

AGENDA

Monday, June 15, 2015

Sewer Department New Vector Truck Demonstration

6:15PM

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**

June 01, 2015

5. Petitions, Communications, Remonstrance and Memorials

A letter from the Historic Preservation Commission regarding recommendations from their September 02, 2014 meeting.

A letter from the City Plan Commission regarding recommendations from their June 09, 2015 meeting.

A public hearing on Vacation 2015-02 as required by State Statute on behalf of Richard and Debra Dresser for vacation of the following described public right of way portion of alley north of 615 S. Byrkit St.

A public hearing on Vacation 2015-03 as required by State Statute on behalf of School City of Mishawaka for vacation of public right of way and underlying utility easement rights - unimproved Kline St.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2015-10 Establishing 2319 Lincolnway East as a Local Landmark

P.O. NO. 2015-11 Vacate Portion of alley North of 615 S. Byrkit Ave.

P.O. NO. 2015-12 Rezone from C-1 General Commercial to C-3 City Center Commercial - 101 E. Mishawaka Ave.

P.O. NO. 2015-13 Vacate Public Right of Way and Underlying Utility Easement Rights - Unimproved Kline St.

8. Resolutions

R2015-20 Approving First Amendment to the PSAP Interlocal Agreement

9. Ordinances on Second Reading
10. Privilege of the Floor – Non-Agenda Items
11. Unfinished Business
12. New Business
13. Adjournment

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

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

June 1, 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 June 1, 2015, at 7:00 p.m. The meeting was called to order by Council President Emmons and all were asked to stand for the Pledge of Allegiance.

The minutes from the May 18, 2015 meeting were approved as received from the Clerk's Office.

Roll Call.

Present: Mr. Reisdorf, Mr. Banicki, Ms. Voelker, Mr. Roggeman, Mr. Mammolenti, Mr. Compton, Mr. Bellovich, Mr. Bilancio, Mr. Emmons.

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

Mr. Emmons introduced Cliff Zenor President of the Historic Preservation Committee to announce the Awards for 2015:

Mr. Zenor 911 Washington Avenue said the first award goes to Cynthia Harington for the Rose Quest Nutritional Center at 410 Lincolnway East, Second place to Bob and Faye Sullivan Eberhart House at 124 South Race Street, Third Place to Lynn Boss 2408 Lincolnway West Craftsman Cottage, Fourth Place award was for Cultural Heritage and went to Broederenkring (BK) Building and De Amici Building, these were both ethnic clubs, and Peg Strantz was awarded the Service Award for her 37 years in the Planning Department. He said the Mayor's award goes to Doug Merritt for the restoration of the Old Fire Station No. 4 at 2319 Lincolnway East.

Kate Voelker said she too was a member of the Historic Preservation Commission and she wanted to thank the members for all of the hard work they put in especially with the new web site; she feels it is so important to preserve our old buildings.

Clerk Block said regarding the BK and De Amici's clubs to show the roots of what these two clubs have meant in our community, they were also the strong hold of voters and still to this day is. She said because of the fact they are not handicap accessible they no longer can be a voting places, but are still very strong communities with a strong voting membership and truly take part in the process, she feels that was very important for people to know.

Clerk Block read **PROPOSED ORDINANCE NO. 2015-09** opening it for public hearing.

PROPOSED ORDINANCE NO. 2015-09

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.

(Amend the S-2 PUD to construct two (2) Multi-tenant Buildings – 512 W. Cleveland Road)

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

Jeff Ballard Danch Harner and Associates 1643 Commerce Drive, South Bend said he was representing Source USA Realty in their request to amend University Market Place PUD. He said essentially what the realtor wants is to demolish the existing building. He said they want to construct a 2 building 15 unit development and would be an L shaped building with the first building consisting of 7,800 square feet, containing 6 units to the north and south portion of the building would be a 12,600 square foot building with 9 units. Mr. Ballard said they were looking at potential retail, offices and possibly two restaurant shops. He said the Architect and style would be something similar to Heritage Square, with lots of masonry all around very high quality textural structure. Mr. Ballard said the site plan has been and reflects those conditions and they would continue to modify those conditions as necessary to get final site plan approval.

Question was called for at 7:49 p.m. on **PROPOSED ORDINANCE NO. 2015-09AA** the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Bellovich, Mr. Bilancio, Mr. Banicki, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Ms. Voelker. Thus it becomes **ORDINANCE NO. 5484**

UNFINISHED BUSINESS

PROPOSED ORDINANCE NO. 2015-08

AN ORDINANCE AMENDING CHAPTER 14 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, REGARDING ANIMAL CONTROL (Amending the Animal Control Ordinance)

Mr. Banicki reported the Public Health and Safety 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.

Kathleen Airhart 620 West LaSalle St. South Bend, said one thing she noticed on this ordinance that was not on the South Bend Animal Ordinance, that really helped, was the limit of pets in the home. She said it allowed more people to adopt pets, and she said it would help bring in more revenue for the city with licenses so she was asking if Mishawaka would amend that part of the Animal Control Ordinance. She felt it would help a great deal having more pets adopted.

Mr. Emmons said at this point they would not be entertaining more amendments to the ordinance but it could be brought up at a later date. He said as they find things that may need to be changed this ordinance can be tweaked.

Maggie DeMaegd 925 Homewood Avenue Mishawaka, said in attending the meeting on amending the Animal Control Ordinance she was happy to see so many people in attendance. Her purpose was to see that no pet suffers; it is her feeling that the Meow Mission helps to alleviate that. She asked this Council to please pass this ordinance.

Toni Highway 513 East 11th Street Mishawaka said Time, Tether, & Weather let's stop it.

Chris Brilake 53290 County Road 1 Elkhart said she was the President of the Elkhart County Feral Cat Coalition whose does the same job that Meow Mission does and she wanted to point out to the Council that many counties beg them to come help them for lack of resources, please take advantage of these groups that are trying to help.

Pat Herod 320 North Oakland Street Mishawaka said she worked on South Bend's Animal Ordinance change and was very glad to see Mishawaka has stopped the Dangerous Dog License.

Geoff Spiess Corporation Council for the City of Mishawaka said he has been involved in drafting the amendments to this ordinance and just to recap:

1. Eliminating Breed Specific language for the dangerous dog designation.
2. Allowing Trap and return for the Ferial Cat Population
3. Providing a variety of minor adjustments that involve conveniences for residents

He said this effort was spearheaded by Councilmen Mike Compton and Dan Bilancio, but others have been involved as well and it has been his pleasure to work with them on this with Mishawaka first and party second. He said they have done their due-diligence meeting with all people with expertise in this matter, solicited input from the public and held a public hearing inviting the public for further input, and it was his belief these results are solid.

Dave Wood, Mayor said he was supportive of this drafted ordinance in its current form and believes it does many good things. He said these are always difficult to open up but for many reasons the Council went about it in the right way, by including everyone in this decision, the public and the administration. Mayor Wood thanked them for going about this the way they did and also thanking the ADHOCK Committee for their effort, time and energy, and Council Attorney Geoff Spiess and Code Enforcement Director George Obren. He said this was another example of why Mishawaka stands apart, the motivation was how do we improve an ordinance and make Mishawaka a better place for all and most importantly this was enforceable.

Genevieve Carlson, Assistant Director of the Humane Society of St. Joe County at 2506 Grape Road Mishawaka said they were very excited that it was decided to remove the Dangerous Dog License from the ordinance and excited to start looking at TNR in helping the cat population in our community.

Mr. Banicki said he wanted to thank Mr. Compton, Mr. Bilancio, Geoff Spiess, and the entire administration for putting in all the extra effort and making sure they get it right. He said he

realizes they may have to tweak a few things and if they were able to make this county wide it would be a great thing this way there would be no questions as you cross different streets. Mr. Banicki said again he would like to thank everyone for their hard work and he would be supporting this.

Mr. Mammolenti said he would like to echo Mr. Banicki's comments and extreme thanks to the committee, Mr. Compton, Mr. Bilancio, Mr. Spiess and the Administration when it comes across their desk sometimes they don't realize how much time and effort has taken place so he wanted to thank them. He said he too thinks this is a continuous ordinance where they continue to receive feedback from the public and he would be interested in some changes down the road always looking to improve the ordinance, thanks again to the all involved in this.

Mr. Compton thanked Mr. Bilancio for the work put into this, and Mr. Spiess, Mr. Obren for all of their time and effort to help them accomplish this, and thanked the Mayor for supporting this. He said there are groups out there like the Meow Mission he wanted to thank for the education and support they put forth to them on an issue he had no idea existed when this all started and it was very interesting. Mr. Compton said he has gotten phone calls as far away as New Jersey, and even an Attorney in Utah and found that to be amazing. He said his wife does not agree with the way they are doing this but laws are like people they are imperfect and we try to balance everyone's opinion it is not going to be perfect. Mr. Compton thanked the Council for their patients and he would be in support of this amended ordinance.

Mr. Bilancio thanked Mr. Compton for his lead in this, thanked Attorney Geoff Spiess for the amount of time and research he spent on this. He said he thinks it was the right and humane thing to do, our pets are our family and this was all for them.

Mr. Emmons thanked Mr. Compton and Mr. Bilancio, Mr. Spiess, Mr. Obren for the time and effort they put into this proposed ordinance, it was a monumental task and anytime a task is given to Mr. Compton he grabs ahold with both hands and feet and he did a tremendous job, sometimes heading a committee is a thankless job. Mr. Emmons said he has a problem himself with part of this ordinance in the way we define Feral Cats, a wild cat is not subject to any of the regulations, when the nuisance occurs regarding a wild cat there is nothing to do no way to handle the situation they can destroy property, become a nuisance to a family and you cannot do anything with it where there are regulations for a dog. Dogs cannot run loose, you have to clean up after them, it cannot be a nuisance to the neighbors or the community but yet cats can and he has a problem with that. Mr. Emmons said he has no problem with TNR but can't understand how a domestic cat can be classified as a wild animal and compare it to a squirrel, a bird etc. He said it was his feeling that a homeowner should be protected, and should not have to put up with the problems of these wild animals destroying their property, coming into their gardens, and spraying on their doors, dogs are not allowed to do that but we allow Feral cats to do that. Mr. Emmons said he was hoping somewhere along the line they could tweak this ordinance to protect the homeowners; it is a neighborhood problem, even though this ordinance goes along way, there are still things that need to be tweaked, ordinances are made to protect all of the people.

Mr. Mammolenti apologized and said he was remised in thanking Ms. Ackers and the Meow Mission should this pass tonight he knows they have their work cut out for them, he applauds them for their efforts and wished them good luck.

Question was called on **PROPOSED ORDINANCE NO. 2015-08** at 8:15 p.m. the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Bellovich, Mr. Bilancio, Mr. Banicki, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Ms. Voelker. Thus it becomes **ORDINANCE NO. 5485 AS AMENDED.**

NEW BUSINESS

Mr. Mammolenti said there would not be a Twin Branch Neighborhood Watch meeting for June or July they would resume in August for the National Night Out.

Mr. Emmons said he would be postponing his June meeting to the 3rd week in July and the speaker would be Senator John Broden.

Mr. Reisdorf thanked people who showed up for Mr. Mammolenti's Meeting at Twin Branch last month to discuss Transpo and the Trolley, and what it means to Twin Branch Neighborhood. He said several of the Councilmen were present, and there was very good input and shows the seriousness of the Transpo people, the Trolley People, and the City for what is all being put into this. Mr. Reisdorf said it was an important service and he loves the fact that people are getting out and communicating their ideas in these public forums and he wants to encourage everyone to do so.

Adjournment at 8:18 p.m.

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

Woody Emmons _____
Woody Emmons, Presiding Officer



CITY OF MISHAWAKA

Historic Preservation Commission

June 10, 2015

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Historic Preservation Commission Recommendation
September 2, 2014 Public Hearing
Certification of Proposed Ordinance

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 10 2015

CITY CLERK
MISHAWAKA, IN

Honorable Members:

A regular meeting of the Historic Preservation Commission was held on the above referenced date at which time the following Ordinance was considered:

HPC # 14-10 An application for nomination of a local landmark has been submitted by Douglas Merritt, property owner, to establish decommissioned Fire Station No. 4, located at **2319 Lincolnway East** as a Local Landmark.

The Commission recommended approval.

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

Sincerely,

A handwritten signature in cursive script that reads "Christa Hill".

Christa Hill
Secretary, Historic Preservation Commission

CC: Douglas Merritt

TOMORROW LIVES IN THE LIGHT OF OUR PAST

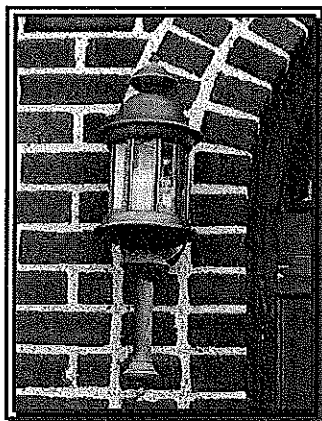


EXHIBIT A

Photographs

MISHAWAKA FIRE STATION NUMBER FOUR (RETIRED) photos p.1

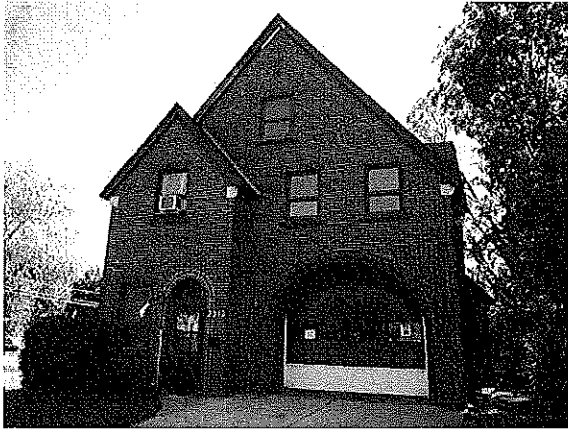


Fig. 1 North/Front Elevation

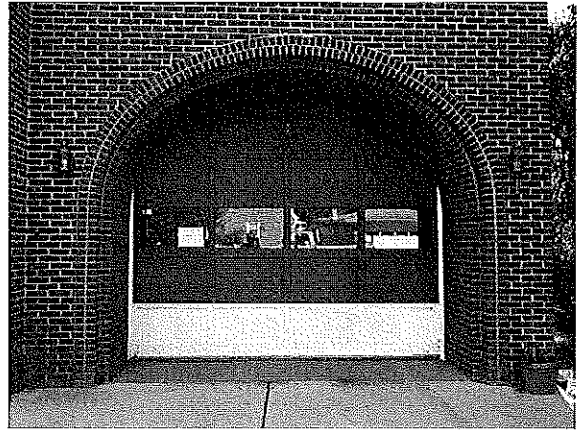


Fig. 2 North Overhead Door

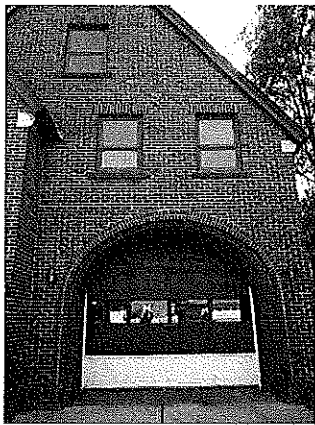


Fig. 3 North detail



Fig. 4 North entry door



Fig. 5 North lamp

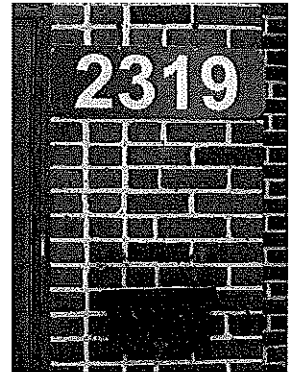


Fig. 6 North detail



Fig. 7 East/Side Elevation



Fig. 8 East cables detail

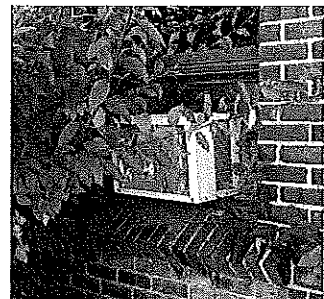


Fig. 9 East A/C detail

MISHAWAKA FIRE STATION NUMBER FOUR (RETIRED) photos p.2



Fig. 10 East detail



Fig. 11 East window detail



Fig. 12 Window detail

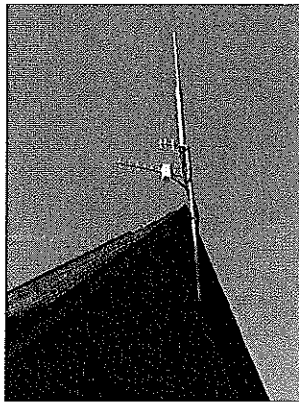


Fig. 13 Antenna detail

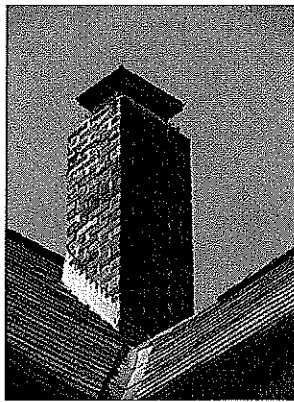


Fig. 14 Chimney detail



Fig. 15 Corbel detail



Fig. 16 South entry door



Fig. 17 South/Rear Elevation



Fig. 18 South Mechanicals detail



Fig. 19 Rear Shed detail

From the Mishawaka Historic Preservation Commission
Photos taken and compiled by Cliff Zenor, Oct. 2013

Mishawaka Fire Station Number 4 (retired)
2319 Lincoln Way East, Mishawaka, IN

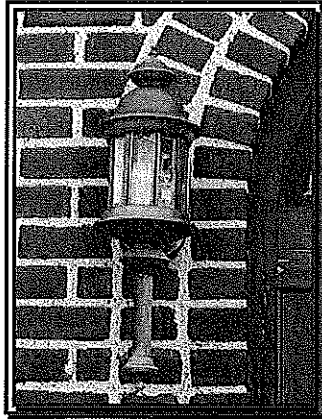


EXHIBIT B

Property Significance & Description

FIRE STATION NO. 4 - 2319 LINCOLNWAY EAST

Significance & Description

The 3,564 square foot building was constructed in 1929 as a single-engine fire station to serve the eastern portion of Mishawaka. Incorporated are elements in the English Revival building style. The masonry structure is rectilinear in plan and constructed two and a half stories in height. The front façade is made up of a pitched primary gable with a secondary gable stepped forward from the main body of the building. This design element is also repeated on the east façade. The oversized garage door and the front entry are both capped with masonry half round headers. The use of exposed corbeling at the roofline, as well as the other decorative effects in the masonry, are all indicative of the English Revival style.

In January 2013 the fire station was decommissioned when a newly built Station No. 4 was opened at Harrison Road and Bennington.

The structure is built at the south west corner of Lincolnway East and South Brook Avenue. The site has a public sidewalk to the front and side of the property with a poured concrete drive for the main vehicle entrance off Lincolnway East. There is a raised embankment to the east with a set of concrete steps to provide access to the rear door. The rear yard has a graveled area for parking. A large metal flagpole capped with a round finial is located in the front yard.

The building was constructed of brown, unglazed brick in a running bond pattern. At the foundation level and above the windows, the bricks were laid upright in a soldier course pattern. The brick sills below the window are canted and laid in a soldier course. Of note are the limestone corbels to suggest structural support to the roof eave but their purpose is purely decorative. The finish on the limestone corbels have a smooth face and area sculpted in an ogee profile. The mortar appears to be original throughout the building and is in an overall good condition. The garage and entry doors are laid with end brick to create half round headers. At the roofline, an original chimney exists that has a fair amount of deteriorated mortar joints. At the window openings, a steel header provides support to the masonry. The headers show a small amount of rust that will need to be addressed. Scattered at various location on the exterior are screws, nails and miscellaneous hardware mounted into the brick face as well as into the mortar joints.

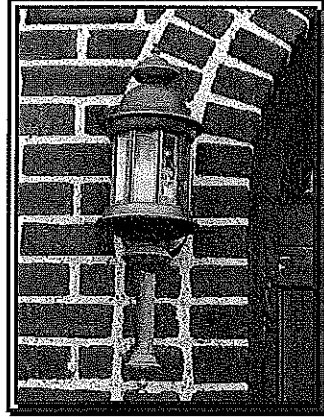


EXHIBIT C

Preservation Guidelines

Standards & Guidelines

GUIDELINES FOR THE ENVIRONMENT

The environment is one of the most fragile aspects of any historic district. Its defining characteristics are composed of building setback, landscaping, fencing, parking areas and outbuildings. All elements combine to form the environment of a neighborhood. Careless development or alterations of any one of these characteristics will damage the overall cohesiveness of an historic neighborhood.

NEIGHBORHOOD CONTEXT

Appropriate

Retain and respect distinctive, character-defining features of the neighborhood or building site within the front yard or side yards adjacent to public right of way. These features shall include but shall not be limited to tree plots, gardens, fences, benches, walkways, steps, streets, alleys, retaining walls, and building setbacks.

Inappropriate

Avoid changes in paving, lighting, fencing, and pedestrian or vehicular traffic flow that disrupt the relationship between buildings and their environment. Signage should not block or interrupt significant rhythms or architectural features. Do not introduce inappropriately placed or screened lots.

PLANTINGS

Appropriate

Preserve mature plantings where possible and treat them with sensitivity unless they pose a threat to preservation of buildings or sites. Removal of mature trees shall be reviewed by the MHPC. The Commission shall in no way prohibit the removal of dead or dying trees, trees that threaten to fall or cause damage to structures, and trees that are otherwise located in the rear yard opposite to or away from direct view of Lincolnway East. A mature tree is a) a shade tree that is twelve inches in diameter or larger, b) an ornamental tree that is four inches in diameter or fifteen feet high, or c) an evergreen tree that is eight inches in diameter or fifteen feet high. Place new trees or shrubs so that they will not damage buildings through moisture retention, root invasion, and limb movement.

Inappropriate

Avoid removal of mature trees that contribute to the overall neighborhood canopy located in the front yard.

FENCES

Appropriate

All types of back yard fences are appropriate located in the rear yard (parallel to or behind the front of the home) of a non-corner lot. Acceptable designs located in the front of a home and on the street side of a corner lot include picket, lattice, or wrought iron subject to the provisions of the City Zoning Ordinance.

Inappropriate

Chain line, basket-weave, louver, split rail, and stockade are inappropriate fence types for installation in front of home and on the street side of a corner lot within the public view. Front yard fences are not generally characteristic along Lincolnway East and are discouraged.

PARKING

Appropriate

Construct parking lots in rear or side yard areas; they should be paved and screened so as to maintain building, site, and neighborhood relationships.

Inappropriate

Parking lots constructed in visually conspicuous areas are inappropriate.

SERVICE AND MECHANICAL EQUIPMENT

Appropriate

Locate service, mechanical, electrical, or technical equipment such as solar collectors, satellite dishes, central air conditioning equipment, or heat exchangers so that they are not visible from the street; screen them so they do not disrupt the integrity of the site or architecture.

Inappropriate

Avoid placement of service, mechanical, electrical, or technical equipment in obtrusive positions on roofs.

PATIOS AND TERRACES

Appropriate

Patios and terraces should be constructed in the rear or side yard. Appropriate materials include limestone and brick. Review of the Historic Preservation Commission shall only be required for patios and terraces in front of a home and on the street side of a corner lot.

SWIMMING POOLS

Appropriate

Swimming pools should be constructed in the rear yard and located, landscaped, and screened so that they are not within public view. In-ground pools are preferable to above-ground pools. Take into consideration the possibility of damage to surrounding historic vegetation or outbuildings when determining the location of a swimming pool.

OTHER LANDSCAPING ELEMENTS

Appropriate

Trellises are appropriate and are encouraged. Construct trellises of historically appropriate materials such as wood or metal.

Inappropriate

Brightly colored or sharply contrasting stones, tires, logs, or exposed railroad ties are inappropriate landscaping elements in front of a home and on the street side of a corner lot; alternate border controls should be explored. Do not construct trellises of plastic or similar historically inappropriate materials in front of a home and on the street side of a corner lot.

GUIDELINES FOR EXISTING BUILDINGS

BUILDING MATERIALS

Paint color and exterior finish materials give a building distinct texture, presentation and character. Alterations to buildings and structures should take into consideration the careful balance that is achieved through selection of building materials

WOOD

Appropriate

Retain and restore original exterior wood siding materials (typically clapboard) through repair, cleaning, painting, and routine maintenance. If original architectural details and trim features are deteriorated beyond repair, they should be replaced with components of the same material and design where possible. Alternative more modern materials may be considered for replacement when the design, form, and composition of the finished material closely resemble the appearance of the original.

Inappropriate

Avoid application of siding materials not consistent with the character or style of the building, or materials that were unavailable at the time the building was constructed.

FOR YOUR INFORMATION

Artificial sidings such as artificial stone or brick, asphalt shingle and brick, plywood, particle board, hard board and aluminum or vinyl siding have been documented to cause and cover up serious, costly, and often irreparable damage to buildings. (See also synthetic siding, page 17.)

MASONRY

Appropriate

Maintain masonry by proper tuck pointing and appropriate cleaning. Tuck point mortar joints with mortar that duplicates the original in strength, composition, color, texture, joint size, method of application, and joint profile. Remove deteriorated mortar by hand raking or other means equally sensitive to the historic material. (*Hand raking is*

preferred but with MHPC approval, electric saws with grinding wheels may be used by a skilled operator.) When cleaning is necessary, preserve original texture and color by using a gentle method such as low pressure water and natural bristle brushes.

Inappropriate

Do not use electric saws to remove mortar during tuck pointing; this method will damage surrounding masonry surfaces and change the joint size. (See above) Avoid unnecessary tuck pointing.

FOR YOUR INFORMATION

Do not tuck point masonry using a mortar of high Portland Cement content; this mortar often creates a bond stronger than the building material itself. Damage resulting from the differing porosity and expansion rates of the material and mortar can lead to expensive replacement of the masonry units.

PAINT

Appropriate

Use period paint colors and color schemes appropriate to the building's architectural style. Consult the Mishawaka Historic Preservation Commission for assistance in choosing colors related to the building's style yet consistent with personal preference. Review of the Historic Preservation Commission, although encouraged, shall not be required to change the color of a house, structure, or other element on the property. A certificate of appropriateness is not required.

Inappropriate

Avoid painting masonry surfaces such as limestone and most brick surfaces.

FOR YOUR INFORMATION

Historic buildings constructed of softer brick often were painted for protection; removal of intact paint may hasten deterioration of the exposed surface. A test patch should be tried before extensive paint removal is attempted.

STUCCO

Appropriate

Maintain stucco surfaces by gentle cleaning and repainting when needed. To repair damaged surfaces, use a stucco mixture which duplicates the original in composition, strength and appearance.

WATERPROOFING

Inappropriate

Do not use waterproofing or water repellent coatings or surface consolidation treatments on masonry surfaces unless required in order to solve a specific problem that has been identified and studied.

FOR YOUR INFORMATION

Coatings are frequently unnecessary and expensive, and can accelerate masonry deterioration.

ABRASIVE CLEANING

Inappropriate

Avoid abrasive cleaning methods such as sandblasting on any exterior surface material. (See also Abrasive Cleaning, pages 16 and 17.)

FOR YOUR INFORMATION

High pressure water and sandblasting will remove the exterior protective layer of materials, changing the original texture and allowing the material to absorb water. Increased water absorption will accelerate the rate of deterioration of the material. (See also pages 16 and 17.)

SYNTHETIC SIDING

Appropriate

Use metal or vinyl siding **only** when it is the only feasible alternative to maintaining or replacing the original surface material. If synthetic siding must be used over wood surfaces, it shall be the same size and style as the original wood. Retain original trim around windows, doors, cornices, gables, eaves, and other architectural features. Provide ample ventilation to the structure in order to prevent increased deterioration of the structure due to moisture entrapment or insect infestation. (See also Synthetic Siding, page 17)

Inappropriate

Avoid any use of synthetic siding if at all possible; it is detrimental to the original structure and the historic character of the neighborhood.

SECURITY

Appropriate

If special security protection is desired, install interior window bars, grilles, or electronic systems.

Inappropriate

Do not install exterior bars or grilles on windows above the basement level.

ROOFS AND ROOFING

The roof is extremely important in defining the building's overall historical character. The roof's basic shape, size, color, material, and special features such as cresting, dormers, cupolas, and chimneys are part of the character and design of a building. Because a watertight roof is essential to the preservation of the entire structure, protecting and repairing the roof as a cover are critical aspects of every rehabilitation project.

DESIGN AND STRUCTURAL ELEMENTS

Appropriate

Retain the roof's original shape, materials, architectural features, and detailing such as brackets, chimneys, cornices, cupolas, dormer windows, gable end shingles, and weather vanes. Maintain and repair as needed all decorative elements found on the gable ends of the roof. If these elements must be replaced, they should imitate original design patterns. Maintain flashing, valleys, and other water repellant devices to prevent water infiltration into the building envelope.

Inappropriate

Avoid removal or change of character-defining architectural features, materials, or detailing. Also avoid addition of incompatible materials or architectural features foreign to the original structure or building style.

ROOFING MATERIALS

Appropriate

Replace deteriorated roofing materials as required with new material that matches the current roofing or the original historic roofing. Unique and inherently durable materials such as slate, tile, and architectural metal should be preserved through spot repair and replaced in kind and/or by modern materials similar in appearance and approved by the Historic Preservation Commission. Alternative, more modern materials may be considered for replacement when the design, form, and composition of the finished material closely resemble the appearance of the original.

Inappropriate

Roofing materials such as roll roofing, plastic, or tarpaper are inappropriate permanent coverings.

GUTTERS AND DOWNSPOUTS

Appropriate

Rain gutters and downspouts help define the character of roof lines while serving to channel water away from the building. Distinctive designs and materials of gutters should be identified, preserved, and, when severely deteriorated, replaced. Alternative modern gutters and downspouts may be considered for replacement when the design, form, and composition of the gutter or downspout do not significantly alter the appearance of the home from the street.

Inappropriate

Avoid placing gutters or downspouts in a manner that covers architectural detail, windows, or doors unless other solutions are impossible.

WINDOWS AND DOORS

Windows or doors with unusual shapes, colors, or glazing patterns or that are of unusual material are character-defining features of a building. Because rehabilitation projects frequently include proposal to replace doors, window sashes, or even entire windows in the name of improved security, thermal efficiency, or new appearance, it is essential that the contribution of the doors and windows to the overall historic character of the building be assessed together with the physical condition before specific repair or replacement work is undertaken.

DISTINCTIVE ELEMENTS

Appropriate

Original windows and doors and their characteristic elements including sashes, lintels, sill, shutters, transoms, pediments, molding, hardware, muntins, and decorative glass should be retained and repaired rather than replaced. If original windows and doors are deteriorated beyond repair, replacements should duplicate the original in size and scale. Design, material, color, and texture should be duplicated as faithfully as possible. Alternative more modern materials may be considered for replacement when the design, form, and composition of the finished material closely resemble the appearance of the original.

Inappropriate

If original windows, doors, and hardware can be restored and reused in place, they should not be replaced. Inappropriate treatments of windows and doors include (a) creation of new window or door openings, (b) changes in the scale or proportion of existing openings, (c) introduction of inappropriate styles or materials such as vinyl or aluminum or insulated steel replacement doors, and (d) addition of cosmetic detailing that creates a style or appearance that the original building never exhibited.

STORM WINDOWS AND DOORS

Appropriate

Wood frame storm windows and doors painted to match or accent the trim are historically preferable to metal units. When metal storm windows and full view storm doors are determined to be appropriate, they should be painted, anodized, or coated in a color that complements the building design and color scheme. Application of weather stripping, interior storms, or double-glazing should be investigated before replacement of the historic windows or doors is considered. Repair of existing materials is usually less expensive than purchase of new materials. If new sashes and doors are used, the existing design and hardware should be retained. High quality, energy efficient replacement windows are available. These may be used if weatherizing or repair of the original windows is not feasible and if they match the original in size, design, and detail. Alternative more modern materials may be considered for replacement when the design, form, and composition of the finished material closely resemble the appearance of the original.

Inappropriate

Security storm doors containing highly decorative wrought iron insets are inappropriate.

For Your Information

Energy conservation does not require the replacement of historic windows that can be made thermally efficient by historically and aesthetically acceptable means. In fact, an historic wooden window, coupled with a high quality storm of wood or aluminum, should thermally out-perform a new double-glazed metal window that does not have thermal breaks. This occurs because the wood has far better insulating value than the metal. In addition, most historic windows have high ratios of wood to glass, thus reducing the area of highest heat transfer. Investigate new technology that is compatible with historic design of windows and doors. Consult the Mishawaka Historic Preservation Commission.

AWNINGS

Appropriate

When applying awnings to a structure, use canvas or similar compatible material.

Inappropriate

Avoid metal, fiberglass, or plastic awnings.

SHUTTERS

Appropriate

When shutters are appropriate to the building style and supported by evidence of previous existence on the building in question, they should be proportioned so as to give the appearance of covering the window opening even though they may be fixed in place.

PORCHES AND DECKS

Porches are often the focus of historic buildings, particularly when they occur on primary elevations. Together with their functional and decorative features such as doors, steps, balustrades, pilasters, entablatures, and trim work, they can be extremely important in defining the overall historic character of a building. Their retention, protection, and repair always should be considered carefully when planning rehabilitation work.

DISTINCTIVE DESIGN AND STRUCTURAL ELEMENTS

Appropriate

Retain existing original porch features and details. Repair missing or deteriorated elements or replace them with elements that duplicate the originals in design and materials. Paint new porch work.

Inappropriate

It is inappropriate to alter details that help define the character and construction of the porch and the overall style and historical development of the building.

PRESERVATION OF PORCHES

Appropriate

If possible, preserve porches that contribute to the historical character of the property or have developed architectural or significance in their own right even if they are not original.

Inappropriate

Avoid creating a false historical appearance by introducing porch elements that represent different construction periods, methods, or styles.

NEW CONSTRUCTION OR RECONSTRUCTION OF PORCHES

Appropriate

Reconstruct missing porches based on photographs, written documentation or existing physical evidence of their existence. Reconstructed porches must conform to present zoning setback requirements. In the absence of documented or physical evidence, reconstructed porches should be simple in design and ornamentation, following the guidelines for new construction.

Inappropriate

Enclosed front porches and decks that are visible from public view are inappropriate.

SERVICE BUILDINGS

Often the main structure on the site is not the only important structure. Other structures that are important to the interpretation of the history of the neighborhood include carriage houses, barns, service sheds, and garages. These elements of a site provide a vital link to the history and development of the service aspect of a residential or commercial building and should be taken into consideration when planning any work on the site such as additions to the main structure or construction of new service buildings or recreational elements. All types of service buildings are appropriate when located in the rear yard, or entirely behind the home.

CARRIAGE HOUSES

Appropriate

Maintain and preserve carriage houses according to the same guidelines as those that apply to the main structures on a site. Adaptive use of carriage houses and subsequent rehabilitation should not destroy character-defining elements such as the entrance doors or the pattern created by the walk or drive that provides access to the building.

BARNs AND SHEDS

Appropriate

Guidelines for the routine maintenance and preservation of main structures also apply for barns, service sheds, gazebos and similar structures. All types of barns and sheds are appropriate when located in the rear yard.

Inappropriate

Avoid construction of pre-manufactured sheds and barns uncharacteristic of the surrounding neighborhood in front yard areas..

GARAGES

Appropriate

Maintain original character-defining doors and windows if possible. When selecting the location of a new garage, take into consideration the historic orientation of the house and the impact of the new location on the environment of the neighborhood. All types of garages are appropriate when located in the rear yard.

Inappropriate

Avoid removal of historic garages, carriage houses, green houses and the like for the installation of swimming pools, decks, or other recreational elements.

OTHER STRUCTURES

Appropriate

Other structures such as barbecue pits, greenhouses, or pet kennels should be compatible with the historic character of the site and the neighborhood and be inconspicuous when viewed from the public right of way. All types of other structures are appropriate when located in the rear yard.

GUIDELINES FOR NEW CONSTRUCTION

New construction should harmonize with adjacent and neighborhood buildings in terms of height, scale, mass, and color. The materials, spatial rhythm, proportion, and color should also play an important role in design considerations. The height of new buildings or structures and the height to width proportion should be consistent with others in the block and in the immediate surrounding area.

BUILDING RHYTHMS

Appropriate

Incorporate into new construction the rhythms established by existing buildings. Consider the window-to-wall area or solid/void ration, bay division, proportion of openings, entrance and porch projections, space between buildings, and site coverage.

Inappropriate

Avoid designs for new construction that ignore the rhythms of the existing environment and buildings.

BUILDING MATERIALS

Appropriate

Use materials on the exterior of new construction that are compatible with those existing on adjacent buildings in scale, type, texture, size, and color. Exterior finishes should harmonize with and complement existing finishes along the streetscape. Alternative more modern materials may be considered for replacement when the design, form, and composition of the finished material closely resemble the appearance of the original.

Inappropriate

Avoid use of inappropriate materials such as asphalt shingle, aluminum or vinyl sidings, cast stone, or artificial brick.

DESIGN CONSIDERATIONS

Appropriate

Additions should be compatible to the original building in height, scale, mass, proportion, and materials. Roof form and style should be similar to those found in the neighborhood. Design guidelines for new construction are applicable for additions

FOR YOUR INFORMATION

It is desirable, when constructing an addition to an historic building, to retain as much of the existing building fabric as possible so that future removal of the addition could be achieved without significant damage to the original structure

Inappropriate

Avoid additions that add new dimensions or radically change the original scale and architectural character of a building.

BLENDING NEW AND OLD

Appropriate

Contemporary design and architectural expression in new construction which follow the preceding guidelines are appropriate and strongly encouraged.

Inappropriate

Do not seek to reproduce historic styles with the intent of creating a false impression of the building's age.

OTHER IMPORTANT INFORMATION FOR MAINTAINING HISTORIC BUILDINGS

DEMOLITION

The purpose of designating historic districts is to preserve and protect buildings that significantly represent the historical and architectural development of the City and give any interested persons or organizations the opportunity to preserve these buildings.

With historic preservation as the primary goal of local designation, *demolition of buildings is highly inappropriate.*

Once a structure has been demolished, it is often a long period of time before any infill structure is put in its place; it may never occur. The gap in the streetscape that exists after an historic building has been demolished will have a long term and negative effect on the neighborhood as a whole. This negative influence could grow and cause property values to decline and further demolition to occur. Respectful rehabilitation, rather than demolition, is always better for the neighborhood.

ABRASIVE CLEANING

Abrasive cleaning methods (such as high pressure water or sandblasting) usually are selected as a quick means of removing years of dirt accumulation, unsightly stains, or deteriorating finishes such as stucco or paint. High pressure sand, grit, or water blasting methods clean by eroding dirt or paint, but at the same time they erode the protective surface of the building material. If the material is brick or wood, abrasive cleaning removes the hard protective outer surface and exposes the soft inner core to rapid weathering and deterioration.

Abrasive cleaning can destroy or substantially diminish decorative detailing such as molded brickwork or terra cotta or ornamental carving on wood or stone. It can eliminate surface textures and evidence of historic craft techniques such as tool dressing. Perfectly sound mortar joints can be worn away by abrasive techniques, leading to a need for extensive tuck pointing. The resulting erosion and pitting of building materials reveals a greater surface area for the collection of dirt and pollutants and in effect creates the need for more frequent cleaning in the future.

It is a misconception that all historic masonry buildings were initially unpainted. Actually, many mid-19th century brick buildings were painted immediately or soon after completion to protect poor quality brick or to imitate another material such as stone. Sometimes masonry was painted to produce what was considered a more harmonious relationship between a building and its natural surroundings. Therefore, unless stains, graffiti, or dirt and pollution deposits actually threaten the building fabric, it is generally preferable to do as little cleaning as possible and to repaint only when necessary.

Efficient removal of dirt, stains, and unsound paint from historic building surfaces can be achieved by means that are sensitive to the materials involved. The

gentlest is to use an overall low pressure water wash while scrubbing areas of more persistent grime with a natural bristle brush. A commercially available chemical cleaner also can be employed if a trial test patch shows the agent is effective and does not have unwanted side effects on the building material.

Historic building materials are neither indestructible nor renewable. They must be treated in a sensitive and responsible manner involving little or no harsh cleaning at all if they are to be safely preserved for future use and enjoyment. An historic building need not look as if it were newly constructed to be an attractive or successful restoration or rehabilitation project. Only if it is in the best interest of the building should extensive cleaning be undertaken, and then using only the gentlest means possible.

SYNTHETIC SIDING

Aluminum, vinyl and other synthetic sidings frequently are considered as options to maintaining a structure's original historic appearance and material. Generally these synthetic sidings are applied to those buildings in need of maintenance and repair in the name of "home improvement". It is often implied that the new siding will be a long-lasting, economic, energy-saving, maintenance-free alternative to the original wood, brick, or stone.

Contrary to popular belief, vinyl, and aluminum will fade, weather, and eventually require regular painting to maintain their appearance. Furthermore, the Federal Trade Commission has determined that even when insulated aluminum is correctly installed there is little or no energy savings. When applied to historic buildings, synthetic sidings are inappropriate and actually no less expensive than other maintenance alternatives. Sidings essentially are used as a quick cosmetic coverup. However, when concealed and uncorrected, minor problems can progress to the point where expensive, major repairs to the structure are necessary.

Aluminum and vinyl form a vapor barrier that prevents the normal passage of humidity from the inside of a building to the outside. Trapped between the interior wall and the siding, this water vapor condenses, encouraging rot to begin in the original wood. Further complications arise when run-off water from damaged or clogged guttering, poor flashing, leaking roofs, is channeled directly into the space behind the siding. Such excessive moisture allows rot to progress at an accelerated rate, causing damage to structural members and failure of interior wall finishes. Damage from insect attack can proceed unseen behind the siding.

Most historic buildings suffer a severe loss of character and architectural integrity when important design elements and ornamental moldings are hidden behind a layer of synthetic siding. A flat, monotone appearance results with the loss of texture, color variation, projecting moldings and trim work. Brick and stone surfaces may be irreparably damaged and wood siding will split when furring strips that support the siding are nailed to the structure.

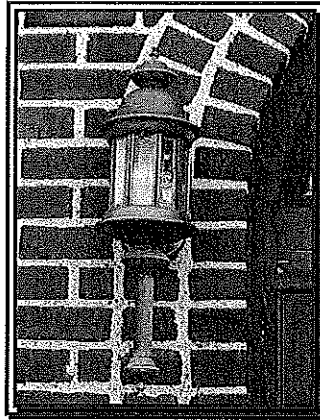


EXHIBIT D

Aerial View/ Location of Property



Brookside Addition Subdivision

Established 1926 by Downey Hodson Realty
Bordered by Lincolnway East/Hwy 933, Capital Ave, Railroad tracks south of E. 4th St, and S. Roosevelt Ave.



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

June 10, 2015

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 11 2015

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
June 9, 2015, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

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

PETITION #15-14 A petition submitted by Richard P. and Debra M. Dresser requesting to vacate 114.5' of the east/west alley north of **615 South Byrkit Street**.

The Commission, with a vote of 6-0, recommended approval.

PETITION #15-15 A petition submitted by M. J. Investments, LLC, requesting to rezone **101 East Mishawaka Avenue** from C-1 General Commercial District to C-3 City Center Commercial District.

The Commission, with a vote of 6-0, recommended approval.

PETITION #15-18 A petition submitted by School City of Mishawaka requesting to vacate an unimproved Kline Street lying south of Northland Park and north of Harrison Street

The Commission, with a vote of 6-0, recommended approval.

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

Respectfully,

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Debra Dresser
Ed Fisher
Daryl Knip

STAFF REPORT

Location: East-West Alley portion at 615 S Byrkit Avenue

Date: June 9, 2015

Petition: 15-14

Prepared By: GGS

GENERAL INFORMATION

Applicant: Richard & Debra Dresser

Status: Adjacent Property Owner

Request: Vacate Public Right of Way

Zoning Classification: Public Right of Way

Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single-Family Residential
South: R-1 Single-Family Residential
East: I-2 Heavy Industrial
West: R-1 Single-Family Residential

Thoroughfare: South Byrkit Avenue

School District: School City of Mishawaka

Public Utilities: Public Right-of-way

Comprehensive Plan: Public Right of Way

ANALYSIS

The petitioners, Richard & Debra Dresser, are requesting to vacate public right-of-way being a portion of alley way. The portion of alley to be vacated is an east-west alley located north of 615 South Byrkit Avenue. This alley runs between South Byrkit Avenue and Campbell Street.

The petitioners currently own property located on both the north and south side of this alley. The main house is located south of the alley at 615 South Byrkit Avenue with accessory structures located north of the alley. The petitioners are requesting to vacate that portion of alley that bisects the two portions of their property. This portion of alley to be vacated runs west from South Byrkit Avenue to the western property line of the petitioners' property at 615 South Byrkit Avenue. The remainder of the alley towards Campbell Street will remain as public right-of-way.

The petitioners have provided signatures and letters from property owners and tenants with property along the alley stating they have no objections with the portion of alley to be vacated. A letter has also been supplied by the trash and recycling pick-up company stating no objection to the alley portion vacation.

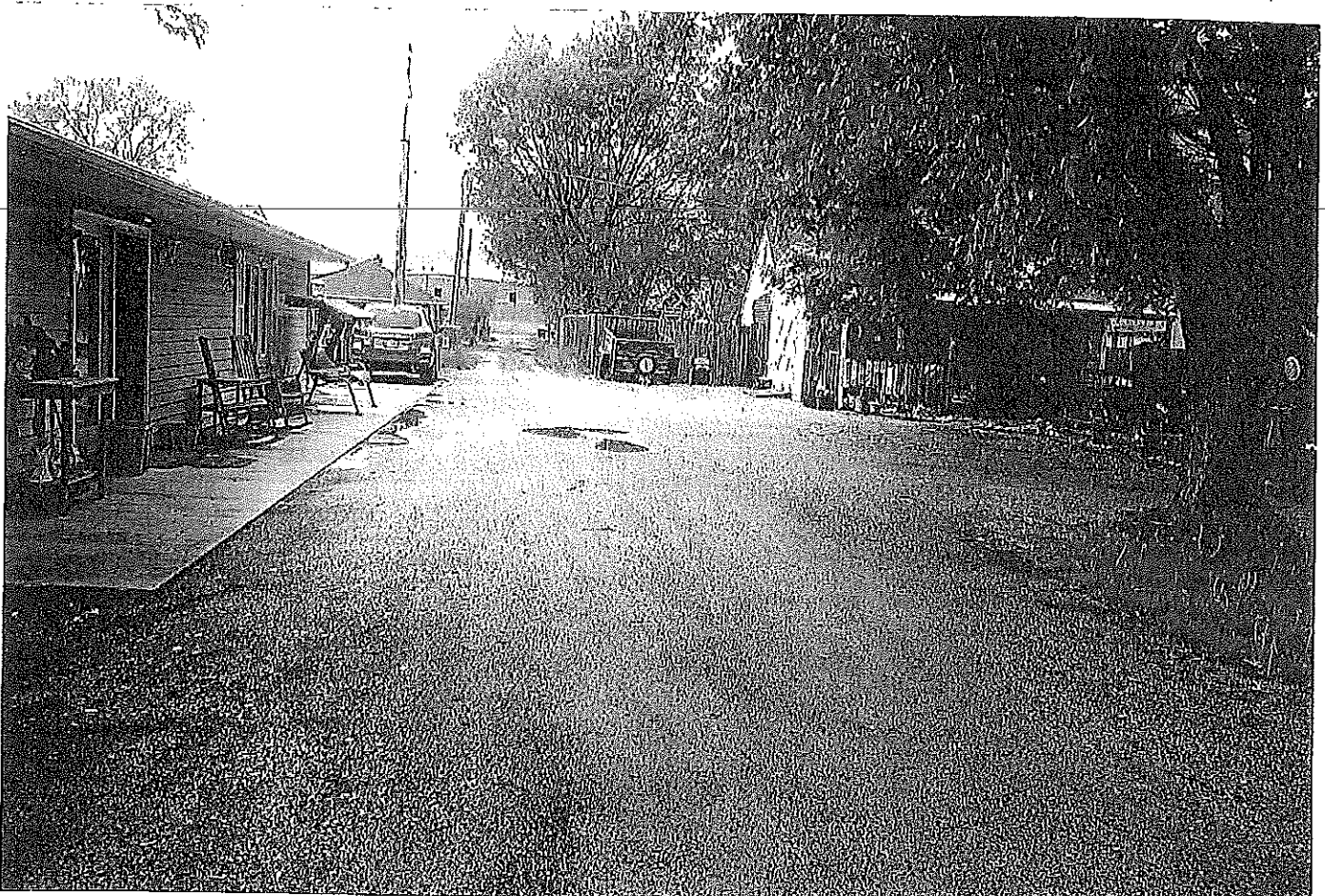
RECOMMENDATION

Staff recommends in favor of Petition 15-14 to vacate a portion of east-west alley between South Byrkit Avenue and Campbell Street. This recommendation is based on the following findings of fact.

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. Adjacent properties will still have access to property via the alley off of Campbell Street.
- 3) The right-of-way to be vacated does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Petition, Photographs, Location Map



View looking west along alley portion to be vacated

STAFF REPORT

Location: 101 E Mishawaka

Date: June 9, 2015

Petition: 15 15

Prepared By: CH

GENERAL INFORMATION

Applicant: Edward Fisher for M.J. Investments, LLC

Status: Surveyor for Property Owner

Request: Zone from C-1 to C-3 City Center Commercial

Zoning Classification: C-1 General Commercial

Lot Size: Approximately 0.32 acres

Applicable Regulations: Sec. 137-358 Commercial C-3 District; Sec. 137-40 Plan Commission; & Section 137-41 Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial
South: C-3 City Center Commercial
East: C-1 General Commercial
West: C-3 City Center Commercial

Thoroughfare: Mishawaka Avenue & Main Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are or will be available to the site

Comprehensive Plan: General Commercial

ANALYSIS

The petitioner is requesting to rezone the property at 101 E Mishawaka Avenue from C-1 General Commercial District to C-3 City Center Commercial to utilize the property for a microbrewery and cabaret. The property is located at the southeast corner of Mishawaka Avenue and Main Street, and contains a 3,000 square foot building (formally Root Studios) and associated parking lot to the east. The building sits right at the sidewalk, with a 0' setback, which fits with the C-3 District's development regulations.

Property at 201-203 E Mishawaka Avenue and almost 3 acres along the river front and were rezoned to C-3 City Center Commercial in 2011. Staff feels that the rezoning of this lot to C-3 City Center Commercial classification will have a favorable and stabilizing impact on the neighborhood.

All departments have reviewed the proposed rezoning. The Building Department states all buildings must meet Building and Fire Code requirements.

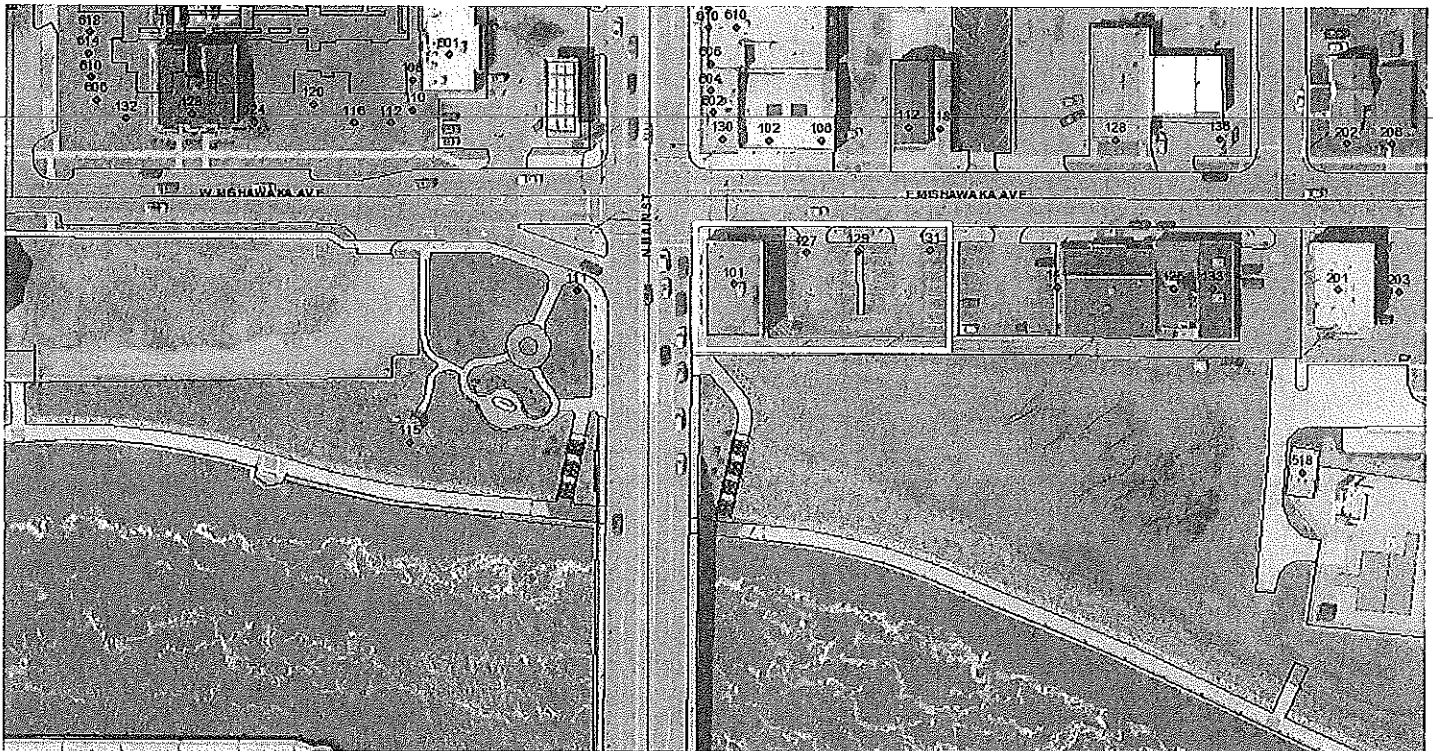
RECOMMENDATION

The Planning Department recommends **approval** of Petition 15-15 to rezone 101 E Mishawaka from C-1 General Commercial District to C-3 City Center Commercial District. This recommendation is based upon the following findings of fact:

1. There are commercial zonings at all four corners of this intersection, and the proposed use as a microbrewery and cabaret would be compatible to the area.
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as an commercial project, staff feels that the most desirable use for this property is commercial;
3. Because the parcel is located in an area of commercial uses, with its proximity to the river, and location of the building on the lot, rezoning to C-3 City Center Commercial is a desirable use for this property;
4. Rezoning this property to the C-3 City Center Commercial classification will have a favorable impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for general commercial, therefore, rezoning is compatible and consistent with the City's Comprehensive Plan.

ATTACHMENTS

Aerial, Photo, Petition, Location Map



STAFF REPORT

Location: Portion of Kline Street – between Twelfth Street/Harrison Road and Norland Park Subdivision

Date: June 9, 2015

Prepared By: CH

Petition: 15-18

GENERAL INFORMATION

Applicant: School City of Mishawaka
Status: Adjacent Property Owners
Request: Vacate Public Right of Way
Zoning Classification: S-1 Extensive Open Space
Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential and S-2 Planned Unit Development
East: S-1 Extensive Open Space
West: S-1 Extensive Open Space

Thoroughfare: Twelfth Street/Harrison Road

School District: School City of Mishawaka

Public Utilities: Public Right-of-Way

Comprehensive Plan: Medium Density Residential

ANALYSIS

The Petitioners are requesting to vacate a portion of Kline Street. The portion to be vacated is a 60-ft wide right-of-way running north/south and is located northwest between the Norland Park Subdivision and Twelfth Street/Harrison Road.

The vacation of the portion of Kline Street will allow School City of Mishawaka to combine the property they own on either side of this right-of-way via the Hums Elementary School Subdivision. There are already improvements, a parking lot and baseball field, associated with Hums Park, located in the right-of-way. In addition to the right-of-way vacation, the petitioner is requesting release of utility easement rights. The release of easements does not apply to the I & M Electric Easement, which crosses the right-of-way.

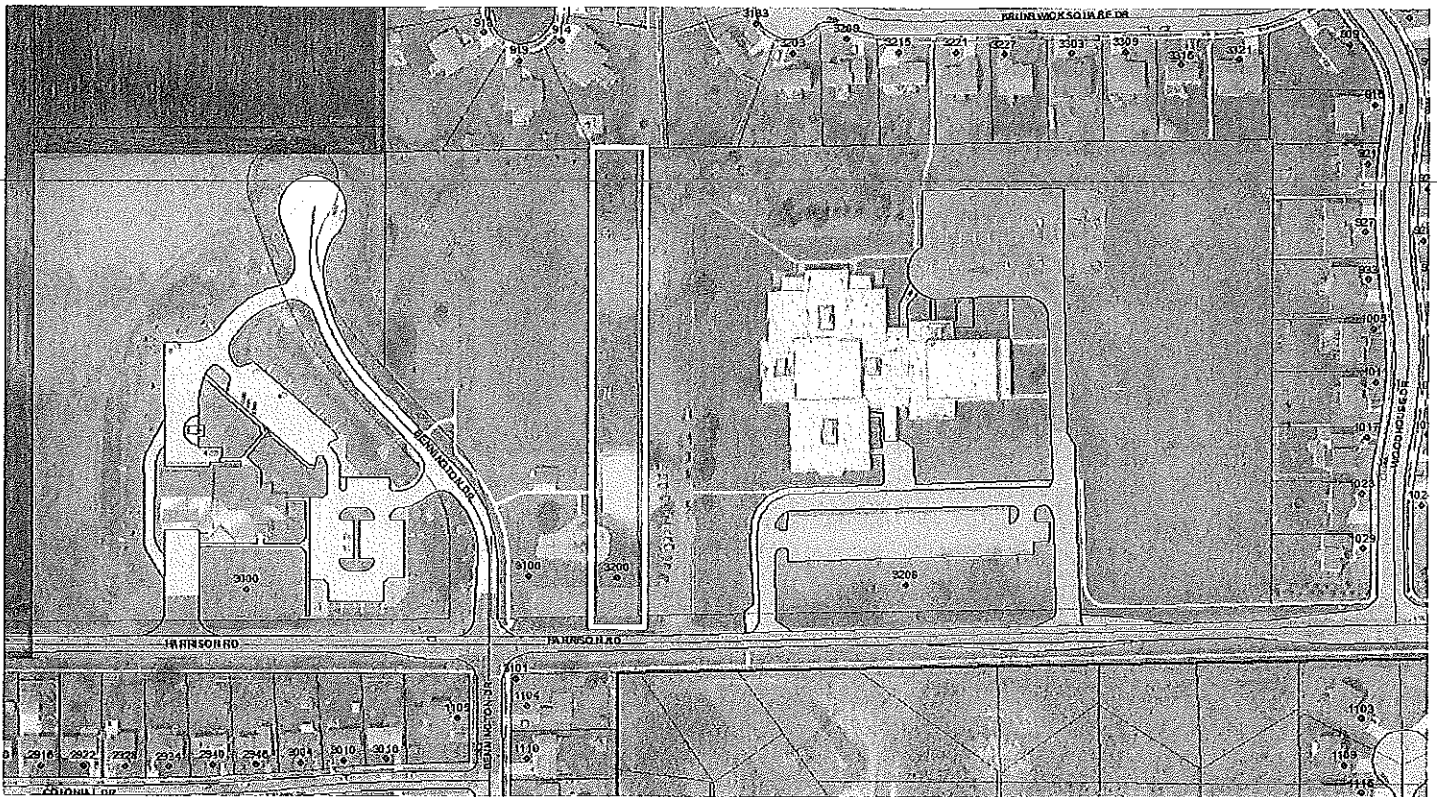
RECOMMENDATION

Staff recommends in favor of Petition 15-18 to vacate a and release utility rights of a portion of Kline Street running north/south located between the Norland Park Subdivision and Twelfth Street/Harrison Road. This recommendation is based on the following findings of fact:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Aerial, Photo, Petition, Vacation Diagram





CITY OF MISHAWAKA

OFFICE OF THE CITY CLERK

DEBORAH S. BLOCK, IAMC, MMC, CITY CLERK

NOTICE OF HEARING

Petition No. V2015-02

Date of Hearing: June 15, 2015

Time of Hearing: 7:00 PM

PLEASE TAKE NOTICE:

A petition has been filed by Richard P. Dresser and Debra M. Dresser to vacate public right of way - description of the public right of way between our property lines is 114.5 ft., East/West alley way located between lots 140 and 141 of Broadmoor Addition.

and notices sent to the petitioner and to the owners of property affected by the petition.

A hearing upon this petition will be held in the Council Chambers, Municipal Building, 600 East Third Street, Mishawaka, Indiana. At this time, you may appear either in person, present in writing, be represented by an agent or attorney, and present any reasons which you may have to the granting or denying of this petition.

You are requested to prepare your case, in detail, and present all evidence relating to this petition at the time of scheduled hearing.

Respectfully,

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

Mary Ellen Hazen, Chief Deputy • Linda Dotson, Chief Deputy
City Hall • 600 East Third Street • Mishawaka, Indiana 46544-2241

Telephone: (574) 258-1616 • Facsimile: (574) 258-1728 • E-Mail: dblock@Mishawaka.in.gov • Website: Mishawaka.in.gov



CITY OF MISHAWAKA

OFFICE OF THE CITY CLERK

DEBORAH S. BLOCK, IAMC, MMC, CITY CLERK

NOTICE OF HEARING

Vacation No. 2015-03

Date of Hearing: June 15, 2015

Time of Hearing: 7:00 PM

PLEASE TAKE NOTICE:

Petitions have been filed by School City of Mishawaka for vacation of the following described public right of way in the City of Mishawaka described as follows:

Vacation No. 2015-03 Petition No. 2015-18

A part of the Southwest and Southeast Quarters of Section 13, Township 37 North, Range 3 East, City of Mishawaka, St. Joseph County, Indiana being more particularly described as follows: All of unimproved Kline Street lying south of Norland Park and north of Harrison St in said Quarter sections.

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

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

6

1st Reading 6-15-15
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2015-10

JUN 17 2015

ORDINANCE NO.

CITY CLERK
MISHAWAKA, IN

HPC # 14-01

**AN ORDINANCE TO ESTABLISH 2319 Lincolnway East
AS A LOCAL LANDMARK WITHIN THE CITY OF MISHAWAKA, INDIANA.**

WHEREAS, Chapter 160 of the Municipal Code provides for the establishment of Historic Districts within the City of Mishawaka, and

WHEREAS, the owner of decommissioned Fire Station No. 4 at 2319 Lincolnway East, an architecturally significant building within the City of Mishawaka, wishes to establish her home as a Local Landmark, and

WHEREAS, Douglas A. Merritt, has worked hard to see that this important link to the history of Mishawaka be preserved and protected, and

WHEREAS, the property is commonly described as Fire Station No. 4 at 2319 Lincolnway East, and is legally described as follows:

Lot 22, Brookside Addition, City of Mishawaka, Penn Township, St.
Joseph County, State of Indiana.

Tax Key Number: 16-1078-3186

and

WHEREAS, Photographs are documented in Exhibit A, Property Significance and Description are documented in Exhibit B, Preservation Guidelines have been prepared and are documented under Exhibit C, and Location Map is Exhibit D.

**NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF
THE CITY OF MISHAWAKA, COUNTY OF ST. JOSEPH, STATE OF INDIANA,
THAT DECOMMISSIONED FIRE STATION NO. 4 at 2319 LINCOLNWAY EAST
BE DESIGNATED AS A LOCAL LANDMARK.**

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 p.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

JUN 17 2015

CITY CLERK
MISHAWAKA, IN

1st Reading 6-15-15
2nd Reading
Passed
Failed
Continued To

PETITION #15-14

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2015-11

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, Richard P. Dresser and Debra M. Dresser have filed a petition for vacation of the public right-of-way described in Section 1 below;

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

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

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

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

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

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

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

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

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

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

114.5', east/west alley located between Lots 140 and 141, Broadmoor Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

PROPOSED ORDINANCE NO. 2015-11

ORDINANCE NO. __

COMMONLY KNOWN AS: 114.5' east/west alley located north of 615 South Byrkit Street

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

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. Adjacent proprietries will still have access to property via the alley off of Campbell Street.
- 3) The right-of-way to be vacated does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination.
- 4) The proposed vacation will not hinder the use of any public way, utility or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

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.

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

PROPOSED ORDINANCE NO. 2015-11

ORDINANCE NO. __

APPROVED by me this ____ day of _____, 2015, at ____
o'clock __M.

David A. Wood, Mayor

May 15, 2015

MAY 28 2015

CITY CLERK
MISHAWAKA, IN

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

Re: Petition for Vacation of Public Right of Way

Description of the public right of way between our property lines is 114.5 ft., East/West alley way located between lots 140 and 141 of Broadmoor Addition. The following is a list of reasons for making this request:

*Safety

It is approximately 5ft. from our door to the alley way. The alley becomes very dangerous when people, especially children, are entering or exiting the house. Vehicles have been known to use this easement as a short cut between Byrkit and Cambell.

*Security/Privacy

We have experienced strange vehicles driving slowly down the easement peering into the windows.

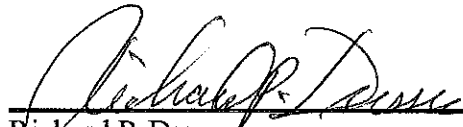
Mr. Alvin Lancaster is the only neighbor besides us that has a driveway off the alley way but he only uses the Campbell St. exit. He has indicated that he is in favor of vacating the small alley way to avoid the nuisance of strange vehicles using it as a public thoroughfare.

We would like to put a gate across the alley between our two existing fences located on our property line. All utilities would still have access on either side to the pole that is located on our property.

Pet 15-14

The other neighbors are unaffected since they access their driveways from the front of their properties. Vacating this small alley way would not cause any public safety issue and in actuality would stop the unsafe feelings we have due to the easy accessibility by strangers and their misuse of a small easement for a public roadway.

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



Richard P. Dresser
615 South Byrkit
Mishawaka, Indiana 46544
Lot 140 & 141/Broadmoor Addition



Debra M. Dresser
615 South Byrkit
Mishawaka, Indiana 46544
Lot 140 & 141/Broadmoor Addition

Contact Person:
Debra Dresser
(574)274-4189

March 25, 2015

RE: Vacating Alley Request by Richard & Debra Dresser

615 S. Byrkit Ave., Mishawaka, In 46544

Description of the public right of way between property lines is
114.5 ft. x 14 ft., East/West Alley located between Lots 140 and
141 of Broadmoor Addition

To Whom It May Concern:

We the undersigned give our permission to have the alley vacated between the Dresser's property, Lots 140 & 141. With respect to trash service, we do not have an issue with putting our trash in front of our homes since we are already required to do so by our recycling service.

1. James & Teri Chipps, 1319 E. 7th St., Mishawaka, IN 46544

James Chipps Signature

2. Alvin Lancaster, 1316 E. 8th St., Mishawaka, IN 46544

Alvin W Lancaster Signature

3. Mary & Charles Barker, 1306 E. 8th St., Mishawaka, IN 46544

Charles D. Barker Signature

4. Rental Property, Tenants Signatures, 1311 E. 7th St., Mishawaka, IN 46544

SANDRA & MAXX FINN, COULD NOT LOCATE TO GET A SIGNATURE. Signature

5. Rental Property, Tenants Signatures, 1305 E. 7th St., Mishawaka, IN 46544

[Signature] Signature

6. Rental Property, Tenants Signatures, 1301 E. 7th St., Mishawaka, IN 46544

Clavie M. Wang Signature

7. Rick & Debra Dresser, 615 S. Byrkit Ave., Mishawaka, IN 46544

Debra Dresser Signature



April 2, 2015

To whom it concerns,

Republic Services has no objections to vacating the alley that services 7th and 8th streets from Byrkit Ave. to Campbell St. The recycling is already being picked up curbside and having the trash picked up the same would not add any hardship. Thank you for your consideration.

Operations Supervisor,

Scott Carlton

57820 Charlotte Ave
Elkhart, IN 46517
574.522.1331
www.republicservices.com

March 25, 2015

Re: Vacating Alley
1316 East 8th St.
Mishawaka, IN 46544

Description of the public right of way between property lines is
114.5 ft. x 14 ft., East/West Alley located between Lots 140 and
141 of Broadmoor Addition

To Whom It May Concern:

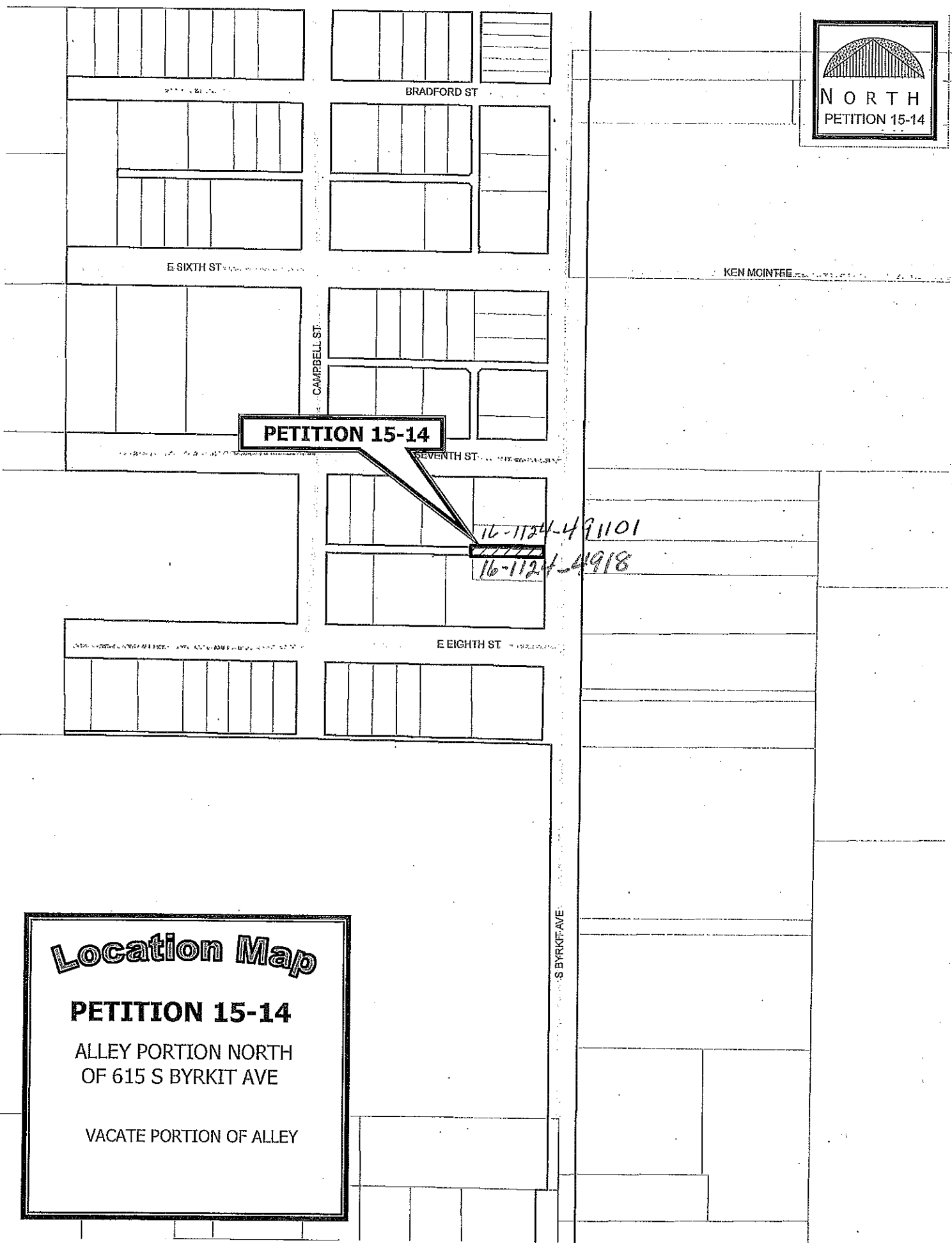
I reside at 1316 East 8th St., Mishawaka, IN 46544.

My property is the only property on the alley that has a driveway going to my pole barn and one going to my garage. I am in agreement to allow Rick and Debra Dresser who reside at 615 South Byrkit St., Mishawaka, IN 46544 to vacate the alley from their property line to Byrkit St. It would not be a nuisance for me to allow them to use that portion of my roadway as I enter my garage and pole barn from the Campbell St. end of the alley.

Alvin Lancaster
1316 East 8th St.
Mishawaka, IN 46544

A handwritten signature in cursive script, reading "Alvin W. Lancaster". The signature is written in dark ink and is positioned above the word "Signature".

Signature



Location Map

PETITION 15-14

ALLEY PORTION NORTH
OF 615 S BYRKIT AVE

VACATE PORTION OF ALLEY

NOTICE OF HEARING

Vacation No. 2015-02

Date of Hearing: June 15, 2015

Time of Hearing: 7:00 p.m.

Please Take Notice:

Petitions have been filed by Richard Dresser and Debra Dresser for vacation of the following described public right of way in the City of Mishawaka described as follows:

Vacation No. 2015-02
Petition No. 2015-14

Description for the public right of way between our property lines is 114.5 ft., East/West alley way located between lots 140 and 141 of Broadmoor Addition. Notices are sent to the petitioner and to the owners of property affected by the petition. A hearing upon this petition will be held in the Council Chambers, Municipal Building, 600 East Third Street, Mishawaka, Indiana. At this time you may appear either in person, present in writing, be represented by an agent or attorney, and present any reasons which you may have to the granting or denying of this petition. You are requested to prepare your case, in detail, and present all evidence relating to this petition at the time of scheduled hearing.

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

50

State of Indiana St. Joseph County

Personally Appeared Before Me The Undersigned:

Nancy Nich

Legal Clerk of the **MISHAWAKA ENTERPRISE**, a public newspaper of general circulation, published in the city of Mishawaka in the County aforesaid, who being duly sworn, upon her oath saith, that the notice of which she attached is the true copy, was duly published in the **Mishawaka Enterprise** for:

XX One

___ TWO

___ THREE

times successively to-wit:

On the 4th day of June, 2015, and

On the _____ day of _____, 2015, and

On the _____ day of _____, 2015,

[Signature]
Subscribed & Sworn To Before Me
This 4th day of June, 2015

William L. Nich

William L. Nich, Notary Public
Residing in Elkhart County
My Commission Expires 5/30/2019

CHARGES: \$ 14.81

1st Reading 6-15-15
2nd Reading
Passed
Failed
Continued To

PETITION 15-15

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2015-12

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 17 2015

CITY CLERK
MISHAWAKA, IN

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

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

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

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

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

Lots Numbered Twelve (12), Thirteen (13), Fourteen (14), and Lot Lettered "A" as shown on the recorded Plat of Mishawaka Hydraulic Company's Addition to the town, now City of Mishawaka, together with that portion of the vacated alley which lies South of and adjacent to said Lots.

COMMON ADDRESS: 101 East Mishawaka Avenue

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as C-3 City Center Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

1. There are commercial zonings at all four corners of this intersection, and the proposed use as a microbrewery and cabaret would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as an commercial project, staff feels that the most desirable use for this property is commercial;

Proposed Ordinance No: 2015-12

Ordinance No: _____

3. Because the parcel is located in an area of commercial uses, with its proximity to the river, and location of the building on the lot, rezoning to C-3 City Center Commercial is a desirable use for this property;
4. Rezoning this property to the C-3 City Center Commercial classification will have a favorable impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for general commercial, therefore, rezoning is compatible and consistent with the City's Comprehensive Plan.

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

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

May 19, 2015

MAY 28 2015

MAY 20 2015

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

CITY CLERK
MISHAWAKA, IN

Ret 15-15

RE: PETITION TO REZONE

The undersigned, M. J. Investments, LLC, respectfully shows it is the owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

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

Lots Numbered Twelve (12), Thirteen (13), Fourteen (14) and Lot Lettered "A" as shown on the recorded Plat of Mishawaka Hydraulic Company's Addition to the town, now City of Mishawaka, together with that portion of the vacated alley which lies South of and adjacent to said Lots.

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of Commercial C-1 District. Said property is currently vacant and was most recently a photography studio.

Petitioner desires said real estate to be rezoned to Commercial C-3 District. Petitioner further states that it intends to utilize said parcel for a microbrewery and cabaret.

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

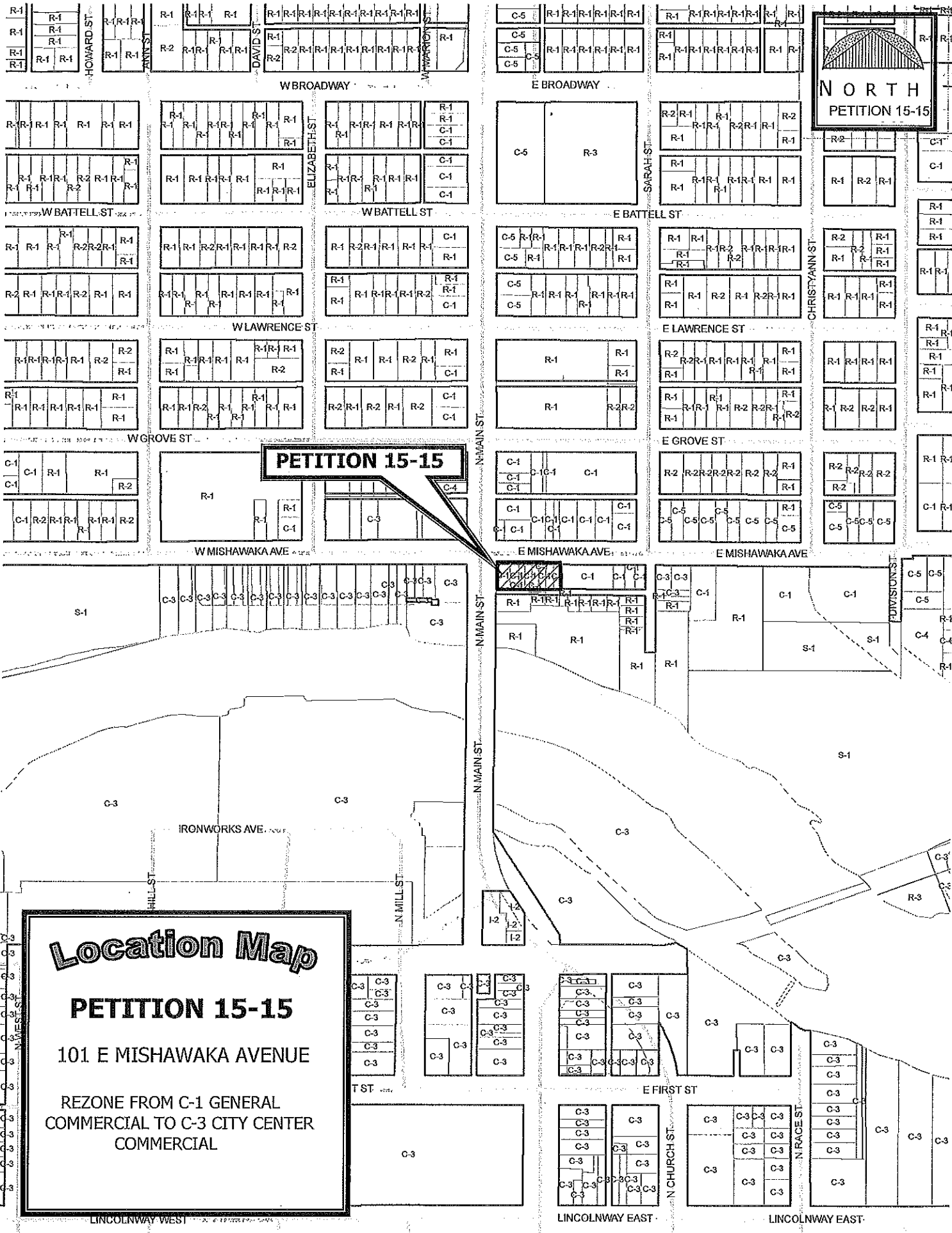
M. J. Investments, LLC



John Becker, Member

CONTACT PERSON:

Edward M. Fisher
303 East Third Street
Mishawaka, Indiana 46544
Phone: 574 255-8377
Facsimile: 574 257-8557
Email Fishersurvey@AOL.com



1st Reading 6-15-15
2nd Reading
Passed
Failed
Continued To

PETITION #15-18

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2015-13

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 17 2015

CITY CLERK
MISHAWAKA, IN

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

WHEREAS, School City of Mishawaka has filed a petition for vacation of the public right-of-way described in Section 1 below;

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

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

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

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

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

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

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

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

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

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

A PART OF THE SOUTHWEST AND SOUTHEAST QUARTERS OF SECTION 13, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PROPOSED ORDINANCE NO. 2015-13

ORDINANCE NO.

ALL OF UNIMPROVED KLINE STREET LYING SOUTH OF NORLAND PARK AND NORTH OF HARRISON STREET IN SAID QUARTER SECTIONS.

COMMONLY KNOWN AS: Portion of Kline Street -- Between Twelfth Street and Norland Park Subdivision

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

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination.
- 4) The proposed vacation will not hinder the use of any public way, utility or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

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.

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

PROPOSED ORDINANCE NO. 2015-13

ORDINANCE NO. __

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

David A. Wood, Mayor

MAY 28 2015

CITY CLERK
MISHAWAKA, IN

DATE: March 25, 2015

MAY 20 2015

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

Pet 15-18

RE: **PETITION FOR VACATION OF PUBLIC RIGHT OF WAY
AND UNDERLYING UTILITY EASEMENT RIGHTS**

**Unimproved Kline Street
(between Twelfth Street and Norland Park Subdivision)**

The undersigned School City of Mishawaka respectfully requests the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right of way located in the City of Mishawaka, St. Joseph County, Indiana:

A PART OF THE SOUTHWEST AND SOUTHEAST QUARTERS OF SECTION 13, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, ST JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

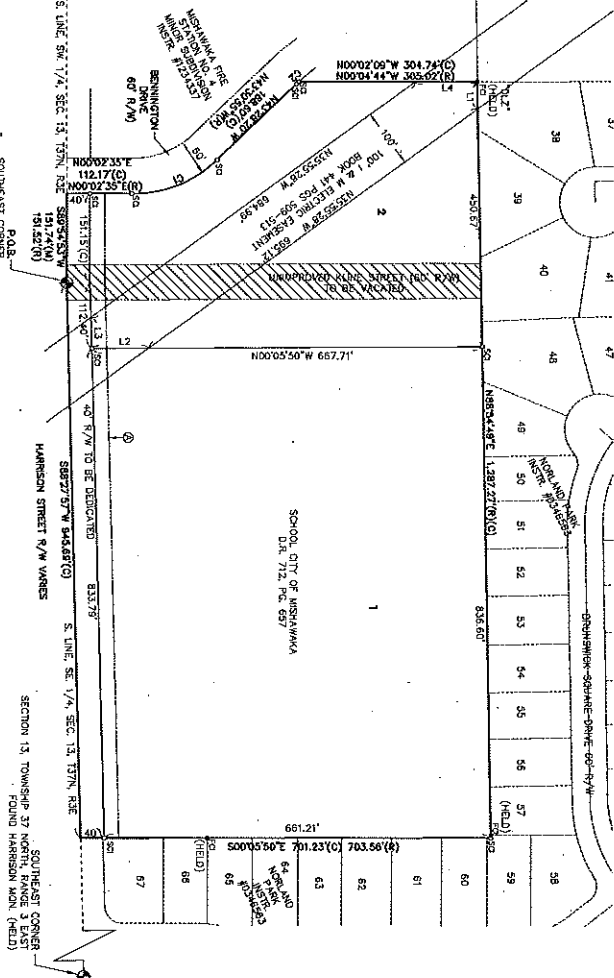
ALL OF UNIMPROVED KLINE STREET LYING SOUTH OF NORLAND PARK AND NORTH OF HARRISON STREET IN SAID QUARTER SECTIONS.

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

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

Accompanying this petition is a drawing, to scale, showing the above-described right of way and underlying utility easement rights to be vacated.

HUMS ELEMENTARY SCHOOL SUBDIVISION

[illegible]

SCHOOL, CITY OF MISKAMAWKA
1402 S. MAIN ST.
MISKAMAWKA, N. 465644

DATED THIS _____ DAY OF _____, 2015

STATE OF INDIANA

(PRINT)

1000

.....

A circular notary seal for the State of Indiana. The outer ring contains the text "NOTARY PUBLIC" at the top and "INDIANA" at the bottom, separated by two stars. In the center, the word "SEAL" is written vertically between two horizontal wavy lines.

[illegible]

LOT 1 - 12.74± ACRES
LOT 2 - 5.01± ACRES

3. CITY OF MICH.

ZONING CLASS

6. ALL NEW LOT
MONUMENTS

**SPECIAL FLOOD
INSURANCE**

OF GOVERNMENT
FOR DISPOSAL

•

1

HUMS ELEMENTARY SCHOOL SUBDIVISION
CITY OF MISHAWAKA,
PENN TOWNSHIP
MISHAWAKA, INDIANA

ABONMARCHI
Confidence By Design

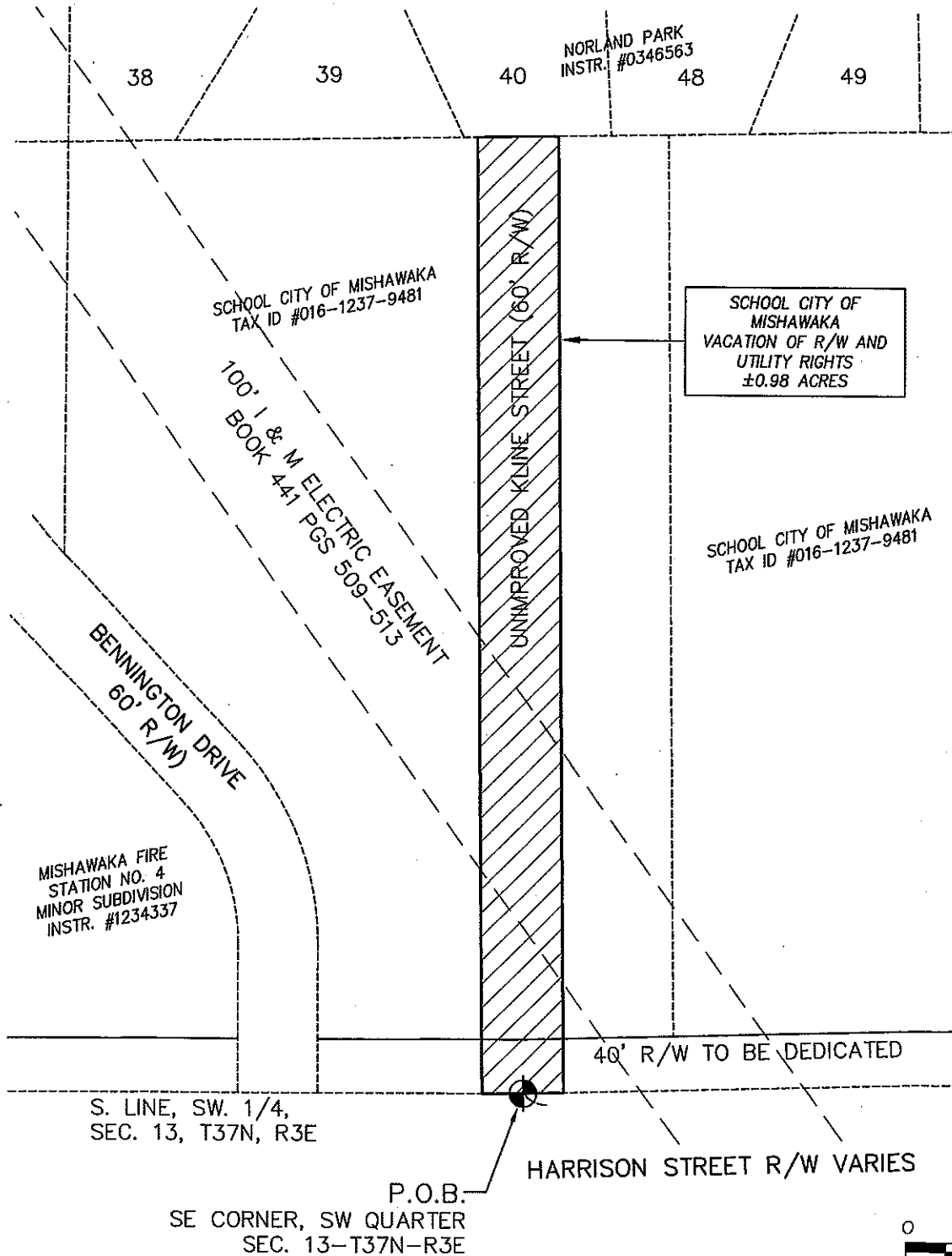
150 Lincoln Way East
Southfield, MI 48034
817.433.8700
817.431.4440

Engineering
Architecture
Land Surveying
Infrastructure
Community Planning
Transportation
Development Services

Portage, MI
Benton Harbor, MI
Marquette, MI

SEC. 13, T37N, R3E

EXHIBIT A



UNIMPROVED KLINE STREET VACATION OF RIGHT-OF-WAY AND UTILITY EASEMENT RIGHTS

(BETWEEN TWELFTH STREET AND
NORLAND PARK SUBDIVISION)



DATE: 03-25-15 ACI JOB #14-0040-252
COPYRIGHT 2013 - ABONMARCHÉ CONSULTANTS, INC.

14-0128

SHT: 1 of 1

SCALE: 1" = 120'
BAR SCALE IN FEET

0 60 120



JUN 11 2015

RESOLUTION NO. 2015-20

CITY CLERK
MISHAWAKA, IN

**A RESOLUTION OF THE
COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA,
APPROVING A FIRST AMENDMENT TO THE INTERLOCAL
AGREEMENT FOR THE ELIMINATION, REORGANIZATION, AND
CONSOLIDATION OF PUBLIC SAFETY ANSWERING POINTS IN
ST. JOSEPH COUNTY, INDIANA, AND OTHER RELATED MATTERS**

WHEREAS, the Board of Commissioners (the "Board of Commissioners") of St. Joseph County, Indiana (the "County"), the City of South Bend, Indiana ("South Bend"), the City of Mishawaka, Indiana ("Mishawaka"), and the Clay Fire Territory (the "Territory") (collectively, the "Parties") executed an Interlocal Agreement for the Elimination, Reorganization, and Consolidation of Public Safety Answering Points in St. Joseph County, Indiana (the "Agreement"), dated the 19th day of August, 2014 to comply with Ind. Code § 36-8-16.7-47(e); and

WHEREAS, Section 4.02 of the Agreement provides that the Parties agree to jointly finance the acquisition, construction, demolition, renovation, improvement, excavation, and equipping of projects necessary to build the Consolidated Dispatch Center as defined by Ordinance 79-13, passed by the St. Joseph County Council (the "County Council") on January 14, 2014 and approved by the Board of Commissioners, on January 15, 2014; and

WHEREAS, Section 4.02 of the Agreement further provides that South Bend and Mishawaka will transfer an irrevocable portion of each City's distributive share of County Economic Development Income Taxes ("CEDIT") to the County, pursuant to Ind. Code § 6-3.5-7-15, in such amounts as necessary so that the annual debt service payments (the "Debt Service Payments") for the St. Joseph County Economic Development Income Tax Revenue Bonds of 2014 (the "County Bonds") issued by the County to finance the Consolidated Dispatch Center shall be paid for by the Parties in the following percentages: South Bend 29.03%, Mishawaka 17.34% and the County 53.62%; and

WHEREAS, in order to permit the County to receive the amounts due under the designation by the Mayor of South Bend pursuant to the Agreement (the "South Bend Designation") without regard to obligations South Bend has with respect to certain outstanding bonds payable from South Bend's distributive share of CEDIT (the "South Bend Debt"), South Bend desires to prepay its monthly share of the Debt Service Payments on the County Bonds, with the amount of such prepayment equaling the amount otherwise due and payable under the South Bend Designation until the final maturity of the South Bend Debt in February, 2017 (the "Prepayment Amount"); and

WHEREAS, in exchange for and upon receipt of the Prepayment Amount, the County shall hold the South Bend Designation in abeyance until March 1, 2017, and the Designation shall be without effect until such date, and the County shall transfer monthly to

South Bend the entire amount of South Bend's monthly distributive share of County Economic Development Income Taxes (the "CEDIT") otherwise due and owing to South Bend; and

WHEREAS, under Article V of the Agreement, the Parties agreed to fund the operating and replacement costs of the Consortium (as defined in the Agreement) and to pay certain assessments as set forth in the Agreement to provide for the payment of such costs; and

WHEREAS, South Bend receives distributive shares of the public safety option income tax under Ind. Code § 6-3.5-6-31 (the "Public Safety LOIT") and desires to substitute Public Safety LOIT for CEDIT as the intercept funding source if South Bend is delinquent in paying an assessment provided for in Article V of the Agreement in order to permit South Bend to issue additional bonds with debt service payable from South Bend's distributive share of CEDIT free from the intercept mechanism provided by the Agreement; and

WHEREAS, Mishawaka receives distributive shares of the Public Safety LOIT and desires to substitute Public Safety LOIT for CEDIT as the intercept funding source if it is delinquent in paying an assessment provided for in Article V of the Agreement in order to provide Mishawaka the ability to use its monthly distributive share of CEDIT for other purposes, including the payment of debt service, free from the intercept mechanism provided by the Agreement; and

WHEREAS, there has been prepared for consideration a First Amendment to the Interlocal Agreement for the Elimination, Reorganization, Consolidation of Public Safety Answering Points in St. Joseph County, Indiana (the "First Amendment"), attached hereto as Exhibit A, which provides for (i) South Bend to pay the Prepayment Amount to the County, (ii) the County to hold the South Bend Designation in abeyance upon receipt of the Prepayment Amount until March 1, 2017, and (iii) Public Safety LOIT to replace CEDIT as the intercept funding source should either Mishawaka or South Bend not make the assessment payments required under Article V of the Agreement; and

WHEREAS, the County Council approved and authorized the execution of the First Amendment through its adoption of Resolution _____-15 entitled "A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL APPROVING A FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT FOR THE ELIMINATION, REORGANIZATION, AND CONSOLIDATION OF PUBLIC SAFETY ANSWERING POINTS IN ST. JOSEPH COUNTY, INDIANA, AND OTHER RELATED MATTERS" on June 9, 2015; and

WHEREAS, the Board of Commissioners approved and authorized the execution of the First Amendment through its adoption of Resolution R-C-____-2015 entitled "A RESOLUTION OF THE BOARD OF COMMISSIONERS OF ST. JOSEPH COUNTY, INDIANA, APPROVING A FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT FOR THE ELIMINATION, REORGANIZATION, AND CONSOLIDATION OF PUBLIC SAFETY ANSWERING POINTS IN ST. JOSEPH COUNTY, INDIANA, AND OTHER RELATED MATTERS" on June 16, 2015;

**THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF
THE CITY OF MISHAWAKA, INDIANA, AS FOLLOWS:**

1. The Common Council of the City of Mishawaka, Indiana (the "Common Council") hereby approves the First Amendment attached hereto as Exhibit A and approves and authorizes execution of the First Amendment by the City.

2. This Resolution shall be in full force and effect from and after passage by the Common Council and approval by the Mayor, as required by law.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2015.

President, Common Council

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.

David Wood, Mayor
City of Mishawaka

June 11, 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 resolution amending the Interlocal Agreement for the Elimination, Reorganization, and Consolidation of Public Safety Answering Points in St. Joseph County, Indiana. Randy Rompola of Faegre Baker Daniels has provided a draft resolution along with the amendment itself ("First Amendment to the Interlocal Agreement for the Elimination, Reorganization, and Consolidation of Public Safety Answering Points in St. Joseph County, Indiana").

The proposed Amendment amends the Agreement in two ways. First, pursuant to the amendment, the City of South Bend would prepay through February 1, 2017, its share of the County CEDIT revenue bonds issued in 2014 to finance the consolidated dispatch center. This will permit the City of South Bend to receive its distributive share of CEDIT revenues so that it can make payments on certain outstanding CEDIT bonds which finally mature in February, 2017. Beginning then on March 1, 2017, the County would once again continue to withhold South Bend's portion of the County bond payments from South Bend's distributive CEDIT share. This change was requested by South Bend and has no effect on the City of Mishawaka.

Secondly, the amendment permits the Cities of South Bend and Mishawaka to substitute their respective distributive shares of public safety LOIT each would receive in place of their respective CEDIT distributive shares as the intercept funding source if either City is delinquent in paying their respective assessments for operating and replacement costs under Article 5 of the PSAP Interlocal Agreement. This provides each City greater flexibility with respect to each City's CEDIT funds. Whereas the original agreement *required* us to use CEDIT as our source of intercept funding, the amendment will *allow* us to use CEDIT, but we have the option to substitute LOIT funds if it is to our advantage.

The administration has consulted with John Julien of HJ Umbaugh & Associates, and he has expressed his support for the proposed amendment.

I plan to attend the meeting on Monday, June 15. Mr. Rompola plans to attend the meeting, and I have invited John Julien to attend, as well.

Sincerely,

Geoff Spiess
Corporation Counsel

EXHIBIT A

First Amendment to the Interlocal Agreement for the Elimination, Reorganization, Consolidation of Public Safety Answering Points in St. Joseph County, Indiana

**FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT FOR THE
ELIMINATION, REORGANIZATION, AND CONSOLIDATION OF PUBLIC SAFETY
ANSWERING POINTS IN ST. JOSEPH COUNTY, INDIANA**

This First Amendment to the Interlocal Agreement for the Elimination, Reorganization, and Consolidation of Public Safety Answering Points in St. Joseph County, Indiana (the "Amendment") is made as of the _____ day of _____, 2015, by and among the Board of Commissioners of St. Joseph County, Indiana (the "County"), the City of South Bend, Indiana ("South Bend"), the City of Mishawaka, Indiana ("Mishawaka"), and the Clay Fire Territory (the "Territory") (each individually a "Party" and collectively, the "Parties") and is made pursuant to IND. CODE 36-1-7.

RECITALS

WHEREAS, the Parties executed an Interlocal Agreement for the Elimination, Reorganization, and Consolidation of Public Safety Answering Points in St. Joseph County, Indiana (the "Agreement"), dated the 19th day of August, 2014 to comply with IND. CODE § 36-8-16.7-47(e); and

WHEREAS, Section 4.02 of the Agreement provides that the Parties agree to jointly finance the acquisition, construction, demolition, renovation, improvement, excavation, and equipping of projects necessary to build the Consolidated Dispatch Center as defined by Ordinance 79-13, passed by the St. Joseph County Council on January 14, 2014 and approved by the Board of Commissioners of the County of St. Joseph, Indiana, on January 15, 2014; and

WHEREAS, Section 4.02 of the Agreement further provides that South Bend and Mishawaka will transfer an irrevocable portion of each City's distributive share of County Economic Development Income Taxes ("CEDIT") to the County, pursuant to IND. CODE § 6-3.5-7-15, in such amounts as necessary so that the annual debt service payments (the "Debt Service Payments") for the St. Joseph County Economic Development Income Tax Revenue Bonds of 2014 (the "County Bonds") issued by the County to finance the Consolidated Dispatch Center shall be paid for by the Parties in the following percentages: South Bend 29.03%, Mishawaka 17.34% and the County 53.62%; and

WHEREAS, the Mayor of South Bend (the "South Bend Mayor"), in his capacity as the executive of South Bend, did, on December 30, 2014, execute and deliver to the County his "Designation of St. Joseph County as a Recipient of Part of the City of South Bend's Distributive Share of Revenues from the County Economic Development Income Tax (CEDIT)" (the "South Bend Designation"), pursuant to which the South Bend Mayor designated the County as the recipient of a portion of each of South Bend's monthly distributive share of CEDIT (the "South Bend CEDIT") in amounts equal to the amounts set forth on Exhibit A of the South Bend Designation which represent South Bend's portion of the Debt Service Payments with respect to the County Bonds; and

WHEREAS, South Bend previously issued its Taxable County Economic Development Income Tax Refunding Bonds, Series 2006 A and Taxable County Economic Development Income Tax Refunding Bonds, Series 2006 B (collectively, the "South Bend Bonds") payable solely out of the South Bend CEDIT which finally mature on February 1, 2017; and

WHEREAS, the payment of principal of and interest on the South Bend Bonds constitutes a senior lien on the South Bend CEDIT; and

WHEREAS, in order to permit the County to receive the amounts due under the South Bend Designation without regard to the South Bend Bonds, South Bend desires to prepay its monthly share of certain Debt Service Payments on the County Bonds, with the amount of such prepayment equaling the amount otherwise due and payable under the South Bend Designation until such time as the South Bend Bonds finally mature, beginning with the monthly share due in the month following the month in which this Amendment is executed and ending with the monthly share due in February, 2017 (the "Prepayment Amount"); and

WHEREAS, in exchange for and upon receipt of the Prepayment Amount, the County shall hold the South Bend Designation in abeyance until March 1, 2017, and the Designation shall be without effect until such date, and the County shall transfer monthly to South Bend the entire amount of South Bend CEDIT otherwise due and owing to South Bend; and

WHEREAS, under Article V of the Agreement, the Parties agreed to fund the operating and replacement costs of the Consortium (as defined in the Agreement) and to pay certain Assessments as set forth in the Agreement; and

WHEREAS, Section 5.06 of the Agreement permits the County to intercept and withhold CEDIT from any Party that is delinquent in paying the Assessments due by such party; and

WHEREAS, South Bend has determined to issue bonds for the purpose of financing certain park improvements, the principal of and interest on which bonds would be payable from the South Bend CEDIT (the "Park Bonds"); and

WHEREAS, South Bend receives distributive shares of the public safety option income tax under IND. CODE § 6-3.5-6-31 (the "Public Safety LOIT") and desires to substitute Public Safety LOIT for CEDIT as the intercept funding source if it is delinquent in paying an Assessment provided for in Article V of the Agreement in order to permit South Bend to issue the Park Bonds with debt service payable from the South Bend CEDIT free from the intercept mechanism provided by the Agreement; and

WHEREAS, Mishawaka receives distributive shares of the Public Safety LOIT and also desires to substitute Public Safety LOIT for CEDIT as the intercept funding source if it is delinquent in paying an Assessment provided for in Article V of the Agreement in order to provide Mishawaka the ability to use its monthly distributive share of CEDIT for other purposes, including the payment of debt service, free from the intercept mechanism provided by the Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

AGREEMENT

1. Prepayment by South Bend. Notwithstanding any provisions of the Agreement, the Parties hereto agree that South Bend shall pay to the County the Prepayment Amount prior to the 1st day of the month following final execution of this Amendment. Upon receipt of such payment, the County agrees to hold in abeyance the South Bend Designation and agrees that it will be without effect until March 1, 2017. During such period, the County agrees that South Bend shall receive its full distributive share of South Bend CEDIT without reduction or claim by the County. South Bend and the County agree and acknowledge that the South Bend Designation will again be in full force and effect on March 1, 2017.

2. Public Safety LOIT Intercept. Section 5.06 of the Agreement is amended and restated in its entirety to read as follows:

Section 5.06 Assessments; Intercept. The Parties acknowledge the financial exposure assumed by the County in this Agreement. In recognition thereof, Assessments not received in accordance with the schedule described in this Agreement shall be satisfied using an intercept process consisting of:

- (a) The County Auditor notifying the Controller of the delinquent Party of the delinquency. The notification shall be in writing and provide five (5) days to settle the Assessment.
- (b) Assessments not received within five (5) days of the written notifications shall be satisfied by the County Auditor withholding an equivalent amount of the Public Safety Local Option Income Tax revenues received under IND. CODE § 6-3.5-6-31 ("Public Safety LOIT") from the next monthly Public Safety LOIT distribution due to the delinquent Party and transferring that withheld amount to the proper Fund(s).

3. Miscellaneous.

a. Except as expressly modified, amended or supplemented by this Amendment, the Agreement shall remain in full force and effect.

b. Capitalized terms not defined herein shall have the meaning set forth in the Agreement.

c. This Amendment may be executed in multiple original, facsimile or PDF counterparts, each of which when executed shall be deemed an original, but all of which together shall constitute one and the same instrument.

* * * * *

IN WITNESS WHEREOF, the Parties have executed this Amendment to the Interlocal Agreement: St. Joseph County PSAP Consolidation

ST. JOSEPH COUNTY, INDIANA

Andrew T. Kostielney, President
of the Board of Commissioners

Dave Thomas, Vice President
of the Board of Commissioners:

Deborah A. Fleming, DMD, Member
Board of Commissioners

ATTEST:

Michael J. Hamann, Auditor

CITY OF MISHAWAKA, INDIANA

David A. Wood, Mayor

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

CITY OF SOUTH BEND, INDIANA

Pete Buttigieg, Mayor

ATTEST:

John Voorde, City Clerk

CLAY FIRE TERRITORY

By: _____
Michael Dobson, President
Clay Fire Commission Board

AGREED AND ACKNOWLEDGED:

**CLAY TOWNSHIP OF
ST. JOSEPH COUNTY, INDIANA**

By: _____
Robbie Thomas, Trustee

Mary Ellen Hazen

From: Rompola, Randolph R. <Randolph.Rompola@FaegreBD.com>
Sent: Thursday, June 11, 2015 9:42 AM
To: Mary Ellen Hazen
Subject: FW: Resolution for Upcoming Council Meeting
Attachments: Resolution - Mishawaka Common Council - approving First Amendment to the Interlocal Agreement.DOCX; First Amendment to the Interlocal Agreement for Public Safety Answering Points (2).DOCX

Here you go. Thanks! Randy

Randolph R. Rompola

Partner

randolph.rompola@FaegreBD.com Download vCard
D: +1 574 239 1926 | M: +1 574 360 8610 | F: +1 574 520 6172

Faegre Baker Daniels LLP

202 S. Michigan Street | Suite 1400 | South Bend, IN 46601, USA

From: Rompola, Randolph R.
Sent: Thursday, June 11, 2015 8:45 AM
To: Deb Block
Cc: 'Geoffrey Spiess'; Hill, Richard L.
Subject: Resolution for Upcoming Council Meeting

Attached is a proposed form of resolution for consideration by the Common Council to approve of an amendment (the "Amendment") to the PSAP Interlocal Agreement (the "Agreement") previously executed by the County, the City of South Bend, the City of Mishawaka, and the Clay Fire Territory. A copy of the proposed Amendment is attached also.

The proposed Amendment amends the Agreement in two (2) ways. First, pursuant to the amendment, the City of South Bend would prepay through February 1, 2017, its share of the County CEDIT revenue bonds issued in 2014 to finance the consolidated dispatch center. This will permit the South Bend to receive its distributive share of CEDIT revenues so that it can make payments on certain outstanding CEDIT bonds which finally mature in February, 2017. Beginning then on March 1, 2017, the County would once again continue to withhold South Bend's portion of the County bond payments from South Bend's distributive CEDIT share. This change has no effect on Mishawaka.

Additionally, the amendment permits the Cities of South Bend and Mishawaka to substitute their respective distributive shares of public safety LOIT each would receive in place of their respective CEDIT distributive shares as the intercept funding source if either City is delinquent in paying their respective assessments for operating and replacement costs under Article 5 of the PSAP Interlocal Agreement. This provides each City greater flexibility with respect to each City's CEDIT funds.

I would ask that this be placed on the agenda for consideration by the Common Council at its upcoming meeting this Monday. Geoff has reviewed and signed off on both documents. Should you have any questions regarding the attached resolution or form of First Amendment to the Interlocal Agreement, please do not hesitate to call. Thanks. Randy

Randolph R. Rompola

Partner

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Faegre Baker Daniels LLP

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