

AGENDA

Monday, April 4, 2016

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

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

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

March 21, 2016

5. Petitions, Communications, Remonstrance and Memorials

Petition No. 2016-10 Vacate Portion of Unimproved Ironwood Rd (after Alignment) West of 2807 LWW

Petition No. 2016-12 PUD Amendment Gateway Plaza NW Corner of Bremen Highway and US 20 Bypass

Petition No. 2016-13 PUD Amendment Fiera Vista Villas - LWE north on Cedar Rd

- 6. Report of Special Committee**
- 7. Ordinances on First Reading**
- 8. Resolutions**

R2016-14 Interlocal Agreement - Big Box Stores

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

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

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

March 21, 2016

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday March 21, 2016, at 7:00 p.m. The meeting was called to order by President Ron Banicki all were asked to stand for the Pledge of Allegiance.

Roll Call.

Present: Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Deal, Mr. Tanner, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Banicki.

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

The minutes from the March 7, 2016 meeting were approved as received from the City Clerk's Office.

A regular meeting of the Mishawaka Board of Zoning Appeals was held on March 8, 2016 at which time the following Use Variance was considered:

APPEAL #16-05 An appeal submitted by Gates Automotive Group on behalf of University Park Mall LLC requesting a Use Variance for 6501 Grape Road to permit three (3) separate off-site Used Car Sales per year for the next three (3) years with temporary signage including banners and a mobile office facility to business transactions and securing of valuables.

The Board recommended approval with of a vote of 5 to 0 with the following conditions:

USES:

- The event shall be limited to the display and sales of automobiles and light trucks for three (3) ten (10) day periods (dates to be determined) in May, June, and August of 2016, 2017, and 2018 as presented.

SITE PLAN:

- A site plan/layout shall be submitted identifying the location of display areas, visitor parking, tents portable toilets, temporary lighting, and other related temporary improvements subject to staff review and approval. Written approval of the site plan/layout shall be required from University Park Mall, LLC.

ACCESS/TRAFFIC CONTROL REQUIREMENTS:

- Access to the event use shall be through existing mall entrances. Additional restrictions may be requested by the City of Mishawaka the Director of Engineering as deemed appropriate as part of the review of a site plan/layout. The City of Mishawaka Police Department may also request any modifications to layout, parking, access, or attention

devices during the event if it is deemed problematic to through traffic, or any safety issue is identified.

- **All mall service drives shall remain open at all times.**

SETBACKS:

- All tents, display/parking areas, portable toilets and large inflatable balloons shall be setback a minimum of 25 feet from any road right-of-way and 10 feet from any internal access drive.

SIGNAGE/ATTENTION DEVICES:

- A plan identifying the location and type of all signage/attention devices shall be submitted subject to staff review and approval. A maximum of two (2) temporary signs no larger than 4' X 8' shall be permitted on Grape Road. A maximum of two temporary signs shall be permitted along State Road 23. **No inflatable air balloons shall be permitted.** All signs and attention getting devices shall not flash or be animated where they are overtly distracting to the motoring public. Internal directional signs shall also be permitted as necessary provided they are not visible from surrounding major roadways

A regular meeting of the Mishawaka Plan Commission was held on March 8, 2016 at which time the following Use Variance was considered:

PETITION #16-07 A petition submitted by Elena M. Smith, sole member of EMS Properties LLC, requesting to rezone **3236 York Street** from I-2 Heavy Industrial District to R-1 Single Family Residential District.

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 Ordinance regarding the above

Clerk Block read **PROPOSED ORDINANCE NO. 2016-05** for public hearing.

PROPOSED ORDINANCE NO. 2016-05

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

(Rezone from I-2 to R-1 Existing Home 3236 York Street)
Petitioner Requesting Second Reading

Mr. Deal made a motion to hear second reading on **PROPOSED ORDINANCE NO. 2016-05** with a second by Mr. Mammolenti the motion carried.

Elena M. Smith, 2334 Topswood Lane, South Bend, asked to have 3236 York Street, Mishawaka, rezoned to R-1. She said this property has always been residential and she has a buyer, and needs the zoning corrected.

Question was called for at 7:05 p.m. on **PROPOSED ORDINANCE NO. 2016-05** Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mr. Banicki, Mr. Bellovich, Mr. Canarecci, Mr. Compton, Mr. Deal, Mr. Emmons, Mr. Mammolenti, Mr. Tanner, Mrs. Voelker thus it becomes **ORDINANCE NO. 5527**.

Clerk Block read **RESOLUTION NO. 2016-07** Honoring Drew Hildebrandt Penn High School IHSA State Wrestling Champion.

Question was called for at 7:14 p.m. on **RESOLUTION NO. 2016-07** Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Canarecci, Mr. Compton, Mr. Deal, Mr. Emmons, Mr. Mammolenti, Mr. Tanner, Mrs. Voelker.

Clerk Block read **RESOLUTION NO. 2016-08 Honoring Max Pickenpaugh** Mishawaka High School ISSMA Gold Medal for Cello competition.

Question was called for at 7:22 p.m. on **RESOLUTION NO. 2016-08** Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Canarecci, Mr. Compton, Mr. Deal, Mr. Emmons, Mr. Mammolenti, Mr. Tanner, Mrs. Voelker.

Clerk Block read **RESOLUTION NO. 2016-09 Honoring AJ GLICK** Mishawaka High School ISSMA Gold Medal for Snare Drum competition.

Question was called for at 7:27 p.m. on **RESOLUTION NO. 2016-09** Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Canarecci, Mr. Compton, Mr. Deal, Mr. Emmons, Mr. Mammolenti, Mr. Tanner, Mrs. Voelker.

Clerk Block read **RESOLUTION NO. 2016-10 Honoring Zach Taylor** Mishawaka High School ISSMA for Snare Drum competition.

Question was called for at 7:32 p.m. on **RESOLUTION NO. 2016-10** Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Canarecci, Mr. Compton, Mr. Deal, Mr. Emmons, Mr. Mammolenti, Mr. Tanner, Mrs. Voelker.

Clerk Block read **RESOLUTION NO. 2016-11 Honoring Penn High School Girls Basketball Class 4-A State Champions**.

All Councilmen and Mayor spoke to the honor of having such great representation for the City of Mishawaka from Sports to Music, stating they also hoped these students would stay and raise their families here someday.

Clerk Block read **RESOLUTION NO. 2016-12** a Use Variance to allow for Outdoor Vehicle Sales Events for Three Consecutive Years 2016-2018 University Park Mall Lot North of J.C. Penney.

Clint Emberten 714 Dice Court South Bend, said he was representing Gates Automotive for a Use Variance due North of J C Penny Store (Simon Properties) on Grape Road and US 23 for three separate events, dates to be determined sometime between May and September for the next three years.

He said, Gates Chevrolet of Mishawaka, said he was requesting a Use Variance for 6501 Grape Road to permit (3) separate off-site Used Car Sales per year for the next three (3) years with temporary signage including banners and a mobile office facility for business transactions and securing of valuables, for the parking lot at UP Mall just north of JC Penny store. He said they have already received permission from UP Mall to use that location. Mr. Emberton stated Gates appreciates having been approved the past three years. He addressed each finding of fact and, said he was not aware of any petitions filed against these events to Gates or UP Mall. He said having done this for the past several years he can say it has worked well. Mr. Emberton stated local businesses appreciated the business this sale attracts to the area.

Mr. Canarecci asked if this was an exclusive relationship with Simon. Mr. Emberten said no.

Mr. Mammolenti and Mr. Banicki said in all the years that Gates has done this they have not had any problems.

Question was called for at 8:12 p.m. on **RESOLUTION NO. 2016-12** with the vote being **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Canarecci, Mr. Compton, Mr. Deal, Mr. Emmons, Mr. Mammolenti, Mr. Tanner, Mrs. Voelker.

RESOLUTION NO. 2016-13

RESOLUTION OF THE MISHAWAKA COMMON COUNCIL SUPPORTING, ADDITIONAL, RESEARCH INTO A POTENTIAL FOOD AND BEVERAGE TAX IN ST. JOSEPH COUNTY

Marcy Dean, Executive Director, Potawatomi Zoo said she was speaking on behalf of the Food and Beverage Tax Resolution, because of the benefits this funding could provide for the zoo. She said the Zoo Master Plan is a 15 – 20 year; \$37 million plan that would transform and rejuvenate the 114 year old zoo. She said their plan has a dedicated focus on much needed infrastructure upgrades and important not only for meeting and exceeding accreditation standards but for improving the animal's care and quality of life.

Ms. Dean said when fully implemented, Zoo visitation could exceed 350,000 to 400,000 guests drawing on a market area within a 45 minute plus drive time estimated to be 1.16 million people. She said the Zoo would become an even larger economic engine for the region, fueling additional ancillary spending on food, beverage, hotel, and shopping in the area while bringing in

\$37 million in construction funding to the region resulting in local jobs and creating new jobs at the zoo.

Ms. Dean said Akron, Ohio, as well as many other large cities have benefited from public support for operations and capital improvements, they are the perfect example of how these funds can transform from an institution of a local attraction into a regional destination. Ms. Dean stated the Akron community approved a county wide property tax levy and with those receipts they helped to build and operate a variety of capital improvements. She went on to say attendance before the vote was around 100,000 annually, and today after the second successful renewal of the tax in 2013 their annual attendance approached 400,000 visitors.

Ms. Dean stated a Food and Beverage tax would provide much needed funding for several entities in our region with a portion providing a direct impact on our Zoo and the community through the master plan upgrades. She thanked the Council in advance for their consideration of this Resolution.

Mr. Compton asked if the Zoo had enough room for these improvements. Ms. Dean stated they have 23 acres and have several acres not being properly utilized.

Mr. Canarecci stated Mishawaka people have asked him why they should be responsible for the Zoo when it was in South Bend. He said if he could share with them the number of current jobs and potential jobs to be created it would be something people could look at more closely.

Ms. Dean said an Economic Impact Study was being done and they would have the results in a couple of weeks. She said there was a Sunset on this tax and only 1% max to be able to help other entities as well such as parks, museums, and non-profits.

Ms. Voelker asked who decides where the 1% goes. Ms. Dean said there are 27 counties in Indiana that have the Food and Beverage Tax and most of them have a board that makes those decisions.

Mr. Deal said it was important to have this discussion, as it stands there is a Hotel/Motel Tax and Mishawaka receives nothing from that tax, and what's to say that Mishawaka ends up not getting anything from this Food and Beverage Tax.

Matt Lench 121 Wabash Avenue said he was opposed to this tax. He asked the Council to vote down this Resolution. Mr. Linch asked for an impact study to be done.

Mr. Compton said this Resolution was only to allow discussion on the possibility of a Food and Beverage Tax.

Mr. Canarecci said people have asked why Mishawaka should have to pay for this. Ms. Dean said the number of visitors Mishawaka is 2nd to South Bend along with the Zoo employees they are hoping to grow those numbers. She said they would be doing an economic impact study in the next few weeks.

Mr. Canarecci asked if this fails would they be able to move forward. Ms. Dean stated this is a 15 to 20 year plan and they could move to a 5 to 7 year plan.

Mr. Mammolenti asked what other entities would benefit from this tax. Ms. Dean stated Parks in the County, Mishawaka, and South bend, museums, and non-profits. He also asked what their top two resources were. Ms. Dean said private donations, gifts, gate, concessions small fee from South Bend.

Ms. Voelker asked how they decide where it goes. Ms. Dean said 27 counties have the Food and Beverage Tax and they have a Board who decides that, same as Hotel Motel Tax does.

Mr. Banicki asked if there were sponsorships. Ms. Dean said yes, grants and foundations by legislative for 2017.

Mr. Tanner said one of the bigger issues is what other facilities/attractions are in need of upgrading.

Ms. Dean said she wouldn't oppose to a sunset on this tax, they were looking at a 1% tax to be able to help other entities.

Mr. Banicki asked if they actively sought out grants and sponsorships on a regular basis. Ms. Dean explained Legislative must ultimately pass or deny this.

Mr. Deal said he feels it is important to have this discussion because Mishawaka gets nothing from the Hotel Motel Tax, what's to say we would get anything from this, if we don't then count him out.

Matt Lynch 121, Wabash, Mishawaka said he was opposed to this tax, he supports the Zoo but disagrees with the Food and Beverage Tax. He said the Hotel Motel Tax was passed and Mishawaka never saw any money from it. Mr. Lynch said he wants further study, an Impact study be done and asked the Council to table this.

Mr. Deal stated this Resolution was only to allow opening discussion on this tax. Mr. Lynch stated an open discussion could take place without a Resolution.

All of the Council agreed to passing this Resolution to open discussion about this, they need to know about it and what it will do or not do in the long run.

Question was called for at 9:06 p.m. **Vote:** Motion carried by unanimous roll call vote Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Canarecci, Mr. Compton, Mr. Deal, Mr. Emmons, Mr. Mammolenti, Mr. Tanner, Mrs. Voelker.

NEW BUSINESS

Mr. Tanner said his next Neighborhood Meeting in the Oaks would be March 30th, at Albright United Methodist Church on Mishawaka Avenue at 6 p.m.

Mr. Mammolenti thanked Mayor Wood for speaking at March 16th the Twin Branch Meeting.

ADJOURNMENT 9:09 p.m.

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

Ronald S. Banicki
Ronald S. Banicki, President

February 26, 2016

RECEIVED
DEBORAH S. BLOCK, MMC

MAR 30 2016

CITY CLERK
MISHAWAKA, IN

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

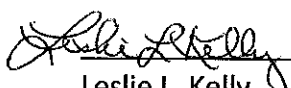
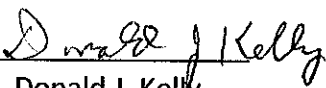
Re: Petition for Vacation of Public Right of Way

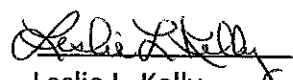
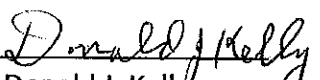
The undersigned Donald J and Leslie L Kelly respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right of way located in the City of Mishawaka, St. Joseph County, Indiana:

See attached map and 2 page legal description of public right of way to be vacated.

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

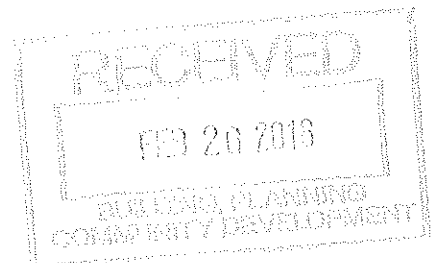
Wherefore, the Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted vacating the above described right of way located in the City of Mishawaka.

 
Leslie L. Kelly Donald J. Kelly
71-09-18-427-010.000-026/018-7079-289901
Portage Township 026-South Bend, Indiana

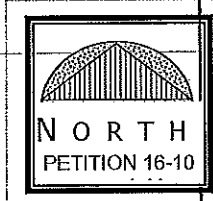
 
Leslie L. Kelly Donald J. Kelly
71-09-17-305-002.000-023/ 016-1212-8531
Lots 2 & 3 Middleboro Addition,
Mishawaka, Indiana

Contact Person:

Leslie L. Kelly
53053 Berwick Drive, South Bend, IN 46635
574-273-2149-Home
574-273-0404-FAX



Pet 16-10



ROYS DR

N. IRONWOOD DR

PETITION 16-10

LINCOLNWAY WEST

S. IRONWOOD DR



Location Map

PETITION 16-10

WEST OF
2807 LINCOLN WAY W.

VACATE PORTION OF UNIMPROVED
IRONWOOD ROAD (AFTER
REALIGNMENT)

W SIXTH ST

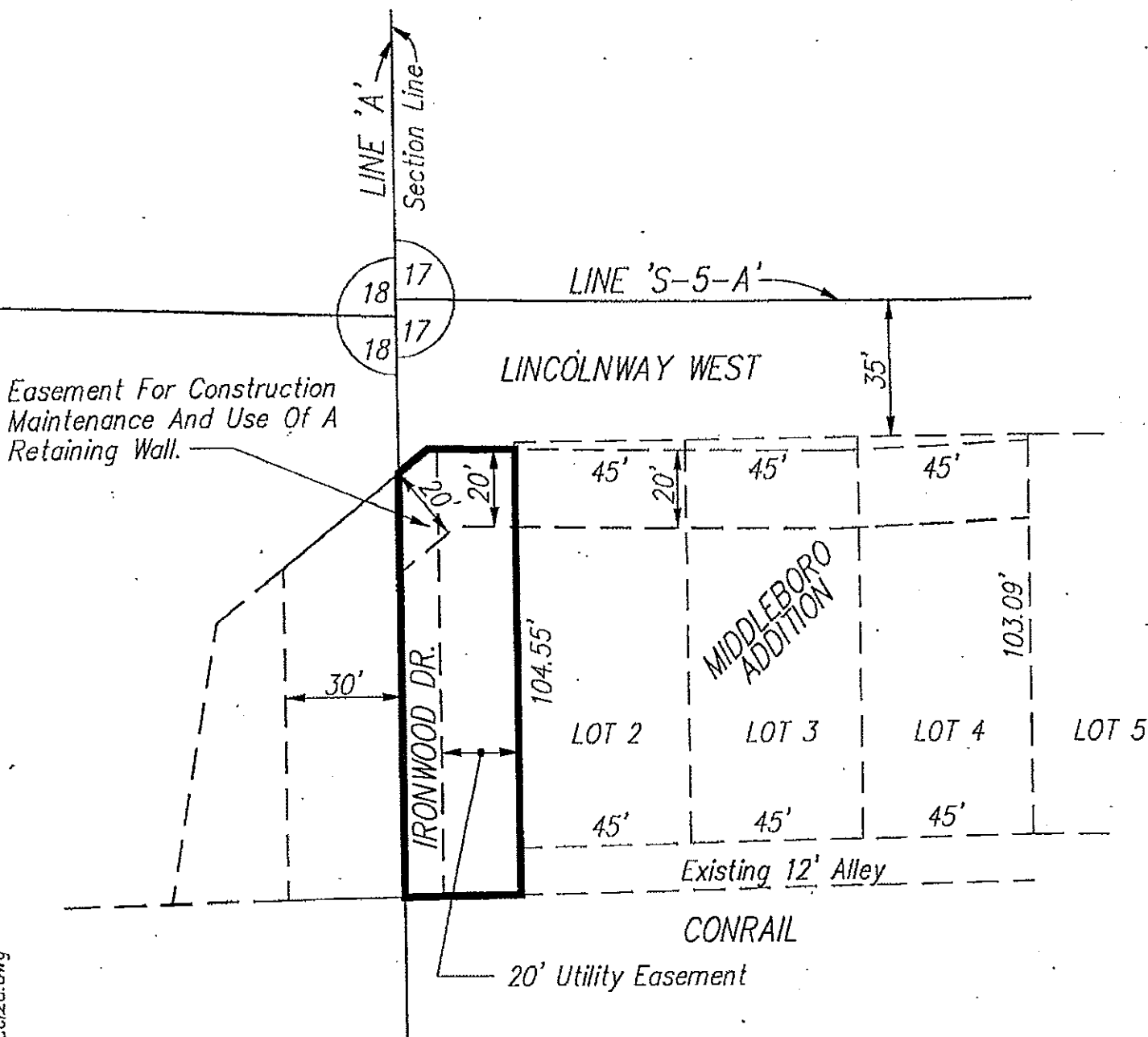
HUBBARD AVE

PARCEL NO. --
PROJECT NO. S612-76
ROAD NO. IRONWOOD DR.
COUNTY: ST. JOSEPH
SECTION: 17
TOWNSHIP: 37N.
RANGE: 3E.

OWNER: City Of Mishawaka
Dedicated Right Of Way

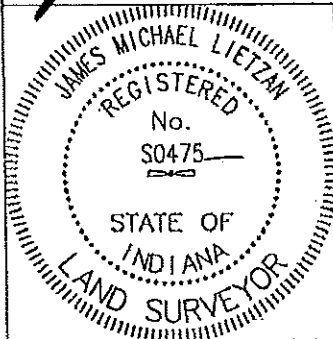
SHEET 1 OF 3
DRAWN BY: MRT
DATE: 09-23-98
CHECKED BY: Jim Lietzan
DATE: 12-04-98
SCALE: 1"=40'

This Plat Was Prepared From Information Obtained From The Recorder's Office
And Other Sources Which Were Not Necessarily Checked By A Field Survey.



James Michael Lietzan

DATE: 12-7-98



LAND PLAT
BY
COLE ASSOCIATES INC.

2211 E. Jefferson Blvd. South Bend, Inc.

PARCEL NO:
PROJECT NO. S612-76
ROAD NO. Ironwood
COUNTY: St. Joseph
SECTION: 17
TOWNSHIP: 37N
RANGE: 3E

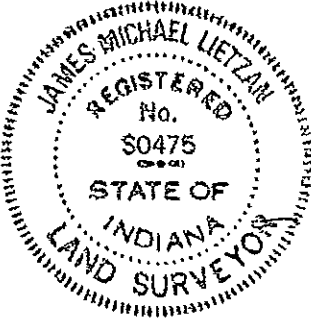
OWNER: City of Mishawaka
Dedicated Right of Way

SHEET 2 OF 3
TYPED BY: C. Hume
DATE: 12/4/98
CHECKED BY: J. Lietzan
DATE: 12-7-98

DESCRIPTION FOR POSSIBLE R/W VACATION
OLD IRONWOOD DRIVE

A part of the Northwest Quarter of the Southwest Quarter of Section 17, Township 37 North, Range 3 East, City of Mishawaka, St. Joseph County, Indiana described as follows: Beginning at the intersection of the original east line of Ironwood Drive with the north line of Consolidated Rail Corporation (CONRAIL); thence South 88 degrees 51 minutes 54 seconds West 30.01 feet along the north line of CONRAIL to the original centerline of Ironwood Drive; thence North 00 degrees 00 minutes 00 seconds East 109.43 feet more or less along the original centerline of Ironwood Drive to the back of a retaining wall as shown on the construction plans for the St. Joseph County Ironwood/CONRAIL Grade Separation Project No. S612-76; thence North 50 degrees 56 minutes 41 seconds East 9.81 feet along the back side of said retaining wall to a point of intersection in said retaining wall; thence South 89 degrees 21 minutes 12 seconds East 22.39 feet along the back of said retaining wall to the original east line of Ironwood Drive; thence South 00 degrees 00 minutes 00 seconds West 114.76 feet more or less along said original east line to the point of beginning and containing 3,433 square feet, more or less.

The above described tract of land is subject to a perpetual easement in favor of the Board of Commissioners, St. Joseph County, Indiana and the Board of Public Works and Safety, City of Mishawaka for the construction, maintenance and use of a retaining wall described as follows: Commencing at the intersection of the original east line of Ironwood Drive with the north line of Consolidated Rail Corporation (CONRAIL); thence South 88 degrees 51 minutes 54 seconds West 30.01 feet along the north line of CONRAIL to the original centerline of Ironwood Drive; thence North 00 degrees 00 minutes 00 seconds East 83.67 feet more or less along the original centerline of Ironwood Drive to a point of 20.00 feet southeasterly of, as measured to, the back of a retaining wall as shown on the construction plans for the St. Joseph County Ironwood/CONRAIL Grade Separation Project No. S612-76 for the Point of Beginning of this description; thence North 00 degrees 00 minutes 00 seconds East 25.76 feet along said original centerline to the back side of said retaining wall; thence North 50 degrees 56 minutes 41 seconds East 9.81 feet along the back side of said retaining wall to a point of intersection in said retaining wall; thence South 89 degrees 21 minutes 12 seconds East 22.39 feet along

		DATE:
	LAND PLAT by COLE ASSOCIATES INC.	
2211 East Jefferson Boulevard, South Bend, IN 46615		

PARCEL NO:
PROJECT NO. S612-76
ROAD NO. Ironwood
COUNTY: St. Joseph
SECTION: 17
TOWNSHIP: 37N
RANGE: 3E

OWNER: City of Mishawaka
Dedicated Right of Way

SHEET 3 OF 3
TYPED BY: C. Hume
DATE: 12/4/98
CHECKED BY: J. Lietzan
DATE: 12-7-98

DESCRIPTION FOR POSSIBLE R/W VACATION
OLD IRONWOOD DRIVE

the back side of said retaining wall to the original east line of Ironwood Drive; thence South 00 degrees 00 minutes 00 seconds West 20.00 feet along said original east line to a point 20.00 feet southerly of, as measured normal to, the back side of said retaining wall; thence North 89 degrees 21 minutes 12 seconds West 15.40 feet parallel with and 20.00 feet from, as measured north to, the back side of said retaining wall; thence South 50 degrees 56 minutes 41 seconds West 18.82 feet parallel with and 20.00 feet from, as measured normal to, the back side of said retaining wall to the point of beginning and containing 664 square feet, more or less.

The above described tract of land is also subject to a perpetual easement for utilities described as follows: Beginning at the intersection of the original east line of Ironwood Drive with the north line of Consolidated Rail Corporation (CONRAIL); thence South 88 degrees 51 minutes 54 seconds West 20.00 feet along the north line of CONRAIL; thence North 00 degrees 00 minutes 00 seconds East 115.38 feet more or less to the back of a retaining wall as shown on the construction plans for the St. Joseph County Ironwood/CONRAIL Grade Separation Project No. S612-76; thence South 89 degrees 21 minutes 12 seconds East 20.00 feet along the back of said retaining wall to the original east line of Ironwood Drive; thence South 00 degrees 00 minutes 00 seconds West 114.76 feet more or less along said original east line to the point of beginning and containing 2,301 square feet, more or less.

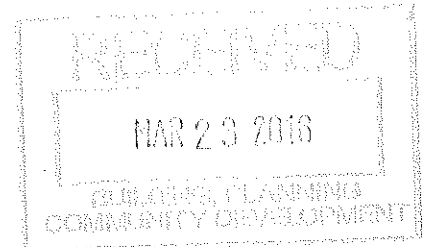
		DATE:
	LAND PLAT by COLE ASSOCIATES INC. 2211 East Jefferson Boulevard, South Bend, IN 46615	

DATE: March 23, 2016

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

RE: **PETITION FOR PUD AMENDMENT**

**Gateway Plaza PUD
NW Corner of Bremen Highway and US 20 Bypass**



Pet 16-12

**RECEIVED
DEBORAH S. BLOCK, MMC**

MAR 30 2016

**CITY CLERK
MISHAWAKA, IN**

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

THAT PART OF THE NORTH HALF OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTH LINE OF SAID SOUTH HALF OF THE SOUTHEAST QUARTER THAT IS 1150.77 FEET SOUTH 89°34'43" EAST FROM SAID NORTH LINES INTERSECTION WITH THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 89°34'43" EAST, ALONG SAID NORTH LINE A DISTANCE OF 1268.58 FEET TO A WESTERLY LINE OF PROPERTY PURCHASED BY THE STATE OF INDIANA FOR THE U.S. 20 BYPASS; THENCE FOR THE NEXT FIVE COURSES ALONG SAID WESTERLY LINE AND THE NORTHERN LINE OF SAID U.S. 20 BYPASS: THE FIRST COURSE BEING SOUTH 52°42'24" WEST, A MEASURE DISTANCE OF 307.44 FEET TO A POINT OF DEFLECTION; THENCE SOUTH 66°40'11" WEST, A DISTANCE OF 156.13 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 3217.93 FEET, A CENTRAL ANGLE OF 11°00'00" AND LIMITED IN LENGTH BY A CHORD OF 616.85 FEET THAT BEARS SOUTH 79°12'07" WEST TO A POINT OF COMPOUND CURVATURE; THENCE SOUTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1172.45 FEET, A CENTRAL ANGLE OF 05°50'20" AND LIMITED IN LENGTH BY A CHORD OF 119.43 FEET THAT BEARS SOUTH 87°37'17" WEST TO A POINT OF TANGENCY; THENCE NORTH 89°27'33" WEST, A DISTANCE OF 152.45 FEET; THENCE NORTH 00°26'33" WEST, A DISTANCE OF 152.46 FEET; THENCE NORTH 00°28'33" WEST, PARALLEL WITH SAID WEST LINE OF THE SOUTHEAST QUARTER, A DISTANCE OF 376.53 FEET TO THE PLACE OF BEGINNING.

TOGETHER WITH THE RIGHTS AND BENEFITS SET OUT IN A WARRANTY DEED BY AND BETWEEN BERTHA S. WEIS AND CARLTON MARKER AND MARY MARKER, ADULTS, HUSBAND AND WIFE, TENANTS RIGHTS ONLY, TO THE STATE OF INDIANA RECORDED JULY 21, 1975 AS DEED RECORD 803, PAGE 510 OF THE ST. JOSEPH COUNTY RECORDS.

The above described parcel of land contains the following property at the NW corner of Bremen Highway and US 20 Bypass.

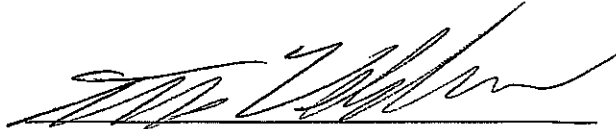
Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 PUD and allows for a Light Industrial use.

Petitioner desires said real estate to be amended as follows:

1. To allow subject parcel to be developed independently from previous PUD that included multiple parcels.
2. Architectural building standards/materials for the self-storage facility shall only apply to the eastern most Building #3 with Office as shown on the Planned Unit Development Preliminary Site Plan. Other storage buildings will not be required to comply with the minimum block or glass requirements identified in the City's Design Review Ordinance, and may consist of metal siding.

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

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



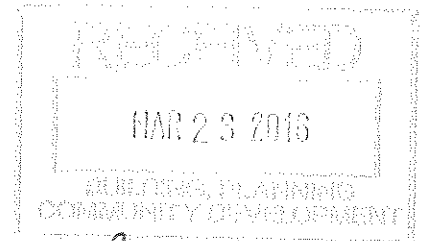
Todd Veldman
KLT Properties, LLC
5222 Western Avenue
South Bend, IN 46619

CONTACT PERSON:

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

Date: March 23, 2016

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



Re: PETITION FOR PUD AMENDMENT – Fiera Vista Villas P.U.D.

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

Part of the Northwest Quarter of Section 17, Township, 37 North, Range 3 East, St. Joseph County, Indiana, described as beginning at point on the West line of said Section 17, 603.75 feet South of the Northwest corner thereof; thence running east 168 feet; thence North 102 feet; thence East 266 Feet; thence South 286 feet; thence West 464 feet to the West line of said Section 17; thence North on said West line 183.45 feet, more or less to the place of beginning. Together with the West ½ of the vacated alley lying East of and adjacent to the above described real estate.

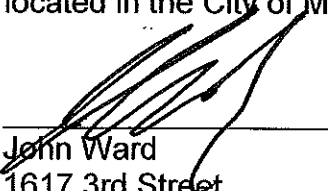
Tax Key No. 27-1048-093613

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for duplex dwellings and a private cul-de-sac.

Petitioner desires said real estate to be amended to allow for the follow:

From a 25' minimum front yard setback to 22' for Lots 1 through 7, 9 through 19, 18 through 20;
From a 25' minimum front yard setback to 18' for Lot 8;
From a 25' minimum front yard setback to 14' for Lot 17;
From a 25' minimum rear yard setback to 15' for Lots 9, 10, and 13 through 16;
From a 5' minimum side yard setback to zero for all lots;
From a 6000 sf minimum lot area to 3695 sf; and
From a 60' minimum front lot width to 22.2', as measured at the ingress/egress easement (private road).

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 amending the PUD of the above described parcel of land located in the City of Mishawaka.



John Ward
1617 3rd Street
Osceola, Indiana 46564

Contact Person
Lang, Feeney & Associates, Inc.
Terance D. Lang
715 S. Michigan Street
South Bend, Indiana 46601

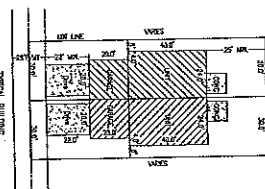
RECEIVED
DEBORAH S. BLOCK, MMC

MAR 30 2016

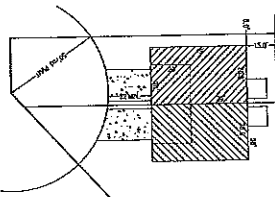
CITY CLERK
MISHAWAKA, IN

PART OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 37 NORTH,
RANGE 4 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.

FRANKLIN STREET b/w N/Th



THEORY, BUILDING
1st - 20th
(continued) (p. 10) AND 14



TYPICAL BUILDING
12' - 20'
TIMES 12 AND 16

STOOD STRUCTURES

STRUCTURE No. 1

INLET

10' X 30

E/272.80

STRUCTURE No. 2

100 LF OF 12" PVC

0.562

STRUCTURE No. 3

STANDARD INLET

R/256.20

E/272.20

STRUCTURE No. 4

60 LF OF 12" PVC

0.501

WITH END SECTION

OUTLET R/ 726.8

STRUCTURE No. 5

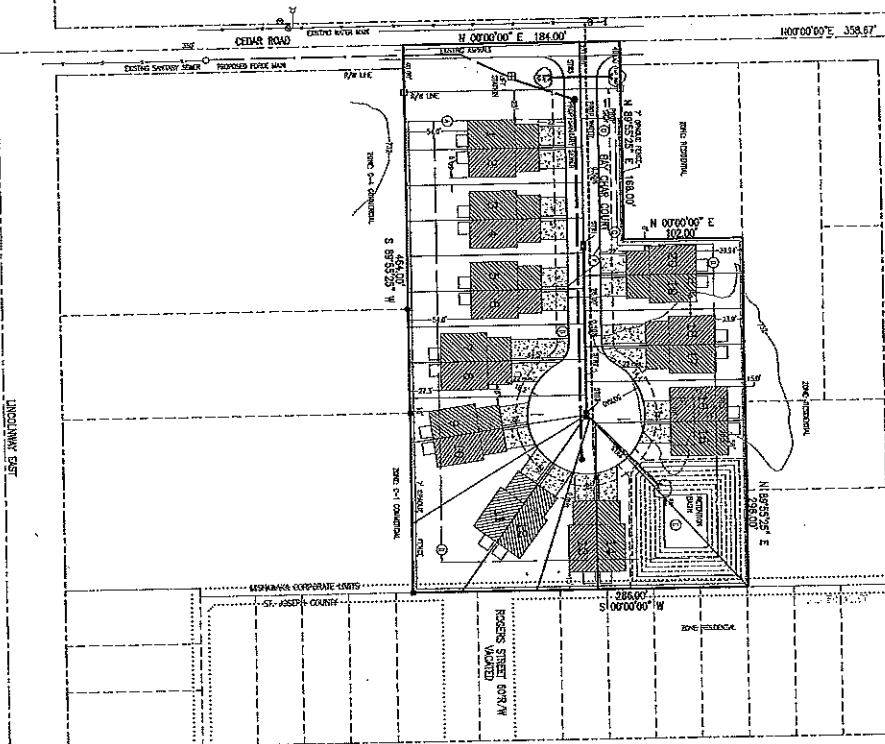
30 LF OF 12" PVC

0.25

WITH 2 END SECTIONS

NORTH E/278.5

SOUTH E/292.88

[illegible]

1. TOTAL AREA: 2.63 ACRES
2. (2.48 AC EXCLUDING 40' CEDAR RD R/W)
3. CURRENT ZONING: S-2 PLANNED UNIT DEVELOPMENT
4. CURRENT USE: VACANT LAND
5. PROPOSED USE: 10 RESIDENTIAL DUPLEX DWELLINGS
6. SERVED BY MUNICIPAL WATER AND SANITARY SEWER.

	SE	AGRRASE	Z
HOUSE/PATIO	29202.00	0.67	26.99
ASPR/CONC	23545.29	0.54	21.75
OPEN AREA	55461.62	1.22	51.29
TOTAL	108206.91	2.48	100.00

LOT SIZE

1 = 735.4 SF	11 = 744.5 SF
2 = 450.0 SF	12 = 497.6 SF
3 = 450.0 SF	13 = 404.1 SF
4 = 450.0 SF	14 = 905.6 SF
5 = 450.0 SF	15 = 913.4 SF
6 = 450.0 SF	16 = 417.5 SF
7 = 450.0 SF	17 = 405.0 SF
8 = 450.0 SF	18 = 408.0 SF
9 = 412.4 SF	19 = 445.0 SF
10 = 515.0 SF	20 = 843.9 SF

- ② 25' REAR YARD SETBACK LINE -
- ③ 5' SIDE YARD SETBACK LINE
- ④ 10' DRAINAGE UTILITY & ROADWAY MAINTENANCE EASEMENT
- ⑤ RETENTION EASEMENT
- ⑥ INGRESS/EGRESS EASEMENT (PRIVATE ROAD)
- ⑦ PROPOSED 6" DUCTILE IRONER MANHOLE/PERFORANT PROPOSED PVC SANITARY SEWER LINE AND MANHOLE
- ⑧ PROPOSED WETLAND AND STORAGE SEWER LINE

DRAINAGE CALCULATIONS

$$\begin{aligned} C_{\text{total}} &= C_{\text{Alb}} + C_{\text{A2M}} + C_{\text{Cys}} \\ &= \frac{0.67}{2.48} (0.96) + \frac{0.54}{2.48} (0.92) + \frac{1.27}{2.48} \\ &= 0.259 + 0.200 + 0.035 \end{aligned}$$

```

0.49%(0.234)(2.48)
0.286 CFS
0.286(24)(3600)
24710 CU FT (1.03)
26195 CU FT REQUIRED

```

RETENTION BASIN

- = Area + Accroa (100774)
- = $\frac{7684.87}{2} + 1568.05$ (6')
- = 2668.19 CU FT PROVIDED

1' MINIMUM

4' MIN TO ALLOW DEPTH

SEE NOTES AND DETAIL

IS TO BE CONSIDERED FOR R.O.W.

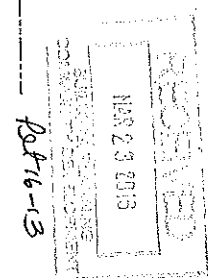
TYPICAL RETENTION BASIN SECTION
 SEE PG. 20

NOT TO SCALE

I, AFFIRM, UNDER PAINS AND PENALTIES FOR PERJURY, THAT I HAVE TAKEN
REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT
UNLESS REQUIRED BY LAW.

TERENCE D. LANG, RLS No. S-0523

pg 16-13



MAR 30 2016

RESOLUTION NO. 2016-14

CITY CLERK
MISHAWAKA, IN

RESOLUTION OF THE MISHAWAKA COMMON COUNCIL APPROVING AN
INTERLOCAL AGREEMENT FOR THE DEFENSE AGAINST PROPERTY TAX RE-
ASSESSMENTS

WHEREAS, each of three local governmental units in St. Joseph County, Indiana (the "County"), namely, (i) the County; (ii) the City of South Bend, Indiana ("South Bend"), and (iii) the City of Mishawaka, Indiana ("Mishawaka") are political subdivisions organized and existing pursuant to the laws of the State of Indiana;

WHEREAS, pursuant to IND. CODE § 36-1-7, *et seq.*, the units are empowered to enter into an Interlocal Agreement with one another for joint cooperative action;

WHEREAS, the units share an interest in entering into the proposed agreement to defend against certain property tax assessment appeals;

WHEREAS, the proposed agreement facilitates an efficient and cost-effective approach to the potential revenue reduction posed by certain tax assessment appeals; and

WHEREAS, there has been presented to this meeting a copy of the proposed form of the Interlocal Agreement, and the members of the Mishawaka Common Council have reviewed the proposed Interlocal Agreement and deem it advisable and in the best interest of Mishawaka for Mishawaka to enter into the Interlocal Agreement:

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

Approval of Interlocal Agreement. The Mishawaka Common Council hereby deems it advisable and in the best interest of Mishawaka for Mishawaka to enter into the Interlocal Agreement. The substantially final form of Interlocal Agreement presented to this meeting, and incorporated herein by reference, is hereby approved by the Mishawaka Common Council. The Mayor and City Clerk are hereby authorized and directed, for and on behalf of Mishawaka, to execute and deliver the Interlocal Agreement and to approve any changes in the form or substance of the Interlocal Agreement, such approval to be conclusively evidenced by its execution by the Mayor and City Clerk.

No Conflict. All ordinances, resolutions, and orders or parts thereof in conflict with the provisions of this Resolution are to the extent of such conflict hereby repealed.

Effectiveness. This Resolution shall be in full force and effect from and after its passage by the Mishawaka Common Council and approval by the Mayor.

PASSED, by the Common Council of the City of Mishawaka, Indiana, this ____ day of _____, 2016.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this ____ day of _____, 2016.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this ____ day of _____, 2016, at ____ o'clock ____ .M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Miller, Controller
Misti D. Horvath, Deputy Controller

March 30, 2016

Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

Mr. President and Honorable Members of the Council:

I respectfully request your approval of the attached resolution for the "Property Tax Re-Assessment Defense Interlocal Agreement."

In recent years, so-called "big-box stores" in Indiana have successfully reduced their property tax valuations by using unoccupied ("dark") stores as part of the calculus for assessment of their active stores. That success has led big-box stores to appeal the assessed value of active stores throughout the state, including St. Joseph County, threatening to significantly reduce the City's tax revenue.

Tax assessors apparently lack the resources to mount an effective challenge to the lower assessed values, so we joined with the City of South Bend and St. Joseph County to form a task force, on which I serve, in response to this predicament. The attached interlocal agreement represents a proposed solution arrived at by the task force, to provide for a coordinated legal effort to combat the big-box stores' attempts to reduce their tax payments. For appeals by properties located in a City Tax Increment Financing ("TIF") District, the City would pay all associated legal costs. For properties not located in a TIF District, the City would pay a pro-rated share determined by the percentage of tax revenue the City receives from the property. We believe this is an efficient, cost-effective approach to the problem.

The attached interlocal agreement has been vetted by the City's Corporation Counsel. Your favorable consideration is requested.

Sincerely,

Rebecca Miller
Controller

MAR 30 2016

Property Tax Re-Assessment Defense Interlocal Agreement

CITY CLERK
MISHAWAKA, IN

between

**St. Joseph County, Indiana The City of South Bend, Indiana, and The City of Mishawaka,
Indiana**

This Property Tax Re-Assessment Defense Interlocal Agreement (the "Agreement") is made and entered into this ____ day of _____, 2016 between St. Joseph County, Indiana, the City of South Bend, Indiana and the City of Mishawaka, Indiana (collectively the "Parties").

Recitals

A. The Parties are all political subdivisions organized and existing pursuant to the laws of the State of Indiana.

B. The Parties, pursuant to Indiana Code § 36-1-7, *et seq.* are empowered to enter into an Interlocal Agreement with one another for joint or cooperative action of any power or powers, privileges, projects or authority, exercised or capable of being exercised individually by such public agencies, and to cooperate in furtherance of such joint action.

C. The Parties share a combined interest in entering into this Agreement to further a coordinated effort by the Parties to efficiently and cost-effectively defend certain property Tax assessment appeals including commercial retailers.

D. This Agreement is being entered to document and provide the Parties' Agreement concerning the sharing of costs regarding the defense of these appeals.

**SECTION 1. APPORTIONMENT OF DEFENSE COSTS-PROPERTY LOCATED
IN A TIF DISTRICT.**

Each Party is responsible for any and all costs associated with any appeals that occur in their territorial limits for property located within a Tax Increment Financing ("TIF") District. The County shall engage all appraisers, attorneys, consultants and other professionals for the defense of all appeals. The St. Joseph County Auditor shall upon receipt of any invoices from a professional, tender the invoice to the Party where the property at issue is located. The Party within which the property at issue is located shall then pay any and all professionals directly. The St. Joseph County Auditor shall provide the Parties to this Agreement a monthly accounting of all invoices received.

SECTION 2. APPORTIONMENT OF DEFENSE COSTS-PROPERTY NOT LOCATED IN A TIF DISTRICT.

Each Party is responsible for a pro-rata portion of the defense costs, commensurate with each party's percentage of the total tax rate received for each year subject to appeal if said property is not located in a TIF area. For these appeals, the County shall retain and pay all professionals directly. The responsible City shall then reimburse the County within sixty (60) days of receiving a request for reimbursement of the City's portion of professional fees.

SECTION 3. MONTHLY REPORTING REQUIREMENTS.

The St. Joseph County Auditor and Assessor shall prepare a monthly report to be provided to all Parties to this Agreement providing an update of the status of any appeals, costs associated with defense of any appeals, any and all other matters related to this Agreement.

SECTION 4. COMPLIANCE WITH LAWS.

The Parties shall comply with all applicable federal, state, and local laws and regulations in performing under this Agreement.

SECTION 5. LEGAL RELATIONS.

A. This Agreement is solely for the benefit of the Parties hereto and gives no right to any other party. This Agreement is formed solely as an interlocal cooperation project under IC 36-1-7.

B. This Agreement shall be interpreted in accordance with the laws of the State of Indiana in effect on the date of execution of this Agreement. The Circuit or Superior Courts of St. Joseph County, Indiana shall have exclusive jurisdiction and venue over any legal action arising under this Agreement between the Parties.

C. Each party shall be solely and completely responsible for all acts and omissions of its employees, elected officials, attorneys or consultants and all other such persons acting exclusively on its behalf.

D. The provisions of this Section shall survive and remain applicable to each of the parties notwithstanding any termination or expiration of this Agreement.

SECTION 6. TERMINATION AND DISPOSITION OF ASSETS UPON TERMINATION.

A. This Agreement shall take effect upon its signing by the Parties. Any Party may terminate this Agreement in the event any other fails to perform a material obligation under this Agreement, and such failure has not been corrected to the reasonable satisfaction of the other in a timely manner after notice of breach has been provided. Notice of termination of this Agreement shall be given by the Party terminating this Agreement to the other Parties not less than thirty (30) days prior to the effective date of termination.

SECTION 7. RECORD KEEPING.

The St. Joseph County Auditor and Assessor shall keep accurate records of all activities and expenditures conducted and incurred under this Agreement.

SECTION 8. AUDITS, INSPECTIONS AND RETENTION OF RECORDS.

The City of South Bend and the City of Mishawaka, and any of their representatives shall have full access to and the right to examine, during normal business hours and as often as they reasonably deem necessary, all of St. Joseph County's records with respect to all matters covered by this Agreement. Such representatives shall be permitted to audit, examine and make excerpts or transcripts from such records, and to make audits of all agreements, invoices, materials, checks, and other matters covered by or related to this Agreement.

SECTION 9. SUCCESSION.

This Agreement, together with all exhibits now or hereafter made a part, shall be binding on the Parties and their respective heirs, executors, administrators, successors and assigns.

SECTION 10. ASSIGNMENT.

Neither this Agreement nor any interest herein may be assigned by any Party without the prior written consent of all other Parties to the Agreement, and said consent shall not be unreasonably withheld.

SECTION 11. NOTICE REQUIREMENTS.

Any notice given under this Agreement shall be in writing hand delivered and/or given by sending such notice by certified mail, return receipt requested, with postage prepaid, addressed as follows, or at such other address as the Party to be notified shall have last directed in writing, or by serving said notice personally.

St. Joseph County: Andrew Kostielney
President, St. Joseph County Board of Commissioners
1401 South Lafayette Blvd.
South Bend, Indiana 46624
and
Jamie C. Woods, Esq.
Counsel, St. Joseph County Board of Commissioners
420 Lincolnway West
P.O. Box 1210
Mishawaka, Indiana 46546-1210

City of South Bend: Pete Buttigieg, Mayor
227 West Jefferson Blvd., Suite 1400 N
South Bend, Indiana 46601
and
Cristal Brisco, Corporation Counsel
Legal Department
227 West Jefferson Blvd., Suite 1200 S
South Bend, Indiana 46601

City of Mishawaka: Dave Wood, Mayor
600 East Third Street
Mishawaka, Indiana 46544
and
Geoffrey Spiess, Esq.
Corporation Counsel
600 East Third Street
Mishawaka, Indiana 46544

The effective date of notice shall be the date of personal service or the date of receipt as shown on the return receipt, as applicable.

SECTION 12. AMENDMENT AND EXTENSION.

This Agreement and the exhibits now or hereafter a part of this Agreement shall not be deemed amended in any manner unless such amendment is in writing and signed by a duly authorized representative of each Party.

SECTION 13. SEVERABILITY.

If any portion of this Agreement is ruled by a court of competent jurisdiction to be invalid, illegal or unenforceable, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by a duly authorized representative.

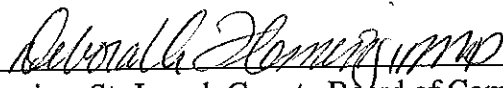
St. Joseph County, Indiana

BY: 

Andrew Kostielney, President St. Joseph County Board of Commissioners



Dave Thomas, Vice President, St. Joseph County Board of Commissioners



Deb Fleming, St. Joseph County Board of Commissioners

ATTESTATION:

Michael Hamann, St. Joseph County Auditor

City of South Bend, Indiana

BY:

Pete Buttigieg, Mayor

ATTESTATION:

City of South Bend, Clerk

City of Mishawaka, Indiana

BY:

Dave Wood, Mayor

ATTESTATION:

City of Mishawaka, Clerk