term of such permit.

(b) *Issuance or denial of permit; factors to be considered.* The city or the animal control agency shall have the authority to issue or deny an application for registration and/or a permit. In determining whether to issue or deny an application for registration or a permit, the city or the animal control agency shall consider the following factors:

(1) Whether the person has been convicted of cruelty to animals;

(2) Whether the applicant has the proper facilities in place for a specific species as required by this law;

(3) Whether the applicant has sufficient knowledge and proof of previous experience in handling and keeping such animal species; and

(4) Whether the applicant has a history, documented by the animal control agency or the city's designated agent, of providing inadequate or improper care for such animals.

(c) *Length of validity.* Registrations and permits, except dangerous animal/attack dog, shall be issued for a term of one year, effective for one year from the date of issue. They shall be purchased within 30 days of acquiring the animal. A performing animal license shall only be valid for 14 days.

(d) *Approval of application; issuance of permit and tag.* Upon approval of an application for registration or a permit, the city animal control agency shall issue a pet registration or permit in written form which shall include the registration or permit number, the type of registration or permit, and any pertinent information. In addition, for each registered pet, the city animal control agency shall issue a durable tag stamped with the registration number and year of issuance for each said registration.

(e) *Animal control agency to keep records of registration number, etc.* The city animal control agency shall maintain records with the identifying registration number, microchip number and permit number.

(f) *Fees.* All fees shall be paid at the time of application and prior to the issuance of the permit or registration.

(g) *Registration, permit, etc., not transferable.* No person shall use any registration, permit, license, or tag for any animal other than the animal for which it was issued.

(h) *Forged registration, permit, etc.* It shall be unlawful for any person to manufacture, to cause to be manufactured, or to have in his possession or control a stolen, counterfeit, or forged animal registration, permit, license, tag, rabies or neutering certificate, or other form of licensing or documentation required by this section.

Sec. 91.59. - Fees.

In addition to all other fees required by law, an animal owner shall pay the following annual fees:

(1) Each altered and microchipped animal $10.00

(2) Each altered and nonmicrochipped animal 15.00

(3) Each unaltered and microchipped animal 15.00

(4) Each unaltered and nonmicrochipped animal 25.00

(If a licensed veterinarian determines that the neutering or spaying process constitutes a threat to the health of said animal, the fee shall be calculated as though the animal were altered.)

(5) Replacement one-year tag .....$ 5.00

(6) Multiyear tag 30.00

(7) Replacement multiyear tag 30.00

Sec. 91.60. - Registration or permit revocation.

Any pet registration or permit, provided for in this article, may be revoked after notice and a hearing before the code enforcement hearing officer and/or animal control commission. An owner's pet registration or permit shall be revoked only after said officer or commission finds that the animal owner or permit holder has failed to comply with any requirements of this chapter.

Sec. 91.61. - Inspection.

(a) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this chapter, or when there is reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this chapter or state law, a health officer, police officer, code enforcement officer, or humane officer is authorized at all reasonable times to inspect the same for compliance with the provisions of this chapter or any state law, provided that:

(1) If the property is occupied, the officer shall first present proper credentials to the occupant and request entry, explaining the reasons therefor; and

(2) If the property is unoccupied, the officer shall make a reasonable effort to locate the owner or other person having control of the property and request entry, explaining the reasons therefor.

(b) If the officer has reasonable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe, dangerous, or constitutes a public nuisance as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall first present proper credentials and request entry, explaining the reasons therefor. If entry is refused or cannot be obtained, the officer shall have recourse to secure lawful entry and inspection of the property.

Sec. 91.62. – Trap-Neuter-Return.

(a) Individuals or organizations must obtain approval from the Animal Control Commission to practice Trap-Neuter-Return in City of Mishawaka limits.

(b) Free-roaming cats captured by a practitioner of trap-neuter-return shall be inspected a minimum of every two (2) hours to ensure the safety of the cat(s).

(c) It shall be unlawful for a person to remove an animal from any trap not on the person's property, unless such person has the express permission of the property's owner to do so.

Sec. 14-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means to deposit, leave, drop-off or otherwise dispose of any live animal on public or private property without providing the requisite care prescribed under this chapter.

A.D.B.A. means the American Dog Breeders Association.

Agent means any person 18 years or older who is authorized by the animal's owner to act on such owner's behalf.

A.K.C. means the American Kennel Club.

Altered animal means any animal that has been operated on to prevent it from procreating.

~~*American pit bull terrier* means:~~

~~(1) Any dog or crossbreed of dog registered and described by the U.K.C., A.K.C., and A.D.B.A., which exhibits those distinguishing characteristics which:~~

~~a. Substantially conform to the standards established by the A.K.C. for American Staffordshire terriers or Staffordshire bull terriers; or~~

~~b. Substantially conform to the standards established by the U.K.C. for American pit bull terriers.~~

~~(2) Technical deficiencies in the dog's conformance to the standards established by the A.K.C. for American Staffordshire terriers or Staffordshire bull terriers and the standards established by the U.K.C. for American pit bull terriers shall not be construed so that the subject dog is not considered a pit bull terrier.~~

Animal means any live, nonhuman, vertebrate, or invertebrate creature that is domestic, wild, or exotic.

Animal control agency means any governmental or private entity charged with or contracted with and given authority for the enforcement of the provisions of this chapter for and on behalf of the city.

Animal control commission means the governing board established by this chapter.

Animal control officer means a person authorized to carry out the provisions of this chapter.

Animal performances or exhibitions means any spectacle, performance, display, act, exhibition, or event in which animals are used.

Animal shelter means a facility or vehicle operated by a governmental or private entity for the purpose of providing or promoting animal welfare and the humane treatment of animals.

At large means an animal that is:

(1) Not on a leash and is off the property of its owner, its owner's agent, or its keeper;

(2) On a leash that does not adequately confine the animal to the property of its owner, its owner's agent, or its keeper; or

(3) On a leash that is not otherwise under the immediate control of a person physically capable of restraining the animal.

Restrictions pertaining to at large animals shall not apply to free-roaming cats.

Attack dog means any dog that is trained to attack upon command or those that do attack or have attacked another animal or human being. This definition excludes K-9 dog corps in use by law enforcement agencies.

Auction means any place or facility where animals are regularly bought, sold, or traded by any means, except for those facilities otherwise defined in this chapter as animal shelters. This definition shall also include the groups that sponsor such events.

Bite means to seize, tear, wound, or cut with the teeth, resulting in a break in the skin.

Breeder means any person or for-profit business or corporation which harbors or keeps any animals, and allows or causes those animals to procreate, for the purpose of selling the offspring.

Cattery means any person engaged in keeping more than three unaltered cats.

Circus means any performances, which are given for a fee, by traveling companies on vacant lots, using tents, or some other kind of temporary enclosure, for sheltering the public. Circuses are also subject to the licensing provisions set forth in this chapter.

Controlled animal means any animal not defined as a domestic animal, with the exception of small, nonpoisonous aquatic or amphibious animals, nonpoisonous reptilian animals, small cage birds, and psittacine, and whose possession requires a valid city controlled animal permit. The term "controlled animal" shall include, but not be limited to, the following:

(1) All poisonous animals, including rear-fang snakes.

(2) Apes: chimpanzees (*Pan*), gibbons (*Hylobates*), gorillas (*Gorilla*), orangutans (*Pongo*), and siamangs (*Symphalangus*);

(3) Baboons (*Papio*, *Mandrillus*);

(4) Bears (*Ursidae*);

(5) Bison (*Bison*);

(6) Cheetahs (*Acinonyx jubatus*);

(7) Crocodilians (*Crocodilia*);

(8) Constrictor snakes, such as boa, python, and anaconda;

(9) Coyotes (*Canis latrans*);

(10) Deer (*Cervidae*), including all members of the deer family, such as white-tailed deer, elk, antelope, and moose;

(11) Elephants (*Elephas* and *Loxodonta*);

(12) Game cocks and other fighting birds;

(13) Hippopotami (*Hippopotamidae*);

(14) Hyenas (*Hyaenidae*);

(15) Jaguars (*Panthera onca*);

(16) Leopards (*Panthera pardus*);

(17) Lions (*Panthera leo*);

(18) Lynxes (*Lynx*);

(19) Monkeys;

(20) Ostriches (*Struthio*);

(21) Piranha fish (*Characidae*);

(22) Pumas (*Felis concolor*), also known as cougars, mountain lions, and panthers;

(23) Rhinoceroses (*Rhinocerotidae*);

(24) Sharks (class *Chondrichthyes*);

(25) Snow leopards (*Panthera uncia*);

(26) Spiders and insects which are poisonous;

(27) Tigers (*Panthera tigris*);

(28) Walking Catfish; or

(29) Wolves (*Canis lupus*).

Criminal trespass shall have the meaning set forth in IC 35-43-2-2.

Dangerous animal means:

(1) Any animal which:

a. Has attacked or bitten another animal while off the property of its owner, its owner's agent, or its keeper;

b. Has attacked, attempted to attack, bitten, or seriously injured any human being, without provocation, whether on or off the property of its owner, its owner's agent, or its keeper;

c. Has a history, documented with a public agency or its designee, of attacking or biting any humans or domestic animals;

d. Has a known propensity, tendency, or disposition to attack, to cause injury, or to otherwise threaten or endanger the safety of humans or domestic animals;

e. Has been found to be at large and has been documented to be at large by an animal control officer on three or more separate occasions in a 12-month period and has at any time been documented to show aggressive behavior; or

~~f. Has been determined to be an American pit bull terrier.~~

(2) No animal~~, except an American pit bull terrier,~~ shall be considered a dangerous animal if the animal causes injury or damage to a person while that person is:

a. Committing or attempting to commit a criminal offense against the owner or agent of the owner;

b. Committing a criminal trespass upon the premises occupied by the owner, agent, or keeper of the animal; or

c. Teasing, tormenting, abusing, or assaulting the animal.

(3) No K-9 patrol dogs or police dogs owned or kept by a law enforcement agency shall be considered a dangerous animal when used in the line of duty or for law enforcement purposes.

Designee means a person, organization, or entity selected, appointed, or nominated for a particular purpose or duty.

Domestic animal means any animal that is a member of one of the following species:

(1) Dog (*Canis familiaris*);

(2) Cat (*Felis cattus* or *Felis domesticus*);

(3) Cattle (*Bos domesticus, Bos taurus,* or *Bos indicus*);

(4) Horse (*Equus caballus*);

(5) Donkey (*Equus asinus*);

(6) Sheep (*Ovis aries*);

(7) Goat (*Capra hircus*);

(8) Rabbit (*Oryctolagus cuniculus*);

(9) Mouse (*Mus musculus*);

(10) Rat (*Rattus*);

(11) Guinea pig (*Cavis procellus*);

(12) Hamster (*Mesocriecetus auratus*);

(13) Gerbil (*Gerbillus*);

(14) Cow or ox (*Bovine*);

(15) Pigeon, homing, or racing;

(16) Chicken, turkey, goose, duck;

(17) Swine;

(18) Chinchillas;

(19) Mink;

(20) Ferrets;

(21) Bisons;

(22) Llamas; and

(23) All other animals defined in IC 15-2.1-2-15

Eartipping means the removal of the distal one-quarter of a cat's left ear to indicate the cat has been spayed or neutered and vaccinated as part of a trap-neuter-return program for feral cats.

Escape-proof enclosure means a facility secured by latch, lock, or bolt and is an enclosure or kennel, fully contained by wire (minimum of 11-gauge), six-sided (including the top), of which one can be a concrete or brick floor, and that an animal cannot escape from without opening a lock or bolt.

Exotic animal means any animal whose normal native habitat is not indigenous to the continental United States, excluding Alaska and Hawaii. This definition does not include fish, furbearing animals commercially bred for the furrier trade, and birds protected under federal laws and regulations.

Exposed to rabies means any human or nonhuman, warm-blooded mammal that has been bitten or exposed to any other animal known or reasonably suspected to have been infected with rabies.

Exterminator means any person or company who receives payment for the removal of nuisance animals from commercial or private property.

Fight means a conflict between two or more animals that is intentionally organized for such purpose.

Foster animal means any animal that is being harbored for the purposes of permanent adoption placement. All individuals with foster animals in the city must work with an established agency and adhere to the provisions of this chapter.

Fowl means any kind of wild or domestic bird, excluding homing or racing pigeons, canaries, parrots, or similar types of birds normally kept in cages.

Free-roaming cat means any unowned, outdoor cat.

Harboring means the actions of any person that permit an animal habitually to remain, to be lodged or to be fed within one's home, store, enclosure, yard, or place of business or any premises on which such person resides or controls. An animal shall be presumed harbored if it is fed or sheltered for three consecutive days or more.

Health care provider means any clinic, physician, veterinarian, nurse, E.M.T., paramedic, first responder, hospital, emergency room, urgent care clinic, or veterinary clinic or hospital.

Humane officer means any person or agency designated by the state or the city as a person who is qualified to perform the duties required by the law of this city and state regarding animals.

Keeper means any person, other than the owner, who has actual or constructive possession of an animal for the purpose of managing, controlling, or caring for such animal. A person shall be construed as a keeper of an animal even if he does not have the owner's permission.

Kennel means any premises wherein any person engages in the business of boarding, breeding, buying, letting, or keeping more than three dogs for the purpose of hire, training for a fee, or selling.

Leash means a cord, chain, rope, strap, or other such physical restraint.

Microchip means a tiny computer chip, implanted underneath the skin of an animal, that contains identification information relating to that animal. For the purposes of this chapter, only standard 125 mz chips implanted in the universal location for small animals are acceptable.

Muzzle means a device constructed of strong, soft material or metal, designed to fasten over the mouth of an animal, without interfering with its vision or respiration or causing injury to the animal, to prevent the animal from biting any person or other animal.

Nip or *scratch* means to pinch or squeeze with the teeth or claws, not necessarily breaking the skin or damaging any tissue.

Not-for-profit means a business, association, or entity established or organized as a not-for-profit corporation under state law or recognized as not for profit by the Internal Revenue Service or the state department of revenue. The term "for-profit" means all other types of businesses, associations, or entities.

Off property means beyond the legal boundaries of the real property on which the owner, agent, or keeper resides.

Owner means any person 18 years of age or older having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or having property rights to any animal covered by this chapter.

Performing animal exhibition means any spectacle, display, act, exhibit or event other than a circus, in which performing animals are used.

Pet means any animal kept for pleasure rather than utility.

Pet shop means any person, group of persons, partnership, or corporation, whether operated separately or in connection with another business enterprise, which sells or barters animals.

Police dogs or *K-9 patrol dogs* means professionally trained dogs used by public safety officers for law enforcement or investigative purposes and activities.

Provoked means to deliberately arouse, incite, or excite.

Public nuisance animal means any animal that endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" shall include, but not be limited to:

(1) Any animal found running at large;

(2) Any animal, whether or not on the property of its owner, that without provocation molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way;

(3) Any animal that chases or interferes with motor vehicles in a public right-of-way;

(4) Any animal that attacks other animals;

(5) Any animal that damages, soils, defiles, or defecates on any property other than that of its owner;

(6) Any animal that makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(7) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(8) Any animal in heat that is not confined or restrained so as to prevent attraction or contact with other animals;

(9) Any animal in any section of a public park, playground, school yard, or other recreational area that is found running at large;

(10) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;

(11) Any animal that trespasses on the private property of persons other than the owner of the animal; or

(12) Any animal determined to be a dangerous animal.

Rabies vaccination means an injection, licensed by the U.S.D.A. and approved by the state board of health, given to a dog, cat, or other animal by a licensed veterinarian to prevent the spread of rabies.

Restraint means the securing of an animal by leash or lead, or confining it within the real property limits of its owner or agent.

Riding school or *stable* means any place that provides, for a fee, boarding and/or riding instructions for a horse, pony, donkey, mule, or burro.

Rodeo means a performance featuring bronco riding, steer wrestling, calf roping, greased pig contest, or bull riding.

Serious injury or *death* means:

(1) Any bodily injury, which is caused by an animal and is medically documented, that:

a. Creates a substantial risk of death;

b. Causes serious permanent disfigurement, unconsciousness, or extreme pain; or

c. Results in a permanent or protracted loss or impairment of a bodily member or organ.

(2) This definition shall not include any nip from an animal.

Service animal means any animal that is trained to assist a disabled person.

Stray means any animal that is not under restraint and/or upon reasonable inquiry by an animal control officer does not appear to have an owner.

Trap-Neuter-Return means a management technique in which homeless, free-roaming cats are humanely trapped, evaluated and sterilized by a licensed veterinarian, vaccinated against rabies, and then returned to the habitat in which they were found.

U.K.C. means the United Kennel Club.

Unconfined dangerous animal means a dangerous animal which is not securely confined indoors, not under restraint, or not confined in a securely enclosed and locked pen or structure upon the premises of the owner, agent, or keeper of such animal.

Unprovoked means without incitement or stimulation.

U.S.D.A. means the United States Department of Agriculture.

Veterinarian means any person licensed and accredited to practice veterinary medicine in the state.

Wild animal means any animal not a domestic or exotic animal, with the exception of small, nonpoisonous aquatic or amphibious animals and small cage birds, which are normally found in the wild state.

Zoological park means any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals, which is operated by a person, partnership, corporation, or governmental agency that is established for educational purposes and is properly zoned for such use, and which possesses valid licenses and permits as required under federal or state law.

(Code 1985, § 91.01; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-2. - General animal care requirements.

Every owner or his agent residing within the corporate limits of the city shall see that each of his animals:

(1) Is kept in a clean, sanitary, and healthy manner and is not confined so as to be forced to stand, sit, or lie in its own excrement;

(2) Has sufficient and wholesome food and water, which is proper and nutritional for that species of animal;

(3) Lives in a structure, meeting minimum veterinary standards, which will protect that animal from all elements of the weather and will allow that animal to stand, sit, and lie down without restriction, and which is kept in a sanitary manner;

(4) If ill, diseased, or injured, receives proper veterinary care as necessary to promote the good health of the animal and prevent the transmittal of a disease to other animals or human beings;

(5) Is not beaten, ill-treated, overloaded, over-worked, tormented, or otherwise abused or neglected, or involved in any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans;

(6) Is not physically altered in any manner by anyone other than a veterinarian, except for tattooing for identification purposes and grooming;

(7) Is not abandoned, neglected, or tortured;

(8) Does not become a public nuisance;

(9) Does not become a dangerous animal;

(10) In the case of a dog or cat over the age of three months, is properly vaccinated against rabies by a licensed veterinarian annually, or upon such frequency as may be specified by state law, and such animals shall be licensed as required by this chapter and state law;

(11) Is properly restrained and not at large;

(12) During mating season, is kept in a secure enclosure in such a manner that it cannot come into contact with another animal of the same species, except for planned breeding;

(13) No animal may be induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a situation which will cause or is likely to cause excessive physical injury or suffering.

(Code 1985, § 91.03; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-3. - Sale of animals as novelties or use as prize prohibited; exceptions.

(a) Sale of animals as novelties or use as prize prohibited.

(1) No person shall display, sell, offer for sale, barter, or give away any animal, reptile, fish, or bird as a novelty or as an advertising device.

(2) No rabbit, chick, gosling, duckling, turkey, or other fowl may be dyed or otherwise colored artificially; nor shall any dyed or artificially colored rabbits, chicks, goslings, ducklings, turkeys, or other fowl be sold, offered for sale, displayed, used as barter, or given away.

(b) This section shall not be construed to prohibit the sale or display of natural chicks, ducklings, goslings, turkeys, or other domestic fowl in proper brooder facilities by hatcheries or stores engaged in the business of selling them to be raised for commercial purposes. Nor shall this section prohibit a pet shop holding a valid permit under this chapter, or a legitimate humane society or animal shelter, from humanely caring for, adopting out, or selling animals as pets.

(Code 1985, § 91.04; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-4. - Motor vehicle accidents involving animals.

Any person operating a motor vehicle who knowingly hits, runs over, or causes injury to an animal shall immediately notify the police department. Such notice shall include the motorist's name, address, phone number, type of animal hit, and the location of the animal.

(Code 1985, § 91.05; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-5. - Animals in motor vehicles.

No animal shall be left in a motor vehicle when the conditions in that vehicle would constitute a health hazard to that animal, or when the weather would constitute a health hazard to such animal confined in said motor vehicle; nor shall any person transport any animal in an unenclosed truck bed or open section of any vehicle unless the animal is enclosed in a cage which is securely fastened to the vehicle. At the request of a humane officer, a law enforcement officer may act to remedy the hazard by any means, including gaining entry to impound the endangered animal.

(Code 1985, § 91.06; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-6. - Poisoning of animals.

(a) No person shall deposit, dispose, or place any poisonous substance on any public or private property within the corporate limits of the city, if a human or domestic animal is reasonably likely to consume or come into contact with such substance.

(b) A person shall not be liable under subsection (a) of this section for leaving common rat or mouse poisons or insecticides, in any form, on his property if the person exercises reasonable care in restricting a domestic animal's access to such poisons so that only the targeted rodents or insects are exposed to said poisons.

(Code 1985, § 91.07; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-7. - Trapping of animals restricted.

No person shall trap animals or fowl within the city limits, unless such traps are approved by an animal care facility and used for the control of nuisance animals. This prohibition shall not apply to any trap specifically designed to kill rats, mice, gophers, or moles unless the property owner is unaware of their placement. Persons who believe that this section is being violated shall file their grievance with the animal control commission for review. This section does not apply to City-approved practitioners of Trap-Neuter-Return.

(Code 1985, § 91.08; Ord. No. 3092, 9-18-1987; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-8. - Maximum number of dogs or cats.

(a) No person shall keep more than a total of three dogs or cats over the age of six months per household in any residential area zone. These restrictions mean a total of three animals, for example, two dogs and one cat, or two cats and one dog, but in no event shall the total number exceed three of such animals per household.

(b) This restriction shall not apply to property which is at least one-third of an acre of land (14,520 square feet); however, any person owning more than three of such animals must comply with subsection (c) of this section.

(c) Persons desiring to have more than three animals who meet the regulation set forth in subsection (b) of this section must have a minimum of 1,000 additional square feet for each additional animal.

(Code 1985, § 91.09; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-9. - Acreage requirements for certain domestic animals; prohibition of swine.

(a) Any person desiring to keep any of the following domestic animals or fowl in the city must have a minimum of five contiguous acres of land in the city, upon which the animals would be kept and which acreage must be enclosed by a fence to confine such animals:

(1) Cow, ox, cattle, calves, or other livestock;

(2) Donkey, ass, burro, or mule;

(3) Sheep;

(4) Goat, except pygmy goat (see subsection (e) of this section);

(5) Chickens, roosters, geese, turkeys, ducks, or other fowl, except racing or homing pigeons;

(6) Bees;

(7) Horses;

(8) Bison;

(9) Llamas; or

(10) Swine, except potbelly pig (see subsection (b) of this section).

The maximum number of such animals which may be maintained on such property shall be determined in light of current animal husbandry and veterinary standards.

(b) In no event shall the shelter and feeding station for any of the animals or fowl designated in subsection (a) of this section be closer than 50 feet from the adjoining property line.

(1) Nothing in this section shall be deemed or construed to prohibit the keeping of bees in a hive, stand, or box located or kept within a zoological park, school, or university building for the purpose of study or observation, as long as the public safety is ensured.

(2) Bees must be kept in accordance with the following provisions:

a. If bee colonies are kept within 50 feet of any exterior boundary of the property on which the hive, stand, or box is located, a barrier shall be erected that will prevent bees from flying through it.

b. Fresh, clean watering facilities for bees shall be provided on the said premises.

c. The bees and equipment shall be kept in accordance with the provisions of state statutes.

(c) Any person desiring to raise rabbits or pets or racing or homing pigeons within the city must keep such animals and birds in safe and sanitary conditions so that a public nuisance is not created.

(d) No person may keep within the city, as presently or hereinafter established, any swine, pig pens, or hog sties. Possession of said items constitutes a public nuisance.

(e) Potbellied pigs and pygmy goats shall be allowed only on a lot with a minimum of two acres of land for each individual animal, and all other sections of this chapter shall be added hereto.

(Code 1985, § 91.10; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-10. - Owners or agents responsible for removing animal wastes and dead animals.

(a) Any owner or his agent taking the owner's dog or cat outside of the owner's real property limits must immediately remove any excrement deposited by the animal on any public or private property, except in the case of a guide dog for a blind person or service dog for a deaf or physically disabled person.

(b) The owner of any dead animal shall remove and properly dispose of the animal within 24 hours after its death. The real property owner is responsible for removal of any strange animal carcass on his real property.

(Code 1985, § 91.11; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-11. - Animal bites.

(a) If any person is a victim of an animal bite, he shall immediately notify the county health department, city police department, or animal control agency of the incident, and provide a description of the animal and an identification, if possible, of the owner. A written report shall be forwarded to the animal control agency. When an animal is determined to have bitten a person, the animal shall be confined in quarantine for a period of not less than ten days.

(b) If the animal's owner which has bitten a person presents proof of current rabies inoculations, the animal may be left in the charge of the owner, under quarantine, unless, in the judgment of the humane officer or police officer and based upon considerations of public safety, the humane officer determines it should be removed to an animal shelter or veterinary hospital for the period of observation.

(c) In addition to any other legal obligations prescribed by law, the owner shall pay for all costs incurred in the quarantine and/or impoundment of the animal before such animal will be released. If the owner is unable or unwilling to pay for said costs, the animal may be humanely euthanized, and the owner shall still remain liable to the animal shelter for any costs incurred in said quarantine and/or impoundment.

(d) If the owner of the quarantined animal cannot be determined, or if the owner does not furnish proof of current rabies inoculation, the animal shall be impounded under the authority and discretion of the city animal control agency and confined in the city's animal control facility or an approved animal care facility for a period of observation of not fewer than ten days.

(e) Animal control officers shall be empowered to enter onto private property for the purpose of impounding animals which are known to have bitten a person and shall obtain legal process to do so if necessary.

(f) Unless otherwise provided, the city and any of its agents shall comply with the standards set forth in IC 15-2.1-6-1 through IC 15-2.1-6-13, entitled "Rabies."

(Code 1985, § 91.12; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-12. - Vaccination of dogs, cats and ferrets required.

(a) No animal owner or his agent shall keep or harbor a dog, cat or ferret over the age of three months unless it has been vaccinated according to the board of animal health requirements by a licensed veterinarian with anti-rabies vaccine. This requirement does not apply to free-roaming cats.

(b) The owner shall maintain proof of an animal's vaccination so that it can be presented to the city or its agents upon request.

(c) Failure to comply with the provisions of this section shall subject the owner of said unvaccinated dog, cat or ferret to being issued an ordinance violation citation, subjecting the owner to a fine as set forth in section 14-24

(Code 1985, § 91.13; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-13. - Interference with humane officer prohibited.

No person shall interfere with or impede a humane officer or any other authorized agent in the performance of his duties as set forth in this chapter.

(Code 1985, § 91.14; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-14. - Spaying, neutering, and microchipping of adopted animals.

(a) Any dog or cat adopted from a local humane society, animal care facility, or animal adoption agency shall be spayed or neutered by a licensed veterinarian within 30 days of adoption if the dog or cat is over three months of age. If the dog or cat is less than three months of age upon adoption, it shall be spayed or neutered by a licensed veterinarian upon reaching the age of six months. A dog or cat shall not be spayed or neutered if a licensed veterinarian certifies that said animal is physically unable to undergo such an operation within the time limitations. The individual adopting the dog or cat must sign a written agreement with the adopting facility guaranteeing that such animal shall be neutered or spayed within the time limitations specified in this section.

(b) Any dog or cat adopted from a local humane society, animal care facility, or animal adoption agency shall be microchipped by a licensed veterinarian, or person supervised by a licensed veterinarian, before leaving the animal shelter.

(Code 1985, § 91.15; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-15. - Exclusion of service dogs prohibited.

No person owning, operating, or maintaining any public place of business to which the general public is invited for any business purpose shall exclude therefrom any dog that has been trained to assist the blind, the hearing-impaired, or the physically disabled. However, such dog must be in the company of the handicapped person for whom it was trained to assist or in the company of a licensed obedience service trainer.

(Code 1985, § 91.16; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-16. - Confinement by other than city officials; notice required.

Unless authorized by the owner of an animal, no person shall hold or retain possession of any animal of which he is not the owner for more than 24 hours without first reporting the possession of the animal to a humane officer, or an animal control agency, or its designee. When reporting possession of an animal, such person shall give his name and address, a description of the animal, a true and complete statement of the circumstances under which he took possession of the animal, and the precise location where the animal is confined.

(Code 1985, § 91.17; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-17. - Breaking into animal shelter prohibited.

It shall be unlawful for any person to break into any animal shelter where animals are impounded by the city or in any way remove or assist in the removal of any animal from the described property, without lawful permission.

(Code 1985, § 91.18; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-18. - Dangerous and poisonous animals prohibited.

No person shall harbor or possess within the city any poisonous animal (whether by birth or otherwise), reptile, amphibian, fish, or insect, or any animal that poses a threat to the public health and safety. Such animal may be impounded by the animal control agency and disposed of in a manner determined to be in the best interest of the animal and the public.

(Code 1985, § 91.19; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-19. - Impoundment procedures.

(a) An animal control officer, humane officer, or police officer may immediately seize, impound, or confine any of the following animals:

   (1) Any dog or cat without a valid license tag;

   (2) Any animal running at large;

   (3) Any animal constituting a public nuisance;

   (4) Any unattended animal that is ill, injured, or otherwise in need of care;

   (5) Any unattended animal that is reasonably believed to have been abused or neglected;

   (6) Any animal that is reasonably suspected of having rabies;

   (7) Any animal charged with being dangerous or determined to be dangerous by the animal control agency;

   (8) Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested, or evicted from his regular place of residence;

   (9) Any unattended animal that is exhibiting aggressive or dangerous behavior and is not sufficiently confined to its own property.

   Parts (1), (2), (3), and (9) above shall not apply to ear-tipped, free-roaming cats.

(b) If any dangerous, ferocious, or vicious animal is found at large and cannot be safely impounded, an animal may be tranquilized, slain, or humanely euthanized to prevent harm or undue suffering by a police officer, an animal control officer, or a humane officer.

(c) Impounded dogs and cats that are not properly licensed must be kept for no fewer than two days before being adopted out or humanely euthanized.

(d) If dogs and cats licensed under this chapter are impounded by the animal control agency, an attempt shall be made by the humane officer to return the animal to the owner, as indicated on the records of the animal control agency, as soon as is practical after the time of the impoundment. If the attempt to return the animal is impossible or without success, the animal control agency shall send a written notice to the owner at the address indicated in the records of the animal control agency, that this agency has in its possession this animal and that unless this animal is claimed by the owner within 14 days from the date of its impoundment, the animal may be placed for adoption or humanely euthanized. This process shall only apply for a first time violation. On any subsequent violation, the impounded dogs or cats licensed under this chapter shall be kept for no fewer than five days to permit their owners to claim them. After the fifth day, if their owners have not claimed the animal and paid the required fees, the dog or cat may be placed for adoption or humanely euthanized.

(e) All other impounded animals, except dogs and cats specifically covered herein, shall be under the authority of the humane officer. The animals shall be held at least one day, after which time the animal shelter shall have the authority to take whatever action is necessary with regard to adoption or euthanasia of such animals.

(f) The city animal control agency shall have authority to take whatever action is reasonably necessary, including humane euthanization, to deal with a sick or injured animal, for the welfare of the animal and for the safety of humane officers and the public.

(g) Nothing contained herein shall limit the animal shelter's authority to take whatever action is reasonably necessary to provide veterinary care by a licensed veterinarian for a sick or injured animal.

(h) All impounded dogs and cats claimed by their owners shall be permanently microchipped for identification purposes.

(i) Any animal impounded in an animal control facility, if not reclaimed by its owner as provided for herein, shall thereby become the property of the animal control agency and, if not adopted by the public, shall be humanely euthanized.

(j) Reclaiming procedures of impounded animals.

 (1) An owner who is reclaiming an impounded animal shall pay the animal control agent for all fees and expenses incurred while the animal is impounded. Such fees and expenses shall include, but are not limited to: redemption fee, boarding fee, microchip identification fee, permit and licensing fee, vaccination expenses, veterinary service expenses, and any other expenses reasonably incurred for the benefit of the animal.

 (2) No unlicensed dog or cat shall be released from an animal shelter without a city pet license being issued in accordance with this chapter, except a dog or cat less than three months old. Before a city pet license is issued for a dog or cat, the owner must show proof that the animal has been vaccinated against rabies. If the owner cannot show such proof and the shelter where the animal is impounded does not have licensed veterinary services on site to administer such vaccination, the owner can gain release of his dog or cat by showing a receipt for prepaid veterinarian charges for rabies vaccination and agreeing to get his dog or cat vaccinated for rabies by a licensed veterinarian within 48 hours after such release. After showing proof within 72 hours after release that the owner's dog or cat actually received a rabies vaccination, the owner shall be issued a license tag. Failure of the animal owner to obtain such vaccination after such release shall constitute a breach of the release agreement and shall entitle the city animal control agency to regain possession of the animal.

(k) Licensed animal (reclaiming).

 (1) An owner redeeming an impounded but licensed animal shall pay no redemption fee to the city, but shall pay for any and all costs incurred by the animal control agency under this chapter.

 (2) An animal impounded for a second time within a 12-month period shall not be released to its owner unless the owner pays a redemption fee of $25.00 to the animal control agency and pays for any and all expenses incurred by said agency under this chapter.

 (3) Such redemption fee shall increase by an additional $25.00 per impoundment for each subsequent time within a 12-month period that the same animal or any other animal belonging to the same owner becomes impounded. Any animal impounded, pursuant to the provisions of this chapter, on three separate occasions shall be considered a dangerous animal.

(l) Reclaiming unlicensed animal.

 (1) An owner redeeming an impounded but unlicensed animal shall pay to the animal control agency a redemption fee of $50.00 before the animal is released.

(2) Such redemption fee shall increase by an additional $25.00 per impoundment for each subsequent time within a 12-month period that the same or any other unlicensed animal belonging to the same owner becomes impounded.

(m) Any impounded animal which is not required to be licensed under the provisions of this chapter may be redeemed by its owner for a fee of $25.00. Any animal impounded on three separate occasions shall be considered a nuisance animal under this chapter. The city animal control agency shall collect all such licensing and redemption fees for the city and shall account and pay over to the city controller such amounts of such fees as required by the animal control contract between the city and the animal control agency.

(n) An animal's owner shall be liable for any expenses, including veterinary services, transportation or handling expenses incurred by the local humane society, animal care facility, animal shelter, or any other agency under this chapter.

(o) When impoundment is authorized under this section and the animal is not found by animal control officials or the police, the animal control agency is authorized to obtain a court order requiring the animal's owner to present the animal at the time and place of the agency's choosing.

(Code 1985, § 91.20; Ord. No. 3092, 9-18-1987; Ord. No. 3105, 10-5-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-20. - Protected animals.

(a) No person shall possess, offer for sale, attempt to buy or own within the city any of the following animals of either thoroughbred or hybrid stock or pedigree:

(1) All wild cats of the family *felidae*.

(2) Polar bear (*Thalarctos maritimus*).

(3) Red wolf (*Canis niger* and hybrids).

(4) Vicuna (*Vicugna*).

(5) Alligator.

(6) Caiman or crocodile of the order of *crocodilia*.

(7) Gray or timber wolf (*Canis lupus* and hybrids).

(8) Sea otter (*Enhydra lutris*).

(9) Pacific ridley turtle (*Lepidochelys olivacea*).

(10) Atlantic green turtle (*Chelonia mydas*).

(11) Mexican ridley turtle (*Lepidochelys kempi*).

(b) No person shall buy, sell, or offer for sale or own a native or foreign species or subspecies of mammal, bird, amphibian, or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress), as amended.

(c) No person shall import or cause to be imported into this city any part of the plumage, skin, or dead body of any species of hawk, owl, or eagle. This division shall not be construed to forbid or restrict the importation or use of the plumage, skin, body, or any part thereof legally collected for use by American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

(d) This section shall not be construed to prevent the importation, possession, purchase, or sale of any species to any person or organization licensed to present a circus or carnival pursuant to this Code.

(e) A humane officer may seize and impound any animal being offered for sale or owned in violation of this section. In addition to any fine issued for violation of this section, the person violating any provision of this section shall be responsible for any and all costs expended by the animal control agency in transporting, keeping and/or handling the animal.

(Code 1985, § 91.21; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-21. - Keeping certain animals prohibited.

(a) No person shall keep, maintain, or have in his possession or under his control, within the city, any poisonous reptile or any other dangerous or carnivorous wild animal or reptile, any vicious or dangerous domesticated animal, or any other animal or reptile of wild, vicious, or dangerous propensities.

(b) No person shall keep, maintain or have in his possession or under his control, within the city, any of the following animals of either thoroughbred or hybrid stock or pedigree:

(1) Any animal poisonous by birth or otherwise, including rear-fang snakes;

(2) Apes such as chimpanzee (*Pan*), gibbons (*Hylobates*), gorillas (*Gorilla*), orangutans (*Pongo*), and siamangs (*Symphalangus*);

(3) Baboons (*Papio*, *Mandrillus*);

(4) Bears (*Ursidae*);

(5) Bison (*Bison*);

(6) Cheetahs (*Acinonyx jubatus*);

(7) Crocodilians (*Crocodilia*);

(8) Constrictor snakes including, but not limited to, boa, python, and anaconda;

(9) Coyotes (*Canis latrans*);

(10) Deer (*Cervidae*), such as white-tailed deer, elk, antelope, and moose;

(11) Elephants (*Elephas and Loxodonta*);

(12) Game cocks and other fighting birds;

(13) Hippopotami (*Hippopotamidae*);

(14) Hyenas (*Hyaenidae*);

(15) Jaguars (*Panthera onca*);

(16) Leopards (*Panthera pardus*);

(17) Lions (*Panthera leo*);

(18) Lynxes (*Lynx*);

(19) Monkeys, old world (*cercopithecidae*), new world;

(20) Ostriches (*Struthio*);

(21) Piranha fish (*Characidae*);

(22) Pumas (*Felis concolor*), such as cougars, mountain lions, and panthers;

(23) Rhinoceroses (*Rhinocero tidae*);

(24) Sharks (class *Chondrichthyes*);

(25) Snow leopards (*Panthera uncia*);

(26) Spiders and insects which are poisonous;

(27) Tigers (*Panthera tigris*);

(28) Wolves (*Canis lupus* and hybrids);

(29) Monitor lizard; or

(30) Wild animals.

(c) The provisions of this section shall not apply to institutions of higher learning, zoological parks, or circuses if:

(1) Their location conforms to the provisions of city ordinances.

(2) All animals and animal quarters are kept in accordance with the animal care requirements in this chapter.

(3) Animals are confined in such a manner so as to prevent their escape and protect the public from coming in direct contact with them.

(d) In addition to any fine issued for violation of this section, the person violating any provision of this section shall be responsible for any and all costs expended by the animal control agency in transporting, keeping and/or handling the animal.

(Code 1985, § 91.22; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-22. - Seizure of certain animals.

(a) No person shall harbor, own, or confine on his premises any wild animal (*ferae naturae*). Wild animals shall include, but are not limited to, raccoons, skunks, foxes, squirrels, chipmunks, porcupines, wolves, and woodchucks.

(b) Zoological parks, animal care facilities, circuses or carnivals properly licensed pursuant to this chapter, and persons possessing a valid wildlife permit from the state department of conservation are exempt from this section.

(c) Any person who owns, possesses, or harbors any wild animal in violation of this section may have the animal seized and impounded.

(d) In addition to any fine issued for violation of this section, the person violating any provision of this section shall be responsible for any and all costs expended by the animal control agency in transporting, keeping and/or handling the animal.

(Code 1985, § 91.23; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-23. - Serious injury or death.

(a) If an animal kills or causes serious injury, the animal shall be deemed a dangerous animal, pursuant to section 14-1, and the animal shall be humanely impounded. The owner shall be responsible for the costs of caring for the animal during the period of impoundment, including, but not limited to, costs of boarding and veterinary treatment, if necessary. If the owner institutes an appeal pursuant to section 14-56, and the animal is ultimately determined not to be a dangerous animal, the owner shall not be charged the costs of boarding the animal.

(b) Upon the impoundment of the animal pursuant to this section, the owner shall be given 48 hours to show or apply for a license pursuant to section 14-56 or to appeal the determination that the animal is a dangerous animal pursuant to section 14-1

(c) If the owner fails to appeal or to show proof of or apply for a license within 48 hours of impoundment, or if the owner waives in writing all ownership interests in the animal, the owner's right to possession, title, custody, and care of said animal shall be forfeited, and the animal may be humanely euthanized.

(d) If the owner's appeal is denied, the owner shall have 48 hours after the denial to apply for a license pursuant to section 14-56 and 14 days after the denial to actually obtain a dangerous dog permit. The failure to apply within 48 hours of the denial constitutes waiver of ownership rights in the animal.

(e) The owner of an animal which kills or causes serious injury to a person who is found guilty of criminal trespass as heretofore described shall not be subject to the violation provisions set forth herein.

~~(f) Due to the overriding public health and safety concerns related to the American pit bull terrier or any other dangerous animals, the provisions of this section are purposely intended to be reasonable regulations, yet may be more restrictive than regulations found in other sections of this chapter.~~

~~(g)~~ (f) If a conflict arises between the provisions of this section and other sections of this chapter, the provisions of this section shall prevail due to the public health and safety concerns.

(Code 1985, § 91.24; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-24. - Penalty.

Any person who violates any provision in this chapter is subject to citations and prosecution through the ordinance violations bureau. A fine schedule is located in section 2-2(b).

(Code 1985, § 91.99; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Secs. 14-25—14-49. - Reserved.

ARTICLE II. - REGISTRATION AND LICENSING

Sec. 14-50. - Performing animal license.

(a) No person shall operate or maintain a performing animal/animal exhibition without first having obtained a license from the animal control agency.

(b) The applicant shall describe the proposed location, the purposes for which it is maintained, and the dates and hours of such performances. The application shall be accompanied by the written approval of the department of code enforcement showing compliance with the local and state regulations governing the location of and sanitation at the establishment, the written approval of the building, zoning, and public health and safety regulations.

(c) The applicant shall provide proof of insurance executed by a company legally authorized to do business in the state. The liability limits shall not be less than the amounts set forth under state law.

(d) Each license for any performing animal exhibition shall cost $100.00 per day and shall be valid for no more than five consecutive days.

(e) Licenses for such performing animal exhibitions shall not be transferable from one owner to another or to different premises.

(f) Any license issued under the provisions of this section may be suspended or revoked for violation of any local, county, or state law regulating such establishments, upon notice and hearing to the licensee as provided in section 2-420

(Code 1985, § 91.25; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-51. - Pet registration.

(a) This section does not pertain to any dangerous animal, ~~or~~ attack dog~~/pit bulls~~, or free-roaming cats.

(b) Any person owning, keeping, harboring, or having custody of any dog or cat over the age of three months must obtain a pet registration for such animal. No pet registration shall be required of any municipal animal control facility or governmental agency, or for a service dog. Animals belonging to those agencies or persons will be issued complimentary registration tags.

(c) A written application for such registration shall be made to the city animal control agency or city controller's office. The applicant shall include his name and address, a description of the animal, payment of the appropriate fee, a valid rabies certificate, and written verification by a licensed veterinarian that the pet has been spayed or neutered. This application must be made within 30 days after either obtaining a dog or cat over three months of age, or after a younger animal attains the age of three months. This requirement shall not apply to a nonresident keeping a dog or cat within the city for not longer than 30 days.

(d) A durable tag stamped with a registration number and year of issuance will be provided to pet registration holders for each registration granted. Dogs and cats must wear their tags at all times, except when involved in any organized show, obedience demonstration, training situation, when under the care of a licensed veterinarian, or when properly kenneled.

(e) No such registration shall be issued for a dog or cat unless the animal owner provides proof of current and effective rabies vaccination.

(f) Owners wishing to purchase a multiyear pet license, may do so at participating veterinarians ~~within the city~~. Multiyear licenses are issued only to animals that are current on rabies vaccinations, have been properly microchipped, and spayed or neutered. Multiyear licenses are renewable at a participating veterinarian's office every three years, upon update of rabies vaccinations.

(Code 1985, § 91.26; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-52. - Pet shop permit.

(a) No person shall operate a pet shop without first obtaining from the city or its agent a pet shop permit and paying the necessary fees. Any person holding a pet shop permit shall furnish, at the time of sale, to each customer purchasing a dog or cat a written statement containing the following information:

(1) Date of sale;

(2) Name, address, and telephone number of the purchaser and permit holder;

(3) Permit holder's number;

(4) Species, breed, description, age, and sex of dog or cat sold;

(5) The animal's origin, its owner's name and address, and its health papers, as required under state law;

(6) Vaccination and parasite medication administered to the animal, date administered, and the name of the veterinarian or person who administered the same;

(7) Guarantee of good health for a period of not less than one week, with recommendation to have the animal examined by a licensed veterinarian.

(b) The permit holder shall retain a copy of said written statement for a period of 12 months from the date of sale, and provide a duplicate copy to the licensing authority if the purchaser resides within the corporate limits of the city.

(c) The permit holder shall also deliver to the purchaser at the time of sale a written statement of the registration and licensing requirements applicable to the purchased animal if the purchaser resides within the corporate limits of the city. Such statement shall be prepared by the city and provided by the animal control agency.

(d) All pet shops shall take care to house animals in a sanitary manner and to provide appropriate veterinary services, humane care, and housing according to the needs of individual species.

(e) Pet shop permits shall cost $100.00, annually.

(Code 1985, § 91.27; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-53. - Breeder permits.

(a) No person shall operate as a breeder without first obtaining from the city or its agent a breeder permit and paying the necessary fees. Any person holding a breeder permit shall furnish, at the time of sale, to each customer purchasing a dog or cat a written statement containing the following information:

(1) Date of sale;

(2) Name, address, and telephone number of the purchaser and permit holder;

(3) Permit holder's number;

(4) Species, breed, description, age, and sex of dog or cat sold;

(5) The animal's origin, its owner's name and address, and its health papers, as required under state law;

(6) Vaccination and parasite medication administered to the animal, date administered, and the name of the veterinarian or person who administered the same;

(7) Guarantee of good health for a period of not less than one week, with recommendation to have the animal examined by a licensed veterinarian.

(b) The permit holder shall retain a copy of said written statement for a period of 12 months from the date of sale and provide a duplicate copy to the licensing authority if the purchaser resides within the corporate limits of the city.

(c) The permit holder shall also deliver to the purchaser at the time of sale a written statement of the registration and licensing requirements applicable to the purchased animal if the purchaser resides within the corporate limits of the city. Such statement shall be prepared by the city and provided by the animal control agency.

(d) All breeders shall take care to house animals in a sanitary manner and to provide appropriate veterinary services, humane care, and housing according to the needs of individual species.

(e) There shall be four types of breeder's permits.

(1) Minor breeder permit.

a. Any owner or person having custody of a dog or cat that has delivered a litter, who chooses not to relinquish the animal to the animal control agency and does not choose to have the animal neutered or spayed, shall be required to purchase a minor breeder permit for the sum of $50.00 per animal, plus any applicable kennel/cattery permit fees.

b. Each permit will be valid for one year from issuance.

c. No litter may be delivered from the permitted cat or dog or on the owner's property during the existence of a minor breeder's permit. Such an unauthorized litter will result in the property and/or animal owner being required to obtain a major breeder permit.

d. A permit is needed whether the litter was a result of an intentional pregnancy or not.

(2) Major breeder permit.

a. Any owner or person having custody of a dog or cat that has delivered more than one litter in 12 months time who chooses not to relinquish the animal to the animal control agency and does not choose to have the animal neutered or spayed, shall be required to purchase a major breeder permit for the sum of $100.00 per animal, plus any applicable kennel/cattery permit fees.

b. Each permit will be valid for one year from issuance.

c. A permit is necessary whether the pregnancies were intentional or not.

(3) Combination permit.

a. Any owner or person operating a kennel or a cattery and wishing to be a major or minor breeder shall obtain a combination permit annually.

b. The annual fee is $150.00.

c. The combination permit will replace the need for obtaining individual permits for each activity, but all requirements for each permit shall be met before a combination permit will be issued.

(4) Dangerous dog breeder.

a. A person who intends to breed ~~the American pit bull terrier or~~ any ~~other~~ dangerous animal shall apply for a license to breed such animals from the animal control agency and the city's duly authorized agent. The applicant shall specify in the application the breed, age, sex, and license number of such animal that the person intends to use for breeding. The application shall be accompanied by a fee of $200.00. The applicant must address the following items when completing said application:

1. Description of the physical facilities where the breeding will take place;

2. Authorization to inspect said breeding facilities to ensure compliance with this section and section 14-56

3. Consent to comply with all zoning and public safety laws.

b. If the animal control agency or the city's duly authorized agent is satisfied that the applicant meets the requirements under this section, he shall issue a local breeder's license to the applicant; however, a breeder's license shall not be issued to anyone convicted of an offense against an animal as set forth in IC 35-46-3-1.

c. The licensee must notify the department of code enforcement, the animal control agency, or the city's duly authorized third party of the birth of all offspring of such animal within 48 hours of such births.

d. No person shall breed such animals unless the person has been issued a breeder's license under this section.

(Code 1985, § 91.28; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-54. - Kennel/cattery permit.

Any owner or person operating a kennel or cattery must comply with all animal care and acreage requirements within this article. In addition, such owners or persons must obtain an annual permit according to the following schedule:

(1) 4—15 animals .....$ 50.00

(2) 16—25 animals 75.00

(3) 26 or more animals 100.00

(Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-55. - Public nuisance animal permit.

(a) *License required; appeal from determination of dangerous animal.* A person shall not own, harbor, possess, or keep a public nuisance animal unless such animal is licensed under this section or an application for licensing of such animal under this section is pending. Any person whose pet has been determined to be a nuisance animal may file an appeal within 48 hours after such determination. The appeal shall be in writing, accompanied by a nonrefundable appeal fee of $25.00, and be directed to the animal control agency and the department of code enforcement. Free-roaming cats are exempt from this requirement.

(b) *Application for license; form; accompanying information.* Any owner of a public nuisance animal shall apply to the animal control agency or the city's agent for the licensing of said animal. The application shall be on a form provided by the city's agent and shall be accompanied by the following:

(1) A valid driver's license or state-issued picture identification showing the owner's name and current address;

(2) Proof that the applicant owns said animal and is 18 years of age or older;

(3) One copy of the current immunization and health records for said animal showing that the animal received a current rabies vaccination by a licensed veterinarian;

(4) Proof that the animal has been microchipped by a licensed veterinarian.

(c) *Confinement of animal.* The nuisance animal shall be confined, at all times, within an escape-proof dwelling, kennel or appropriate animal control commission-approved fenced-in yard. All exterior doors or gates shall be locked in such a way that the animal cannot remove or unlock it. When such animal is not confined within a dwelling, kennel, or yard, it shall be reined or tethered to its master, owner, or keeper who shall maintain control over the animal to prevent injury to any person or animal.

(d) *Permit tag.* The nuisance animal shall wear a permit tag issued by the animal control agency stating that the animal is registered as a nuisance animal.

(e) *Assignment of license number.* When licensing an animal not previously licensed under this section, the animal control agency or its designee shall microchip the animal and assign a specific license number to said animal, without duplication, which number shall remain the same for the life of the animal.

(f) *Lost or escaped animal.* If the animal is lost or escapes, the owner or the owner's agent shall report said incident immediately to the city animal control agency.

(g) *Inspection of premises where animal is kept.* The animal control agency shall visually inspect the premises where the animal is kept. The inspection will consist of the cage, or if there is no cage, the officer will inspect the escape-proof habitat dwelling, doors, windows, and screen opening to determine if, in fact, they are escape-proof. The animal control agency must be satisfied that the owner has met all licensing requirements before issuing or renewing a permit.

(h) *Revocation of permit.* If a nuisance animal permit is revoked, the owner shall not be reissued another permit.

(i) *Determination of nuisance animal; time limit for obtaining permit.* If the animal control agency and/or department of code enforcement determines that an animal should be deemed a nuisance animal, the owner shall have a maximum of 14 days to obtain the proper permit. If the permit is not obtained within the 14-day period, the animal shall be impounded. The animal will then be held a maximum of ten days so that a permit can be issued. If a permit is still not obtained, the animal shall be adopted or euthanized.

(j) *Violation of chapter provisions.* If the owner of a nuisance animal violates any provisions of this chapter, the animal shall be impounded immediately and held until an animal control commission hearing. At such hearing, the animal control commission shall determine whether in fact a violation of this chapter has occurred. If the commission determines that a violation of this chapter has occurred, it shall have the authority to impose a fine and/or order the animal into the custody of the humane society for adoption or euthanized.

(k) *Change of owner.* If a nuisance animal changes owner, the new owner must apply for a new permit. The original owner's permit shall not be transferable to the new owner. The original owner shall notify the animal control agency that the animal has been sold or given away.

(l) *Change of address; notification of animal control agency.* The owner of a nuisance animal shall notify the animal control agency if the address changes where the animal is being kept. The owner must report the new address so an inspection can be made of the premises.

(m) *Expiration of license.* All licenses issued under this article shall expire ~~December 31 of each year~~ one calendar year from the date of issue, unless authorized, in writing, by the animal control commission pursuant to other provisions in this chapter.

(n) *Animal running at large, stolen, etc.* The owner, or owner's agent, of an animal required to be licensed under this article shall notify the city police department and the city's animal control agency within four hours if said animal is running at large, has been stolen, or has attacked a person or a domestic animal.

(Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-56. - Dangerous animal/attack dog permit.

(a) *License required; appeal from determination of dangerous animal.* A person shall not own, harbor, possess, or keep an ~~American pit bull terrier/~~attack dog or any other dangerous animal unless such animal is licensed under this section or an application for licensing of such animal under this section is pending. Any person whose pet has been determined to be a dangerous animal may file an appeal within 48 hours after such determination. The appeal shall be in writing, accompanied by a nonrefundable appeal fee of $25.00, and shall be directed to the animal control agency and the department of code enforcement.

(b) *Application for license; form; accompanying information.* Any owner of an ~~American pit bull terrier,~~ attack dog or other dangerous animal shall apply to the animal control agency or the city's agent for licensing of said animal. The application shall be on a form provided by the city's agent and shall be accompanied by the following:

(1) A valid driver's license or state-issued picture identification showing the owner's name and current address;

(2) Proof that the applicant owns said animal and is 18 years of age or older;

(3) One copy of a registration certificate issued for said animal by the A.K.C. and/or A.D.B.A., if available and applicable;

(4) One copy of the current immunization and health records for said animal showing that the animal received a current rabies vaccination by a licensed veterinarian;

(5) Proof that the applicant has insurance coverage for not less than $300,000.00 for any injury, damage, or loss caused by said animal;

(6) Four photographs of said animal from four different sides taken not more than one month before the date of the application. Such photographs shall consist of a front, back, left, and right side view of the animal;

(7) Proof that the animal has been microchipped by a licensed veterinarian;

(8) The name, address, and phone number of the animal's previous owner.

(c) *Confinement of animal.* The dangerous animal/attack dog shall be confined, at all times, within a habitable escape-proof dwelling or an escape-proof cage made of at least 11-gauge wire with at least six feet high sides, a wood or wire roof, and a brick or cement floor. The cage door also shall be locked with a padlock. When such animal is not confined within a habitable dwelling or an escape-proof cage, it shall be muzzled and reined or tethered to its master, owner, or keeper who shall maintain control over the animal to prevent injury to any person or animal.

(d) *Permit tag.* The dangerous animal/attack dog shall wear a permit tag issued by the animal control agency stating that the animal is registered as a dangerous animal/attack dog.

(e) *Assignment of license number.* When licensing an animal not previously licensed under this section, the animal control agency or its designee shall assign a specific license number to said animal, without duplication, which number shall remain the same for the life of the animal.

(f) *Lost or escaped animal.* If the animal is lost or escapes, the owner or owner's agent shall report said incident immediately to the city animal control agency.

(g) *Posting of signs on property where animal will be kept.* The owner of a dangerous animal/attack dog shall post signs on his property where such animal will be kept, clearly visible from the closest street, advising the general public about such animal's presence on the premises. Such signs shall be supplied by the animal control agency after applicant pays for the permit. The permit, shall not be issued until the owner posts the signs, and the animal control agency inspects the property to verify proper posting of the signs. The cost of the signs is nonrefundable, and they will belong to the applicant even if the permit is reissued or revoked.

(h) *Persons convicted of certain felonies not to be issued a license.* No person shall be issued an attack dog/dangerous animal permit if they have been convicted of a felony involving violence, drugs, animal cruelty or animal fighting.

(i) *Inspection of premises where animal is kept.* The animal control agency shall visually inspect the premises where the animal is kept. The inspection will consist of the cage, or if there is no cage, the officer will inspect the escape-proof habitat dwelling, doors, windows, and screen opening to determine if, in fact, they are escape-proof. Also, the inspection will consist of the placement of warning signs, the animal leash, the muzzle, and the padlock for the cage. The animal control agency must be satisfied that the owner has met all licensing requirements before issuing or renewing a permit.

(j) *Revocation of permit.* If an attack dog/dangerous animal permit is revoked, the owner shall not be reissued another permit.

(k) *Exemption from provisions of section.* Duly authorized members of the police department or other law enforcement agencies including, but not limited to, game wardens, conservation officers, and other law enforcement officers shall be exempt from the provisions of this section if the animal is used for law enforcement duties.

(l) *Failure to notify animal control department or code enforcement department of address of dangerous animal.* If the animal control agency and/or department of code enforcement is notified of an address where an attack dog ~~or pit bull~~ is being kept or harbored, and that animal and owner of the property has not been in violation of any section of this chapter, the owner shall have a maximum of 14 days to obtain the attack dog/dangerous animal permit. If the permit is not obtained within the 14-day period, the animal shall be impounded. The animal will then be held a maximum of ten days so that a permit can be issued. If a permit is still not obtained, the animal shall be euthanized.

(m) *Violation of chapter provisions.* If the owner of a dangerous animal/attack dog violates any provisions of this chapter, the animal shall be impounded immediately and held until an animal control commission hearing. At such hearing, the animal control commission shall determine whether in fact a violation of this chapter has occurred. If the commission determines that a violation of this chapter has occurred, it shall have the authority to impose a fine and/or order the animal euthanized. A dangerous animal/attack dog shall not be euthanized until after the animal control commission has rendered a final decision.

(n) *Change of owner.* If an attack dog/dangerous animal changes owner, the new owner must apply for a new permit. The original owner's permit shall not be transferable to the new owner. The original owner shall notify the animal control agency that the animal has been sold or given away.

(o) *Notification of address change.* The owner of an attack dog/dangerous animal shall notify the animal control agency if the address changes where the animal is being kept. The owner must report the new address so an inspection can be made of the premises.

(p) *Expiration of license.* All licenses issued under this article shall expire ~~December 31 of each year~~ one calendar year from the date of issue.

(q) *Fighting.* No person shall fight, bait, conspire to fight or bait, or keep, train, or transport for the purpose of fighting or baiting, any animal required to be licensed under this chapter. A person who violates this section shall be reported by the department of code enforcement or its designated agent to the county prosecutor's office for prosecution under IC 35-46-3-8 et seq.

(r) *Notification by owner/agent.* The owner, or owner's agent, of an animal required to be licensed under this chapter shall notify the city police department and the city's animal control agency within four hours if said animal is running at large, has been stolen, or has attacked a person or a domestic animal.

(Code 1985, § 91.29; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-57. - Permit exemptions.

(a) No permits shall be required for the following organizations or animals:

(1) The city animal control agency;

(2) A state-licensed veterinary hospital/ clinic;

(3) Birds held under state or federal falconry permits; or

(4) Service dogs specifically trained to assist their disabled owner.

(b) All other animal care provisions of this chapter shall apply to such exempt persons or entities.

(Code 1985, § 91.30; Ord. No. 3092, 9-18-1987; Ord. No. 3105, 10-5-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-58. - Issuance of permits; additional requirements.

(a) *Application.*

(1) *Information to be included.* A person may register or apply for a permit with the city animal control agency. The applicant shall include, on the appropriate forms, the following information: his name, address, and phone number; the type of permit requested; the number and description of animals; proof of a valid rabies vaccination by a licensed veterinarian, if required by law; information regarding sterilization; and the appropriate registration or permit fee. Appropriate state and federal permit numbers must be provided in cases involving wildlife or federally protected animals, or any animal which requires any state or federal permit.

(2) *Compliance with applicable federal, state and local laws.* All applicants shall comply with all other applicable federal, state and local laws, and the applicant shall not have been convicted of any cruelty to animal offense pursuant to the state code.

(3) *On-site inspection.* Applicants for permits shall allow, upon reasonable notice, the city animal control agency to conduct on-site inspections prior to the issuance of any permit and/or at any time during the valid term of such permit.

(b) *Issuance or denial of permit; factors to be considered.* The city or the animal control agency shall have the authority to issue or deny an application for registration and/or a permit. In determining whether to issue or deny an application for registration or a permit, the city or the animal control agency shall consider the following factors:

(1) Whether the person has been convicted of cruelty to animals;

(2) Whether the applicant has the proper facilities in place for a specific species as required by this law;

(3) Whether the applicant has sufficient knowledge and proof of previous experience in handling and keeping such animal species; and

(4) Whether the applicant has a history, documented by the animal control agency or the city's designated agent, of providing inadequate or improper care for such animals.

(c) *Length of validity.* Registrations and permits, except dangerous animal/attack dog, shall be issued for a term of one year, effective ~~January 1 through December 31 of each year~~ for one year from the date of issue. They shall be purchased ~~during the first three months of each calendar year or~~ within 30 days of acquiring the animal~~, whichever comes later~~. A performing animal license shall only be valid for 14 days.

(d) *Approval of application; issuance of permit and tag.* Upon approval of an application for registration or a permit, the city animal control agency shall issue a pet registration or permit in written form which shall include the registration or permit number, the type of registration or permit, and any pertinent information. In addition, for each registered pet, the city animal control agency shall issue a durable tag stamped with the registration number and year of issuance for each said registration.

(e) *Animal control agency to keep records of registration number, etc.* The city animal control agency shall maintain records with the identifying registration number, microchip number and permit number.

(f) *Fees.* All fees shall be paid at the time of application and prior to the issuance of the permit or registration.

(g) *Registration, permit, etc., not transferable.* No person shall use any registration, permit, license, or tag for any animal other than the animal for which it was issued.

(h) *Forged registration, permit, etc.* It shall be unlawful for any person to manufacture, to cause to be manufactured, or to have in his possession or control a stolen, counterfeit, or forged animal registration, permit, license, tag, rabies or neutering certificate, or other form of licensing or documentation required by this section.

(Code 1985, § 91.31; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-59. - Fees.

In addition to all other fees required by law, an animal owner shall pay the following annual fees:

(1) Each altered and microchipped animal $10.00

(2) Each altered and nonmicrochipped animal 15.00

(3) Each unaltered and microchipped animal 15.00

(4) Each unaltered and nonmicrochipped animal 25.00

(If a licensed veterinarian determines that the neutering or spaying process constitutes a threat to the health of said animal, the fee shall be calculated as though the animal were altered.)

(5) Replacement one-year tag .....$ 5.00

(6) Multiyear tag 30.00

(7) Replacement multiyear tag 30.00

(Code 1985, § 91.32; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-60. - Registration or permit revocation.

Any pet registration or permit, provided for in this article, may be revoked after notice and a hearing before the code enforcement hearing officer and/or animal control commission. An owner's pet registration or permit shall be revoked only after said officer or commission finds that the animal owner or permit holder has failed to comply with any requirements of this chapter.

(Code 1985, § 91.33; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-61. - Inspection.

(a) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this chapter, or when there is reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this chapter or state law, a health officer, police officer, code enforcement officer, or humane officer is authorized at all reasonable times to inspect the same for compliance with the provisions of this chapter or any state law, provided that:

(1) If the property is occupied, the officer shall first present proper credentials to the occupant and request entry, explaining the reasons therefor; and

(2) If the property is unoccupied, the officer shall make a reasonable effort to locate the owner or other person having control of the property and request entry, explaining the reasons therefor.

(b) If the officer has reasonable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe, dangerous, or constitutes a public nuisance as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall first present proper credentials and request entry, explaining the reasons therefor. If entry is refused or cannot be obtained, the officer shall have recourse to secure lawful entry and inspection of the property.

(Code 1985, § 91.34; Ord. No. 3092, 9-18-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-62. – Trap-Neuter-Return.

(a) Individuals or organizations must obtain approval from the Animal Control Commission to practice Trap-Neuter-Return in City of Mishawaka limits.

(b) Free-roaming cats captured by a practitioner of trap-neuter-return shall be inspected a minimum of every two (2) hours to ensure the safety of the cat(s).

(c) It shall be unlawful for a person to remove an animal from any trap not on the person's property, unless such person has the express permission of the property's owner to do so.

CITY OF MISHAWAKA

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

April 15, 2015

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: Confirming Tax Abatement Resolution 2015-15- WellPet LLC, 1121 West 11th Street

Dear Council Members and Clerk:

Enclosed you will find a staff prepared draft Confirming Resolution for consideration at your Monday April 20th meeting. As previously identified, 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 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 re-attached for your review and information with the staff prepared resolution. The application and materials have had no changes since they were distributed as part of the Declaratory Resolution process.

The Declaratory Resolution for this abatement was approved at the Council's March 30th meeting which allowed the Clerk's office to proceed with the special advertising requirements, including notification to other taxing units that would potentially be impacted by abatement. To date, no correspondence has been received from other taxing units regarding the request.

As you are aware from other recent abatements, it is always a challenge to try and accurately predict values and taxes given the variables involved. H.J. Umbaugh & Associates recommended that we use the DLGF website: *(https://gateway.ifionline.org/CalculatorsDLGF/TaxCalculator.aspx)* to obtain the estimated taxes paid based on the most current certified tax rate with the circuit breaker.

This site has a calculator where you simply put in the location, assessed valuation, and class of property then it outputs the estimated tax for the property. This is the calculator that we used for the previous tax abatement requests acted on by the Council over the last few years. Similar to the last abatement submitted by WellPet, this abatement request is for personal property (equipment) rather than for building/real estate improvements. To this end, we also confirmed with H.J. Umbaugh that since 2008, the real estate property tax rate and personal property tax rate is identical, and the same calculator would apply.

In this case, the applicant has identified the proposed investment at 1.8 million dollars. This however does not correlate directly into assessed valuation. Thus, factoring in the valuation of the existing facility prior to the last expansion, it appears that the increase in assessed valuation that occurred was less than half the actual cost of the improvement.

As such, based on this history, staff has assumed that the assessed valuation from the proposed investment will be $900,000 or half the actual investment. We have done this only as an attempt to provide an educated guess on what the resulting assessment will be. For a worst case scenario, it is reasonable to assume that the maximum increase in assessed valuation would match the intended investment of $1,800,000. This worst case scenario would simply double the values listed below.

Proposed 5 Year Abatement

Tax Year	Percentage	Total Tax	Taxes Paid	Taxes Abated
2015 Pay 2016	100%	$33,776	$0	$33,776
2016 Pay 2017	80%	$33,776	$6,755	$27,021
2017 Pay 2018	60%	$33,776	$13,510	$20,266
2018 Pay 2019	40%	$33,776	$20,266	$13,510
2019 Pay 2020	20%	$33,776	$27,021	$6,755
Total-	*300%*	*$168,880*	*$67,552*	*$101,328*

Regarding a recommendation, the Administration completely supports the request as submitted. As indicated during last year's abatement request, the vast majority of WellPet's business is from outside the region, providing an influx of monies to the community. Knowing that local economies grow primarily by existing business expansion, we feel that the approval of the abatement will continue to demonstrate support for this expansion as well as provide encouragement for future investment. The proposed 5 year abatement is appropriate given the City's past history on tax abatement. It is also appropriate considering last year's investment of 2 million dollars which received an identical abatement and the 20 million dollar investment that took place over the last five years which had no abatement. The applicant has identified that the tax increase associated with the 20 million dollar investment was a limiting factor relative to performing future expansions.

As always, please contact me if you have any questions, desire additional projections, or if you would like me to prepare an alternative confirming resolution for the Council's use at the meeting.

Sincerely,

Kenneth B. Prince, ASLA, AICP
City Planner

Cc: David A. Wood, Mayor

RESOLUTION NO. R 2015- 15

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.

CONFIRMING RESOLUTION

WHEREAS, the Common Council of the City of Mishawaka, Indiana, did pursuant to the "Deduction for Rehabilitation or Redevelopment of Real Property in Economic Development Revitalization Areas Act" (Indiana Code 6-1.1-12.1-1 et. seq.) as amended and hereinafter referred to as the "Act", declare 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 was effected by Resolution No. R 2015-14 adopted by the Common Council of the City of Mishawaka on March 30th, 2015; and

WHEREAS, under the provisions of said "Act" a copy of said Resolution No. R 2015-14 was filed for public inspection at the office of the St. Joseph County Assessor's Office; and

WHEREAS, pursuant to Indiana Code (I.C. 5-3-1), public notice of the adoption and substance of Resolution No. R 2015-14 was given; as well as setting forth that a public hearing would be held on April 20th, 2015 to receive and hear all remonstrance's and objections from interested persons. and

WHEREAS, pursuant to said "Act", a copy of said public notice along with a copy of the applicant's "Statement of Benefits" was filed with each taxing unit in whose jurisdiction the property described in the above legal description is located.

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

1. That upon conclusion of said public hearing and consideration of evidence presented, it is now determined that the area described meets the qualifications for an Economic Revitalization Area; and

2. That Resolution No. R 2015-14 is hereby modified and confirmed as follows:

   a) That the above described area shall be designated as an Economic Revitalization Area for a period beginning with the date of this resolution and ending on December 31, 2019; and

   b) That the property tax deduction to which the property owner is entitled shall apply to personal property pursuant to Indiana Code (I.C. 6-1.1-12.1-3); and

   c) That this deduction applicable for real property tax abatement and is limited to the following schedule:

Tax Year	Tax Abatement Percentage
2015 Pay 2016-	100%
2016 Pay 2017-	80%
2017 Pay 2018-	60%
2018 Pay 2019-	40%
2019 Pay 2020-	20%

   d) That the estimate of the value of the redevelopment is reasonable for projects of this nature; and

   e) That the description of the proposed redevelopment meets applicable standards for such development; and

   f) That the other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment; and

   g) That the deduction will not be allowed unless the facility is constructed or rehabilitated to meet local code standards; and

   h) That the totality of benefits is sufficient to justify the granting of this requested deduction.

3. That the "Statement of Benefits" submitted by WellPet LLC, is hereby approved, and the President of the Mishawaka Common Council is hereby authorized to execute said "Statement" on behalf of the Common Council; and

4. That this determination is final except that an appeal may be taken and heard as provided under Indiana Code (I.C. 6-1.1-12.1-2-5, subsections (d) and (e) of the "Act.")

The Common Council of the City of Mishawaka, Indiana hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for real property tax abatement only and is limited the date of the adoption of this Confirming Resolution by the Common Council to December 31, 2019.

ADOPTED by the Common Council of the City of Mishawaka, Indiana, St. Joseph County, Indiana, this 20th day of April, 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

March 25, 2015

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

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

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

Michelle Tatgenhorst
Plant Controller

Mishawaka Manufacturing Facility • 1011 W Eleventh St • Mishawaka, IN 46544 • 574-259-7834

200 Ames Pond Drive • Tewksbury, MA 01876-1274 • 978.289.5533 • 800.255.0904 • www.wellpet.com

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: WellPet LLC	Name of contact person: Michelle Tatgenhorst
Address of taxpayer *(number and street, city, state, and ZIP code)*: 1011 West 11th Street	Telephone number: (574) 259-7834

SECTION 2 — LOCATION AND DESCRIPTION OF PROPOSED PROJECT

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

Description of manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment. *(Use additional sheets if necessary.)*
SEE ATTACHED "High Speed Packaging Line Overview 2015"

	ESTIMATED START DATE	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: Michelle Tatgenhorst	Date signed *(month, day, year)*: 03/17/2015
Printed name of authorized representative: Michelle Tatgenhorst	Title: Controller

FOR USE OF THE DESIGNATING BODY

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

A. The designated area has been limited to a period of time not to exceed __________ 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.

Michele Tatgenhorst

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
Pg 1

Hold For Meridian Title Corp.
Commercial Department

SD rcvd

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

Transfer 794
Taxing Unit Mish
Date 2/13/09

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

16-1161-646304 - Parcel IV
16-1161-6468 - Parcel I
16-1161-646603 - Parcel II
16-1161-646602 - Parcel III
16-1161-646306 - Parcel V
16-1161-646309 - Parcel VI

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.

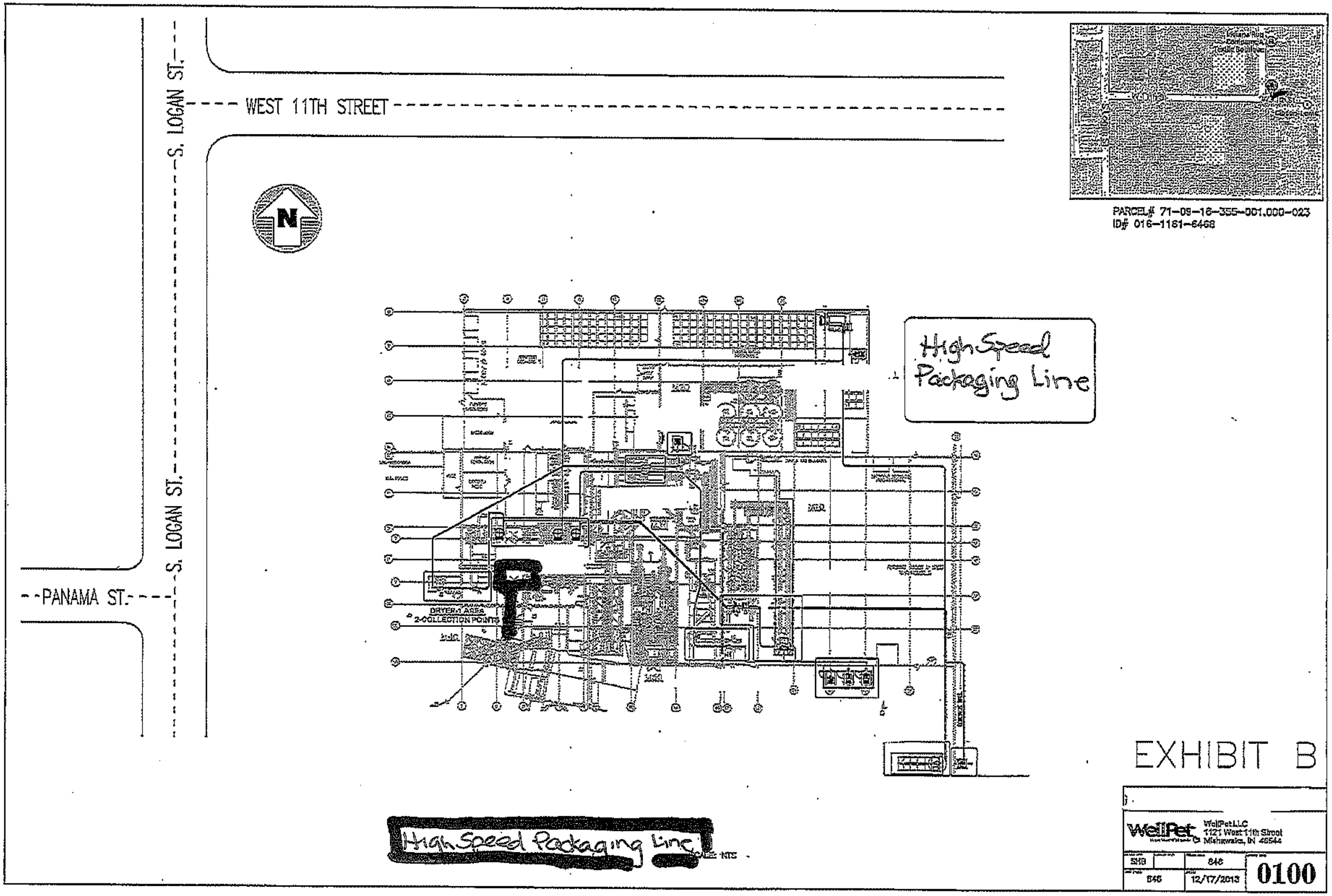
IN WITNESS WHEREOF, Grantor has executed this General Warranty Deed as of this 28th day of January, 2009.

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 DeLoP
Its: V.P.

1327910

0604316


WEST 11TH STREET
S. LOGAN ST.
S. LOGAN ST.
PANAMA ST.
N
PARCEL# 71-09-16-355-001.000-023
ID# 016-1161-6468
High Speed Packaging Line
DRYER-1 AREA
2-COLLECTION POINTS
High Speed Packaging Line
NTS
EXHIBIT B
WellPet
WellPet LLC
1121 West 11th Street
Mishawaka, IN 46544
846
12/17/2013
0100

APPEAL #15-16

RESOLUTION NO. 2015- **16**

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

South of 5209 North Main Street, 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 **south of 5209 North Main Street, Mishawaka, Indiana**, more particularly known and described as follows:

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.

The Use Variance will allow a multi-tenant building with a restaurant containing a drive-thru facility subject to the following conditions:

1. Parking shall be provided at a minimum of five (5) spaces per 1,000 sqft of building area.

2. Uses shall be limited to those identified in the C-1 General Commercial Zoning District.

3. Signage shall be limited to one (1) monument for the entire complex as identified in the Main Street Signage Overlay.

4. Current stormwater management standards and grease-traps shall be implemented per City of Mishawaka Engineering Department. Improvements to right-of-way and access drives, such as turn lanes, etc... shall be implemented as determined by the City of Mishawaka Engineering Department.

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 adjacent properties are zoned commercial and the proposed use is consistent with those in the surrounding area.

3. The need for the variance arises from some condition peculiar to the property in that the property is zoned C-1 General Commercial and the City of Mishawaka Zoning Ordinance does not have a zoning classification that would allow for the proposed multi-tenant use with the drive-thru restaurant use.

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 combined multi-tenant use and the drive-thru restaurant use. The only means by which to allow the two uses 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

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 465~~30~~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 465~~30~~45.

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

MAR 25 2015

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~~, Indiana 465~~30~~.
45 MISH

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.

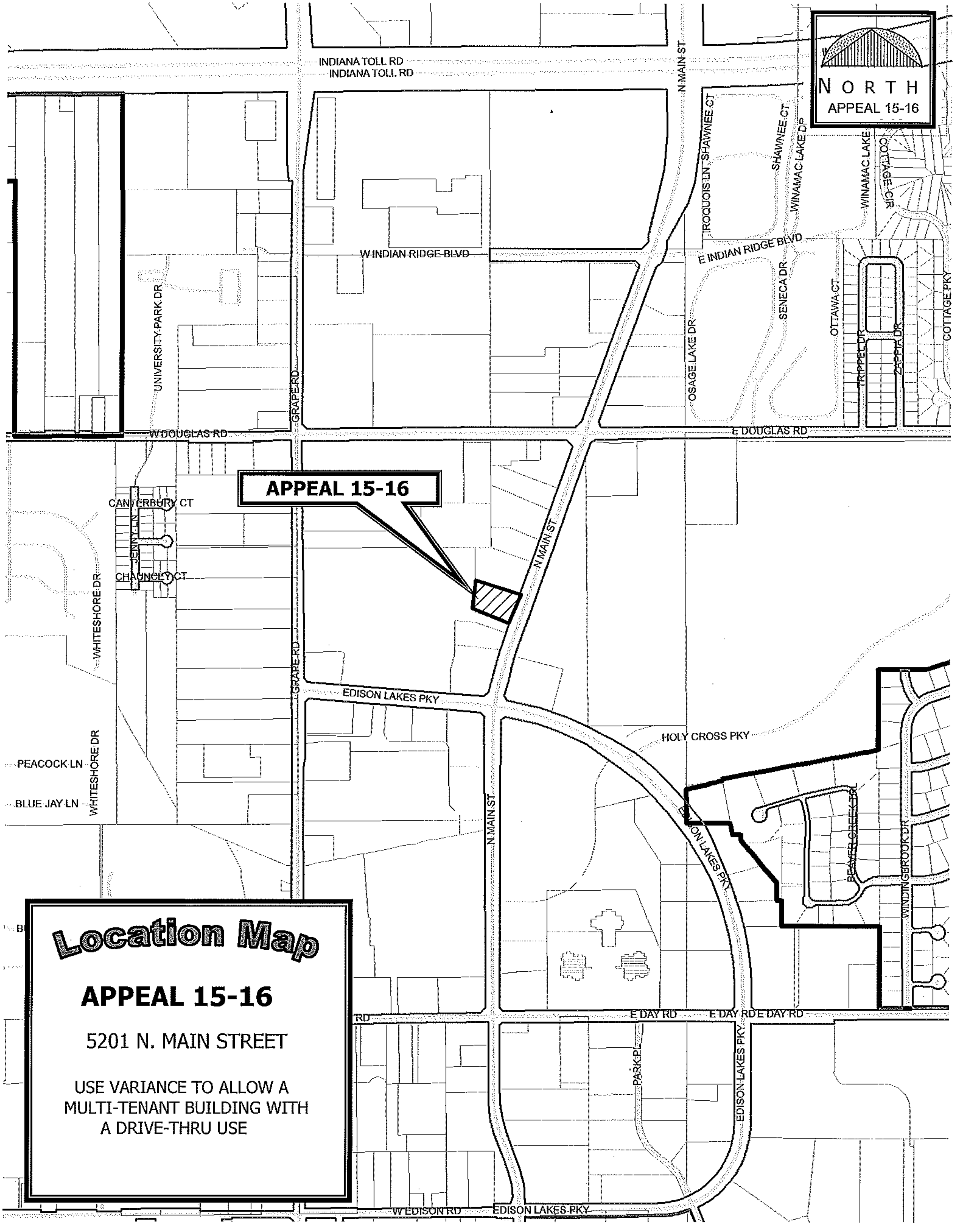
Sincerely,

Managing Member

~~For~~ Relaxation Investments LLC
THOMAS M. WALZ, MANAGING MEMBER

File No. 150120

MAR 25 2015


NORTH
APPEAL 15-16
INDIANA TOLL RD
INDIANA TOLL RD
N MAIN ST
IROQUOIS LN
SHAWNEE CT
SHAWNEE CT
WINAMAC LAKE DR
WINAMAC LAKE
COTTAGE CIR
W INDIAN RIDGE BLVD
E INDIAN RIDGE BLVD
UNIVERSITY PARK DR
SENECA DR
OSAGE LAKE DR
OTTAWA CT
TRIPPEL DR
ZAPPIA DR
COTTAGE PKY
GRAPE RD
W DOUGLAS RD
E DOUGLAS RD
APPEAL 15-16
CANTERBURY CT
JENNY LN
CHAUNCEY CT
WHITESHORE DR
N MAIN ST
EDISON LAKES PKY
HOLY CROSS PKY
PEACOCK LN
BLUE JAY LN
WHITESHORE DR
N MAIN ST
EDISON LAKES PKY
BEAVER CREEK DR
WINDINGBROOK DR
Location Map
APPEAL 15-16
5201 N. MAIN STREET
USE VARIANCE TO ALLOW A
MULTI-TENANT BUILDING WITH
A DRIVE-THRU USE
E DAY RD
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PARK PL
EDISON LAKES PKY
W EDISON RD
EDISON LAKES PKY

RESOLUTION NO. R-2015-17

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

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

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

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

1. That the "Compliance with Statement of Benefits" reports submitted by the following companies are found to be in order:

    - **BD SJRMC Mishawaka Development, LLC**
    - **Jamil Packaging Corporation**
    - **NAC North American Composites**
    - **Long Term Care Investments V, LLC**
    - **Barak River Rock, LLC**
    - **WellPet, LLC, Regrind System 2014**

2. That the aforesaid property owners are hereby found to be in substantial compliance, and

3. That the President of the Mishawaka Common Council is hereby authorized to approve the aforementioned reports.

ADOPTED by the Common Council of the City of Mishawaka, St. Joseph County, Indiana, on this ________ day of ____________, 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 on this _______day of _____________, 2015 at ______o'clock, ____.m.

____
David A. Wood, Mayor

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR **DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

April 16, 2015

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 Mammolenti, At-Large City Council
Mr. John Roggeman, At-Large City Council
Mrs. Deborah Block, City Clerk

RECEIVED
DEBORAH S. BLOCK, MMC
APR 16 2015
CITY CLERK
MISHAWAKA, IN

Re: Resolution 2015-17
2014 Tax Abatement Compliance Reports

Dear Council Members and Clerk:

Property owners who have applied for and been granted a tax abatement for either real or personal property on or after July 1, 1991, must file a report with the Mishawaka Common Council and the St. Joseph County Auditor's Office reporting the extent to which there has been compliance with the goals set forth in the Statement of Benefits filed at the time of the action granting the aforesaid abatement. Please note the Department of Local Government Finance requires one compliance form per project, thus, where applicable there are separate compliance forms for Real Estate (CF-1/Real Property) and Personal Property (CF-1/PP). There are six active tax abatements in the City of Mishawaka that required reporting for calendar year 2014. All companies have responded to our request to complete the Compliance with Statement of Benefits form. CF-1 forms/responses have been attached to this letter for your use and reference for four of the companies.

<u>In short, four of the six active abatements are in complete compliance and have exceeded expectations. Two projects are currently under construction. Based on the progress of these projects they should be considered in compliance noting that the estimated employment and salaries generation will be further evaluated on completion.</u>

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

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

- **BD Mishawaka Development LLC** (St. Joseph Regional Medical Center Office Building)- It is important to note that this building, although connected to the hospital, is not owned by the hospital. Reporting for the LLC continues to be performed by Healthcare Realty out of Nashville Tennessee.

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

The total number of employees envisioned on the SB-1 in 2007 was 370 with a total estimated payroll of $10,555,000. As of December 31, 2014, 398 employees were occupying the building and for the first time exceeded the projections in employment. Annual salaries were reported as $26,929,507, more than double the estimated payroll indicated in the original statement of benefits. Given that both the improvements and hiring were completed as committed, this abatement is in substantial compliance.

- **Jamil Packaging Corporation-** The CF-1 attached is for the abatement approved in 2011 for the addition of a specialty folder gluer. The total employment is up to 102 jobs, 23 more than the projected total of 79. Estimated salaries for the abatement were listed at $2,706,000. The actual salaries with the additional employment are now at $4,436,697. Given that both the improvements and hiring were completed as committed, this abatement is in substantial compliance.

- **NAC (North American Composites)**- The CF-1 attached is for the abatement approved in 2012 for 1460 East 12th Street, for the North Central Indiana sales and distribution facility of North American Composites, headquartered in Lino Lakes Minnesota. The total employment has increased to 16 jobs. This is five more jobs than the 11 that were estimated on the SB-1 when the abatement was filed. Total payroll was listed at $992,133 which is significantly higher than the $750,000 listed on the SB-1. Given that the total employment, investment, and payroll is higher than the projected amounts, this abatement is in substantial compliance.

- **Long Term Care Investments V (5805 North Fir Road)**- The CF-1 attached is for the abatement approved in 2013 for a new rehabilitation and nursing center. Although approved in 2013, construction did not begin until the fall of 2014. As indicated by the attached correspondence, the owner anticipates that the project will be completed by March of 2016. Given the on-going construction, completion of improvements, employment and salary cannot be evaluated at this time. Since the improvements have been started for the project an envisioned on the SB-1, this abatement should be considered in substantial compliance noting that a more detailed analysis will occur in future years following completion and occupancy of the building.

- **Barak River Rock LLC-** The CF-1 attached is for the abatement approved in 2013 for a new mixed use building including apartments and first floor retail space along Mishawaka Avenue. Although approved in 2013, construction did not begin until late 2014. As indicated by the attached correspondence, the owner anticipates that the project will be completed by spring of 2016. Given the on-going construction, completion of improvements, employment and salary cannot be evaluated at this time. Since the improvements have been started for the project an envisioned on the SB-1, this abatement should be considered in substantial compliance noting that a more detailed analysis will occur in future years following completion and occupancy of the building.

- **WellPet LLC (Regrind System 2014)**- The CF-1 attached is for the abatement approved in 2014 for the equipment associated with a regrind system for the plant located at 1011 W. 11th Street. As indicated in the correspondence, the equipment has been installed and is in operation, however the actual value cost of construction has not been verified as of yet. We expect this verification to occur as part of normal reporting next year.. The total employment at the facility has increased beyond what was projected in the SB-1. When the abatement was filed the total existing employment was listed at 91 with an additional 6 jobs to be added. The total employment reported was 106. This is an increase of 16 positions, 10 greater than the 6 additional positions envisioned when the original SB-1 was filed. Total payroll was listed at $4,002,703.90 which is significantly higher than the $3,404,000 listed on the SB-1 and is commensurate to the additional hiring that occurred. Given that the total employment, investment, and payroll is higher than the projected amounts, this abatement should be considered in substantial compliance.

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

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

Sincerely,

Kenneth B. Prince, ASLA, AICP
City Planner

Cc: David A. Wood, Mayor

HISTORY OF ALL TAX ABATEMENTS 1986-CURRENT

	Name	Common Council Approval Date	No. of Years Real Estate	No. of Years Machinery	No. of Retained Jobs (Proposed)	No. of New Jobs (Proposed)	No. of Retained Jobs (Actual)	No. of New Jobs (Actual)	Date of Latest CF1 Found	Capital Investment	Abated Through Collect CF-1s	Pay	Abatement Complete
1	Patrick Industries	October 20, 1986	10 Years			52			(-)	$ 8,622,845.00	1997	1998	YES
2	Former Baby Place	June 7, 1988	6 Years	0	0	38.5			(-)	$ 2,000,000.00	1995	1996	YES
3	Wheelabrator Area	December 19, 1988	10 Years		338	246			(-)	$ 2,500,000.00	1999	2000	YES
4	National - Standard	February 21, 1989	6 Years	5 Years	15	180			(-)	$ 10,100,000.00	1995	1996	YES
5	Thermoplastics Phase I	November 20, 1989	6 Years	5 Years	151	13			(-)	$ 2,500,000.00	1995	1996	YES
6	Thermoplastics Phase II	November 20, 1989	3 Years	5 Years	155	20			(-)	$ 3,200,000.00	1993	1994	YES
7	Contech Division I	July 2, 1990	6 Years			75			(-)	$ 10,962,483.00	1996	1997	YES
8	Hilti Steel	September 13, 1990	0	5 Years	n/a	14			(-)	$ 578,000.00	1996	1997	YES
9	Penz Products Inc.	September 24, 1990	3	0	76	10			(-)	$ 475,000.00	1994	1995	YES
10	Dodge Reliance Electrical I	January 7, 1991	0	5 Years	10	15			(-)	$ 1,050,000.00	1996	1997	YES
11	Janco Products, Inc.	May 6, 1991		5 Years	10	20			(-)	$ 220,000.00	1996	1997	YES
12	Thermoplastics Phase III	November 4, 1991	0	5 Years	150	19	150	51	Feb-93	$ 2,750,000.00	1996	1997	YES
13	National Steel Corporation	December 16, 1991	10 Years		250	130	250	32	Mar-01	$ 10,346,394.00	2002	2003	YES
14	Maron Products, Inc.	February 3, 1992	0	5 Years	38	10	41	11	Feb-95	$ 610,794.00	1998	1999	YES
15	Dodge Reliance Electrical II	July 6, 1992	0	5 Years	300+	0	300+	0	Mar-96	$ 3,000,000.00	1998	1999	YES
16	Thermoplastic Phase IV	October 19, 1992	6 Years		210	50	210	148	Mar-98	$ 6,812,832.00	1999	2000	YES
17	Contech Division II	April 19, 1993		5 Years	10		15	108	Mar-99	$ 1,206,461.00	1999	2000	YES
18	Dana/Ristance Corp./Standard Motor Produ	January 3, 1994	10 Years		80	60	42	88	Mar-05	$ 6,067,253.00	2004	2005	YES
19	United Limo	September 6, 1994	6 Years		77	8	77	8	Jan-01	$ 1,262,200.00	2001	2002	YES
20	Dearborn Crane	December 5, 1994	10 Years	5 Years	26	4	26	7	May-99	$ 612,841.00	2005	2006	YES
21	Scott Brass II	December 18, 1995	10 Years		73	31	73	13	Mar-06, Apr-01	$ 11,934,000.00	2006	2007	YES
22	Federal Window (Fedor)	December 18, 1995	6 Years	5 Years	8	8	8	26	Apr-02, Mar-01	$ 1,018,181.00	2002	2003	YES
23	Maron Products, Inc. II	December 18, 1995		5 Years	6	4	2	8	Apr-01	$ 250,000.00	2001	2002	YES
24	Quality Dining	April 15, 1996	10 Years		73	109	73	70	Mar-06	$ 5,087,402.00	2006	2007	YES
25	Baycote Metal Finishing	January 6, 1997	6 Years	5 Years	70	15	79	7	Jul-00	$ 1,800,000.00	2003	2004	YES
26	Krizman International	January 6, 1997	6 Years		225	20	225	20	Jul-00	$ 1,500,000.00	2003	2004	YES
27	Troyer	March 3, 1997	3 Years		60	40		0	(-)	$ 1,100,000.00	2001	2002	YES
28	Nyloncraft Incorporated	May 19, 1997	6 Years	5 Years	378	40	341	58	Feb-02	$ 7,598,531.00	2004	2005	YES
29	Ristance Corporation	October 20, 1997	6 Years	5 Years	139	18		0	(-)	$ 3,600,000.00	2004	2005	YES
30	DeWald Manufac. Inc./Power Gear/Enginee	October 20, 1997	6 Years	5 Years	62	15	62	40	Mar-05	$ 1,842,833.00	2004	2005	YES
31	Thermoplastic Phase V	December 1, 1997	6 Years	5 Years	299	70	299	19	Mar-00	$ 3,181,310.00	2003	2004	YES
32	Atchison/Dodge	December 1, 1999		5 Years	325	50	230		Mar-05	$ 2,000,000.00	2006	2007	YES
33	Sampson Fiberglass	March 6, 2000	3 Years		15	20	15	5	Feb-01	$ 375,000.00	2004	2005	YES
34	RMG Foundry LLC	March 6, 2000		5 Years	325	50	202	0	Feb-06	$ 2,000,000.00	2006	2007	YES
35	WF Associates (AMG Byrkit Facility)	November 19, 2001	10 Years		285	15	234	0	Apr-11	$ 2,650,000.00	2011	2012	YES
36	Nyloncraft Incorporated	March 20, 2003		5 Years	396	16	320	9	May-09	$ 1,168,064.00	2009	2010	YES
37	Nyloncraft Incorporated	November 6, 2003		5 Years	405	13	329	27	May-09	$ 2,730,304.00	2009	2010	YES
38	Plastimatics Arts Corporation	August 18, 2004		3 Years	31	4	31	16	May-06	$ 1,450,290.00	2007	2008	YES
39	Ironwood Enterprises, LLC	September 6, 2005	5 Years		14	49	27	34	May-09	$ 6,000,000.00	2010	2011	YES
40	Daman Products Company	October 17, 2005		3 Years	95	6	82	23	Feb-07	$ 1,118,980.00	2007	2008	YES
41	Culture Systems, Inc.	December 18, 2006	3 Years	3 Years	12	7	12	2	May-09	$ 1,200,000.00	2009	2010	YES
42	Patrick Industries (Metals Div)	June 19, 2006	5 Years	5 Years	172	26			Apr-10	$ 4,600,000.00	2011	2012	YES
43	Jamil Packaging Corporation	August 21, 2006		3 Years	51	5	51	5	May-10	$ 1,250,000.00	2010	2011	YES
44	Nyloncraft Incorporated	December 6, 2007		5 Years	340	50	291	12	Apr-13	$ 2,185,000.00	2012	2013	YES
45	BD Mishawaka Development LLC	February 4, 2008	10 Years		0	370	0	243	Mar-13	$ 46,000,000.00	2018	2019	NO
46	Jamil Packaging Corporation	May 1, 2008		3 Years	64	5	62	11	Apr-12	$ 1,650,000.00	2011	2012	YES
47	Long Term Care Investments, LLC (Dougla	June 1, 2009	3 Years		0	120	0	67	4/1/2012	$ 18,000,000.00	2012	2013	YES
48	Jamil Packaging Corporation	16-May-11		3 Years	0	0	73	6	Apr-13	900,000	2014	2015	NO
49	North American Composites (NAC)	5-Mar-12		3 Years	0.0	10.0	7.0	5.0	Apr-13	$1,241,000	2015	2016	NO
50	Long Term Care Investments, LLC (Fir)	Oct-7-2013	4 Years		0	61	0		N/A	$15,000,000	2017	2018	NO
51	Barak Group Mixed Use	Nov-6-2013	5 Years		0	5	0		N/A	$17,000,000	2018	2019	NO
52	WellPet LLC	Januar- 8-2014		5 Years	91	6			N/A	$2,000,000	2018	2019	NO

HEALTHCARE REALTY
3310 West End Avenue, Suite 700
Nashville, Tennessee 37203
P 615.269.8175
www.healthcarerealty.com

APR 01 2015

March 27, 2015

Mr. Kenneth B. Prince, ASLA, AICP
City Planner
City of Mishawaka
Department of Planning & Community Development
600 East Third Street
Mishawaka, IN 46544-2241

Re: Compliance with Statement of Benefits Form CF-1 for Real Property
Located at 611 E Douglas Rd., Mishawaka, IN

Dear Mr. Prince,

Enclosed please find the Compliance with Statement of Benefits form (CF-1) for Real Estate Improvements located at the above referenced address, commonly known as BD SJRMC Mishawaka Development, Medical Office Building.

If you have any questions, please don't hesitate to contact me at (615) 269-8396 or by e-mail at: ksullivan@healthcarerealty.com

Thank you,

Kim Sullivan

Kim Sullivan
Associate Vice President
Asset Management

c: Rob Pryor, CPM, Senior Property Manager
Vince Brown, AEGIS

COMPLIANCE WITH STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS

State Form 51766 (R3 / 2-13)
Prescribed by the Department of Local Government Finance

20 14 PAY 20 15

FORM CF-1 / Real Property

PRIVACY NOTICE

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

INSTRUCTIONS:

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

SECTION 1 — TAXPAYER INFORMATION

Name of taxpayer HR of Indiana, LLC	County St. Joseph
Address of taxpayer *(number and street, city, state, and ZIP code)* 3310 West End Avenue, Nashville, TN 37203	DLGF taxing district number 71-022
Name of contact person Kim Sullivan	Telephone number (615) 269-8396

SECTION 2 — LOCATION AND DESCRIPTION OF PROPERTY

Name of designating body Common Council of the City of Mishawaka	Resolution number R-2008-02	Estimated start date *(month, day, year)* 02/11/2008
Location of property 611 East Douglas Road, Mishawaka, IN 46545		Actual start date *(month, day, year)*
Description of real property improvements Construction of a 205,573 square foot medical office building and all parking as required. Building is connected to Saint Joseph Regional Medical Center Hospital.		Estimated completion date *(month, day, year)*
		Actual completion date *(month, day, year)* 08/01/2009

SECTION 3 — EMPLOYEES AND SALARIES

EMPLOYEES AND SALARIES	AS ESTIMATED ON SB-1	ACTUAL
Current number of employees	0	398
Salaries	0	26,929,507
Number of employees retained	0	
Salaries	0	
Number of additional employees	370	
Salaries	10,555,000	

SECTION 4 — COST AND VALUES

COST AND VALUES	REAL ESTATE IMPROVEMENTS	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE
Values before project		
Plus: Values of proposed project	46,000,000	
Less: Values of any property being replaced		
Net values upon completion of project	46,000,000	
ACTUAL	COST	ASSESSED VALUE
Values before project		
Plus: Values of proposed project	37,765,910	19,280,200
Less: Values of any property being replaced		
Net values upon completion of project	44,000,000	

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

WASTE CONVERTED AND OTHER BENEFITS	AS ESTIMATED ON SB-1	ACTUAL
Amount of solid waste converted		
Amount of hazardous waste converted		
Other benefits:		

SECTION 6 — TAXPAYER CERTIFICATION

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

Signature of authorized representative Kim Sullivan	Title AVP, Asset Management	Date signed *(month, day, year)* 3/26/15

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

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

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

We have reviewed the CF-1 and find that:

☐ the property owner **IS** in substantial compliance

☐ the property owner **IS NOT** in substantial compliance

☐ other (*specify*) ____________________

Reasons for the determination (*attach additional sheets if necessary*)	
Signature of authorized member	Date signed *(month, day, year)*
Attested by:	Designating body

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

Time of hearing	☐ AM ☐ PM	Date of hearing *(month, day, year)*	Location of hearing

HEARING RESULTS (*to be completed after the hearing*)

☐ Approved ☐ Denied (*see instruction 4 above*)

Reasons for the determination (*attach additional sheets if necessary*)	
Signature of authorized member	Date signed *(month, day, year)*
Attested by:	Designating body

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

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

2014 Tax Info

	Tenant	Employees	Salaries
1	SJRMC	277	$20,549,670.00
2	Centre PC	33	$2,463,723.00
3	Alick	3	$114,958.82
4	Midwest Eye	8	$527,909.00
5	Mishawaka Phar.	5	$203,042.68
6	MRI	7	$614,581.00
7	Southbend Lab	65	$2,455,622.00
8	Midwest Orthotic	0	$0.00
		398	$26,929,507

1st Reading
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, CMC
JAN 31 2008
CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. R 2008-02

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA MAKING FINAL DETERMINATION AND CONFIRMING A CERTAIN AREA IN THE CITY OF MISHAWAKA, INDIANA AS AN ECONOMIC REVITALIZATION AREA

(BD SJRMC Mishawaka Development, LLC)

CONFIRMING RESOLUTION

WHEREAS, the Common Council of the City of Mishawaka, Indiana (the "Common Council"), did pursuant to the "Deduction for Rehabilitation or Redevelopment of Real Property in Economic Development Revitalization Areas Act" (Indiana Code 6-1.1-12.1-1 et. seq.) as amended (hereinafter referred to as the "Act"), declare 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:

1. Tax Keys #27-1059-1178.16; #27-1059-1177.01 and #27-1059-1177 with the legal description marked 'Exhibit A' and attached hereto;

More commonly known as vacant land on East Douglas Road.

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

WHEREAS, this declaration was effected by Resolution No. R 2007-21 (the "Declaratory Resolution") adopted by the Common Council on the 18th day of June, 2007; and

WHEREAS, under the provisions of the Act a copy of the Declaratory Resolution was filed for public inspection at the office of the St. Joseph County Assessor's Office; and

WHEREAS, pursuant to Indiana Code 5-3-1, public notice of the adoption and substance of the Declaratory Resolution was given; as well as setting forth that a public hearing would be held on February 4, 2008 to receive and hear all remonstrance and objections from interested persons; and

WHEREAS, pursuant to the Act, a copy of said public notice along with a copy of the Statement of Benefits (the "State of Benefits") of BD SJRMC Mishawaka Development, LLC (the "Applicant") was filed with each taxing unit in whose jurisdiction the property described in the above legal description is located; and

WHEREAS, on February 4, 2008, the Common Council received and heard all remonstrance and objections to the Declaratory Resolution from interested persons and considered the evidence;

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

1. That upon conclusion of said public hearing and consideration of evidence presented, it is now determined that the area described meets the qualifications for an Economic Revitalization Area; and

2. That the Declaratory Resolution is hereby modified and confirmed as follows:

   a) That the above described area shall be designated as an Economic Revitalization Area for a period of three (3) years beginning with the date of this resolution; and

   b) That the property tax deduction to which the property owner is entitled shall apply to real property pursuant to Section 3 of the Act; and

   c) That these deductions applicable for real property tax abatement and are limited to ten (10) years; and

   d) That the estimate of the value of the redevelopment is reasonable for projects of this nature; and

   e) That the description of the proposed redevelopment meets applicable standards for such development; and

   f) The estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment by the Applicant; and

   g) The estimate of the annual salaries of those individuals who will be employed o whose employment will be retained can be reasonably expected to result from the proposed described redevelopment by the Application; and

   h) That the other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment; and

   i) That the deduction will not be allowed unless the facility is constructed or rehabilitated to meet local code standards; and

   j) That the totality of benefits is sufficient to justify the granting of this requested deduction.

3. That the Statement of Benefits submitted by the Applicant is hereby approved, and the President of the Common Council is hereby authorized to execute the Statement of Benefits on behalf of the Common Council; and

4. That this determination is final except that an appeal may be taken and heard as provided under Section 2.5(d) and (e) of the Act.

5. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for real property tax abatement only and is limited to three (3) years from the date of the adoption of this Confirming Resolution by the Common Council.

6. The Common Council hereby finds and declares that even though the economic revitalization area designation made in this Resolution terminates in three (3) years from the date of the adoption of this Confirming Resolution by the Common Council, that limitation does not limit or reduce the ten (10) year period over which the Applicant is entitled to receive deductions from the assessed value of the redevelopment or rehabilitation of real property described in the Statement of Benefits approved by this Confirming Resolution.

Adopted by the Common Council of the City of Mishawaka, Indiana, St. Joseph County, Indiana this 4th day of February, 2008.

John J. Roggeman

John J. Roggeman, President

Attest:

Deborah S. Block

Deborah S. Block, City Clerk

Presented by me to the Mayor of the City of Mishawaka, Indiana, on this 5th day of February, 2008.

Deborah S. Block

Deborah S. Block, City Clerk

APPROVED AND SIGNED by me this 9th day of February, 2008, at 7:22 o'clock p.m.

Jeffrey L. Rea

Jeffrey L. Rea, Mayor

STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS

State Form 51767 (R / 1-06)
Prescribed by the Department of Local Government Finance

FORM SB-1 / RE

INSTRUCTIONS:

1. *This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise this statement must be submitted to the designating body BEFORE the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction. "Projects" planned or committed to after July 1, 1987, and areas designated after July 1, 1987, require a STATEMENT OF BENEFITS. (IC 6-1.1-12.1)*
2. *Approval of the designating body (City Council, Town Board, County Council, etc.) must be obtained prior to initiation of the redevelopment or rehabilitation, BEFORE a deduction may be approved.*
3. *To obtain a deduction, Form 322 ERA, Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas, must be filed with the County Auditor by the later of: (1) May 10; or (2) thirty (30) days after the notice of addition to assessed valuation or new assessment is mailed to the property owner at the address shown on the records of the township assessor.*
4. *Property owners whose Statement of Benefits was approved after June 30, 1991, must submit Form CF-1/RE annually to show compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.1(b))*
5. *The schedules established under IC 6-1.1-12.1-4(d) effective July 1, 2000, apply to any statement of benefits filed on or after July 1, 2000. The schedules effective prior to July 1, 2000, shall continue to apply to those statement of benefits filed before July 1, 2000.*

SECTION 1 — TAXPAYER INFORMATION

Name of taxpayer: BD SJRMC Mishawaka Development, LLC

Address of taxpayer (*number and street, city, state, and ZIP code*): 510 E. 96th. Street, Suite 250, PO Box 40509, Indpls, IN 46240

Name of contact person: David P. Durm

Telephone number: (317) 808-6449

SECTION 2 — LOCATION AND DESCRIPTION OF PROPOSED PROJECT

Name of designating body: See Application

Resolution number:

Location of property: Douglas Rd.Mishawaka, IN

County: St. Joseph

DLGF taxing district number:

Description of real property improvements, redevelopment, or rehabilitation. (*use additional sheets if necessary*): Exhibit A (See Attached)

ESTIMATED — Start Date: 6/1/07 — Completion Date: 10/1/08

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

Current number	Salaries	Number retained	Salaries	Number additional	Salaries
See attached					

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.	REAL ESTATE IMPROVEMENTS	
	COST	ASSESSED VALUE
Current values	See Attached	
Plus estimated values of proposed project		
Less values of any property being replaced		
Net estimated values upon completion of project		

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: [signature]

Title: Auth Rep

Date signed (*month, day, year*): 4/19/07

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. Redevelopment or rehabilitation of real estate improvements; ☐ Yes ☐ No
   2. Residentially distressed areas ☐ Yes ☐ No

C. The amount of deduction applicable for redevelopment or rehabilitation is limited to $ ________________ cost with an assessed value of $ ________________.

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

E. The deduction for redevelopment or rehabilitation is allowed for ____________________________ years* *(see below)*.

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. (IC 6-1.1-12-3(b))

Approved: *(signature and title of authorized member)*	Telephone number ( )	Date signed *(month, day, year)*
Attested by:	Designated body	

* If the designating body limits the time period during which an area is an economic revitalization area, it does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years designated under IC 6-1.1-12.1-4.

For residentially distressed areas, the deduction period may not exceed five (5) years. If the Economic Revitalization Area was designated prior to July 1, 2000, the deduction period is limited to three (3), six (6), or ten (10) years. For ERAs after June 30, 2000, the deduction period may not exceed ten (10) years. An area designated as an urban development area pursuant to an application filed after December 31, 1978, and prior to January 1, 1986, are entitled to a ten (10) year deduction.

APPLICATION FOR TAX ABATEMENT
CITY OF MISHAWAKA
MISHAWAKA, INDIANA

Company Name: BD SJRMC Mishawaka Development, LLC

Address: 510 E.96th. St., Suite 250, PO Box 40509
Indianapolis, IN 46240

Contact Person: Don R. Dunbar

Title: Authorized Representative

Telephone No. (317) 816-8611 Fax (317) 816-8610

Type of Business Medical Office Developer

Description of Activities Cancer Treatment Center, Physician Office Space, Exam Rooms, Imaging, and Retail Space

EXISTING FACILITY IN MISHAWAKA/SOUTH BEND AREA:

Number of current employees 0 Hourly: 0 Salary 0

Current wage scale (hourly worker only) N/A

Lowest entry level hourly level: N/A

Highest hourly rate: N/A

Employee Benefits:

Health Insurance Yes No

Employee share of cost: %

Vacation: %

Sick Leave: %

401K/retirement plan: %

Other:

Total current payroll: $ N/A

PROPOSAL

Property Address:

Street Douglas Road, Mishawaka, IN 46545

Tax Key Number: To be split from #27-1059-1178.16; #27-1059-1177.01 and #27-1059-1177

Describe your project and provide estimated costs:

Real Estate: Construction of a 208,400 square foot medical office building and all parking as required. New building shall be connected to the new Saint Joseph Regional Medical Center Hospital. The current project is valued at over $46,000,000.

Manufacturing Equipment: Not applicable.

Location of expansion or new facility: Douglas Road, Mishawaka, IN 46545

If building a new facility or adding on to an existing building:

Have you selected a contractor? If so, who? Yes, Duke Construction.

Have you applied for a building permit? No

Do you need rezoning? No

Number of current jobs to be retained? 0

Number of current jobs to be created? 370.25

Of the new jobs created, how many will be filled by workers transferred to Mishawaka?

Unknown at this time

For the new jobs:

Lowest hourly wage:	$11.87
Highest hourly wage:	$27.15

The projected annual salaries for each new position created are estimated to be as follows:

(If necessary, please use attachment)

****Please see attachment****

Benefits that will apply (same as above?) Same

Estimated payroll of jobs to be retained: 0

Estimated payroll of new jobs to be created: $10,555,000

What type of abatement are you requesting?

Real Estate: Yes X No

How many years? [ ] 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [X] 10

Manufacturing: Yes ________ No X

How many years? [ ] 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10

What is your time schedule?

Start construction June 1, 2007

Order equipment N/A

Give a brief description of the over all nature of the business and of the operations occurring at the. Location for which tax abatement is requested:

The overall nature of the business is medical office space. The medical office space will be comprised of a cancer center, physician office spaces, exam rooms, imaging, and a small amount of retail space.

The current assessed valuation of the tangible personal property to be replaced by the manufacturing equipment is: $ N/A

(This information can be obtained from the St. Joseph County Assessors Office 235-9523)

The current use of the real property where the equipment is to be installed is: N/A

The current zoning of the real property is: C-8, commercial (City of Mishawaka)

(Zoning Information can be obtained in the Mishawaka Planning Department 574-258-1625)

List the real and personal property taxed paid at the location during the previous five (5) years, whether paid by the current owner of a previous owner:

	Tax Year/Pay Year	Real Property Taxes	Personal Property Taxed
1		$ 181.63 - Pd. 03/04	$
2		$ 179.34-Pd. 04/05	$
3		$ 197.76-Pd 05/06	$
4		$	$
5		$	$

The equipment has not been installed as of the date of filing of this petition.
(The signature at the end of this Petition is verification of this statement.)

The standard Industrial Classification Manual major group within which the proposed project would be classified, by number and description:

Physician Office- 621111

The Internal Revenue Service Code of Principal Business Activity by which the proposed project would be classified, by number and description: NA

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: N/A

Will you require any other assistance from the City of Mishawaka? Explain:
Yes, permitting and development plan approval.

The new manufacturing equipment will be used in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property and that the equipment was never before used by its owner for any purpose in Indiana. The signature below is verification of this statement.

Submitted by

[signature]

Auth. Rep.

Title

4/19/07

Date

- 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 plat of describing the property where the equipment is to be located, marked Exhibit B, and is hereby incorporated herein.
- Attach photographs of the property, taken within 30 days of filing of this petition, marked Exhibit C, and hereby incorporated herein.

FILE COPY

EXHIBIT "A"

Construction of a 208,400 square foot medical office building and all parking as required. New building shall be connected to the new Saint Joseph Regional Medical Center Hospital. The current project is valued at over $46,000.000.

TAX ABATEMENT STAFFING ESTIMATE

BD SJRMC Mishawaka Development, LLC
Medical Office Building Tenants
MD & FTE Analysis

TENANT	MD'S	FTE'S
Michiana Hematology & Oncology	5	22.5
Dr. Downs - The Centre, PC	3	13.5
Image Recovery	0	
SJRMC Radiation Oncology	3	13.5
Gerig Group	4	15
SJRMC Urology	2	11
Dr. O'Dea	2	7.5
Dr. Danahey (Plastics)	1	5.5
Dr. Gable	3	13.5
SJRMC Internal Medicine	7	35
Dr. Guentert (Pulmonology)	2	9
SJRMC-Riley Pediatric Clinic	4	20
SJRMC Pediatric Practice	3	13.5
OB/GYN Associates	3	16.5
SJRMC OB/GYN - Dr. McGuire	2	11
GVS	4	22
Midwest Cardiology	3	13.5
Cardiology Associates	2	9
Cardiodiagnostic JV	3	13.5
Cardiothoracic Surgery	2.5	13.75
Elkhart Clinic	6	27
	64.5	305.75
		370.25

	Median Used	
FTE Benchmark:	3.75	3.5 - 4.0 FTEs per MD - Surgery Practices
	5.00	4.0 - 6.0 FTEs per MD - Primary Care
	4.50	4.0 - 5.0 FTEs per MD - Specialists
	5.50	4.0 - 7.0 FTEs per MD - Surgical Specialty (ENT, Ortho, Ophthal)

Wage Collection Spreadsheet for Tax Abatement

Position Title	SJRMC Title	Avg Annual Wage	Projected Annual Wage Adjustment Percentage (estimate average for next 2 years)	Benefits as a percentage of Total Compensation	Annual Bonus or Incentive Estimate (if applicable)
Practice Administrator	Manager, Medical Office	49,192.00	3.50%	33%	2-16%
Registered Nurse	Registered Nurse	54,309.00	4.00%	33%	N/A
Medical Assistant	Medical Assistant	26,749.00	3.00%	33%	N/A
Technologist (Radiology, Echo, etc.)	Radiologic Tech	47,154.00	4.00%	33%	N/A
Billing Clerk	Account Resolution Specialist	28,475.00	3.00%	33%	N/A
Transcriptionist	Medical Transcriptionist	29,640.00	3.00%	33%	N/A
Coder	Coder/Health Data Abstractor	37,252.80	3.00%	33%	N/A
Receptionist	Receptionist	24,710.40	3.00%	33%	N/A
Medical Records Clerk	Coding Specialist	31,803.00	3.00%	33%	N/A
Insurance Verification Clerk	Health Information Clerk	25,500.80	3.00%	33%	N/A
Front Office or Billing Supervisor	Supervisor, Billing	36,130.00	3.50%	33%	2-16%
Back Office or Clinical Supervisor	Supervisor, Medical Office	34,132.80	3.50%	33%	2-16%
Medical Secretary	Receptionist - Medical Office	23,732.80	3.00%	33%	N/A

Linda Rutkowske
Compensation Analyst
December 15, 2006

Property Description: Parcel 1

A part Lot 1, St. Joseph Medical Edison Lakes Subdivision of the Northeast Quarter of Section 33, Township 38 North, Range 3 East of the 2nd Principal Meridian in Clay Township and the Northwest Quarter of Section 34, Township 38 North, Range 3 East of the 2nd Principal Meridian in Penn Township, all in St. Joseph County, Indiana, as per plat thereof recorded November 4, 2005 as Document Number 0551329 in the office of the Recorder of St. Joseph County, Indiana more particularly described as follows:

Commencing at a brass disk monument marking the Northwest Corner of said Section 34; thence North 89°59'51" East, 1943.64 feet along the north line of said Section 34 to the east line of said Lot 1 extended north; thence South 00°15'57" East, 40.00 feet along said line to the south line of a parcel of land described in deed to the City of Mishawaka in Document Number 0245873 recorded August 27, 2002 in the Office of the Recorder of St. Joseph County, Indiana and the point of beginning; thence continuing South 00°15'57" East, 991.22 feet along said east line to the intersection with a non-tangent curve to the right having a radius of 565.00 feet and subtended by a long chord bearing South 44%%D27'49" West a distance of 352.63 feet; thence southwesterly along said non-tangent curve 358.62 feet; thence South 62%%D38'50" West, 265.58 feet to the beginning of a curve to the left having a radius of 795.00 feet and subtended by a long chord bearing South 49%%D54'28" West a distance of 350.62 feet; thence southwesterly along said curve 353.53 feet; thence South 37%%D10'06" West, 137.24 feet to the beginning of a curve to the right having a radius of 1005.00 feet and subtended by a long chord bearing South 63%%D20'50" West a distance of 886.77 feet; thence southwesterly and westerly along said curve 918.39 feet; thence South 89%%D31'35" West, 380.60 feet to the beginning of a curve to the left having a radius of 355.00 feet and subtended by a long chord bearing South 72%%D35'53" West a distance of 206.73 feet; thence westerly along said curve 209.77 feet; thence South 01%%D31'21" East, 42.64 feet to the northeasterly right of way line of Edison Lakes Parkway being a non-tangent curve to the left having a radius of 2028.26 feet and subtended by long chord bearing North 50%%D04'07" West a distance of 15.32 feet; thence northwesterly along said non-tangent right of way line 15.32 feet; thence North 55%%D58'48" West, 159.72 feet along said right of way line; thence North 86%%D21'01" East, 39.74 feet to the beginning of a non-tangent curve to the right having a radius of 465.00 feet and subtended by a long chord bearing North 69%%D23'16" East a distance of 320.19 feet; thence easterly along said non-tangent curve 326.88 feet; thence North 89%%D31'35" East, 380.60 feet to the beginning a curve to the left having a radius of 895.00 feet and subtended by a long chord bearing North 63%%D20'50" East a distance of 789.71 feet; thence easterly and northeasterly along the arc of said curve 817.87 feet; thence North 37%%D10'06" East, 137.24 feet to the beginning of a curve to the right having a radius of 905.00 feet and subtended by a long chord bearing North 49%%D54'28" East a distance of 399.14 feet; thence northeasterly along said curve 402.44 feet; thence North 62%%D38'50" East, 265.58 feet to the beginning a curve to the left having a radius of 455.00 feet and subtended by a long chord bearing North 31%%D19'21" East a distance of 473.10 feet; thence northeasterly and northerly along said curve 497.52 feet; thence North 00%%D00'09" West, 55.25 feet; thence South 89%%D59'51" West, 10.00 feet; thence North 00%%D00'09" West, 165.00 feet; thence North 05%%D42'29" East, 100.50 feet; thence North 00%%D00'09" West, 420.78 feet to the south line of said City of Mishawaka Parcel; thence North 89%%D59'51" East, 47.04 feet along said south line to the point of beginning, and containing 7.957 acres more or less.

This description was prepared by Anthony J. Toscani, an Indiana Registered Land Surveyor, License Number LS20600010.
DLZ Indiana, LLC
2211 East Jefferson Boulevard
South Bend, Indiana 46615

COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51765 (R2 / 5-13)
Prescribed by the Department of Local Government Finance

FORM CF-1 / PP

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

SECTION 1 — TAXPAYER INFORMATION

Name of taxpayer: Jamil Packaging Corporation	
Address of taxpayer *(number and street, city, state, and ZIP code)*: 1420 Industrial Dr, Mishawaka, IN 46544	
Name of contact person: David Herschberger	Telephone number: (574) 256-2600

SECTION 2 — LOCATION AND DESCRIPTION OF PROPERTY

Name of designating body: City of Mishawaka Common Council		Resolution number: R2011-08
Location of property: 1420 Industrial Dr, Mishawaka, IN 46544	County: St. Joseph	DLGF taxing district number: 71022
Description of new manufacturing equipment, or new research and development equipment, or new information technology equipment, or new logistical distribution equipment to be acquired.: Expertfold 300 A-4 Specialty Folder Gluer		Estimated starting date *(month, day, year)*:
		Estimated completion date *(month, day, year)*: 07/15/2011

SECTION 3 — EMPLOYEES AND SALARIES

EMPLOYEES AND SALARIES	AS ESTIMATED ON SB-1	ACTUAL
Current number of employees	73.00	102.00
Salaries	2,706,000.00	4,436,697.00
Number of employees retained	73.00	73.00
Salaries	2,706,000.00	2,733,400.00
Number of additional employees	6.00	29.00
Salaries	180,000.00	1,703,297.00

SECTION 4 — COST AND VALUES

	MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values before project	5,158,748.00							
Plus: Values of proposed project	900,000.00							
Less: Values of any property being replaced	350,531.00							
Net values upon completion of project	5,708,217.00							
ACTUAL	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values before project	5,158,748.00							
Plus: Values of proposed project	846,673.17							
Less: Values of any property being replaced	350,531.00							
Net values upon completion of project	5,654,890.16							

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

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

WASTE CONVERTED AND OTHER BENEFITS	AS ESTIMATED ON SB-1	ACTUAL
Amount of solid waste converted		
Amount of hazardous waste converted		
Other benefits:		

SECTION 6 — TAXPAYER CERTIFICATION

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

Signature of authorized representative	Title	Date signed *(month, day, year)*
David A. Herschberger (signature)	President	3/24/2015

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

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

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

We have reviewed the CF-1 and find that:

☐ the property owner **IS** in substantial compliance

☐ the property owner **IS NOT** in substantial compliance

☐ other (*specify*) ____________________

Reasons for the determination (*attach additional sheets if necessary*)

Signature of authorized member	Date signed (*month, day, year*)
Attested by:	Designating body

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

Time of hearing ☐ AM ☐ PM	Date of hearing *(month, day, year)*	Location of hearing

HEARING RESULTS (*to be completed after the hearing*)

☐ Approved ☐ Denied (*see instruction 5 above*)

Reasons for the determination (*attach additional sheets if necessary*)

Signature of authorized member	Date signed (*month, day, year*)
Attested by:	Designating body

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

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

NORTH AMERICAN
COMPOSITES

DELIVERY VIA ELECTRONIC AND U.S. MAIL

April 10, 2015

Mr. Kenneth B. Prince, ASLA, AICP
City of Mishawaka
City Hall
600 East Third Street
Mishawaka, Indiana 46544-2241

SUBJECT: **North American Composites Company**
1460 E. 12th Street
Mishawaka, IN 46544

Dear Mr. Prince:

Enclosed you will find a completed Compliance with Statement of Benefits Form (CF-1).

From April 1, 2014, to March 31, 2015, NAC added 4 new job positions and purchased approximately $178,567 in additional logistics and distribution equipment, resulting in a total investment of $1,554,744 since we started operating in early 2013.

Please do not hesitate to contact me at (651) 766-5485 if you have any questions or need additional information.

Sincerely,

Jerry D. Davis

Jerry D. Davis
Vice President of Operations

300 APOLLO DRIVE
LINO LAKES, MINNESOTA 55014
TELEPHONE: (651) 766-5485
FACSIMILE: (651) 765-8378
EMAIL: JDAVIS@NACOMPOSITES.COM

COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51765 (R2 / 6-13)
Prescribed by the Department of Local Government Finance

FORM CF-1 / PP

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

SECTION 1 — TAXPAYER INFORMATION

Name of taxpayer
NORTH AMERICAN COMPOSITES COMPANY

Address of taxpayer *(number and street, city, state, and ZIP code)*
1460 EAST 12TH STREET, MISHAWAKA, INDIANA 46544

Name of contact person: JERRY D. DAVIS
Telephone number: (651) 766-5485

SECTION 2 — LOCATION AND DESCRIPTION OF PROPERTY

Name of designating body: CITY OF MISHAWAKA, INDIANA, DEPARTMENT OF BUILDING, COMMUNITY DEVELOPMENT
Resolution number: R2012-05 & R2012-06

Location of property: 1460 EAST 12TH STREET
County: ST. JOSEPH
DLGF taxing district number:

Description of new manufacturing equipment, or new research and development equipment, or new information technology equipment, or new logistical distribution equipment to be acquired.
NAC completed improvements to the building for the proper storage and handling of hazardous materials and purchased material handling and transportation equipment. These activities were completed in early 2013. tHE I

Estimated starting date *(month, day, year)*: 04/01/2014
Estimated completion date *(month, day, year)*: 03/31/2015

SECTION 3 — EMPLOYEES AND SALARIES

EMPLOYEES AND SALARIES	AS ESTIMATED ON SB-1	ACTUAL
Current number of employees		16.00
Salaries	750,000.00	992,133.00
Number of employees retained		12.00
Salaries		801,969.00
Number of additional employees	11.00	4.00
Salaries		190,164.00

SECTION 4 — COST AND VALUES

	MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values before project								
Plus: Values of proposed project					1,223,500.00		22,500.00	
Less: Values of any property being replaced								
Net values upon completion of project					1,223,500.00		22,500.00	
ACTUAL	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values before project								
Plus: Values of proposed project					1,554,744.00			
Less: Values of any property being replaced								
Net values upon completion of project					1,554,744.00			

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

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

WASTE CONVERTED AND OTHER BENEFITS	AS ESTIMATED ON SB-1	ACTUAL
Amount of solid waste converted	0.00	0.00
Amount of hazardous waste converted	0.00	0.00
Other benefits:	0.00	0.00

SECTION 6 — TAXPAYER CERTIFICATION

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

Signature of authorized representative: Jerry D. Davis
Title: VP OF OPERATIONS
Date signed *(month, day, year)*: APRIL 10, 2015

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

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

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

We have reviewed the CF-1 and find that:

☐ the property owner **IS** in substantial compliance

☐ the property owner **IS NOT** in substantial compliance

☐ other (*specify*) ____________________

Reasons for the determination (*attach additional sheets if necessary*)

Signature of authorized member	Date signed (*month, day, year*)
Attested by:	Designating body

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

Time of hearing ☐ AM ☐ PM	Date of hearing (*month, day, year*)	Location of hearing

HEARING RESULTS (*to be completed after the hearing*)

☐ Approved ☐ Denied (*see instruction 5 above*)

Reasons for the determination (*attach additional sheets if necessary*)

Signature of authorized member	Date signed (*month, day, year*)
Attested by:	Designating body

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

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

TABLE 1 - LOGISTICS AND MATERIAL HANDLING EQUIPMENT FROM JANUARY 1, 2012 TO MARCH 31, 2013

LOGISTICS AND MATERIAL HANDLING EQUIPMENT	NUMBER	QUANTITY	ACTUAL COST
Building Improvements for Product Storage and Containment	$843,885	1	$843,885
Freightliner Day Cab Tractors	$115,000	2	$230,000
Toyota Electric EE Rated Forklifts	$32,803	2	$65,606
Slitter Machine	$51,547	1	$51,547
Toyota Pallet Jacks	$4,500	2	$9,000
Ground Monitoring Equipment	$2,092	1	$2,092
Drum Grabber	$756	1	$756
Drum Grabber and Forklift Extension	$936	1	$936
Used Great Dane Refrigerated Trailer with Liftgate	$58,000	1	$58,000
New Great Dane Dry Van Trailer with Liftgate	$48,359	1	$48,359
Weigh Scales	$1,750	1	$1,750
GPS Units for Day Cab Tractors	$1,859	2	$3,717
Yard Signs	$2,735	1	$2,735
Parts Washer Machine	$933	1	$933
Pallet Racks for Warehouse Storage	$55,102	1	$55,102
Miscellaneous Equipment for Unloading Cargo Tanker Wagons of Product	$759	1	$759
Spill Kit and Safety Supplies	$1,000	1	$1,000
TOTAL			**$1,376,177**

TABLE 2 - LOGISTICS AND MATERIAL HANDLING EQUIPMENT FROM APRIL 1, 2014, TO MARCH 31, 2015

LOGISTICS AND MATERIAL HANDLING EQUIPMENT	NUMBER	QUANTITY	ACTUAL COST
Drum Roller + Installation	$4,751	1	$4,751
Cargo Tanker Unloading Equipment	$756	1	$756
Electrical Upgrade in Bulk Bulk Room	$2,200	1	$2,200
Explosion Proof Floor Scale	$5,500	1	$5,500
Explosion Proof Forklift	$31,362	1	$31,362
Dock Seals and Protectors	$3,013	1	$3,013
New 2015 Freightliner Day Cab Tractor	$111,555	1	$111,555
New Bar Coding Readers	$5,000	3	$15,000
Forklift Cage	$700	1	$700
Electric Pallet Jack	$3,730	1	$3,730
TOTAL			**$178,567**

SOPKO, NUSSBAUM, INABNIT & KACZMAREK
ATTORNEYS AT LAW
5TH FLOOR - PLAZA BUILDING
210 S. MICHIGAN STREET
SOUTH BEND, INDIANA 46601
TELEPHONE (574) 234-3000
FACSIMILE (574) 234-4220
E-MAIL ADDRESS: SNI@SNI-LAW.COM

RICHARD A. NUSSBAUM, II*
BRENT E. INABNIT**
MATTHEW R. KACZMAREK
CHRISTOPHER M. KEEFER
JOSHUA A. VISSER
KEVIN E. WARREN
NICHOLAS J. DERDA
JAMES P. KENNEDY

*ALSO ADMITTED IN MICHIGAN
**ALSO ADMITTED IN ILLINOIS

OF COUNSEL
THOMAS C. SOPKO

APR 14 2015

April 9, 2015
(Via Email Transmission and Regular Mail)

Ken Prince, Director
Planning and Development Department
City of Mishawaka
600 East 3rd Street
Mishawaka, Indiana 46544

Re: Tax Abatement Compliance
Long Term Care Investments V, LLC Compliance with Statement of Benefits
5805 N. Fir Road, Granger, Indiana

Dear Mr. Prince:

Enclosed please find Long Term Care Investments V, LLC's Compliance with Statement of Benefits Real Estate Improvements Form CF-1. By way of an update, construction on the facility began in October of 2014 and the facility remains under construction. At the present time, the foundation has been completed and site utilities are currently being installed. The City of Mishawaka is scheduled to start running water lines this week. The anticipated completion date is March of 2016.

With regard to the operation of the facility, at the time of the application for the abatement, the facility did not yet have an operator. In 2014, Long Term Care Investments V, LLC entered into an agreement with THI of Kansas at Cherry Creek Village, LLC to operate the facility.

Please contact me should you have any questions or if you need any additional information.

Very truly yours,

Brent E. Inabnit
brenti@sni-law.com

BEI:jh
Enclosures
cc: Long Term Care Investments V, LLC (w/enclosure)

P:\WP51\DOC\ATT\NJD\LTCI\2015 Prince Letter.wpd

COMPLIANCE WITH STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51766 (R3 / 2-13)
Prescribed by the Department of Local Government Finance

20 15 PAY 20 16
FORM CF-1 / Real Property

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

INSTRUCTIONS:

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

SECTION 1 — TAXPAYER INFORMATION

Name of taxpayer Long Term Care Investments V, LLC	County St. Joseph
Address of taxpayer *(number and street, city, state, and ZIP code)* 1620 N. Ironwood Drive, South Bend, Indiana 46635	DLGF taxing district number 036
Name of contact person Andrew W. Place	Telephone number (574) 259-4858

SECTION 2 — LOCATION AND DESCRIPTION OF PROPERTY

Name of designating body City of Mishawaka Common Council	Resolution number 2013-18	Estimated start date *(month, day, year)* 10/21/2013
Location of property 5805 N. Fir Road, Granger, Indiana 46530		Actual start date *(month, day, year)* 10/1/2014
Description of real property improvements Construction of a new one-story Skilled Nursing Care Facility consisting of 55,880 sq. ft., containing 84 beds, and having an estimated cost of $14-$15 million plus $1.5 million for fixtures and furniture.		Estimated completion date *(month, day, year)* 11/30/2014
		Actual completion date *(month, day, year)* 03/30/2016

SECTION 3 — EMPLOYEES AND SALARIES

EMPLOYEES AND SALARIES	AS ESTIMATED ON SB-1	ACTUAL
Current number of employees	0	0
Salaries	0	0
Number of employees retained	0	0
Salaries	0	0
Number of additional employees	61 Full Time	0
Salaries	$2,161,524.00	0

SECTION 4 — COST AND VALUES

COST AND VALUES	REAL ESTATE IMPROVEMENTS	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE
Values before project	0	48,600.00
Plus: Values of proposed project	16,500,000.00	
Less: Values of any property being replaced	10,000.00	
Net values upon completion of project	16,490,000.00	
ACTUAL	COST	ASSESSED VALUE
Values before project	0	52,200.00
Plus: Values of proposed project	750,000.00 to Date	
Less: Values of any property being replaced	10,000.00	
Net values upon completion of project	750,000.00 to Date	

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

WASTE CONVERTED AND OTHER BENEFITS	AS ESTIMATED ON SB-1	ACTUAL
Amount of solid waste converted	0	0
Amount of hazardous waste converted	0	0
Other benefits:		N/A

SECTION 6 — TAXPAYER CERTIFICATION

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

Signature of authorized representative	Title	Date signed *(month, day, year)*
	Attorney	4/9/15

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

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

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

We have reviewed the CF-1 and find that:

☐ the property owner **IS** in substantial compliance

☐ the property owner **IS NOT** in substantial compliance

☐ other (*specify*) ____________________

Reasons for the determination (*attach additional sheets if necessary*)

Signature of authorized member	Date signed *(month, day, year)*
Attested by:	Designating body

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

Time of hearing	☐ AM ☐ PM	Date of hearing *(month, day, year)*	Location of hearing

HEARING RESULTS (*to be completed after the hearing*)

☐ Approved ☐ Denied (*see instruction 5 above*)

Reasons for the determination (*attach additional sheets if necessary*)

Signature of authorized member	Date signed *(month, day, year)*
Attested by:	Designating body

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

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

Ken Prince

From: Scott Sivan <sivan@barakriverrock.com>
Sent: Tuesday, April 14, 2015 1:14 PM
To: Ken Prince
Subject: Re: Fwd:
Attachments: BarakConstructionSchedule (3.3.15) (1).pdf

hi Ken,

- The foundations have been completed.
- At present the masonry walls of the South Building are about 50% complete.
- The detention basin is being cast, would estimate more than 90% complete.
- The precast planks will start erection on April 20th.

Attached is the last updated schedule from the beginning of March. If you need more detail or more recent updated schedule I will ask Tim.

At present the completion of construction is scheduled for the end of April 2016, but both Tim and I intend to pick-up some time during the framing and rough-ins so the completion date is moved to the beginning of April.

Best,

Scott

On Tue, Apr 14, 2015 at 9:09 AM, Ken Prince <kprince@mishawaka.in.gov> wrote:

Good morning Scott,

It would be helpful if you could put together a paragraph or two on where you are at on the construction and an updated construction schedule.

Thanks,

Ken

From: Scott Sivan [mailto:sivan@barakriverrock.com]
Sent: Monday, April 13, 2015 3:06 PM
To: Ken Prince
Subject: Fwd:

COMPLIANCE WITH STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS
State Form 51766 (R3 / 2-13)
Prescribed by the Department of Local Government Finance

20____ PAY 20____
FORM CF-1 / Real Property

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

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

SECTION 1 — TAXPAYER INFORMATION

Name of taxpayer: Barak River Rock LLC	County: St. Joseph
Address of taxpayer (number and street, city, state, and ZIP code): 300 S. St. Louis Blvd	DLGF taxing district number: 71-023
Name of contact person: Scott Srvan, Architect and Authorized Agent	Telephone number: (574) 302 7236

SECTION 2 — LOCATION AND DESCRIPTION OF PROPERTY

Name of designating body: Common Council of the City of Mishawaka	Resolution number:	Estimated start date (month, day, year): 9/01/14
Location of property: Lots 1-9 & 19-26 in the Plat of Lawrence and Battell Subd. BL 27		Actual start date (month, day, year): 4/01/2015
Description of real property improvements: Development and Construction of 139,000 sf mixed-use residential & retail project, 73 units		Estimated completion date (month, day, year): 4/30/2016
		Actual completion date (month, day, year):

SECTION 3 — EMPLOYEES AND SALARIES

EMPLOYEES AND SALARIES	AS ESTIMATED ON SB-1	ACTUAL
Current number of employees 2		
Salaries $16,000 per month		
Number of employees retained N/A		
Salaries N/A		
Number of additional employees N/A		
Salaries N/A		

SECTION 4 — COST AND VALUES

COST AND VALUES	REAL ESTATE IMPROVEMENTS	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE
Values before project	155,000	?
Plus: Values of proposed project	14,300,000	Def. Under Reg 17
Less: Values of any property being replaced	155,000	?
Net values upon completion of project	14,145,000	Def. Under Reg 17
ACTUAL	COST	ASSESSED VALUE
Values before project		
Plus: Values of proposed project		
Less: Values of any property being replaced		
Net values upon completion of project		

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

WASTE CONVERTED AND OTHER BENEFITS	AS ESTIMATED ON SB-1	ACTUAL
Amount of solid waste converted		
Amount of hazardous waste converted		
Other benefits:		

SECTION 6 — TAXPAYER CERTIFICATION

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

Signature of authorized representative	Title	Date signed (month, day, year)
[signature]	Managing Partner	4.10.15

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

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

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

We have reviewed the CF-1 and find that:

☐ the property owner **IS** in substantial compliance

☐ the property owner **IS NOT** in substantial compliance

☐ other (*specify*) ____________________

Reasons for the determination (*attach additional sheets if necessary*)	
Signature of authorized member	Date signed (*month, day, year*)
Attested by:	Designating body

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

Time of hearing ☐ AM ☐ PM	Date of hearing (*month, day, year*)	Location of hearing

HEARING RESULTS (*to be completed after the hearing*)

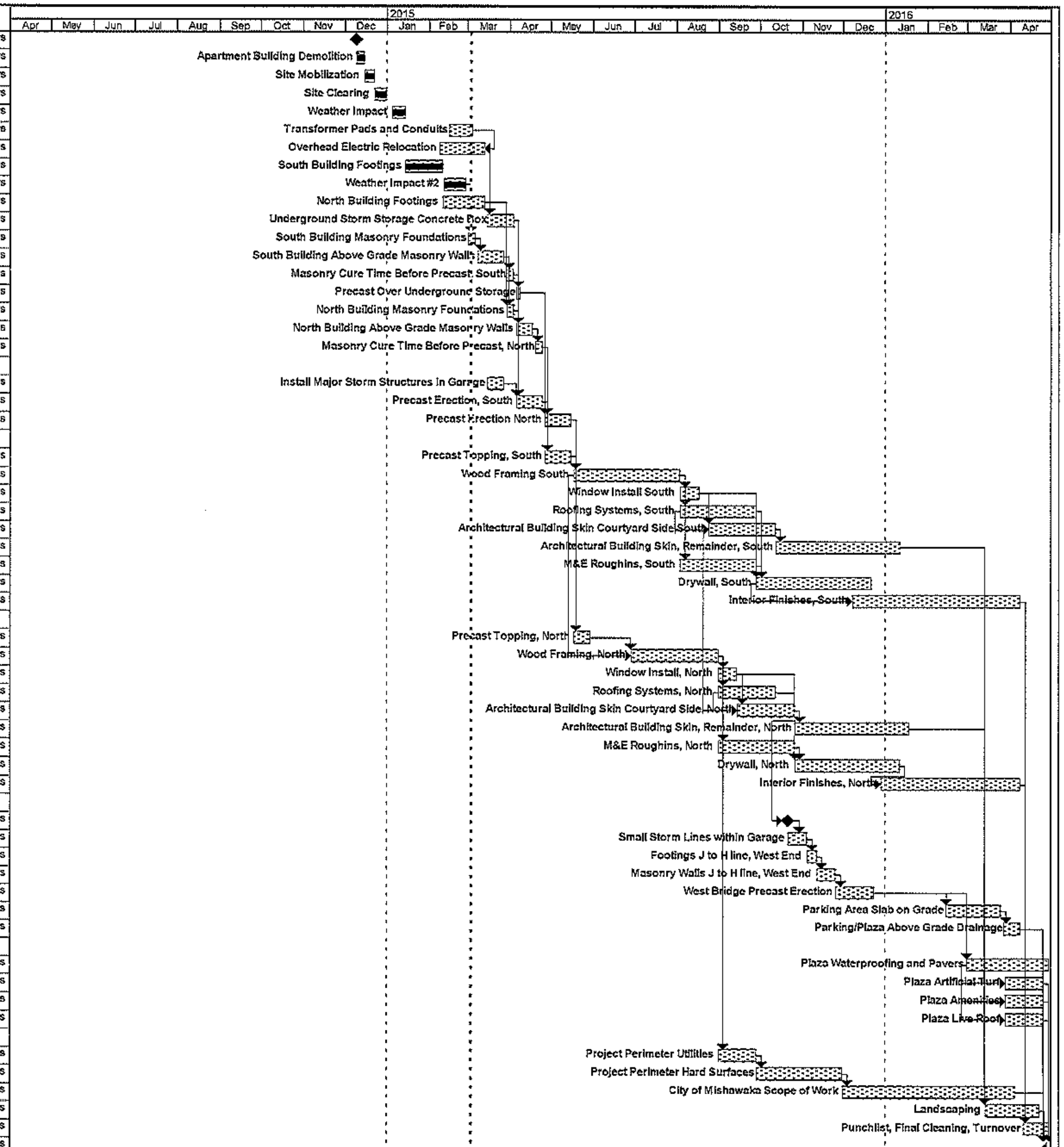
☐ Approved ☐ Denied (*see instruction 4 above*)

Reasons for the determination (*attach additional sheets if necessary*)	
Signature of authorized member	Date signed (*month, day, year*)
Attested by:	Designating body

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

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

ID	Task Name	Duration	Start	Finish	Float
1	Job Start Milestone	0 days	Wed 12/10/14	Wed 12/10/14	0 days
2	Apartment Building Demolition	4 days	Wed 12/10/14	Mon 12/15/14	0 days
3	Site Mobilization	5 days	Tue 12/16/14	Mon 12/22/14	0 days
4	Site Clearing	5 days	Tue 12/23/14	Wed 12/31/14	0 days
5	Weather Impact	8 days	Mon 1/5/15	Wed 1/14/15	0 days
6	Transformer Pads and Conduits	13 days	Mon 2/16/15	Wed 3/4/15	34 days
7	Overhead Electric Relocation	25 days	Mon 2/9/15	Fri 3/13/15	32 days
8	South Building Footings	19 days	Thu 1/15/15	Tue 2/10/15	0 days
9	Weather Impact #2	12 days	Thu 2/12/15	Fri 2/27/15	0 days
10	North Building Footings	23 days	Wed 2/11/15	Fri 3/13/15	30 days
11	Underground Storm Storage Concrete Box	15 days	Mon 3/16/15	Fri 4/3/15	32 days
12	South Building Masonry Foundations	5 days	Mon 3/2/15	Fri 3/6/15	0 days
13	South Building Above Grade Masonry Walls	15 days	Mon 3/9/15	Fri 3/27/15	0 days
14	Masonry Cure Time Before Precast, South	5 days	Mon 3/30/15	Fri 4/3/15	0 days
15	Precast Over Underground Storage	3 days	Mon 4/6/15	Wed 4/8/15	32 days
16	North Building Masonry Foundations	5 days	Mon 3/30/15	Fri 4/3/15	20 days
17	North Building Above Grade Masonry Walls	10 days	Mon 4/6/15	Fri 4/17/15	20 days
18	Masonry Cure Time Before Precast, North	5 days	Mon 4/20/15	Fri 4/24/15	20 days
19					
20	Install Major Storm Structures in Garage	10 days	Mon 3/16/15	Fri 3/27/15	5 days
21	Precast Erection, South	15 days	Mon 4/6/15	Fri 4/24/15	0 days
22	Precast Erection North	15 days	Mon 4/27/15	Fri 5/15/15	20 days
23					
24	Precast Topping, South	15 days	Mon 4/27/15	Fri 5/15/15	0 days
25	Wood Framing South	55 days	Mon 5/18/15	Mon 8/3/15	0 days
26	Window Install South	10 days	Tue 8/4/15	Mon 8/17/15	5 days
27	Roofing Systems, South	40 days	Tue 8/4/15	Mon 9/28/15	0 days
28	Architectural Building Skin Courtyard Side,South	35 days	Tue 8/25/15	Mon 10/12/15	0 days
29	Architectural Building Skin, Remainder, South	65 days	Tue 10/13/15	Mon 1/11/16	49 days
30	M&E Roughins, South	40 days	Tue 8/4/15	Mon 9/28/15	0 days
31	Drywall, South	60 days	Tue 9/29/15	Mon 12/21/15	0 days
32	Interior Finishes, South	89 days	Tue 12/8/15	Fri 4/8/16	0 days
33					
34	Precast Topping, North	10 days	Mon 5/18/15	Fri 5/29/15	20 days
35	Wood Framing, North	45 days	Mon 6/29/15	Mon 8/31/15	0 days
36	Window Install, North	10 days	Tue 9/1/15	Mon 9/14/15	0 days
37	Roofing Systems, North	30 days	Tue 9/1/15	Mon 10/12/15	0 days
38	Architectural Building Skin Courtyard Side, North	30 days	Tue 9/15/15	Mon 10/26/15	0 days
39	Architectural Building Skin, Remainder, North	60 days	Tue 10/27/15	Mon 1/18/16	44 days
40	M&E Roughins, North	40 days	Tue 9/1/15	Mon 10/26/15	0 days
41	Drywall, North	55 days	Tue 10/27/15	Mon 1/11/16	0 days
42	Interior Finishes, North	74 days	Tue 12/29/15	Fri 4/8/16	0 days
43					
44	Milestone for Center Hoisting Access Completion	0 days	Thu 10/22/15	Thu 10/22/15	0 days
45	Small Storm Lines within Garage	10 days	Thu 10/22/15	Wed 11/4/15	0 days
46	Footings J to H line, West End	5 days	Thu 11/5/15	Wed 11/11/15	0 days
47	Masonry Walls J to H line, West End	10 days	Thu 11/12/15	Wed 11/25/15	0 days
48	West Bridge Precast Erection	20 days	Thu 11/26/15	Wed 12/23/15	48 days
49	Parking Area Slab on Grade	30 days	Mon 2/15/16	Fri 3/25/16	15 days
50	Parking/Plaza Above Grade Drainage	10 days	Mon 3/28/16	Fri 4/8/16	15 days
51					
52	Plaza Waterproofing and Pavers	44 days	Tue 3/1/16	Fri 4/29/16	0 days
53	Plaza Artificial Turf	20 days	Tue 3/29/16	Mon 4/25/16	4 days
54	Plaza Amenities	20 days	Tue 3/29/16	Mon 4/25/16	4 days
55	Plaza Live Roof	20 days	Tue 3/29/16	Mon 4/25/16	4 days
56					
57	Project Perimeter Utilities	20 days	Tue 9/1/15	Mon 9/28/15	19 days
58	Project Perimeter Hard Surfaces	45 days	Tue 9/29/15	Mon 11/30/15	19 days
59	City of Mishawaka Scope of Work	90 days	Tue 12/1/15	Mon 4/4/16	19 days
60	Landscaping	30 days	Mon 3/14/16	Fri 4/22/16	5 days
61	Punchlist, Final Cleaning, Turnover	15 days	Mon 4/11/16	Fri 4/29/16	0 days
62	Job Completion	0 days	Fri 4/29/16	Fri 4/29/16	0 days



Project: BarakConstructionSchedule
Date: Tue 3/3/15

Task | Milestone | Rolled Up Critical Task | Split | Group By Summary
Critical Task | Summary | Rolled Up Milestone | External Tasks | Deadline
Progress | Rolled Up Task | Rolled Up Progress | Project Summary

WellPet
at the heart of all we do

April 10, 2015

APR 15 2015

Ken Prince, City Planner
City of Mishawaka
600 E. 3rd Street
PO Box 363
Mishawaka, IN 46544

Dear Mr. Prince,

Thank you and the City of Mishawaka for your support in 2014 of our investment project, the Regrind System. The designation as an Economic Revitalization Area and award of a Tax Abatement were key in our decision to proceed with this investment.

As requirement of this designation, we are submitting the Compliance with Statement of Benefits of Personal Property, Form CF-1/PP, which reports on the associated compliance with promised benefits of the project.

Please be aware, that in Section 4 of this report, we are reporting *estimated* Manufacturing Equipment 'Values before project' due to our tax consultants not yet having completed the annual calculations and form. The information requested in Section 3, which reports on Number of Employees and Salaries is accurate.

Also note that the Solid Waste Converted estimated in the original abatement request was 1.5 million pounds. This report will show a number less than that, as the 1.5 million was an annual estimate and our investment was not implemented until the November of 2014. We expected full compliance on this item in 2015.

Please feel free to contact me with any further questions.

Thank you,

Michelle Tatgenhorst

Michelle Tatgenhorst
Plant Controller

COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51765 (R2 / 5-13)
Prescribed by the Department of Local Government Finance

FORM CF-1 / PP

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

SECTION 1 — TAXPAYER INFORMATION

Name of taxpayer: Wellpet LLC	
Address of taxpayer *(number and street, city, state, and ZIP code)*: 1011 West 11th Street, Mishawaka Indiana 46544	
Name of contact person: Michelle Tatgenhorst	Telephone number: (574) 257-7834

SECTION 2 — LOCATION AND DESCRIPTION OF PROPERTY

Name of designating body: Mishawaka Common Council		Resolution number: R 2014 - 4
Location of property: 1121 West 11th St, Mishawaka, IN 46544	County: ST. Joseph	DLGF taxing district number: 71-023
Description of new manufacturing equipment, or new research and development equipment, or new information technology equipment, or new logistical distribution equipment to be acquired. Regrind System		Estimated starting date *(month, day, year)*: 04/29/2014
		Estimated completion date *(month, day, year)*: 11/25/2014

SECTION 3 — EMPLOYEES AND SALARIES

EMPLOYEES AND SALARIES	AS ESTIMATED ON SB-1	ACTUAL
Current number of employees	91.00	107.00
Salaries	3,404,000.00	4,002,703.90
Number of employees retained	91.00	91.00
Salaries	3,404,000.00	3,404,000.00
Number of additional employees	6.00	16.00
Salaries	197,000.00	598,703.00

SECTION 4 — COST AND VALUES

	MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values before project	14,705,633.00							
Plus: Values of proposed project	2,000,000.00							
Less: Values of any property being replaced								
Net values upon completion of project	16,705,633.00							
ACTUAL	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values before project	17,075,985.00							
Plus: Values of proposed project	1,473,754.00							
Less: Values of any property being replaced								
Net values upon completion of project	18,549,739.00							

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

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

WASTE CONVERTED AND OTHER BENEFITS	AS ESTIMATED ON SB-1	ACTUAL
Amount of solid waste converted	1,500,000.00	866,783.00
Amount of hazardous waste converted		
Other benefits:		

SECTION 6 — TAXPAYER CERTIFICATION

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

Signature of authorized representative	Title	Date signed *(month, day, year)*
Michelle Tatgenhorst	Controller	4/10/15

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

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

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

We have reviewed the CF-1 and find that:

☐ the property owner **IS** in substantial compliance

☐ the property owner **IS NOT** in substantial compliance

☐ other (*specify*) ____________________

Reasons for the determination (*attach additional sheets if necessary*)	
Signature of authorized member	Date signed (*month, day, year*)
Attested by:	Designating body

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

Time of hearing ☐ AM ☐ PM	Date of hearing (*month, day, year*)	Location of hearing

HEARING RESULTS (*to be completed after the hearing*)

☐ Approved ☐ Denied (*see instruction 5 above*)

Reasons for the determination (*attach additional sheets if necessary*)	
Signature of authorized member	Date signed (*month, day, year*)
Attested by:	Designating body

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

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

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:

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.

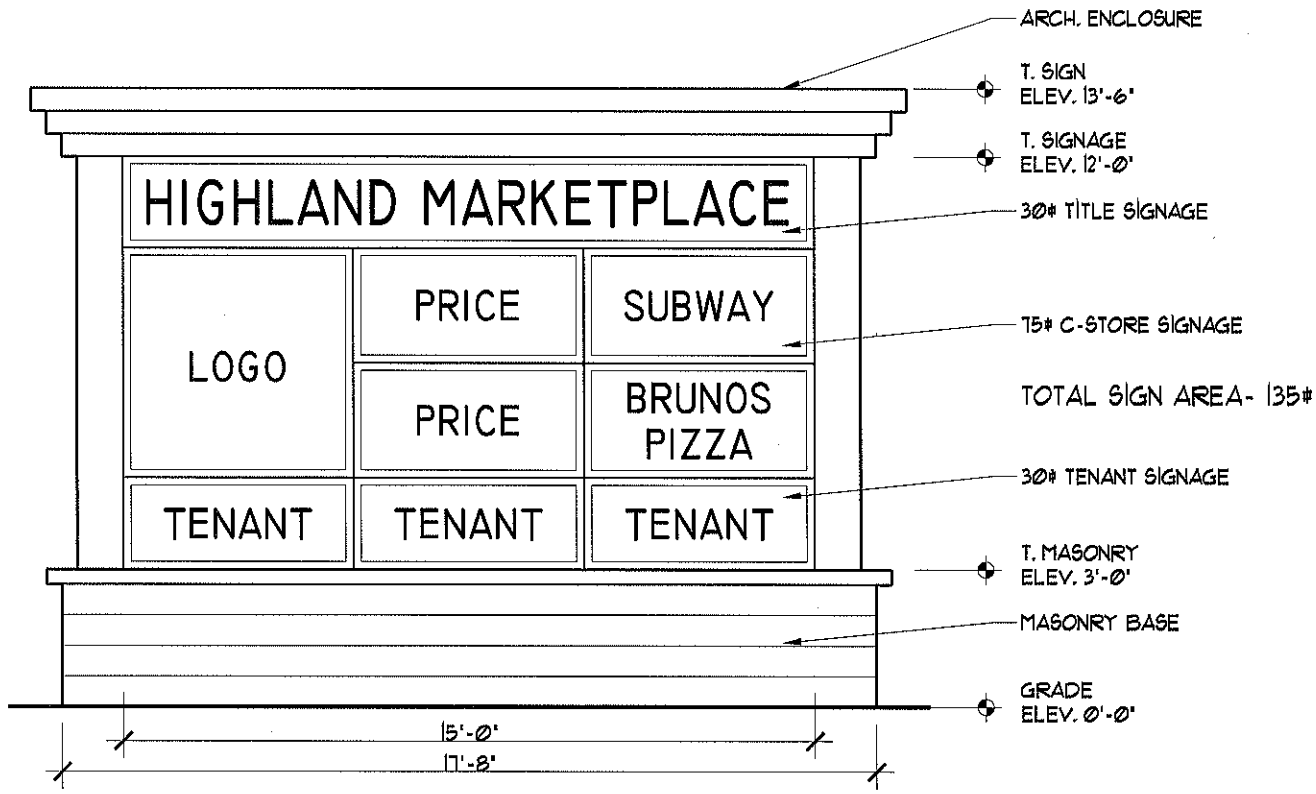
Trout Moser
Signature of property owner

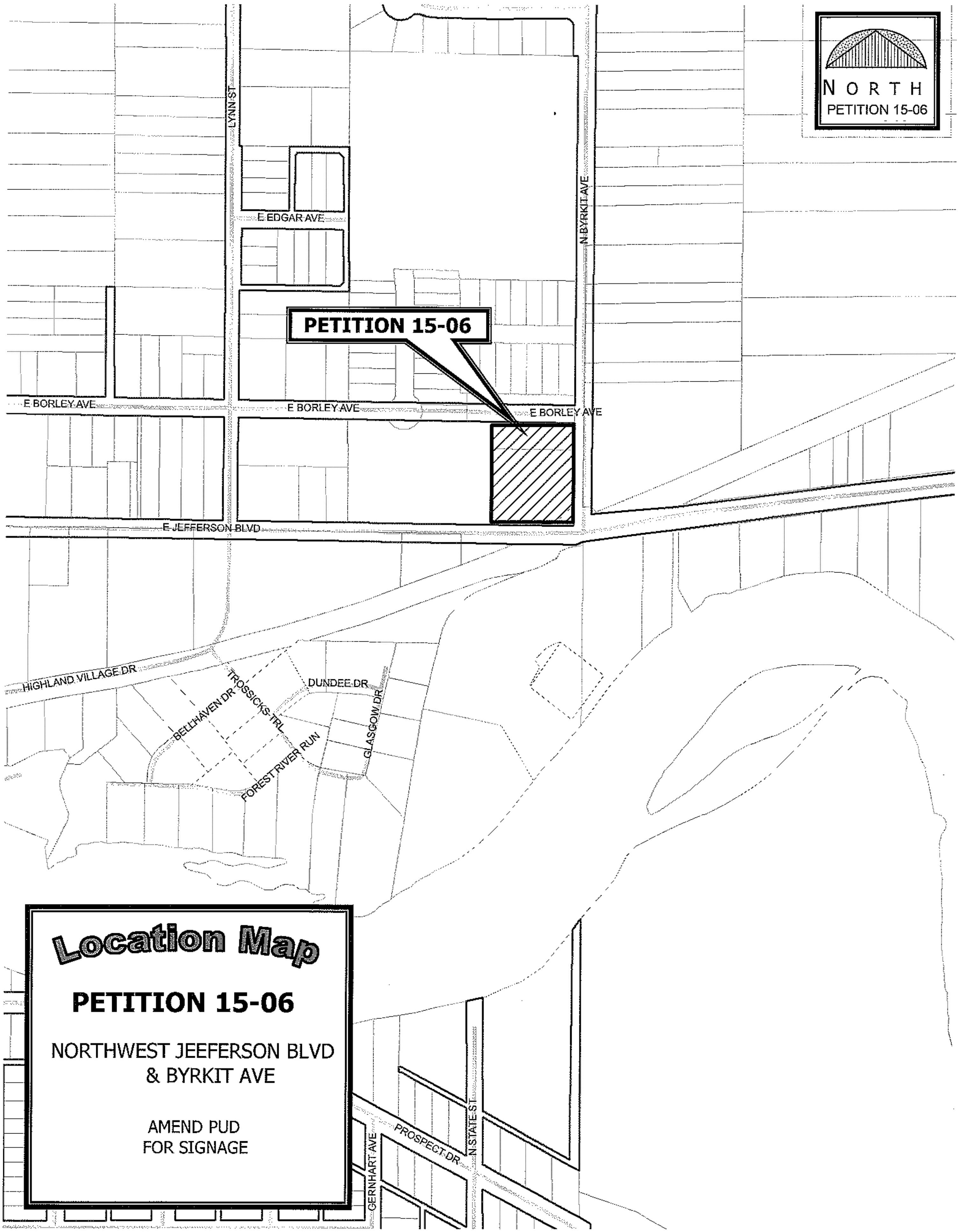
Trout Moser
Black Gold LLC

Contact Person:

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

Pet 15-06


HIGHLAND MARKETPLACE
LOGO
PRICE
SUBWAY
PRICE
BRUNOS
PIZZA
TENANT
TENANT
TENANT
ARCH. ENCLOSURE
T. SIGN
ELEV. 13'-6"
T. SIGNAGE
ELEV. 12'-0"
30# TITLE SIGNAGE
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"


NORTH
PETITION 15-06
PETITION 15-06
LYNN ST
N BYRKIT AVE
E EDGAR AVE
E BORLEY AVE
E BORLEY AVE
E BORLEY AVE
E JEFFERSON BLVD
HIGHLAND VILLAGE DR
TROSSICKS TRL
DUNDEE DR
BELLHAVEN DR
GLASGOW DR
FOREST RIVER RUN
PROSPECT DR
GERNHART AVE
N STATE ST
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

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

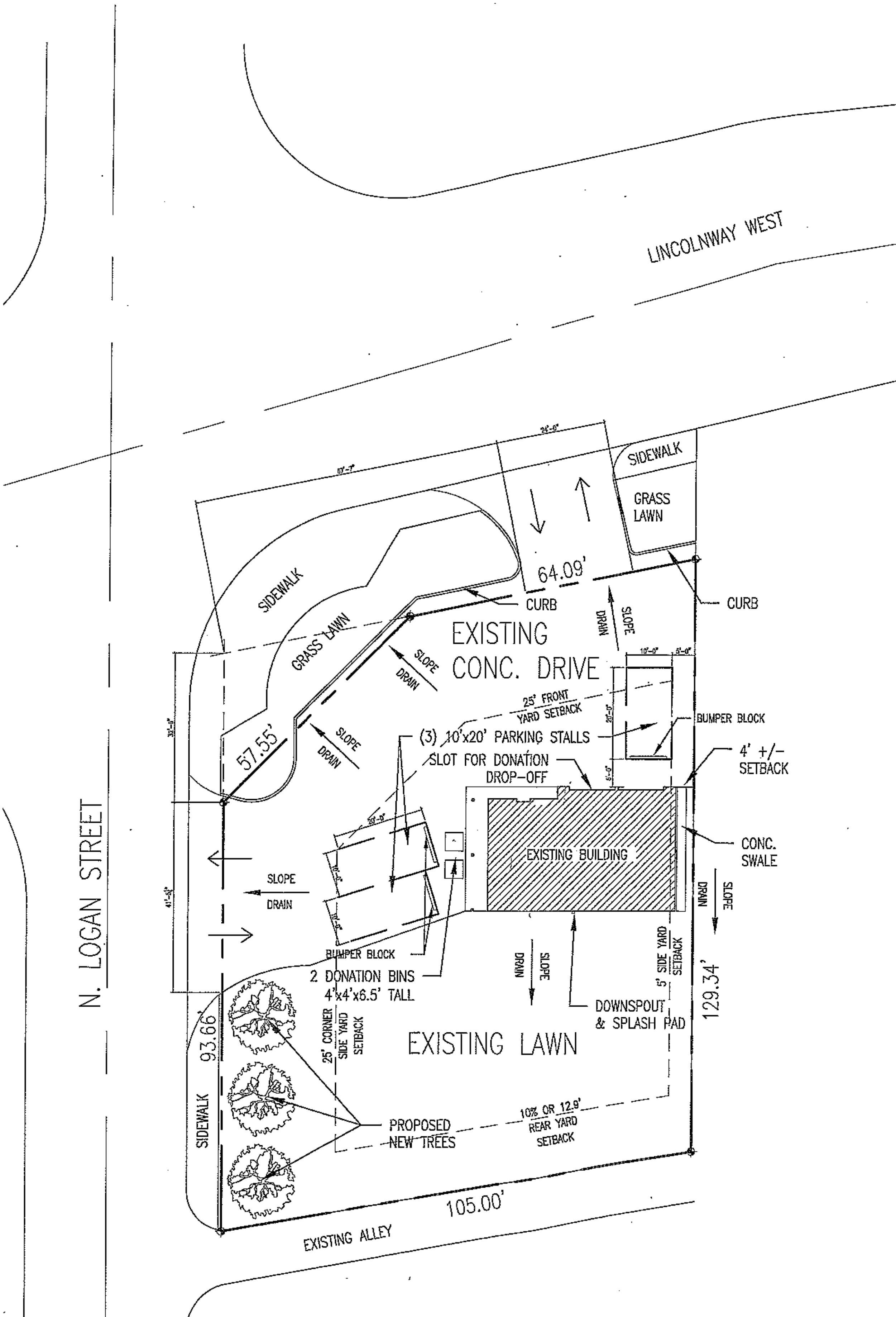
Signature of Property/Title Owner

Kai Nielsen RM planed 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 UN

PARKING:

4 SPACES PER 100

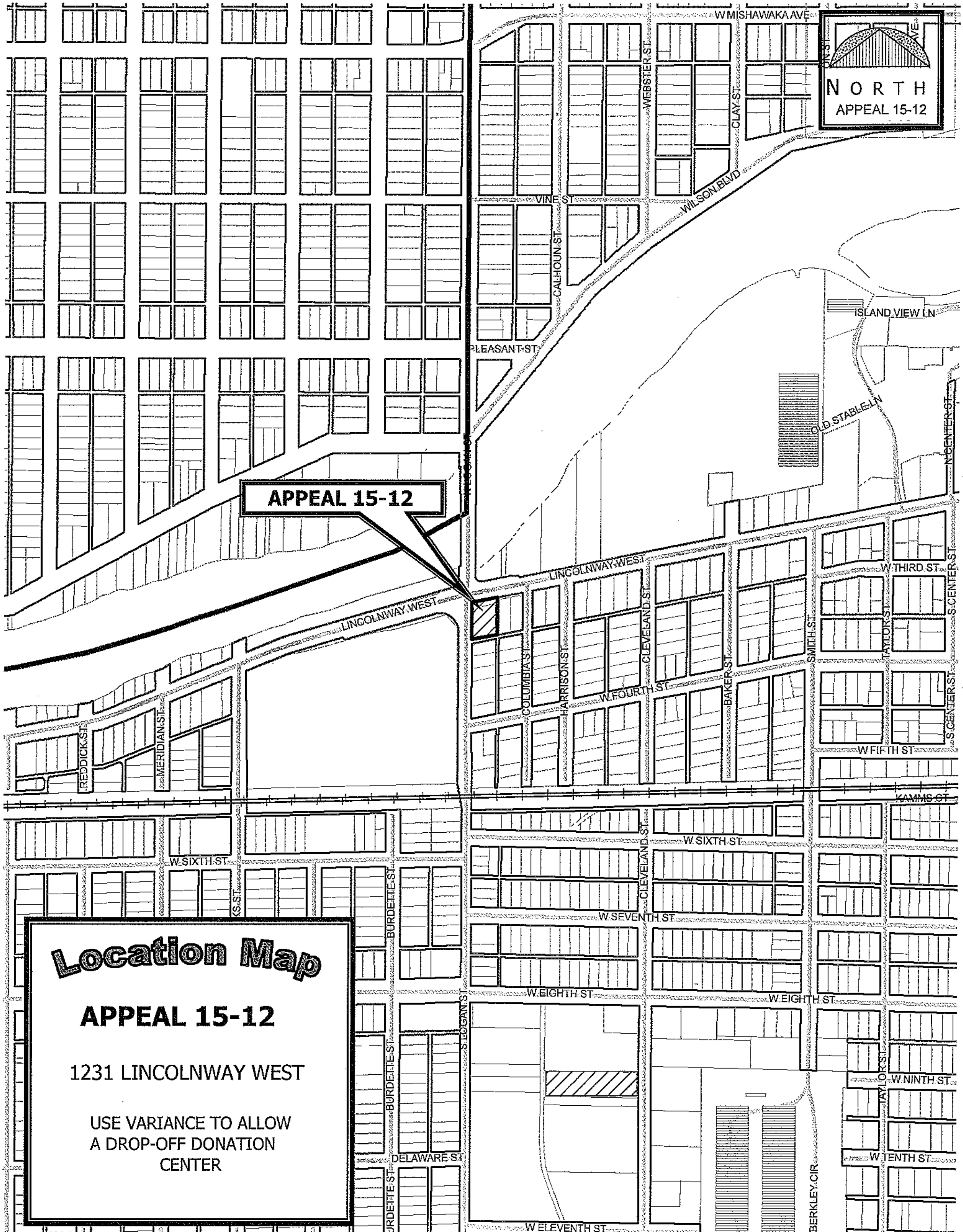
1065 SQ. FT. = (4.25

3 PROVIDED

0

1 PROPOSED SITE PLAN

SCALE: 1:30



NORTH
APPEAL 15-12
W MISHAWAKA AVE
WEBSTER ST
CLAY ST
VINE ST
WILSON BLVD
CALHOUN ST
ISLAND VIEW LN
PLEASANT ST
OLD STABLE LN
N CENTER ST
N LOGAN ST
APPEAL 15-12
LINCOLNWAY WEST
LINCOLNWAY WEST
W THIRD ST
S CENTER ST
COLUMBIA ST
HARRISON ST
CLEVELAND ST
BAKER ST
SMITH ST
TAYLOR ST
W FOURTH ST
W FIFTH ST
REDDICK ST
MERIDIAN ST
KAMMS CT
W SIXTH ST
W SIXTH ST
BURDETTE ST
W SEVENTH ST
W EIGHTH ST
W EIGHTH ST
S LOGAN ST
W NINTH ST
W TENTH ST
DELAWARE ST
BERKLEY CIR
W ELEVENTH ST
Location Map
APPEAL 15-12
1231 LINCOLNWAY WEST
USE VARIANCE TO ALLOW
A DROP-OFF DONATION
CENTER