

AGENDA

Wednesday, November 4, 2015

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

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

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of the Minutes of the Previous Regular Meeting**

October 19, 2015

5. Petitions, Communications, Remonstrance and Memorials

Appeal No. 2015-44 Use Variance S-2 Zoning -1240 S. Byrkit Ave. - Dry Cleaning Distribution Plant with Dry Cleaning Services

Petition No. 2015-31 Amend the PUD Toscana Park Development for a Comprehensive Sign Program and Tenant Sign

Petition No. 2015-37 Rezone from C-4 to R-1 Single Family - 2102 N. Byrkit Ave.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2015-34 Transfer Funds - Police Dept. - \$8,000.00

P.O. NO. 2015-35 Transfer Funds - Park and Recreation - \$197,000.00

8. Resolutions

9. Ordinances on Second Reading

P.O. NO. 2015-27 Amending the Flood Control Ordinance (Assigned to Public Health and Safety Committee)

P.O. NO. 2015-28 Annex and Zone S-2 PUD Mixed-Use Multi-Family and Commercial - West side of Gumwood Rd North of West Cleveland Rd **NO VOTE**

P.O. NO. 2015-29 Annex and Zone C-1 Retail Uses - approximately 350 ft. East of SE corner of Douglas Rd and Fir Rd **NO VOTE**

P.O. NO. 2015-30 Rezone from C-1 to C-10 Convenience Store, Gas Pumps, Car Wash - NE corner of Edison Rd and Hickory Rd (Assigned to Land Use Planning Committee)

P.O. NO. 2015-31 Amend the 12th St. PUD for Village Green Holdings, LLC - 1400-1500 Block of East 12th St to R-3 Residential Multi-family with a Community Center (Assigned to Land Use Planning Committee)

P.O. NO. 2015-32 Annex and Zone C-6 Office and Medical Office Uses - 15170 Cleveland Rd and property adjacent to the South **NO VOTE**

P.O. NO. 2015-33 Vacation of Public Right-of-Way and Underlying Utility Easement Rights - Fir Trail between Fir Rd and Cleveland Rd (Assigned to Land Use Planning Committee)

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
October 19, 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, October 19, 2015, at 7:00 p.m. The meeting was called to order by Council President Woody Emmons and all were asked to stand for the Pledge of Allegiance.



Roll Call.

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

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

The minutes from October 5, 2015 meeting were approved as received from the Clerk's Office.

Clerk Block read a letter from the City Plan Commission regarding recommendations from their October 13, 2015 meeting.

PETITION #15-25 A petition submitted by the City of Mishawaka for approval of an ordinance replacing the Flood Plain Ordinance of the City of Mishawaka, Indiana.

The Commission, with a vote of 8-0, recommended approval.

PETITION #15-26 A petition submitted by Mishawaka Utilities requesting to annex and zone property commonly known as the Gumwood Wellfield to S-2 Planned Unit Development.

The Commission, with a vote of 8-0, recommended approval subject to the conditions in Exhibit "A" (attached).

PETITION #15-27 A petition submitted by SEC Investments LLC requesting to annex and zone property located near the **southeast corner of Fir and Douglas Roads** to C-1 General Commercial District.

The Commission, with a vote of 8-0, recommended approval.

PETITION #15-28 A petition submitted by Donald & Patricia Cressy Foundation requesting to rezone the **northeast corner of Edison Road and Hickory Road** from C-1 General Commercial District to C-10 Filling Station Commercial District.

The Commission, with a vote of 8-0, recommended approval.

PETITION #15-30 A petition submitted by Village Green Mishawaka Holdings, LLC, requesting to amend the 12th & Byrkit Planned Unit Development to allow for R-3 Multi-Family Residential uses.

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

1. Deceleration lanes along 12th Street shall be installed as determined by the Department of Engineering and shall satisfy Engineering standards.
2. Perimeter and internal landscaping shall meet C-1 General Commercial standards.
3. Architectural standards shall include architecturally appropriate materials consistent with the City's Design Review Ordinance for all facades visible from the public right-of-way.
4. Right-of-way and easements to be dedicated as required by Department of Engineering and Mishawaka Utilities.
5. All other previously approved developmental standards shall remain the same.

PETITION #15-32 A petition submitted by Donald L. Seggerman and the Devises of the Last Will of Evelyn Marjorie Eberding requesting to annex and zone **15170 Cleveland Road** to C-6 Linear Office Commercial District.

The Commission, with a vote of 8-0, recommended approval.

PETITION #15-33 A petition submitted by Sajida Chaudhry, Donald L. Seggerman, and the Devises of the Last Will of Evelyn Marjorie Everding requesting to vacate public right-of-way located **adjacent to 15170 Cleveland Road**.

The Commission, with a vote of 8-0, 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.

A public hearing on Vacation 2015-05 as required by State Statute on behalf of Sajida Chaudhry, Donald L. Seggerman and the DeVisses to vacate public right of Way and underlying Utility Easement Fir Trail.

Mr. Emmons opened the public hearing on Vacation 2015-05.

Brian McMorrow, Abonmarche Consultants speaking on behalf of the petitioners, the owners of the property in their request for Fir Trail to be vacated. Mr. McMorrow stated Fir Trail was re-aligned when University Drive was put through that right the property right now ends in a cull de sack and not expected to provide through traffic any longer so they want to vacate the land and have it split down the middle to go to property on either side.

President Emmons closed the public hearing on Vacation V2015-05 Public hearing.

The following proposed ordinances were given first reading, and assigned to committee, to be set for public hearing at the next regular meeting.

PROPOSED ORDINANCE NO. 2015-27

**AN ORDINANCE AMENDING CHAPTER 121, OF THE MUNICIPAL
CODE OF THE CITY OF MISHAWAKA, INDIANA COMMONLY KNOWN AS “THE
FLOOD CONTROL ORDINANCE” OF THE CITY OF MISHAWAKA**

(Amending the Flood Control Ordinance)

Assigned to Public Health and Safety

PROPOSED ORDINANCE NO. 2015-28

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

(Annex and Zone S-2 PUD Mixed-Use Multi Family and Commercial – West side of Gumwood
Road North of West Cleveland Road)

Assigned to Land Use Planning committee

PROPOSED ORDINANCE NO. 2015-29

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

(Annex and Zone C-1 Retail Uses – approximately 350ft. East of South East Corner of Douglas
Road and Fir Road)

Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2015-30

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

(Rezone from C-1 to C-10 Convenience Store, Gas Pumps, Car Wash –
North East corner of Edison and McKinley)

Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2015-31

**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 12th Street PUD for Village Green Holdings, LLC –
1400-1500 Block of East 12th Street)

Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2015-32

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

(Annex and Zone C-6 Office and Medical Office Uses –
15170 Cleveland Rd and property adjacent to the South)
Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2015-33

**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**

(Vacation of Public Right-of-Way and underlying Utility Easement Rights –
Fir Trail between Fir Road and Cleveland Road)
Assigned to Land Use Planning Committee

Clerk Block read **RESOLUTION NO. R2015-36** opening it for public hearing.

RESOLUTION NO. 2015-36

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, MAKING A FINAL DETERMINATION AND CONFIRMING
THE DESIGNATION OF AREAS WITHIN
THE CITY OF MISHAWAKA, INDIANA, KNOWN AS**

**A PART OF THE NORTHWEST AND SOUTHWEST QUARTERS OF
SECTION 23, TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP,
ST. JOSEPH COUNTY, INDIANA**

**AS AN ECONOMIC REVITALIZATION AREA AND
ECONOMIC DEVELOPMENT TARGET AREA FOR
PURPOSES OF REAL PROPERTY TAX ABATEMENT FOR
BAYER HEALTHCARE AND/OR ITS ASSIGNS**

(Confirming Resolution Tax Abatement – Bayer Healthcare –
Beacon Parkway north of the Indiana Toll Road)

President Emmons stated this was public hearing on **RESOLUTION NO. 201-36.**

Bob Hurley 15462 Regis, Granger, with Bayer Health Care, Brian McMorro from Abonmarche Consultants. South Bend said he was speaking on behalf of Bayer Health Care and, Browning Investments wanting to thank the Mayor, Council, and Planning Department for all the help in

making this work for them. He went on to say the City Plan Commission would hear their site plan and subdivision applications next month due to there being another piece to the tax abatement. Mr. McMorrow stated along with Beacon Health it would make that Parkway a center in Mishawaka to be proud of.

Question was called for at 7:13 on **RESOLUTION NO. R2015-36** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. Voelker.**

Clerk Block read **PROPOSED ORDINANCE NO. 2015-22** opening for public hearing.

PROPOSED ORINDANCE NO. 2015-22

**AN ORDINANCE FIXING THE SALARIES
OF CERTAIN ELECED OFFICIALS OF THE CITY OF MISHAWAKA FOR THE
FISCAL YEAR BEGINNING JANUARY 1, 2016
(Elected Officials Salary Ordinance 2015)**

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

Becky Miller, City Controller stated this was the Salary Ordinance for Elected Officials and Staff, they are recommending a 1% raise as with the Civil City Employees.

Question was called for at 7:15 p.m. on **PROPOSED ORDINANCE NO. 2015-22** **Votes: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. Voelker. Thus it becomes ORDINANCE NO. 5499.**

Clerk Block read **PROPOSED ORDINANCE NO. 2015-23AA** opening for public hearing.

PROPOSED ORDINANCE NO. 2015-23

**AN ORDINANCE FIXING THE SALARIES OF ALL EMPLOYEES
OF THE CITY OF MISHAWAKA EXCEPT, MISHAWAKA PARK DEPARTMENT,
ELECTED OFFICIALS AND THE MISHAWAKA UTILITIES FOR
THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR
BEGINNING JANUARY 1, 2016
(City Employee Salary Ordinance 2016)**

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

Clerk Block stated she was receipt of a letter requesting an Amendment to this Proposed Ordinance asking if she could read it. Mr. Emmons stated please do. Ms. Block read: This amendment by the City Controller stating the CTA and PE Professional Engineer's Certifications were not updated to the 26 pays for 2016 and therefore understated. The by weekly First and Second Patrolmen and Master Fire Fighter and 1st Class Fire Fighter need a small adjustment to meet the contractual \$2,000.00 Salary Spread. She stated that was the requested amendment.

Mr. Reisdorf made a motion to approve as read by the City Clerk, with a second by Ms. Voelker the motion carried.

City Controller Becky Miller stated this was for Civil City Employees also a 1% raise recommended, with one exception position in the Law Department with reverting back to a previous salary amount from a couple of years ago.

Question was called for at 7:15 p.m. on **PROPOSED ORDINANCE NO. 2015-23AA** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. Voelker.** Thus it becomes **ORDINANCE NO. 5500AA**

Clerk Block read **PROPOSED ORDINANCE NO. 2015-24AA** opening it for public hearing.

PROPOSED ORDINANCE NO. 2015-24AA

CIVIL CITY BUDGET AND TAX LEVY FOR 2016 AS AMENDED FINAL ADOPTION VOTE

Clerk Block stated this would be a vote only public hearing was heard at the last meeting.

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

Ms. Voelker thanked Controller Becky Miller for spending time with her helping her to understand the top side of the budget with all of the different funding mechanisms. She said she appreciates how much time that was spent on this by her and the entire department heads compiling this budget, and then the Council Members that spend time reviewing it, it was quite a process. She said she would like to thank everyone for their involvement.

Question was called for at 7:21 p.m. on **PROPOSED ORDINANCE NO. 2015-24AA** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. Voelker. **THUS IT BECOMES ORDINANCE NO. 5501.****

Clerk Block read **PROPOSED ORDINANCE NO. 2015-26** opening it for public hearing.

PROPOSED ORDINANCE NO. 2015-26

AN ORDINANCE AMENDING, ORDINANCE 5487 FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT THE SWORN FIRE AND POLICE, MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR BEGINNING JANUARY 1, 2015

(Amending the 2015 Salary Ordinance – Planning Department Senior Planner/Economic Development Specialist)

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

Ken Prince, City Planner said the amendment was for his department very specifically. He said after 14 years Greg Sharon was the Senior Planner and he has resigned to take a position in the private sector. Mr. Prince stated they were looking at this as an opportunity to look at the position, as to where they were lacking in the city. He said really they needed the assistance of an Economic Development efforts and going back to 2008 there was an Economic Development Director that was eliminated and at this time they would like to add some of those responsibilities to the Senior Planner Position and are asking for an increase in salary of approximately \$5,000.00 to increase the annual salary of that position to \$49,200.00.

Mr. Mammolenti asked with the \$5,000.00 increase how much of a spread was there between that position and the private sector. Mr. Prince said they have already made an offer for that position and the person that ended up taking it was taking a salary cut of approximately \$5,000.00 to take this position.

Question was called for at 7:25 p.m. on **PROPOSED ORDINANCE NO. 2015-26 Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. Voelker. **Thus it become ORDINANCE NO. 5502.**

UNFINISHED BUSINESS

Mr. Reisdorf made a motion to change the next Council Meeting date from November 2, 2015 to November 4, 2015 due to Election Day being on November 3, 2015, with a 2nd by Mr. Banicki the motion carried. Clerk Block stated the next Common Council Meeting will be held on November 4, 2015.

NEW BUSINESS

Mr. Mammolenti stated his next Twin Branch Neighborhood Watch meeting would be October 21, 2015 at 7:00 p.m. for the 3rd District to meet the Candidates at Large, City Council, and Mayor.

Adjournment was at 7:27 p.m.

Deborah S. Block

Deborah S. Block, IAMC, MMC, City Clerk

Mr. Woody Emmons

Mr. Woody Emmons, President Presiding

AP 15-44



Progressive Engineering Inc.

October 21, 2015

To: Board of Zoning Appeals
City of Mishawaka, Indiana

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 29 2015

CITY CLERK
MISHAWAKA, IN

I, David Ziker, am the property owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit;

LEGAL: LOT 1 12TH AND BYRKIT MINOR SUBDIVISION A PART OF THE NORTHWEST QUARTER OF SECTION 23, T.37 N., R.3 E. CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA AS RECORDED IN DOCUMENT #0836731 AS FOUND IN THE OFFICE OF RECORDER OF ST. JOSEPH COUNTY, INDIANA

COMMON ADDRESS: 1240 S BYRKIT AVENUE MISHAWAKA

The above-described real estate presently has a zoning classification of ^{S-2} District under the Zoning Ordinance of the City of Mishawaka.

Appellant presently occupies (or proposes to occupy) the above-described property in the following manner: **Dry Cleaning Distribution Plant with Dry Cleaning Services**

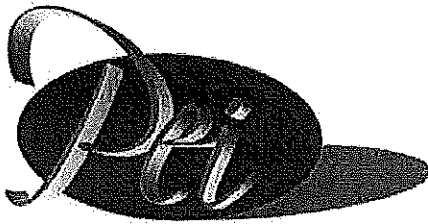
Appellant desires to modify this location from a Supermarket to a Dry Cleaning Processing Plant and Dry Cleaning Service counter instead of the retail sales that was previously allocated for this location.

The Zoning Ordinance of the City of Mishawaka requires that Ordinance 5143 be modified to allow the Change of Use Variance for this parcel.

Explain why strict adherence to the Ordinance requirements would create an unusual hardship. We are requesting this variance due to change in ownership of the parcel that requires a different use for the property address noted above.

Answer the following necessary questions for a **USE VARIANCE**:

Will approval be injurious to the public health, safety, morals or general welfare of the community? *No we are adding a benefit to the community to have a central area to drop off their dry cleaning. The sale of this parcel is contingent on this change of use variance. The new owners will be adding jobs to the area plus providing extra monies to the City for Utility use. If the Change of Use Variance does not get approved, the building will continue to sit unoccupied.*



Progressive Engineering Inc.

Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *No, as most of the parcels around us are commercial sites. They are few sites within the 300' that you have allocated that are zoned residential.*

Does the need for the variance arise from some condition peculiar to the property involved? *No, the change is strictly arising from change of ownership.*

Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? *It would only be an unnecessary hardship of the Variance is not approved allowing the owners to modify the site for their purposes.*

Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? *No, this site fits into the use for this area.*

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



Primary Owner Signature

Secondary Owner Signature

CONTACT PERSON: Progressive Engineering Inc.

Name: Bradley S. Cramer

Address: 58640 State Road 15, Goshen, IN 46528

Day Phone Number: 574-533-0337

Fax Number: 574-533-9736

Email: bcramer@p-e-i.com



Gregory L. Freehauf
Vice President Finance, CFO
Direct 574.239.1818
Fax 574.289.5931
gfreehauf@martins-supermarkets.com

October 21, 2015

Mishawaka Plan Commission

To whom it may concern:

Martin's Super Markets, Inc. is under contract with Ziker Cleaners Inc. as the contingent purchaser for the parcel located at 1240 S. Byrkit, Mishawaka, Indiana, and using this letter we authorize Ziker Cleaners Inc. as the contingent purchaser to apply for a Change of Use Variance for this parcel.

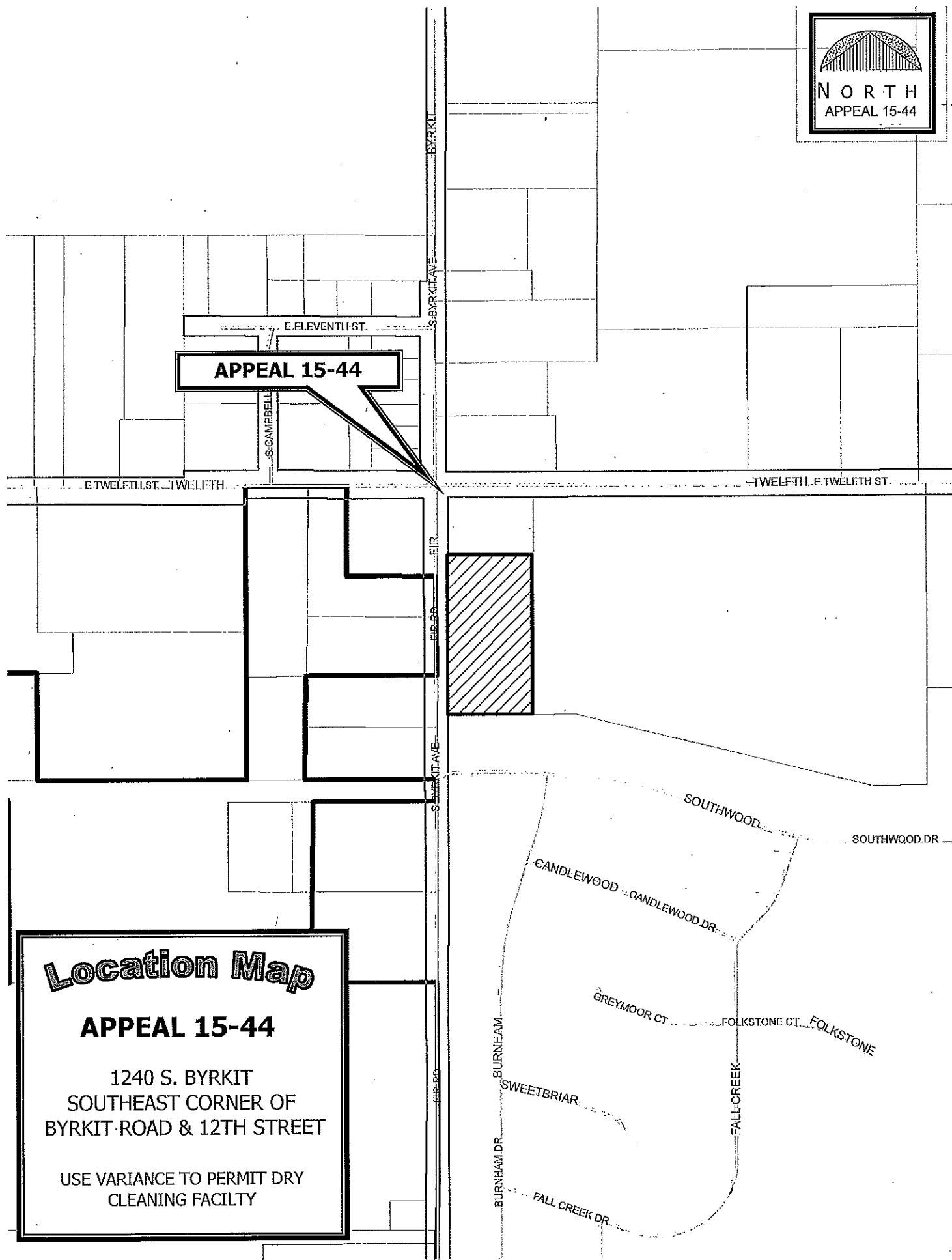
Please do not hesitate to contact me should you have any questions or require further information.

Sincerely,

A handwritten signature in black ink that reads "Gregory L. Freehauf". The signature is fluid and cursive, with a large loop at the end.

Gregory L. Freehauf
Vice President Finance, CFO

GLF/smz



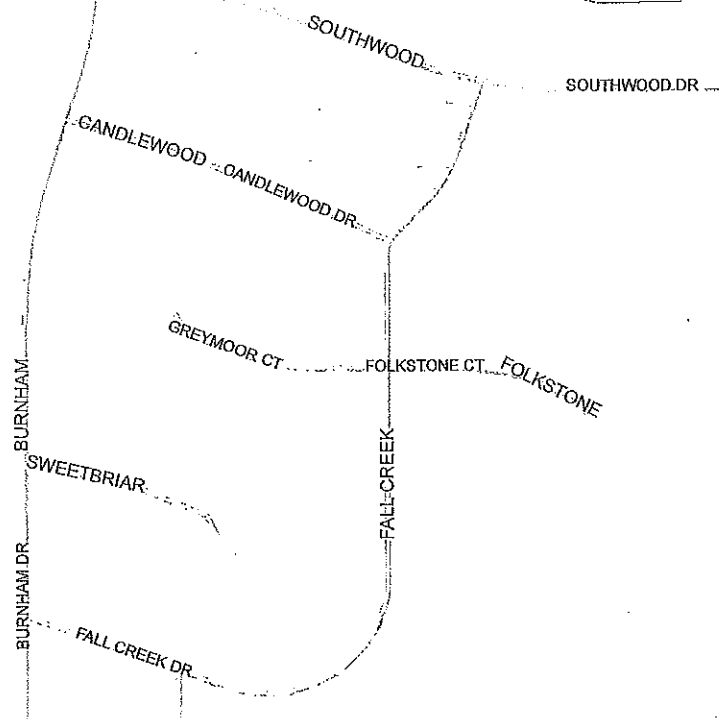
APPEAL 15-44

Location Map

APPEAL 15-44

1240 S. BYRKIT
SOUTHEAST CORNER OF
BYRKIT ROAD & 12TH STREET

USE VARIANCE TO PERMIT DRY
CLEANING FACILITY



OCT 29 2015

SEP 23 2015

September 23, 2015

CITY CLERK
MISHAWAKA, IN

Ref 15-31

Honorable Members of the
Common Council
City of Mishawaka, Indiana and
Mishawaka City Plan Commission
600 E. Third Street
Mishawaka, IN 46544

RE: Petition for PUD Amendment

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

Address: (Toscana Park Development)

Legal:

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PART OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE SOUTH 00°42'51" EAST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 247.58 FEET TO THE PLACE OF BEGINNING; THENCE CONTINUING SOUTH 00°42'51" EAST ALONG SAID WEST LINE, A DISTANCE OF 1074.65 FEET; THENCE NORTH 89°08'28" EAST, A DISTANCE OF 1325.96 FEET TO THE EAST LINE OF THE WEST HALF OF SAID SOUTHWEST QUARTER; THENCE NORTH 00°37'55" WEST ALONG SAID EAST LINE, A DISTANCE OF 1077.19 FEET TO THE SOUTH LINE OF BRENDON HILLS PARK, SECTION FIVE; THENCE SOUTH 89°01'53" WEST ALONG THE SOUTH LINES OF BRENDON HILLS, SECTION FOUR AND BRENDON HILLS, SECTION FIVE, A DISTANCE OF 1327.52 FEET TO THE PLACE OF BEGINNING CONTAINING 32.77 ACRES MORE OR LESS.

*NO
SEE
ATTACHED*

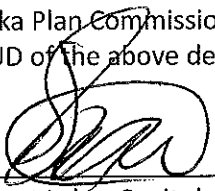
Page 2 – Cont'd
PUD Amendment
Toscana Park Development

Petitioner owns one-hundred percent (100%) of the above described parcel of land which carries a Zoning classification of S-2, Planned Unit Development specifically for mixed-use including residential and retail development.

Petitioner desires said Real Estate to be amended to allow for a comprehensive sign program and tenant Sign criteria as described in the attached supplemental documents.

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

Great Lakes Capitol, Officer



Great Lakes Capitol, Agent

Contact:

Mr. Douglas Merritt
Professional Permits
2319 Lincolnway East
Mishawaka, IN 46544
Tel: 574-257-2954
Fax: 574-257-2724
Email: dm@professionalpermits.com

EXHIBIT A

TRACT I: A CONDOMINIUM UNITS DESCRIBED AS BUILDING C, UNIT 4 ("BUILDING C, UNIT 4"), A PART OF THE HORIZONTAL PROPERTY REGIME (THE "CONDOMINIUM") CREATED BY THE DECLARATION OF MACRI'S DEVELOPMENT, INC. IN THE NAME OF THE TOSCANA PARK CONDOMINIUM ASSOCIATION, INC., RECORDED ON OCTOBER 11, 2006 IN THE OFFICE OF THE ST. JOSEPH COUNTY RECORDER, DOCUMENT # 0644041, AS AMENDED AND RESTATED BY THE AMENDED DECLARATION OF MACRI'S DEVELOPMENT, INC. RECORDED ON JULY 12, 2007, DOCUMENT # 0727382 (THE "DECLARATION") IN THE OFFICE OF THE ST. JOSEPH COUNTY RECORDER.

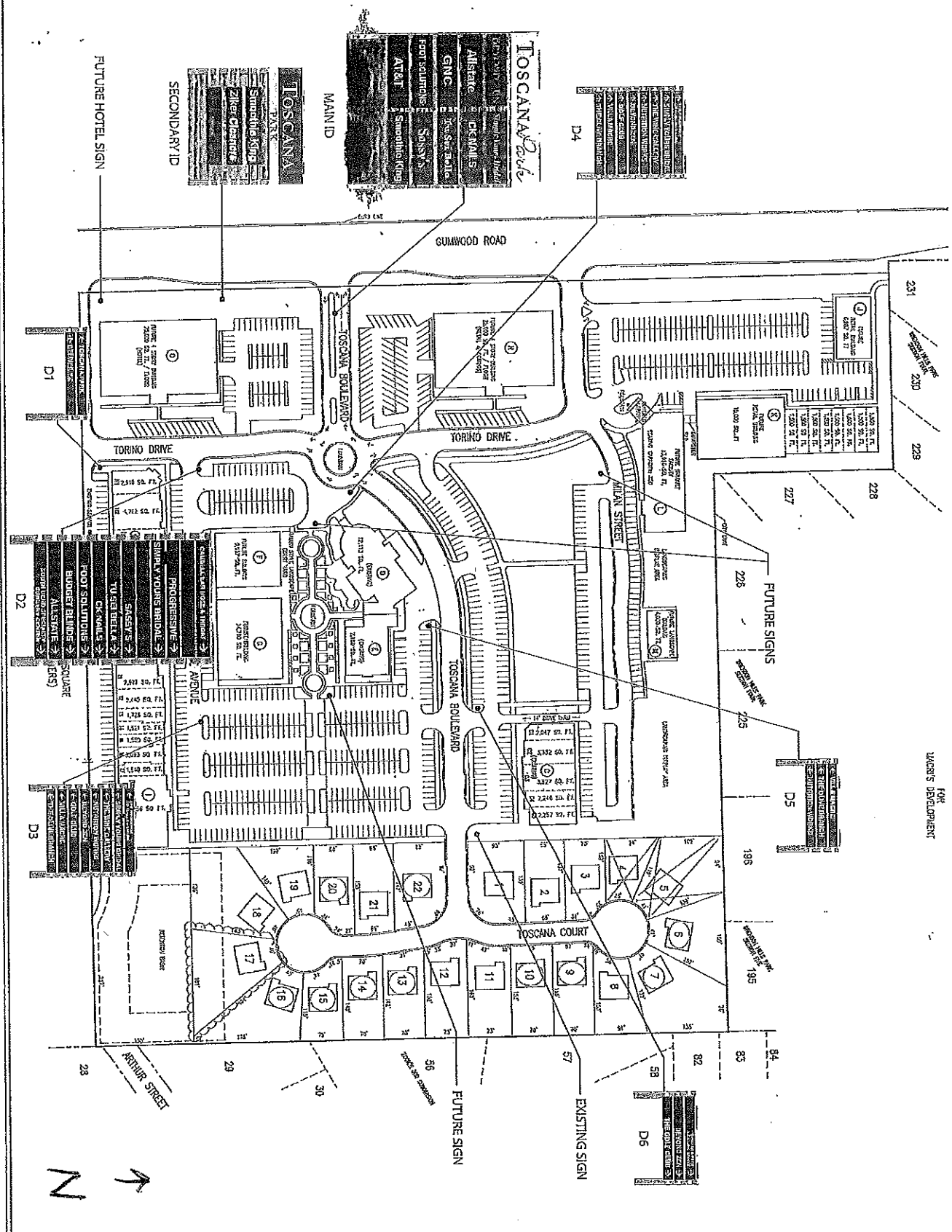
TRACT II: A CONDOMINIUM UNIT DESCRIBED AS BUILDING I, UNITS 1,2,3,5,6,7 AND 8 ("BUILDING I, UNITS 1,2,3,5,6,7 AND 8"), A PART OF THE HORIZONTAL PROPERTY REGIME (THE "CONDOMINIUM") CREATED BY THE DECLARATION OF MACRI'S DEVELOPMENT, INC. IN THE NAME OF THE TOSCANA PARK CONDOMINIUM ASSOCIATION, INC., RECORDED ON OCTOBER 11, 2006 IN THE OFFICE OF THE ST. JOSEPH COUNTY RECORDER, DOCUMENT # 0644041, AS AMENDED AND RESTATED BY THE AMENDED DECLARATION OF MACRI'S DEVELOPMENT, INC. RECORDED ON JULY 12, 2007, DOCUMENT # 0727382 (THE "DECLARATION") IN THE OFFICE OF THE ST. JOSEPH COUNTY RECORDER.

TRACT III: A CONDOMINIUM UNIT DESCRIBED AS BUILDING H, UNITS 1,2,3,4,5,6,8 AND 9 ("BUILDING H, UNITS 1,2,3,4,5,6,8, AND 9"), A PART OF THE HORIZONTAL PROPERTY REGIME (THE "CONDOMINIUM") CREATED BY THE DECLARATION OF MACRI'S DEVELOPMENT, INC. IN THE NAME OF THE TOSCANA PARK CONDOMINIUM ASSOCIATION, INC., RECORDED ON OCTOBER 11, 2006 IN THE OFFICE OF THE ST. JOSEPH COUNTY RECORDER, DOCUMENT # 0644041, AS AMENDED AND RESTATED BY THE AMENDED DECLARATION OF MACRI'S DEVELOPMENT, INC. RECORDED ON JULY 12, 2007, DOCUMENT # 0727382 (THE "DECLARATION") IN THE OFFICE OF THE ST. JOSEPH COUNTY RECORDER.

CLIENT: TOSCANA PLAZA
 LOCATION
 ACCOT REP: A. GERSTBAUER

DRAWING: 5114 SITE REV: 3
 DESIGNER: BSS
 DATE: 9/10/16

Customer Approval
 Date
 By signing this drawing, customer is acknowledging that all copy spellings, arrow directions and colors have been reviewed and are correct.



RECEIVED
DEBORAH S. BLOCK, MMC

OCT 29 2015

OCT 12 2015

CITY CLERK
MISHAWAKA, IN

October 9, 2015

Pet 1537

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

Re: PETITION TO REZONE

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

Beginning at a point Five Hundred Eighteen and Two Tenths (518.2) feet South of the Northwest Corner of Section Numbered Eleven (11), Township Thirty Seven (37) North Range Three (3) East; thence running East Two Hundred Thirty (230) feet to the place of beginning.

Subject to a Forty (40) foot road along the West side thereof, the center line of which is the West line of this tract, which is the North Fifty (50) feet of the track know as Acre Number Fifty (50) of Schindler's Proposed Subdivision of a part of Section Numbered Eleven (11) Township Thirty Seven (37) North, Range Three (3) East, excepting the East One Hundred Ninety Nine (199) feet thereof.

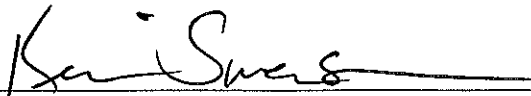
Commonly and referred to as: 2102 N. Byrkit, Mishawaka, IN 46545. The real property tax identification number is: 71-09-11-101-010.000-22 / 027-1001-0275.

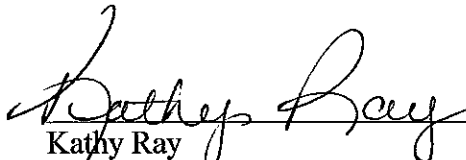
Petitioner owns (via a Land Contract Purchase) one hundred (100%) of the above described parcel of land which carries a zoning classification of C-4 District. Said property is being used as a single family residence.

Petitioner desires said real estate to be rezoned to R-1 District. Petitioner further states that they intend to utilize said land/structure to continue to be a single family residence.

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

Thank you for your consideration.


Kevin Swanson


Kathy Ray

CONTACT PERSON:

Kathy Ray
2102 N. Byrkit
Mishawaka, IN 46545
574-344-7575 (Cell)
574-255-2472 (Fax)
kathyray2012@aol.com

OCT 12 2015

October 9, 2015

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

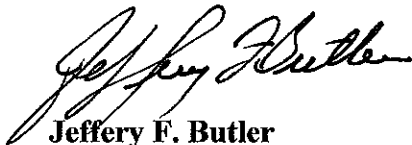
**Re: PETITION TO REZONE
2102 N. Byrkit Ave.
Mishawaka, IN 46545**

**LAND CONTRACT PURCHASERS
Kevin Swanson & Kathy Ray**

To Whom It May Concern:

Please be advised that I hereby give my consent for the Land Contract purchasers (listed above) of the above described property act on my behalf during the Petition To Rezone from C-4 to R-1.

If you have any questions, you may contact me.



**Jeffery F. Butler
1901 Peachtree Lane
South Bend, IN. 46617
574-254-0460 (Work)
jfbutler@earthlink.net**

OCT 23 2015

CITY CLERK
MISHAWAKA, IN

1st Reading 11-4-15
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2015-34

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2015

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

Section 1. An emergency exists which requires the transfer and reappropriation of funds within the budget for the Police Department in the General Fund adopted for the fiscal year ending December 31, 2015

Section 2. There is hereby transferred and reappropriated the sum of \$8,000.00 as follows:

General Fund

From: Police Department
Personal Services

101-20-411-02 Salaries and Wages \$ 8,000.00

Total \$ 8,000.00

To: Police Department
Supplies

101-20-422-01 Operating Supplies \$ 8,000.00

Total: \$ 8,000.00

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

PASSED BY THE COMMON COUNCIL of the City of Mishawaka,

Indiana, on this _____ day of _____, 2015 at _____ o'clock, ____ M.

Presiding Officer

ATTEST;

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor this _____ day of
_____, 2015 at _____ o'clock, _____ M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2015
at _____ o'clock, _____ M.

David A. Wood, Mayor



CITY OF MISHAWAKA



P.O. Box 902
200 N. Church St.
Mishawaka, IN 46544

Police Department

Kenneth L. Witkowski, Chief

David A. Wood, Mayor

November 4, 2015

RECEIVED
DEBORAH S. BLOCK MMC

OCT 26 2015

CITY CLERK
MISHAWAKA, IN

Mishawaka Common Council
Mayor David Wood
Rebecca Miller, Controller
Budget/Finance Committee

Dear Honorable Members:

An emergency exists which requires the transfer and re-appropriation of funds within the budget for the Police Department. No additional funds are needed at this time.

FROM:	101-20-411-02	Regular	TOTAL:	<u>\$8000.00</u>
				<u>\$8000.00</u>

TO:	101-20-422-01	Operating Supplies	TOTAL:	<u>\$8000.00</u>
				<u>\$8000.00</u>

If you have any questions, please feel free to contact me.

Respectfully,

Kenneth L. Witkowski
Chief, Mishawaka Police Department

KLW:dcs

EMERGENCY 911
FRONT DESK (574) 258-1678
DETECTIVE BUREAU (574) 258-1684
RECORDS (574) 258-1681

CHIEF (574) 258-1683
UNIFORM CHIEF (574) 258-1688
TRAFFIC DIVISION (574) 259-2966
FAX (574) 258-1690

OCT 29 2015

1st Reading 11-04-15
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2015-35

CITY CLERK
MISHAWAKA, IN

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2015

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

Section 1. An emergency exists which requires the transfer and reappropriation of funds within the Park and Recreation Department budget in the Park and Recreation Fund adopted for the fiscal year ending December 31, 2015

Section 2. There is hereby transferred and reappropriated the sum of \$197,000.00 as follows:

Park and Recreation Fund

From: Park and Recreation Department

Personal Services

204-50-411-02	Regular Employees	119,000.00
204-50-411-60	Overtime	30,000.00
204-50-413-03	PERF	15,000.00
204-50-413-04	Unemployment	5,000.00

Supplies

204-50-429-09	Miscellaneous Supplies	15,000.00
204-50-429-15	Program Supplies	5,000.00

Other Services and Charges

204-50-439-18	Instructor Fees	8,000.00
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Total	\$197,000.00
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To: Park and Recreation Department

Personal Services

204-50-413-05	Employee Insurance Benefits	67,000.00
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Supplies

204-50-422-02	Gas, Oil, etc.	5,000.00
204-50-429-21	Concessions	8,000.00

Other Services and Charges

204-50-435-01	MU/AEP Charges	100,000.00
204-50-436-90	Service Contracts	15,000.00
204-50-439-93	Sales Tax	<u>2,000.00</u>
Total		\$197,000.00

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

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

This _____ day of _____, 2015 at _____ o'clock, _____.M.

Presiding Officer

ATTEST;

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor this _____ day of

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

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2015

at _____ o'clock, _____.M.

David A. Wood, Mayor



CITY OF MISHAWAKA



DAVID A. WOOD, MAYOR

DEPARTMENT OF PARKS & RECREATION
TERRY ZELLER
Superintendent

Date: October 20, 2015
To: Mishawaka Common Council
From: Terry Zeller, Superintendent of Parks
Re: Transfer of Park Department Funds

Mr. President and Honorable Council Members:

This letter will provide background information for our request to transfer funds within the Parks and Recreation operating budget.

After examining the operating budget and estimated expenditures for through the end of the year for the Parks and Recreation Department, a total of **\$197,000.00** will need to be transferred into six specific lines. See below.

413.05	Employee Health Insurance		\$67,000.00
422.02	Gas, Oil, Etc.		\$5,000.00
429.21	Other Concessions		\$8,000.00
435.01	Utilities – MU		\$100,000.00
436.90	Service Contracts		\$15,000.00
439.93	Sales Tax		\$2,000.00
	TOTAL		\$197,000.00

In order to accommodate the transfer of additional funds into the above accounts, we have scrutinized our general fund accounts and determined the transfers can come from seven accounts. See Below:

411.02	Regular		\$119,000.00
411.60	Overtime		\$30,000.00
413.03	Perf		\$15,000.00
413.04	Unemployment		\$5,000.00
429.09	Misc. Supplies		\$15,000.00
429.15	Program Supplies		\$5,000.00
439.18	Instructor Pay		\$8,000.00
	TOTAL		\$197,000.00

Thank you for your consideration of this matter. Your approval will continue to allow the Parks and Recreation Department to operate efficiently and professionally to serve our customers and the City of Mishawaka. Should you have any questions, please do not hesitate to contact me either at the office (258-1664) or at home (259-8169).

Respectfully submitted,

Terry Zeller, Superintendent

cc: Honorable Mayor Dave Wood
Rebecca Miller, City Controller

TRANSFER OF PARK DEPARTMENT FUNDS SUPPORTING DOCUMENTATION

During our examination of the departmental expenditures, we estimate that **\$67,000.00** in additional funds will be needed in **"Employee Health Insurance" 204.50.413.05** to account for an increase in unforeseen costs.

Increase in line item in **"Gas, Oil, Etc." 204.50.422.02** by **\$5,000** to account for additional vehicles purchased.

There is also a need to increase our line item in **"Other Concessions" 204.50.429.21** by **\$8,000** to cover purchases of additional food items due to increased sales over expectations.

Increase in line item in **"Utilities – MU" 204.50.435.01** by **\$100,000** to cover higher rates.

Increase in line item in **"Service Contracts" 204.50.436.90** by **\$15,000** for unforeseen expenses.

Increase in line item in **"Sales Tax" 204.50.439.93** by **\$2,000** to cover unforeseen purchases.

With respect to the requested transfer, listed *below* are the account lines from which monies will be **dispersed**.

413.05	Employee Health Insurance		\$67,000.00
422.02	Gas, Oil, Etc.		\$5,000.00
429.21	Other Concessions		\$8,000.00
435.01	Utilities – MU		\$100,000.00
436.90	Service Contracts		\$15,000.00
439.93	Sales Tax		\$2,000.00
	TOTAL		\$197,000.00

With respect to the requested transfer of funds, listed *below* are the account lines into which monies will be **transferred**.

411.02	Regular		\$119,000.00
411.60	Overtime		\$30,000.00
413.03	Perf		\$15,000.00
413.04	Unemployment		\$5,000.00
429.09	Misc. Supplies		\$15,000.00
429.15	Program Supplies		\$5,000.00
439.18	Instructor Pay		\$8,000.00
	TOTAL		\$197,000.00

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 15 2015

CITY CLERK
MISHAWAKA, IN

1st Reading 10-19-15
2nd Reading
Passed
Failed
Continued To

PETITION 15-25

CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2015-27
ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 121, OF THE MUNICIPAL
CODE OF THE CITY OF MISHAWAKA, INDIANA, COMMONLY KNOWN AS "THE FLOOD CONTROL
ORDINANCE" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Federal Emergency Management Agency (FEMA) has required amendments to the City's Flood Control Ordinance for continuation in the National Flood Insurance Program;

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended favorably for the adoption of an amended Flood Control Ordinance as hereinafter described.

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

Section 1. Chapter 121 of the Municipal Code of the City of Mishawaka, commonly known as "The Flood Control Ordinance", shall be entirely deleted and replace with as follows:

Article 1. Statutory Authorization, Findings of Fact, Purpose, and Objectives.

Section A. Statutory Authorization.

The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the City of Mishawaka Common Council does hereby adopt the following floodplain management regulations.

Section B. Findings of Fact.

- (1) The flood hazard areas of the City of Mishawaka are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

Section C. Statement of Purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage.
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (6) Make federal flood insurance available for structures and their contents in the City by fulfilling the requirements of the National Flood Insurance Program.

Section D. Objectives.

The objectives of this ordinance are:

- (1) To protect human life and health.
- (2) To minimize expenditure of public money for costly flood control projects.
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

- (4) To minimize prolonged business interruptions.
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

Article 2. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)

Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

Accessory structure (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) means the elevation of the one-percent annual chance flood.

Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

Boundary River means the part of the Ohio River that forms the boundary between Kentucky and Indiana.

Boundary River Floodway means the floodway of a boundary river.

Building - see "Structure."

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

D Zone means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

Development means any man-made change to improved or unimproved real estate including but not limited to:

- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) mining, dredging, filling, grading, excavation, or drilling operations;
- (6) construction and/or reconstruction of bridges or culverts;
- (7) storage of materials; or
- (8) any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

Elevation Certificate is a certified statement that verifies a structure's elevation information.

Emergency Program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

Flood Prone Area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

Flood Protection Grade (FPG) is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain

management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

Floodproofing (dry floodproofing) is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

Floodway is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Fringe is those portions of the floodplain lying outside the floodway.

Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The City of Mishawaka Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structures means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

Letter of Map Amendment (LOMA) means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Letter of Map Revision Based on Fill (LOMR-F) means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest elevation described among the following:

- (1) The top of the lowest level of the structure.
- (2) The top of the basement floor.
- (3) The top of the garage floor, if the garage is the lowest level of the structure.
- (4) The top of the first floor of a structure elevated on pilings or pillars.
- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
 - c) such enclosed space shall be usable solely for the parking of vehicles and building access.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum (NGVD) of 1929 as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

Non-boundary river floodway means the floodway of any river or stream other than a boundary river.

North American Vertical Datum of 1988 (NAVD 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

Physical Map Revision (PMR) is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

Regular program means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of the City subject to inundation by the regulatory flood. The SFHAs of the City of Mishawaka are generally identified as such on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

Suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

Variance is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

Zone means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

Zone A (see definition for A zone)

Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in

participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

Article 3. General Provisions.

Section A. Lands to Which This Ordinance Applies.

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the City of Mishawaka.

Section B. Basis for Establishing Regulatory Flood Data.

This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the City of Mishawaka shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of St. Joseph County, Indiana and Incorporated Areas dated January 6, 2011 and the corresponding Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of St. Joseph County, delineated as an "A Zone" on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
- (3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
- (4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

Section C. Establishment of Floodplain Development Permit.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

Section D. Compliance.

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section F. Discrepancy between Mapped Floodplain and Actual Ground Elevations.

- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

Section G. Interpretation.

In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the governing body.
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section H. Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the City of Mishawaka, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

Section I. Penalties for Violation.

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the City of Mishawaka. All violations shall be punishable by a fine as prescribed by IC 36-1-3-8, may be amended from time to time.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.

- (2) The City of Mishawaka Common Council shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (3) Nothing herein shall prevent the City of Mishawaka from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Article 4. Administration.

Section A. Designation of Administrator.

The City of Mishawaka Common Council hereby appoints the City Planner or his designated representative to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

Section B. Permit Procedures.

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(1) Application Stage.

- a) A description of the proposed development.
- b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
- c) A legal description of the property site.
- d) A site development plan showing existing and proposed development locations and existing and proposed land grades.
- e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
- f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
- g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Article 4, Section C. (6) for additional information.)

(2) Finished Construction.

Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

Section C. Duties and Responsibilities of the Floodplain Administrator.

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

- (1) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.
- (2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
- (3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section E and G (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- (4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.
- (5) Maintain and track permit records involving additions and improvements to residences located in the floodway.
- (6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- (7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.
- (8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (10) Review certified plans and specifications for compliance.
- (11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4 Section B.
- (12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.

Article 5. Provisions for Flood Hazard Reduction.

Section A. General Standards.

In all SFHAs and known flood prone areas the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.

Section B. Specific Standards.

In all SFHAs, the following provisions are required:

- (1) In addition to the requirements of Article 5, Section A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - a) Construction or placement of any structure having a floor area greater than 400 square feet.
 - b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
 - c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
 - d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.
 - e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

- (2) **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4).
- (3) **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:
- a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in Article 4, Section C (12).
 - b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- (4) **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

- a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 - b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
 - c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 - e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 - f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
- (5) **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:
- a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
 - b) The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.

- c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
 - d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 - e) The top of the lowest floor including basements shall be at or above the FPG.
- (6) **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
- a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:
 - (i) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
 - b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
 - (i) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
 - c) Recreational vehicles placed on a site shall either:
 - (i) be on site for less than 180 days;
 - (ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - (iii) meet the requirements for "manufactured homes" as stated earlier in this section.
- (7) **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:
- a) Shall not be used for human habitation.
 - b) Shall be constructed of flood resistant materials.

- c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
 - d) Shall be firmly anchored to prevent flotation.
 - e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
 - f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
- (8) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

Section C. Standards for Subdivision Proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

Section D. Critical Facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

Section E. Standards for Identified Floodways.

Located within SFHAs, established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the City shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

Section F. Standards for Identified Fringe.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Article 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

Section G. Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.

- (1) Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Article 5 of this ordinance have been met.

- (2) Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met.

- (3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.

Section H. Standards for Flood Prone Areas.

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Article 5.

Article 6. Variance Procedures.

Section A. Designation of Variance and Appeals Board.

The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

Section B. Duties of Variance and Appeals Board.

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the St. Joseph County Circuit or Superior Court.

Section C. Variance Procedures.

In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

- (1) The danger of life and property due to flooding or erosion damage.
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (3) The importance of the services provided by the proposed facility to the community.
- (4) The necessity of the facility to a waterfront location, where applicable.
- (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (6) The compatibility of the proposed use with existing and anticipated development,
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- (10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Section D. Conditions for Variances.

- (1) Variances shall only be issued when there is:
 - a) A showing of good and sufficient cause.
 - b) A determination that failure to grant the variance would result in exceptional hardship.
 - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (2) No variance for a residential use within a floodway subject to Article 5, Section E or Section G (1) of this ordinance may be granted.
- (3) Any variance granted in a floodway subject to Article 5, Section E or Section G (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.
- (4) Variances to the Provisions for Flood Hazard Reduction of Article 5, Section B, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Article 6, Section E).
- (8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Article 6, Section E).

Section E. Variance Notification.

Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

- (1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
- (2) Such construction below the flood protection grade increases risks to life and property.

The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

Section F. Historic Structure.

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

Section G. Special Conditions.

Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

Article 7. Severability.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Article 8. Effective Date.

This ordinance shall be in full force and effect on _____.

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

OCT 15 2015

CITY CLERK
MISHAWAKA, IN

1st Reading 10-19-15
2nd Reading
Passed
Failed
Continued To

PETITION #15-26

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. **2015-28**

ORDINANCE NO. _____

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

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

A parcel of land being a part of the East Half (1/2) of the Southeast Quarter (1/4) of Section 21, Township 38 North, Range 3 East, Clay Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southeast corner of said East Half (1/2) of the Southeast Quarter (1/4); thence North 0 degrees 00 minutes 00 seconds East (bearing assumed) along the East line of said East Half (1/2), a distance of 1319.98 feet; thence north 89 degrees 45 minutes 20 seconds West, a distance of 541.47 feet; thence North 89 degrees 47 minutes 45 seconds West, a distance of 521.96 feet to the place of beginning also being the Northeast corner of Lot Numbered Five (5) in the Unrecorded Plat of Bauer and Geissler's Plat; thence South 0 degrees 01 minutes 21 seconds West along the East line of said Lot Numbered Five (5), a distance of 661.27 feet; thence North 89 degrees 59 minutes 13 seconds West, a distance of 256.57 feet to the West line of said Lot 5; thence North 0 degrees 06 minutes 03 seconds East along said West line, a distance of 662.37 feet to the Northwest corner of said Lot Numbered Five (5); thence South 89 degrees 44 minutes 26 seconds East along the North line of said Lot Numbered Five (5), a distance of 255.67 feet to the place of beginning. Also containing:

A parcel of land being a part of the East half of the Southwest Quarter of Section 21, Township 38 North, Range 3 East, Clay Township, St. Joseph County, Indiana and being more particularly described as follows:

Ordinance No. _____

Commencing at the Southeast corner of said East half; thence North 0-00'-00" East (bearing assumed) along the East line of said East half, a measured distance of 1319.96 to an iron pipe found in place; thence North 89-45'-20" West along the North line of Proposed Lots 1 and 2 and its projection on the Bauer and Geissler's Plat (unrecorded), a measured distance of 541.47 feet to an iron pipe found in place also being the Northwest corner of said Lot 2 being the point of beginning for this description; thence South 0-01'-50" West along the West line of said Lot 2, a measured distance of 659.24 feet to an iron found in place also being the South line of the North half of Lot 3 in said Plat; thence North 89-56'-58" West along said South line, a measured distance of 261.08 feet to an iron found in place also being the West line of said Lot 3; thence North 89-59'-13" West along the South line of the North half of Lot 4 in said Plat, a measured distance of 260.79 feet to an iron found in place also being the West line of said Lot 4; thence North 0-01'-21" East along said West line, a measured distance of 661.27 feet to an iron found in place also being the Northwest corner of said Lot 4; thence North 89-41'-02" West along the North line of Lot 5 in said Plat, a measured distance of 255.63 to an iron pipe found in place on the West line of East half of the Southeast Quarter of said Section 21, also being the East line of Countryside Estates Section 2 as shown on the recorded plat in the Office of the Recorder of St. Joseph County, Indiana as Plat Book 30, Page C-2; thence North 0-06'-03" East along said East line of Countryside Estates Section 2 and also along the East line of Countryside Estates Section 1 as shown on the recorded plat in the Office of the Recorder of St. Joseph County, Indiana as Plat Book 29, Page C this also includes the East line of Hamilton Street as shown on said Plat, a measured distance of 993.70 feet to an iron pipe found in place marking the Northwest corner of Lot 12 in said Bauer and Geissler's Plat (unrecorded); thence South 89-37'-54" East along the North line of said Lot 12, a measured distance of 255.12 feet to an iron pipe set also being the Northeast corner of said Lot 12; thence South 0-04'-15" West along the East line of said Lot 12, a measured distance of 331.56 feet to an iron pipe set also being the Southeast corner of said Lot 12; thence South 89-38'-54" East along the North line of Lot 9 on said Plat, a measured distance of 260.76 feet to an iron pipe found in place also being the Northeast corner of said Lot 9; thence South 0-04'-56" West along the East line of said Lot 9, a measured distance of 330.62 feet to an iron pipe set also being the North line of the South half of Lot 8 on said Plat; thence South 89-43'-24" East along said North line a measure distance of 260.87 feet to an iron pipe found in place also being the East line of said Lot 8; thence South 0-01'-56" West along said East line, a measured distance of 330.29 feet to the place of beginning containing 21.66 acres more or less. Subject to any easements, covenants, or restrictions of record.

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of S-2 Planned Unit Development to allow for the existing well field and future redevelopment uses that include commercial, multi-family residential, assisted living and nursing homes. This approval is subject to the conditions in attached Exhibit "A".

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

1. Existing Conditions - The subject parcel is located northwest of Gumwood Road and S.R. 23, both heavily traveled corridors. The site is located immediately across the street from existing similar multi-residential and

Proposed Ordinance No. 2015-28

Ordinance No. _____

commercial developments, and is separated by the Grandview Planned Unit Development, of which this parcel over time will serve as a likely extension of it.

2. Character of Buildings in Area - The character of many of the buildings located along Gumwood Road and S.R. 23 are commercial. The buildings north and west of the proposed site are predominantly residential, making the proposed transitional multi-family residential uses on the north side of the PUD property appropriate.
3. The most desirable/highest and best use - Because of the parcels' location and the significant commercial development along the Main Street/Gumwood Road corridor, combined with the surrounding single family residential subdivisions, makes the most desirable use for the property a mix of commercial and transitional office and residential uses. Although there are adjacent single family residential properties to the north and west, the lack of any current internal road connection combined with required presence of City utilities, rather than the adjacent septic and well systems associated with the existing residential developments, warrants a higher more intense uses than single family residential.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area, because the proposed/required blend of uses transitions the proposed uses from higher to lower intensities where the development is adjacent to existing neighborhoods. Furthermore, if approved, the adjacent residential parcels would be protected by the series of conditions placed on the planned unit development. These conditions include among other significant restrictions as requiring substantial screening and landscape "green" buffer yards between uses.
5. Comprehensive Plan - Although this specific property was not guided in the Mishawaka 2000 plan, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The Plan, created in 1990, guided general commercial uses along the Main Street (Gumwood Road extended) Corridor. The continued change and expansion of the commercial areas of the City are proportionate to the substantial residential growth that occurred in an almost uncontrolled manner in the unincorporated County from the time of adoption of the Mishawaka 2000 Comprehensive Plan in the early 1990's.

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

Proposed Ordinance No. 2015-28

Ordinance No. _____

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

**PETITION #15-26
EXHIBIT "A"**

**City of Mishawaka North Well Field
Northwest Gumwood & S.R. 23 Conditions of Approval**

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each final planned unit development plan submission. A Traffic Impact Study may be required as determined by the City Director of Engineering. All traffic/transportation improvements required for this property (including but not limited to Gumwood Road and State Road 23) shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering, subject to modification by any potential development agreement with the City should one or more be established.
 - a. The primary access for the property is intended to be routed through what has been approved as the Grandview Planned Unit Development. Any modifications shall be limited as determined appropriate by the City Director of Engineering and the applicable road authority/jurisdictions.
 - b. All improvements required shall be paid for by the developer and shall be identified as part of the phasing plan for the project.

Proposed Uses:

1. Municipal well fields shall be considered a permitted use over the entire property. Commercial uses shall be limited to those identified within the C-1 General Commercial and C-2 Shopping Center Commercial zoning districts. Commercial uses shall be limited to the south half of the property. Multi-Family Residential uses along with assisted living and nursing home uses may be allowed. However, no commercial uses shall be located on the north half of the property adjacent to the existing single-family residential development to the north. Multi-Family Residential uses, assisted living, and nursing home uses shall be permitted on the entire PUD, potentially to act as a transitional use between the existing single-family residential uses and the proposed commercial uses to the south located on the Grandview Planned Unit Development.
2. Off-premise signs/billboards shall be prohibited.
3. Outside storage and display shall be prohibited.
4. All loading docks, dumpsters, ATM machines, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Road connections:

1. The City has not made a determination on whether or not the stub streets from the adjacent subdivisions shall be extended or connected over time. An appropriate connection and or turn-a-round on the property shall be provided within any proposed redevelopment project.
2. Access and utility easements shall be dedicated to adjacent properties, where deemed appropriate by the City Director of Engineering.

Stormwater run-off:

1. The type of stormwater facilities proposed within the PUD shall be limited/restricted as required by City well-head protection standards and as may be directed by the City Director of Engineering based on the close proximity of the City Well Field. The purpose is to limit potential groundwater infiltration in that area.
2. An emergency overflow outlet for proposed retention ponds into City storm sewers may be provided by the City if deemed appropriate by the City Director of Engineering.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. Shielding of lighting shall be required in the areas to the rear of buildings adjacent to (in sight of) residential areas.

Signage:

1. Signage shall be limited to what is permitted in the on-premise sign ordinance by the proposed use. A sign easement will be provided to this property from the Grandview PUD to be located along Gumwood Road. The required location is at the proposed entrance opposite Heritage Square Drive. This sign shall be subject limited to a maximum of 60 square feet with a maximum length not exceeding 12 feet.
 - a) Signs shall be located a minimum of 200 feet apart from one another (including the sign easement) except that signs may be located closer where an entrance drive is located between them.
2. All freestanding signs shall have a masonry base.
3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

4. Seasonal banners and general development identification banners may be allowed for decorative and parking lot light poles throughout the property.
5. Temporary Construction fence coverings which may include information about the project, elevations, renderings, slogans, logos and coming soon info may be allowed.
6. Directory Kiosks placed strategically around the center to help customers locate businesses with a directory map of the development and advertising for retailers and other businesses may be allowed.
7. Freestanding sandwich boards may be placed internally in the development, but shall not be placed where readable from SR 23 or Gumwood Road.

Landscaping:

1. Development of the property shall comply with the landscape requirements of the C-1 General Commercial zoning district.
2. Utility areas shall be provided separate from required landscaped areas. If utilities are located within the required green areas, an additional 10 feet of green area shall be required for planting.
3. A 2-foot high earth mounding planted with evergreen trees, minimum 8' height, spaced 10' to 12' max along with a 6' minimum height opaque fence shall be provided along the west property lines abutting existing residential property.
4. If decorative ponds with fountains are proposed along public roadways, the landscaping requirement shall be reduced to eliminate the need for the 2' berm and shrubbery/low planting between the road and building/parking areas and where the normal water elevation of the pond is located
5. All developments within the PUD, including the multi-family residential development, shall comply with the landscape requirements of the C-1 General Commercial zoning district. This shall be in addition to any required buffer planting.
6. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission. Phasing of installation shall occur concurrent with development, except that the Planning Commission may require the installation of screening and buffering along property lines prior to when adjacent developments are proposed when deemed necessary/appropriate.

Parking:

1. A minimum of (1.5) parking spaces per residential unit shall be provided for the multi-family residential use. Parking ratio may be reduced to a minimum of (1.25) per residential units for one bedroom apartments only. Garages, parking lots, and on-street

parking may be utilized for required parking.

2. A minimum of (0.75) parking spaces per bed shall be provided for assisted living and nursing home uses.
3. All other uses shall comply with the corresponding parking requirements as identified in the City of Mishawaka Zoning Ordinance.

Building/Parking Setbacks

1. A minimum 25' building setback shall be provided along the north, south, and east property lines where the property abuts the Grandview Planned unit Development.
2. A minimum 10' parking setback shall be provided along the north, south, and east property lines where the property abuts the Grandview Planned unit Development.
3. A minimum 35-ft building and parking setback shall be provided along the west and north property lines abutting existing single family residential property.
4. A minimum 10' building and parking setback shall be provided along internal roads and between property lines within the Planned Unit Development, however, a 0' parking setbacks may be allowed to provide for shared parking bays at various locations within the development as deemed appropriate by the Planning Commission upon review as part of each subsequent final planned unit development site plan submission.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first final planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

SEP 30 2015

CITY CLERK
MISHAWAKA, IN

SEP 23 2015

DATE: September 23, 2015

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

Pet 15-26

RE: **PETITION FOR ANNEXATION AND ZONING CLASSIFICATION**

The undersigned petitioner, Mishawaka Utilities, acting by and through its Mishawaka Utility Board, respectfully shows that the undersigned is the owner of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

A parcel of land being a part of the East Half (1/2) of the Southeast Quarter (1/4) of Section 21, Township 38 North, Range 3 East, Clay Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southeast corner of said East Half (1/2) of the Southeast Quarter (1/4); thence North 0 degrees 00 minutes 00 seconds East (bearing assumed) along the East line of said East Half (1/2), a distance of 1319.98 feet; thence north 89 degrees 45 minutes 20 seconds West, a distance of 541.47 feet; thence North 89 degrees 47 minutes 45 seconds West, a distance of 521.96 feet to the place of beginning also being the Northeast corner of Lot Numbered Five (5) in the Unrecorded Plat of Bauer and Geissler's Plat; thence South 0 degrees 01 minutes 21 seconds West along the East line of said Lot Numbered Five (5), a distance of 661.27 feet; thence North 89 degrees 59 minutes 13 seconds West, a distance of 256.57 feet to the West line of said Lot 5; thence North 0 degrees 06 minutes 03 seconds East along said West line, a distance of 662.37 feet to the Northwest corner of said Lot Numbered Five (5); thence South 89 degrees 44 minutes 26 seconds East along the North line of said Lot Numbered Five (5), a distance of 255.67 feet to the place of beginning.

Also containing:

A parcel of land being a part of the East half of the Southwest Quarter of Section 21, Township 38 North, Range 3 East, Clay Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southeast corner of said East half; thence North 0-00'-00" East (bearing assumed) along the East line of said East half, a measured distance of 1319.96 to an iron pipe found in place; thence North 89-45'-20" West along the North line of Proposed Lots 1 and 2 and its projection on the Bauer and Geissler's Plat (unrecorded), a measured distance of 541.47 feet to an iron pipe found in place also being the Northwest corner of said Lot 2 being the point of beginning for this description; thence South 0-01'-50" West along the West line of said Lot 2, a measured distance of 659.24 feet to an iron found in place also

being the South line of the North half of Lot 3 in said Plat; thence North 89-56'-58" West along said South line, a measured distance of 261.08 feet to an iron found in place also being the West line of said Lot 3; thence North 89-59'-13" West along the South line of the North half of Lot 4 in said Plat, a measured distance of 260.79 feet to an iron found in place also being the West line of said Lot 4; thence North 0-01'-21" East along said West line, a measured distance of 661.27 feet to an iron found in place also being the Northwest corner of said Lot 4; thence North 89-41'-02" West along the North line of Lot 5 in said Plat, a measured distance of 255.63 feet to an iron pipe found in place on the West line of East half of the Southeast Quarter of said Section 21, also being the East line of Countryside Estates Section 2 as shown on the recorded plat in the Office of the Recorder of St. Joseph County, Indiana as Plat Book 30, Page C-2; thence North 0-06'-03" East along said East line of Countryside Estates Section 2 and also along the East line of Countryside Estates Section 1 as shown on the recorded plat in the Office of the Recorder of St. Joseph County, Indiana as Plat Book 29, Page C this also includes the East line of Hamilton Street as shown on said Plat, a measured distance of 993.70 feet to an iron pipe found in place marking the Northwest corner of Lot 12 in said Bauer and Geissler's Plat (unrecorded); thence South 89-37'-54" East along the North line of said Lot 12, a measured distance of 255.12 feet to an iron pipe set also being the Northeast corner of said Lot 12; thence South 0-04'-15" West along the East line of said Lot 12, a measured distance of 331.56 feet to an iron pipe set also being the Southeast corner of said Lot 12; thence South 89-38'-54" East along the North line of Lot 9 on said Plat, a measured distance of 260.76 feet to an iron pipe found in place also being the Northeast corner of said Lot 9; thence South 0-04'-56" West along the East line of said Lot 9, a measured distance of 330.62 feet to an iron pipe set also being the North line of the South half of Lot 8 on said Plat; thence South 89-43'-24" East along said North line a measure distance of 260.87 feet to an iron pipe found in place also being the East line of said Lot 8; thence South 0-01'-56" West along said East line, a measured distance of 330.29 feet to the place of beginning containing 21.66 acres more or less.

Petitioner owns One Hundred (100%) percent of the above described land, excluding any right-of-way bordering or running through said land, and is located within a part of the East Half (1/2) of the Southeast Quarter (1/4) of Section 21, Township 38 North, Range 3 East, Clay Township, St. Joseph County, Indiana, and that the Petitioner desires the same to be annexed to the City of Mishawaka, Indiana, with an "S-2" Planned Unit Development District zoning classification desired. Petitioner further states the intended use of said land will be for the City of Mishawaka, short term and for possible mixed-use multi-family residential and commercial development compatible with the surrounding current and planned uses.

Accompanying this petition is a location map showing the above-described real estate.

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

Wherefore, Petitioner prays and respectfully requests that the Mishawaka City Plan Commission hold a public hearing and that after hearing, make a favorable recommendation to the Common Council of the City of Mishawaka that an appropriate ordinance be enacted annexing the above

described parcels of real estate to the City of Mishawaka with an "S-2" Planned Unit Development District zoning classification.

PETITIONER:

MISHAWAKA UTILITIES



Lawrence J. Meteiver, City Attorney

CONTACT PERSON:

Lawrence J. Meteiver
Mishawaka City Attorney
600 E. Third Street
Mishawaka, Indiana 46544
(574) 258-1637
lmeteiver@mishawaka.in.gov

1st Reading 10-19-15
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK MMC

OCT 15 2015

CITY CLERK
MISHAWAKA, IN

PETITION #15-27

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2015-29

ORDINANCE NO. _____

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

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

A PART OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE WEST ALONG THE NORTH LINE OF SAID SECTION AND THE CENTERLINE OF DOUGLAS ROAD A DISTANCE OF 40.00 FEET MORE OR LESS; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 34 A DISTANCE OF 40.00 FEET MORE OR LESS TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING SOUTH PARALLEL TO SAID EAST LINE A DISTANCE OF 115.05 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 220.00 FEET MORE OR LESS; THENCE NORTH 115.05 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF DOUGLAS ROAD; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 220.00 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 0.58 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS, AND RESTRICTIONS OF RECORD, AND BEING LOCATED APPROXIMATELY 350 FEET EAST OF THE SOUTHEAST CORNER OF DOUGLAS ROAD AND FIR ROAD.

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

1. Existing Conditions - Although the area was platted and developed decades ago with a tract of single family homes, the subject parcel is located at the intersection of two arterial roadways within an area that continues to develop

Proposed Ordinance No. 2015-29

Ordinance No. _____

with commercial uses. Traffic is intended to increase along both corridors. A convenience store has been proposed for the opposite (northwest) corner of the intersection.

2. Character of Buildings – The character of the buildings within the surrounding area is single family residential, but the area continues to redevelop for commercial purposes.
3. The most desirable/highest and best use – Because of the parcels' location and the existing commercial development along the Douglas and Fir Road corridors, the most desirable use for the property is commercial. Although there are surrounding residential properties, the increasing traffic along the corridors, makes the long term use of these properties undesirable for residential purposes.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding neighborhood, because higher impact commercial uses already exist in close proximity to annexation area.
5. Comprehensive Plan - The properties on the east side of Fir Road are guided by the Comprehensive Plan amendment performed jointly by the City and St. Joseph County that was adopted in 2003. At the time, a conscious decision was made not to guide existing developed properties such as these. The large open undeveloped area behind this parcel to the south and east (with no frontage on Douglas and Fir Roads) was guided as a future professional office park. Given the location of this parcel at the intersection of two arterial roadways, although not guided by the Capital Avenue Plan, the redevelopment of these "frontage properties" was inevitable and will likely be determined by the market in a piece meal fashion. The hospital and other commercial developments has altered developmental patterns from what once was a desirable location for residential development to more intensive commercial growth. Residential development is no longer desirable within this area and comprehensive plans must be reevaluated as development trends change over the years.

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

Proposed Ordinance No. 2015-29

Ordinance No. _____

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

SEP 23 2015

DATE: September 17, 2015

Pet 15-27

TO THE: HONORABLE MEMBERS OF THE COMMON COUNCIL
CITY OF MISHAWAKA, INDIANA

RECEIVED
DEBORAH S. BLOCK, MMC

RE: PETITION FOR ANNEXATION & REZONING FOR:

SEP 30 2015

SEC INVESTMENTS LLC
4715 LINCOLNWAY EAST
MISHAWAKA, INDIANA 46544

CITY CLERK
MISHAWAKA, IN

THE UNDERSIGNED, RESPECTFULLY SHOW THAT THEY ARE THE OWNERS OF THE FOLLOWING DESCRIBED REAL ESTATE LOCATED IN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA:

ANNEXATION AND REZONING LEGAL DESCRIPTION:

A PART OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE WEST ALONG THE NORTH LINE OF SAID SECTION AND THE CENTERLINE OF DOUGLAS ROAD A DISTANCE OF 40.00 FEET MORE OR LESS; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 34 A DISTANCE OF 40.00 FEET MORE OR LESS TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING SOUTH PARALLEL TO SAID EAST LINE A DISTANCE OF 115.05 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 220.00 FEET MORE OR LESS; THENCE NORTH 115.05 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF DOUGLAS ROAD; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 220.00 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 0.58 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS, AND RESTRICTIONS OF RECORD, AND BEING LOCATED APPROXIMATELY 350 FEET EAST OF THE SOUTHEAST CORNER OF DOUGLAS ROAD AND FIR ROAD.

THE ABOVE DESCRIBED PARCEL OF LAND IS PRESENTLY ZONED "R" SINGLE FAMILY DISTRICT IN THE UNINCORPORATED COUNTY.

PETITIONERS DESIRE TO ANNEX AND REZONE THE REAL ESTATE DESCRIBED ABOVE TO THE "C-1" COMMERCIAL DISTRICT CLASSIFICATION. THE PURPOSE FOR THE ANNEXATION AND REZONING IS TO ALLOW FOR A FUTURE RETAIL USES ALLOWED WITHIN THE "C-1" COMMERCIAL DISTRICT.

WHEREFORE, THE PETITIONERS PRAY AND RESPECTFULLY REQUEST THAT THE COMMON COUNCIL OF THE CITY OF MISHAWAKA REFER THIS MATTER TO THE MISHAWAKA CITY PLAN COMMISSION AND THAT AFTER HEARING, AN APPROPRIATE

ORDINANCE BE ENACTED ANNEXATING AND REZONING THE ABOVE DESCRIBED
PARCEL OF REAL ESTATE LOCATED IN THE CITY OF MISHAWAKA.



FOR SEC INVESTMENTS LLC
4715 LINCONWAY EAST
MISHAWAKA, INDIANA 46544
(574) 255-8463

CONTACT PERSON:

MICHAEL DANCH
DANCH, HARNER & ASSOCIATES, INC.
1643 COMMERCE DRIVE
SOUTH BEND, INDIANA 46628
(574) 234-4003.

PARCEL ANNEXATION AND REZONING LEGAL DESCRIPTION:

A PART OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE WEST ALONG THE NORTH LINE OF SAID SECTION AND THE CENTERLINE OF DOUGLAS ROAD A DISTANCE OF 40.00 FEET MORE OR LESS; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 34 A DISTANCE OF 40.00 FEET MORE OR LESS TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING SOUTH PARALLEL TO SAID EAST LINE A DISTANCE OF 115.05 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 220.00 FEET MORE OR LESS; THENCE NORTH 115.05 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF DOUGLAS ROAD; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 220.00 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 0.58 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS, AND RESTRICTIONS OF RECORD, AND BEING LOCATED APPROXIMATELY 350 FEET EAST OF THE SOUTHEAST CORNER OF DOUGLAS ROAD AND FIR ROAD.

SEP 23 2015

Honorable Members of the Common Council
and Plan Commission of the City of Mishawaka , Indiana
300 East Third Street
Mishawaka, Indiana 46545

September 17, 2015

RE: Annexation & Rezoning Petition for
SEC Investments, Inc. for property located approximately 350 feet
East of the Southeast corner of Douglas Road & Fir Road,
Mishawaka, Indiana:

Dear Council Members:

Please accept this written letter as confirmation that we have authorized Danch, Harner & Associates, Inc. to represent us at all required public hearings at which our Annexation and Rezoning Petition will be heard.

If you have any questions concerning this matter, please feel free to give me a call at 255-8463.

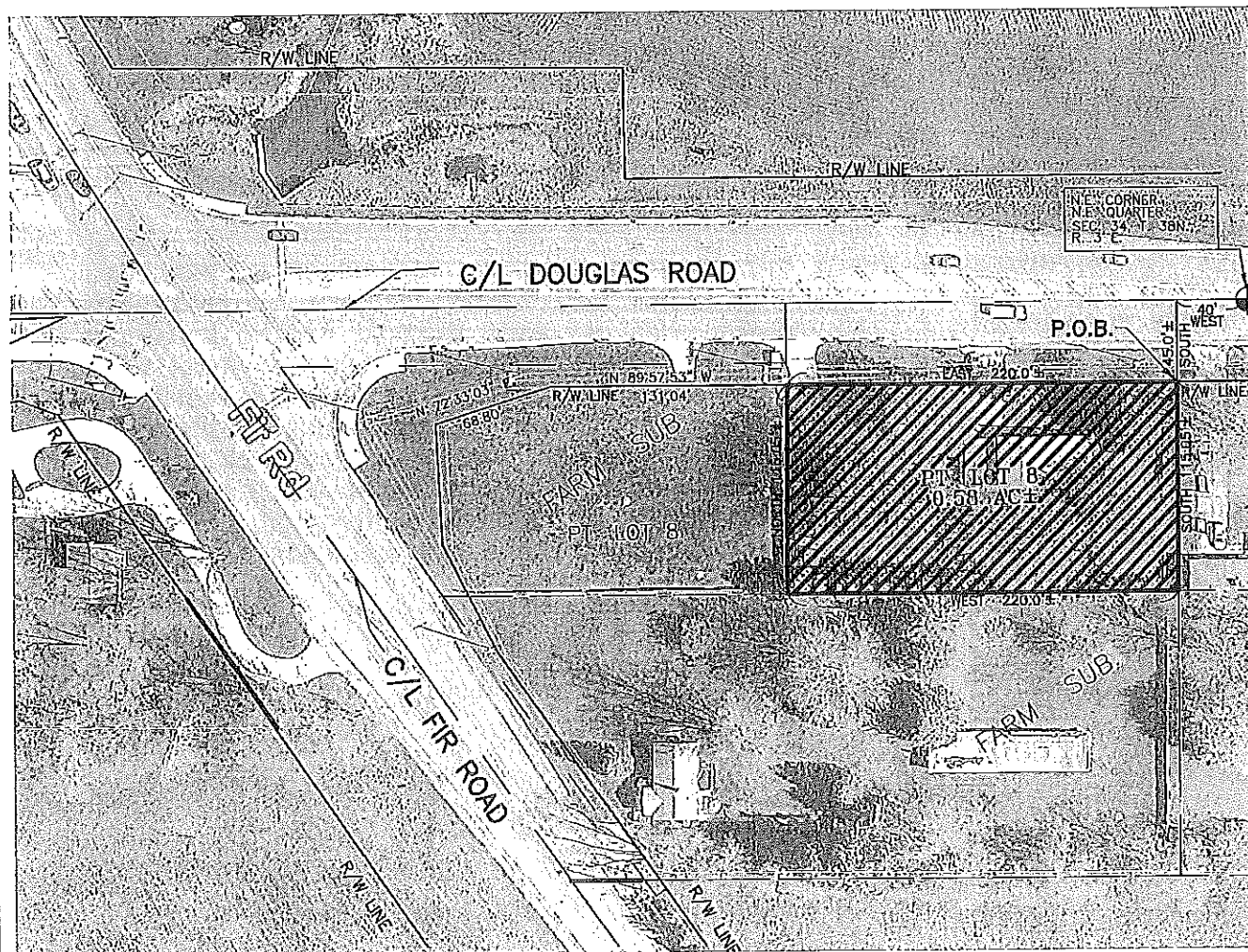
Sincerely,

A handwritten signature in black ink, appearing to read "Steve Murphy", is written over the word "Sincerely,".

Steve Murphy
For SEC Investments, LLC
4715 Lincolnway East
Mishawaka, Indiana 46544

File No. 150214 "C" Md.

ANNEXATION DIAGRAM



150214
9/18/15

pet 15-27

1st Reading 10-19-15
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 15 2015

CITY CLERK
MISHAWAKA, IN

PETITION 15-28

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2015-30

ORDINANCE NO. _____

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

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

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

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

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

A PART OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: COMMENCING AT THE INTERSECTION OF EDISON ROAD AND HICKORY ROAD; THENCE NORTH 90°00'00" EAST A DISTANCE OF 51.89 FEET MORE OR LESS; THENCE NORTH 00°00'00" EAST A DISTANCE OF 40.00 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF EDISON ROAD; THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF HICKORY ROAD FOR THE NEXT FIVE (5) COURSES, NORTH 40°00'00" WEST A DISTANCE OF 18.50 FEET MORE OR LESS AND NORTH 00°00'00" WEST A DISTANCE OF 18.40 FEET MORE OR LESS AND AROUND A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 231.50 FEET MORE OR LESS AND NORTH 20°22'07" WEST A DISTANCE OF 112.50 FEET MORE OR LESS AND AROUND A CURVE TO THE RIGHT WITH AN ARC LENGTH OF 23.92 FEET MORE OR LESS; THENCE NORTH 88°50'37" EAST A DISTANCE OF 316.40 FEET MORE OR LESS; THENCE SOUTH 00°00'00" EAST A DISTANCE OF 393.00 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF EDISON ROAD; THENCE NORTH 90°00'00" WEST ALONG SAID NORTH LINE A DISTANCE OF 217.20 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 2.30 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: Northeast Corner of Hickory and Edison Roads

Proposed Ordinance No: 2015-30

Ordinance No: _____

which real estate is now classified as C-1 General Commercial and C-4 Automobile Oriented Commercial shall hereafter be within and a part of that District known as C-10 Filling Station 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. Existing Conditions - The subject parcel is located at the intersection of two arterial roadways within an area that has long been developed with commercial uses. Traffic is likely to increase along both corridors. The other corners of this intersection have been developed as commercial both within the City of Mishawaka and the City of South Bend.
2. Character of Buildings - The character of the buildings in the area are predominantly commercial.
3. The most desirable/highest and best use - Because of the parcels' location and the existing commercial development along Hickory and Edison Roads, the most desirable use for the property is commercial.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding neighborhood, because higher impact commercial uses already exist in close proximity to annexation area.
5. Comprehensive Plan - The Comprehensive Plan, created in 1990, guided general commercial development within this area. The proposal is generally consistent with 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, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: 2015-30

Ordinance No: _____

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

SEP 30 2015

Date: September 8, 2015

CITY CLERK

To The: Honorable Members of the
Common Council of the
City of Mishawaka, Indiana

MISHAWAKA, IN

SEP 23 2015

RE: Donald & Patricia Cressy Foundation
Petition for Rezoning:

Ret 15-28

The undersigned, respectfully show that they are the owners of the following described real estate located in the City of Mishawaka, St. Joseph County, Indiana:

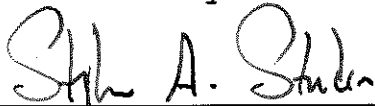
A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: COMMENCING AT THE INTERSECTION OF EDISON ROAD AND HICKORY ROAD; THENCE NORTH 90°00'00" EAST A DISTANCE OF 51.89 MOR OR LESS; THENCE NORTH 00°00'00" EAST A DISTANCE OF 40.00 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF EDISON ROAD; THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF HICKORY ROAD FOR THE NEXT FIVE (5) COURSES, NORTH 40°00'00" WEST A DISTANCE OF 18.50 FEET MORE OR LESS AND NORTH 00°00'00" WEST A DISTANCE OF 18.40 FEET MORE OR LESS AND AROUND A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 231.50 FEET MORE OR LESS AND NORTH 20°22'07" WEST A DISTANCE OF 112.50 FEET MORE OR LESS AND AROUND A CURVE TO THE RIGHT WITH AN ARC LENGTH OF 23.93 FEET MORE OR LESS; THENCE NORTH 88°50'37" EAST A DISTANCE OF 316.40 FEET MORE OR LESS; THENCE SOUTH 00°00'00" EAST A DISTANCE OF 393.00 MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF EDISION ROAD; THENCE NORTH 90°00'00" WEST ALONG SAID NORTH LINE A DISTANCE OF 217.20 FEET MORE OR LESS TO THE POINT OF BEGINNING.
CONTAINING 2.30 ACRES MORE OR LESS.
SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

Also commonly known as the Northeast corner of Edison Road and Hickory Road, Mishawaka, Indiana 46545.

The above described parcel of land is presently zoned "C-1" Commercial District.

The Petitioners desire said real estate, to be rezoned to the "C-10" Commercial District classification. The purpose for the rezoning is to allow for the real estate to be purchased by an interested party who desires to build a convenience store with gas pumps and a carwash facility on the site.

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



Stephen A. Studer-Attorney for the
Donald & Patricia Cressy Foundation
(574) 277-1207

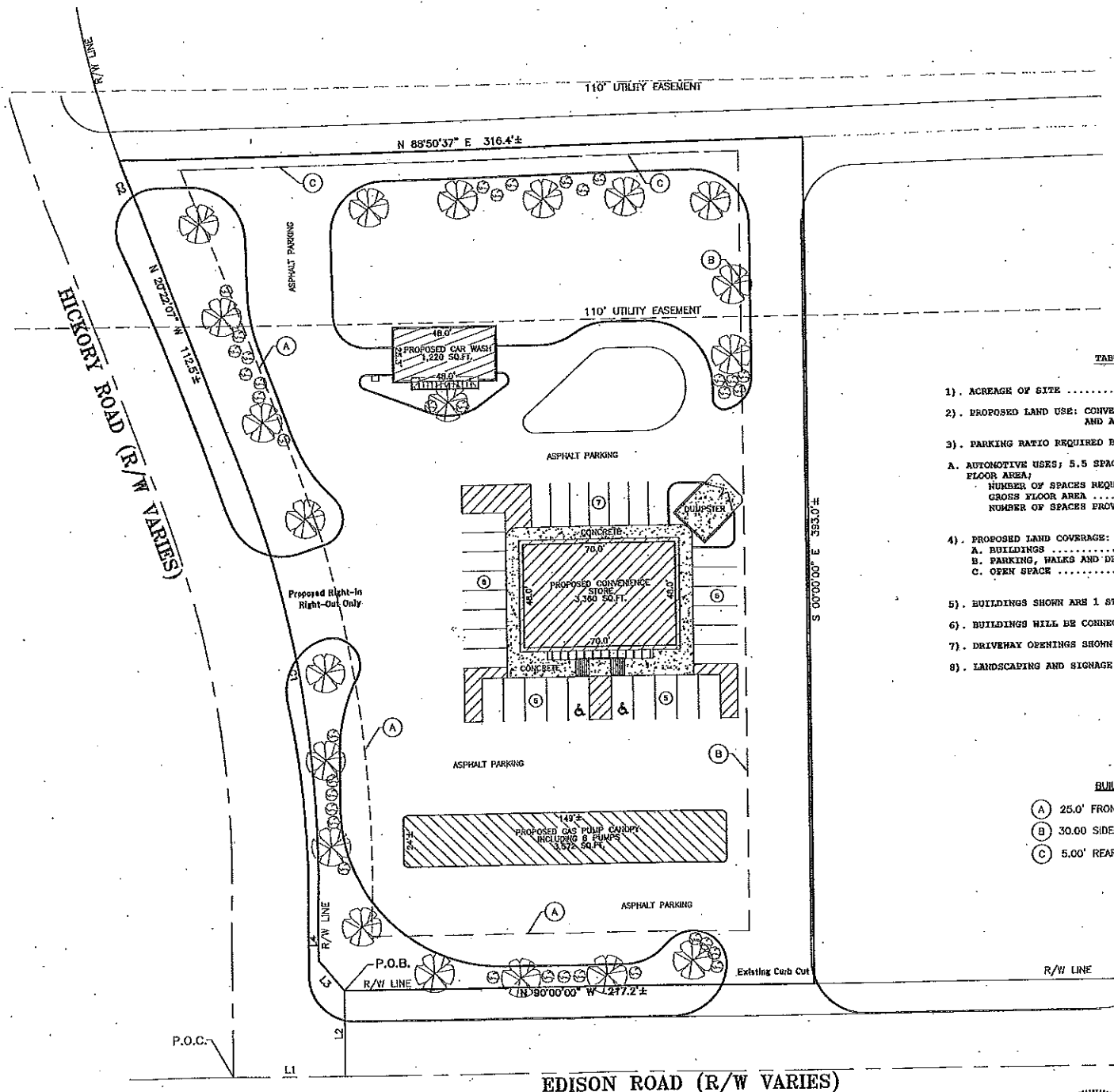
Contact person:
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, Indiana 46628
574) 234-4003

LEGAL DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: COMMENCING AT THE INTERSECTION OF EDISON ROAD AND HICKORY ROAD; THENCE NORTH 90°00'00" EAST A DISTANCE OF 51.89 MOR OR LESS; THENCE NORTH 00°00'00" EAST A DISTANCE OF 40.00 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF EDISON ROAD; THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF HICKORY ROAD FOR THE NEXT FIVE (5) COURSES, NORTH 40°00'00" WEST A DISTANCE OF 18.50 FEET MORE OR LESS AND NORTH 00°00'00" WEST A DISTANCE OF 18.40 FEET MORE OR LESS AND AROUND A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 231.50 FEET MORE OR LESS AND NORTH 20°22'07" WEST A DISTANCE OF 112.50 FEET MORE OR LESS AND AROUND A CURVE TO THE RIGHT WITH AN ARC LENGTH OF 23.93 FEET MORE OR LESS; THENCE NORTH 88°50'37" EAST A DISTANCE OF 316.40 FEET MORE OR LESS; THENCE SOUTH 00°00'00" EAST A DISTANCE OF 393.00 MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF EDISION ROAD; THENCE NORTH 90°00'00" WEST ALONG SAID NORTH LINE A DISTANCE OF 217.20 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 2.30 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

PRELIMINARY SITE PLAN

PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 2 EAST,
CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.



TABULATED SITE D

- 1). ACREAGE OF SITE
- 2). PROPOSED LAND USE: CONVENIENCE STORE AND A CARWASH FACILITY
- 3). PARKING RATIO REQUIRED BY ORDINANCE:
 - A. AUTOMOTIVE USES; 5.5 SPACES PER 1,000 SQ. FLOOR AREA;
 - NUMBER OF SPACES REQUIRED FOR 3,360 GROSS FLOOR AREA
 - NUMBER OF SPACES PROVIDED
- 4). PROPOSED LAND COVERAGE:
 - A. BUILDINGS
 - B. PARKING, WALKS AND DRIVES
 - C. OPEN SPACE
- 5). BUILDINGS SHOWN ARE 1 STORY.
- 6). BUILDINGS WILL BE CONNECTED TO MISHAWAKA
- 7). DRIVEWAY OPENINGS SHOWN ARE EXISTING.
- 8). LANDSCAPING AND SIGNAGE PER MISHAWAKA

BUILDING SETBACKS

- (A) 25.0' FRONT-YARD SETBACK
- (B) 30.00' SIDE-YARD SETBACK
- (C) 5.00' REAR-YARD SETBACK

EDISON ROAD (R/W VARIES)

SEP 23 2015

SURVEYORS & ENGINEERS:
DANCH, HARNER & ASSOCIATES, INC.
1643 COMMERCE DRIVE
SOUTH BEND, IN 46608
(574) 234-4003
ATTN: MICHAEL DANCH

DATE 9/4/15	DRAWN BY: SMM	R E	
SCALE 1" = 30'	CHECKED BY: MJD	DATE	BY
FILE # 150212	PROJ. MGR: SMM		

Plt 15-28

OCT 15 2015

CITY CLERK
MISHAWAKA, IN

1st Reading 10-19-15
2nd Reading
Passed
Failed
Continued To

PETITION 15-30

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. **2015-31**

ORDINANCE NO. _____

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

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

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

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

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

Part of the North Half of the Northwest Quarter of Section 23, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana: Commencing at the Northwest corner of said Section 23; thence N. 89°40'51" E., 270.00 feet along the North line of said Section; thence S. 00°00'00" E., 40.00 feet to the proposed South right-of-way of 12th Street and the point of beginning; thence N. 89°40'51" E. along said right-of-way 1262.22 feet; thence S. 00°00'00" E., 772.54 feet; thence S. 89°40'53" W., 442.06 feet; thence N. 73°49'30" W., 648.25 feet; thence N. 89°40'51" W., 197.56 feet; thence N. 00°00'00" W., 588.48 feet to the point of beginning. Containing 20.24 acres more or less. Subject to all legal highways, easements, and restriction of record.

COMMON ADDRESS: 1400-1500 Block of East Twelfth Street

which real estate is now classified as S-2 Planned Unit Development District and shall hereafter be amended to allow for 360 apartment units subject to the following conditions of approval:

1. Deceleration lanes along 12th Street shall be installed as determined by the Department of Engineering and shall satisfy Engineering standards.
2. Perimeter and internal landscaping shall meet C-1 General Commercial standards.

Proposed Ordinance No: 2015-31

Ordinance No: _____

3. Architectural standards shall include architecturally appropriate materials consistent with the City's Design Review Ordinance for all facades visible from the public right-of-way.
4. Right-of-way and easements to be dedicated as required by Department of Engineering and Mishawaka Utilities.
5. All other previously approved developmental standards shall remain the same.

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

1. Existing Conditions - The amendment will not alter or negatively impact the existing conditions of the surrounding area because the proposed apartment use, however on a smaller scale, currently exists within the PUD.
2. Character of Buildings in Area - The character of buildings within this area are commercial and industrial, and an apartment development would not be uncharacteristic as several apartment complexes are located within the general vicinity east and west on 12th Street.
3. The Most Desirable/Highest and Best Use - The proposed amendment for expanded multi-family residential use within the PUD is not inconsistent with surrounding zoning classifications.
4. Conservation of Property Values - The proposed amendment will not be injurious to property values in the surrounding area, because the multi-family residential use has already been approved as part of this PUD.
5. Comprehensive Plan - The Comprehensive Plan had identified this area for general commercial and manufactured home residential and is reasonably consistent 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, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: 2015- 31

Ordinance No: _____

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

SEP 30 2015

CITY CLERK
MISHAWAKA, IN

To The: Honorable members of the
Common Council of the
City of Mishawaka, Indiana

September 18, 2015

SEP 23 2015

RE: Approval of an Amended PUD for
The 12th Street Planned Unit Development:

Ref 15-30

The undersigned, Village Green Mishawaka Holdings, LLC, respectfully shows that they are the owners of the following described real estate located in the City of Mishawaka, St. Joseph County, Indiana:

Part of the North Half of the Northwest Quarter of Section 23, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana: Commencing at the Northwest corner of said Section 23; thence N. 89°40'51" E., 270.00 feet along the North line of said Section; thence S. 00°00'00" E., 40.00 feet to the proposed South right-of-way of 12th Street and the point of beginning; thence N. 89°40'51" E. along said right-of-way 1262.22 feet; thence S. 00°00'00" E., 772.54 feet; thence S. 89°40'53" W., 442.06 feet; thence N. 73°49'30" W., 648.25 feet; thence N. 89°40'51" W., 197.56 feet; thence N. 00°00'00" W., 588.48 feet to the point of beginning.

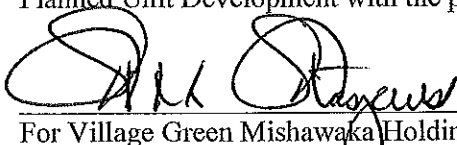
Containing 20.24 acres more or less.

Subject to all legal highways, easements, and restriction of record.

Also commonly known as property located in the 1400 Block of East 12th Street, Mishawaka, Indiana 46544. The above described parcel of land is presently zoned "S-2" Planned Unit Development district and was approved to allow for commercial and industrial uses.

The Petitioners of said real estate desire to amend the existing "S-2" Planned Unit Development district to allow for "R-3" Residential uses in the existing Planned Unit Development District with "R-3" Development standards. The purpose for this amended Planned Unit Development would allow for the construction of a multi-family development with a community center.

Wherefore, the Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka city plan commission and that after hearing, an appropriate ordinance be enacted allowing for the requested amended "S-2" Planned Unit Development with the proposed "R-3" Residential District Uses.



For Village Green Mishawaka Holdings, LLC
1434 Fallcreek Drive
Mishawaka, Indiana 46544

Contact person:
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, Indiana 46628
(574) 234-4003

Legal Description:

Part of the North Half of the Northwest Quarter of Section 23, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana: Commencing at the Northwest corner of said Section 23; thence N. 89°40'51" E., 270.00 feet along the North line of said Section; thence S. 00°00'00" E., 40.00 feet to the proposed South right-of-way of 12th Street and the point of beginning; thence N. 89°40'51" E. along said right-of-way 1262.22 feet; thence S. 00°00'00" E., 772.54 feet; thence S. 89°40'53" W., 442.06 feet; thence N. 73°49'30" W., 648.25 feet; thence N. 89°40'51" W., 197.56 feet; thence N. 00°00'00" W., 588.48 feet to the point of beginning.

Containing 20.24 acres more or less.

Subject to all legal highways, easements, and restriction of record.

AMENDED P.U.D. SITE PLAN - BYRKIT AVENUE A PART OF THE NORTHWEST QUARTER OF SECTION 23, T. 37 N., R. 3 E., PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA

E. NORTHWEST QUARTER OF SECTION 23, T. 37 N., R. 3 E.,
PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA
LESS, EXISTENTS, AND RESTRICTIONS OF

SQUARE FOOTAGE	% OF SITE
160,729.32	18.24
255,140.28	29.08
429,857.18	48.74
34,883.44	3.94
TOTAL	100.00

UNIT RESERVATION

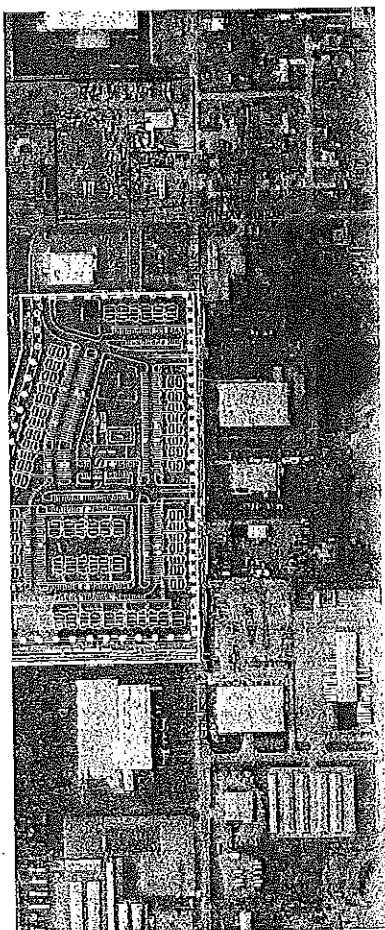
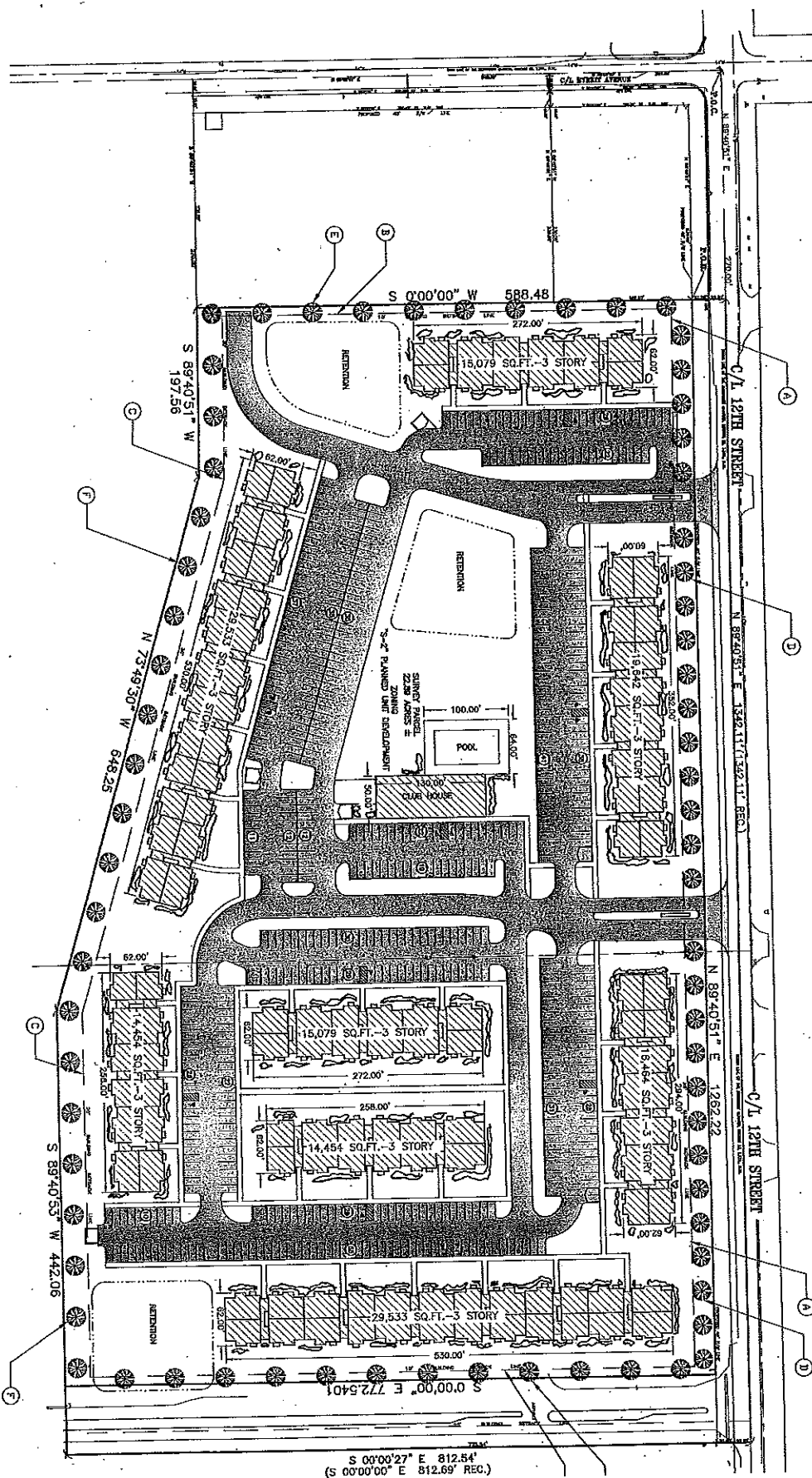
UNITS	NUMBER OF UNITS	% OF TOTAL
95	27%	
204	57%	
80	16%	
TOTAL	350	100%

ZONING ORDINANCE

REQ. FOR 300 UNITS	540 SPACES
235 PROVIDED	565 SPACES
253 PROVIDED	415 SPACES
TOTAL PROVIDED	578 SPACES
MUNICIPAL SANITARY SEWER AND MUNICIPAL WATER	
N.C.	

0 BE AMENDED TO MEET THE STANDARDS
1. EXISTENTS, AND RESTRICTIONS OF
2. THE CITY OF MISHAWAKA, INDIANA

FOR
FOR
FOR



2
↑

Ref 15-30

OCT 15 2015

CITY CLERK
MISHAWAKA, IN

1st Reading 10-19-15
2nd Reading
Passed
Failed
Continued To

PETITION #15-32

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2015-32

ORDINANCE NO. _____

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

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

A PART OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89°25' WEST ALONG THE NORTH LINE OF SAID QUARTER SECTION, 656 FEET MORE OR LESS TO A POINT ON THE EXTENDED EAST LINE OF A PARCEL OF LAND AS RECORDED IN DEED BOOK 635, PAGE 357 IN THE OFFICE OF RECORDER OF SAID COUNTY; THENCE SOUTH 00°25' EAST ALONG SAID EXTENDED AND EAST LINE 357 FEET MORE OR LESS, TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF FIR ROAD; THENCE SOUTH 64°09' WEST ALONG SAID RIGHT OF WAY, 137 FEET MORE OR LESS; THENCE SOUTHWESTERLY ALONG A CURVE AND SAID RIGHT OF WAY 366 FEET MORE OR LESS; THENCE NORTH 49°32' WEST, 92 FEET MORE OR LESS, TO A POINT AT THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY OF FIR ROAD AND THE WESTERLY RIGHT OF WAY OF FIR TRAIL; THENCE NORTH 18°43' EAST ALONG THE WESTERLY RIGHT OF WAY OF FIR TRAIL, 114 FEET MORE OR LESS; THENCE NORTHEASTERLY ALONG A CURVE AND SAID RIGHT OF WAY 95 FEET MORE OR LESS; THENCE NORTH 11°17' EAST ALONG SAID RIGHT OF WAY, 156 FEET MORE OR LESS; THENCE NORTHEASTERLY ALONG A CURVE AND RIGHT OF WAY 29 FEET MORE OR LESS; THENCE NORTH 15°18' EAST ALONG SAID RIGHT OF WAY, 243 FEET MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT OF WAY OF CLEVELAND ROAD; THENCE NORTH 89°25' EAST ALONG SAID RIGHT OF WAY, 281 FEET MORE OR LESS; THENCE NORTH 83°04' EAST ALONG SAID RIGHT OF WAY, 34 FEET MORE OR LESS TO A POINT ON THE EXTENDED EAST LINE OF SAID PARCEL OF

Proposed Ordinance No. 2015-32

Ordinance No. _____

LAND RECORDED IN DEED BOOK 635, PAGE 357 IN SAID RECORDERS OFFICE;
THENCE SOUTH 00°25' EAST ALONG SAID EXTENDED EAST LINE, 44 FEET MORE OR
LESS TO THE POINT OF BEGINNING; SAID PARCEL CONTAINING 4.7 ACRES, MORE
OR LESS AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT OF WAY OF
RECORD.

The above described real estate shall hereafter be annexed into and within the City
of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance
of the City of Mishawaka, Indiana, and shall carry a classification for zoning of C-6
Linear Office Commercial District.

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

1. Existing Conditions - Although the area was platted and developed decades ago with a tract of single family homes, the subject parcel is located between two arterial/collector roadways within an area that continues to develop with commercial uses. Traffic is intended to increase along both corridors.
2. Character of Buildings- The character of the buildings within the surrounding area is single family residential, but the area continues to redevelop for commercial purposes.
3. The most desirable/highest and best use - Because of the parcels' location and the existing commercial development along the University Drive, Cleveland Road, and Fir Road corridors, the most desirable use for the property is linear office commercial. Although there are surrounding residential properties, the increasing traffic along the corridors, makes the long term use of these properties less desirable for residential purposes.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding neighborhood, because higher impact commercial uses already exist in close proximity to annexation area.
5. Comprehensive Plan - The properties are not guided by either the Mishawaka 2000 Comprehensive Plan or the Capital Avenue Land Use Plan. The commercial development in this area has altered developmental patterns from what once was a desirable location for residential development to more intensive commercial growth. Residential development is no longer desirable within this area and comprehensive plans must be reevaluated as development trends change over the years.

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

Proposed Ordinance No. 2015-32

Ordinance No. _____

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

SEP 30 2015

SEP 23 2015

DATE: September 23, 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

Pet 15-32

RE: **PETITION FOR ANNEXATION AND ZONING CLASSIFICATION
15170 Cleveland Road and Property Adjacent to the South**

The undersigned, Donald L. Seggerman and the Devisees of the Last Will of Evelyn Marjorie Everding subject to the rights of Malcolm J. Tuesley Jr., Personal Representative of the Estate of said Decedant, Estate No. 71J01-0810-ES-000403, St. Joseph County Probate Court, respectfully show that they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

A PART OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89°25' WEST ALONG THE NORTH LINE OF SAID QUARTER SECTION, 656 FEET MORE OR LESS TO A POINT ON THE EXTENDED EAST LINE OF A PARCEL OF LAND AS RECORDED IN DEED BOOK 635, PAGE 357 IN THE OFFICE OF RECORDER OF SAID COUNTY; THENCE SOUTH 00°25' EAST ALONG SAID EXTENDED AND EAST LINE, 357 FEET MORE OR LESS, TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF FIR ROAD; THENCE SOUTH 64°09' WEST ALONG SAID RIGHT OF WAY, 137 FEET MORE OR LESS; THENCE SOUTHWESTERLY ALONG A CURVE AND SAID RIGHT OF WAY 366 FEET MORE OR LESS; THENCE NORTH 49°32' WEST, 92 FEET MORE OR LESS, TO A POINT AT THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY OF FIR ROAD AND THE WESTERLY RIGHT OF WAY OF FIR TRAIL; THENCE NORTH 18°43' EAST ALONG THE WESTERLY RIGHT OF WAY OF FIR TRAIL, 114 FEET MORE OR LESS; THENCE NORTHEASTERLY ALONG A CURVE AND SAID RIGHT OF WAY 95 FEET MORE OR LESS; THENCE NORTH 11°17' EAST ALONG SAID RIGHT OF WAY, 156 FEET MORE OR LESS; THENCE NORTHEASTERLY ALONG A CURVE AND RIGHT OF WAY 29 FEET MORE OR LESS; THENCE NORTH 15°18' EAST ALONG SAID RIGHT OF WAY, 243 FEET MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT OF WAY OF CLEVELAND ROAD; THENCE NORTH 89°25' EAST ALONG SAID RIGHT OF WAY, 281 FEET MORE OR LESS; THENCE NORTH 83°04' EAST ALONG SAID RIGHT OF WAY, 34 FEET MORE OR LESS TO A POINT ON THE EXTENDED EAST LINE OF SAID PARCEL OF LAND RECORDED IN DEED BOOK 635, PAGE 357 IN SAID RECORDERS OFFICE; THENCE SOUTH 00°25' EAST ALONG SAID EXTENDED EAST LINE, 44 FEET MORE OR LESS TO THE POINT OF BEGINNING; SAID PARCEL CONTAINING 4.7 ACRES, MORE OR LESS AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT OF WAY OF RECORD.

Petitioners own One Hundred (100%) percent of the above described parcel of land, excluding the adjacent road right-of-ways, and is located within Section 27, Township 38 North, Range 3 East, Harris Township, St. Joseph County, and that the Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a "C-6" Commercial District zoning classification. Petitioners further state they intend to utilize said land for office and medial office uses.

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

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

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a "C-6" Commercial District zoning classification.

Donald L. Seggerman by Ardy Peterson POA
Donald L. Seggerman, Owner

Malcolm J. Tuesley Jr. Pers Rep
Malcolm J. Tuesley Jr., Personal Representative of the Estate
15170 Cleveland Road

CONTACT PERSON:

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

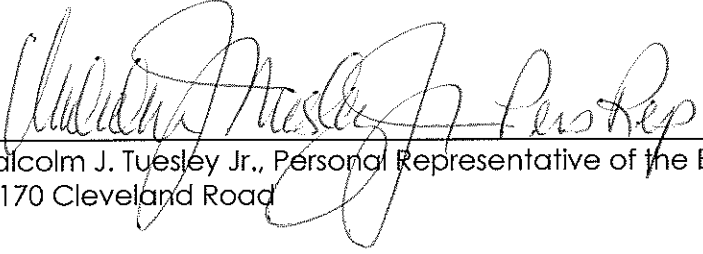
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Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate and conceptual development plan.

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

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a "C-6" Commercial District zoning classification.

Donald L. Seggerman, Owner
Property Adjacent to the South



Malcolm J. Tuesley Jr., Personal Representative of the Estate
15170 Cleveland Road

CONTACT PERSON:

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



Ret 15-32

OCT 15 2015

CITY CLERK
MISHAWAKA, IN

1st Reading 10-14-15
2nd Reading
Passed
Failed
Continued To

PETITION #15-33

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2015-33

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, Sajida Chaudhry, Donald L. Seggerman, and the Devisees of the Last Will of Evelyn Marjorie Everding has 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 and per the Electric Department requirement to keeping access to electric wire and equipment on the west side of Fir Trail.

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 NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PROPOSED ORDINANCE NO. 2015-33

ORDINANCE NO. _

COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89°25' WEST ALONG THE NORTH LINE OF SAID QUARTER SECTION, 768 FEET MORE OR LESS; THENCE SOUTH 00°34'57" EAST, 30.00 FEET TO THE POINT OF BEGINNING, ALSO BEING A POINT AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF CLEVELAND ROAD AND THE EASTERLY RIGHT OF WAY OF FIR TRAIL; THENCE SOUTH 15°18' WEST ALONG THE EASTERLY RIGHT OF WAY OF FIR TRAIL, 182 FEET MORE OR LESS; THENCE SOUTHWESTERLY ALONG A CURVE AND SAID EASTERLY RIGHT OF WAY, 27 FEET MORE OR LESS; THENCE SOUTH 11°17' WEST ALONG SAID EASTERLY RIGHT OF WAY, 120.23 FEET MORE OR LESS; THENCE SOUTH 36°27' EAST ALONG SAID RIGHT OF WAY, 96 FEET MORE OR LESS TO A POINT ON THE NORTHERLY RIGHT OF WAY OF FIR ROAD; THENCE SOUTHWESTERLY ALONG A CURVE AND SAID NORTHERLY RIGHT OF WAY, 223 FEET MORE OR LESS; THENCE NORTH 49°33' WEST ALONG SAID NORTHERLY RIGHT OF WAY, 2 FEET MORE OR LESS TO A POINT AT THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY OF FIR ROAD AND THE WESTERLY RIGHT OF WAY OF FIR TRAIL; THENCE NORTH 18°44' EAST ALONG SAID WESTERLY RIGHT OF WAY, 114 FEET MORE OR LESS; THENCE NORTHEASTERLY ALONG A CURVE AND SAID WESTERLY RIGHT OF WAY 95 FEET MORE OR LESS; THENCE NORTH 11°17' EAST ALONG SAID WESTERLY RIGHT OF WAY, 156 FEET MORE OR LESS; THENCE NORTHEASTERLY ALONG A CURVE AND SAID WESTERLY RIGHT OF WAY 29.47 FEET; THENCE NORTH 15°18' EAST ALONG SAID WESTERLY RIGHT OF WAY, 170 FEET MORE OR LESS TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF CLEVELAND ROAD; THENCE NORTH 89°25' EAST ALONG SAID NORTHERLY RIGHT OF WAY, 42 FEET MORE OR LESS TO THE POINT OF BEGINNING; SAID PARCEL CONTAINING 0.6 ACRES, MORE OR LESS AND SUBJECT TO EASEMENTS, AND RIGHT OF WAY OF RECORD.

COMMONLY KNOWN AS: Fir Trail between Fir Road and Cleveland Road

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. Both properties still have access to Cleveland Road.
- 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.

PROPOSED ORDINANCE NO. 2015-33

ORDINANCE NO. _____

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

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

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

David A. Wood, Mayor

SEP 30 2015

DATE: September 23, 2015

CITY CLERK
MISHAWAKA, IN

SEP 23 2015

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

Pet 15-33

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

FIR TRAIL – Between Fir Road and Cleveland Road

The undersigned, Sajida Chaudhry, Donald L. Seggerman, and the Devises of the Last Will of Evelyn Marjorie Everding subject to the rights of Malcolm J. Tuesley Jr., Personal Representative of the Estate of said Decedant, Estate No. 71J01-0810-ES-000403, St. Joseph County Probate Court, respectfully request 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:

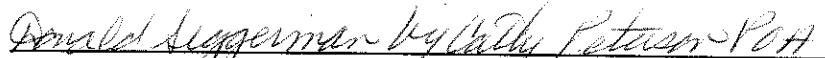
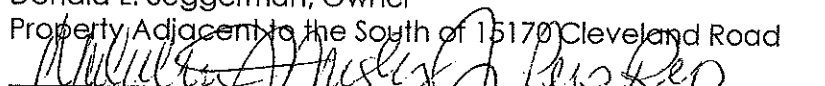
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Petitioners further state they are the owners of the property immediately adjacent to the above-described right of way.

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.


Donald L. Seggerman, Owner
Property Adjacent to the South of 15170 Cleveland Road

Malcolm J. Tuesley Jr., Personal Representative of the Estate
15170 Cleveland Road

CONTACT PERSON:

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

Petitioners 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.

Donald L. Seggerman, Owner
Property Adjacent to the South of 15170 Cleveland Road



Malcolm J. Tuesley Jr., Personal Representative of the Estate
15170 Cleveland Road

CONTACT PERSON:

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

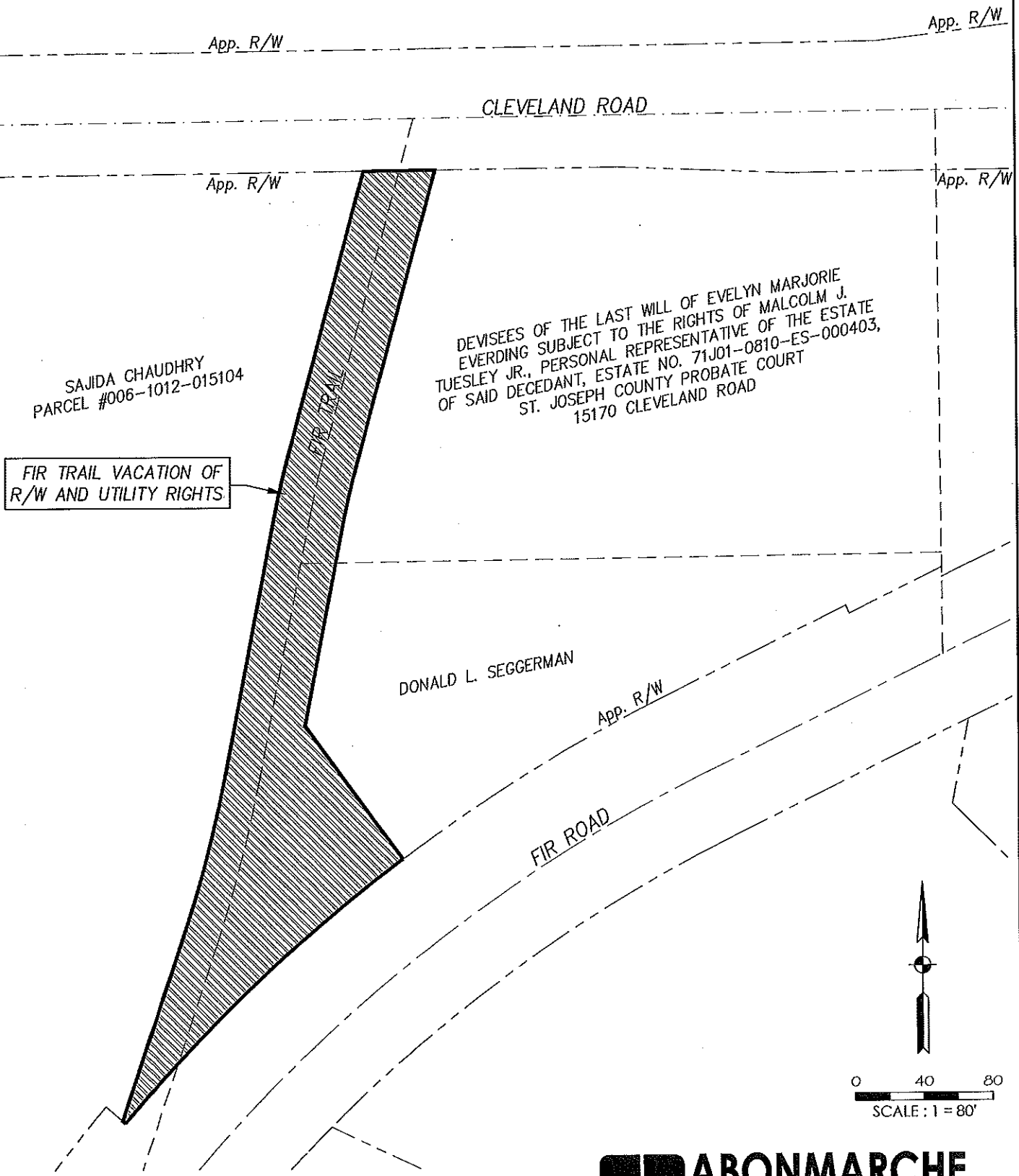


Sajida Chaudhry, Owner
Parcel #006-1012-015104
(Adjacent to West Side of Fir Trail)

CONTACT PERSON:

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

EXHIBIT A



**FIR TRAIL
VACATION OF RIGHT-OF-WAY
AND UTILITY EASEMENT RIGHTS**
(BETWEEN FIR ROAD AND CLEVELAND ROAD)



DATE: 09-23-15 ACI JOB #: 15-0797 SHT: 1 of 1
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Ref 15-33