**AGENDA**

**Monday, May 16, 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**

May 04, 2016

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

A letter from the Board of Zoning Appeals regarding recommendations from their may10, 2016 meeting.

A letter from the City Plan Commission regarding recommendations from their May 10, 2016 meeting.

Presentation of Historic Preservation Award (Main Jr. High Gym Floor)

**6. Report of Special Committee**

**7. Ordinances on First Reading**

P.O. NO. 2016-08 Rezone 3837 LWE from R-2 to C-4 Auto Oriented Commercial Gerver's Auto Sales

P.O. NO. 2016-09 Rezone 2419 LWW from C-1 to C-7 to add a drive-thru for King Gyros

**8. Resolutions**

R2016-19 Use Variance Temporary Sales Office 3221 Beacon Parkway Health and Fitness Center

**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

May 4, 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 May 4, 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. Mammolenti, Mr. Deal, Mr. Tanner, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Banicki. **Absent:** Mr. Compton.

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

The minutes from the April 18th meeting were approved as received from the City Clerk's Office.

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

**Appeal No. 2016-16** Use Variance Temporary Sales Office 3221 Beacon Parkway Health and Fitness Center.

Clerk Block presented the following Petitions to the Council, who referred them to the Plan Commission for their recommendation

**Petition No. 2016-16** Rezone 3837 LWE from R-2 to C-4 Auto Oriented Commercial Gerver's Auto Sales.

**Petition No. 2016-18** Rezone 2419 Lincolnway West from C-1 to C-7 to add a drive thru for King Gyros.

Clerk Block read **PROPOSED ORDINANCE NO. 2016-06** opening it for public hearing.

**PROPOSED ORDINANCE NO. 2016-06**

**AN ORDINANCEAMENDING CHAPTER 137 OF THEMUNICIPAL CODEOF THECITY OF MISHAWAKA, INDIANA AS FROM TIME TOTIME AMENDED, COMMONLY KNOWN AS 'THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA**
(Vacate Portion of Unimproved Ironwood Road (after re-alignment) West of 2087 LWW)

Mr. Deal reported the Land Use Planning Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Tanner motion

carried.

Leslie Kelly said she and her husband own the property on both sides of this parcel and would like to have it vacated to make it possible for future development.

Ms. Voelker asked if there would still be access to the retaining walls so it could be properly maintained, and who was responsible for that maintenance. Ms. Kelly stated there would be access for maintenance and the Progress Club does that work.

Mr. Canarecci asked if they had a vision for that space. She replied not at this time.

Mr. Emmons said the terrace area is maintained by the county.

Mr. Banicki asked what the property was currently being used for. Mrs. Kelly said nothing really they have a friend that parks a semi-trailer there sometimes.

Question was called for on **PROPOSED ORDINANCE NO. 2016-06** at 7:10 Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).Yes: Mrs. Voelker, Mr. Mammolenti, Mr. Deal, Mr. Tanner, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Banicki.

Clerk Block read **PROPOSED ORDINANCE NO. 2016-07** opening it for public hearing.

**PROPOSED ORDINANCE NO. 2016-07**

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

(PUD Amendment Fiera Vista Villas – Duplex Dwellings and a Private Cul-De-Sac LWE north on Cedar Road)

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

Terry Lang, with Lang Feeney & Associates, Inc. 715 S. Michigan Street, South Bend said he would be submitting plans for the Duplex Dwellings and a Private Cul-de-Sac at Lincolnway East North on Cedar Road.

Question was called for on **PROPOSED ORDINANCE 2016-07** at 7:14 p.m. **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Mrs. Voelker, Mr. Mammolenti, Mr. Deal, Mr. Tanner, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Banicki.

**NEW BUSINESS**

Mr. Deal announced there would be a 3rd District meeting at Twin Branch School on May 18 and Lt. Dominic Zultanski, South Bend Police Department would be speaking.

Mr. Emmons said his 1st District meeting would be held at Berkley Circle or St. Bavo on Thursday May 19th, at 7:p.m. He said his guest speaker would be Doug Mitchell addressing the smell from Well Pet.

Mr. Tanner said the meeting for the Oaks would be at Albright United Methodist Church on Mishawaka Avenue at 6:00 p.m. and his speaker would be Mr. Croymans from 911 Dispatch Center or CAPS.

Mr. Banicki congratulated Mr. Tanner for receiving the Lions Club Melvin Jones fellowship award with a $1000 grant to the foundation in his behalf.

**ADJOURNMENT 7:18 p.m.**

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

Ronald S. Banicki_____
Ronald S. Banicki, President

# City of Mishawaka

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

May 11, 2016

RECEIVED
DEBORAH S. BLOCK, MMC
MAY 11 2016
CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
May 10, 2016, Public Hearing

Honorable Members:

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

**APPEAL #16-16** An appeal submitted by Beacon Health System requesting a Use Variance for **3221 Beacon Parkway** to permit a temporary membership sales office trailer until December 31, 2016.

The Board, with a vote of 5-0, recommended approval.

Respectfully,

Kari Myers

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Phil Panzica

# STAFF REPORT

Location: 3221 Beacon Parkway - Beacon Health Campus
(SW corner of Beacon Parkway & Cleveland Road)
Date: May 10, 2016

Appeal: 16 16
Prepared By: KM

## GENERAL INFORMATION

| | |
|---|---|
| Applicant: | Beacon Health Systems/Panzica Building Corporation |
| Status: | Owner/Agent |
| Request: | Use Variance for Temporary Membership Sales Office |
| Lot Size: | Approximately 47.2 acres |
| Applicable Regulations: | Sec. 129-36 (a)(4) Sign Variance, Sec. 129-3 Definitions – Sign Types > Construction Sign, & Sec. 129-73 (18) Permitted Signs by Zoning District |

## SPECIAL INFORMATION

| | | |
|---|---|---|
| Area Development Pattern: | North: | S-2 Planned Unit Development, Unincorporated St. Joseph County, and the Indiana Toll Road entrance/exit |
| | South: | Indiana Toll Road & Unincorporated St. Joseph County |
| | East: | Capital Avenue & Indiana Toll Road interchange |
| | West: | S-2 Planned Unit Development |
| Thoroughfare: | Beacon Parkway & Capital Avenue | |
| School District: | Penn-Harris-Madison | |
| Township: | Harris | |
| Public Utilities: | Will be extended to the site during construction. | |
| Comprehensive Plan: | Area not included in the City of Mishawka Comprehensive Plan | |

## ANALYSIS

The Appellant is requesting a Use Variance to permit a 12' X 42' temporary membership sales office to be placed on the property from May, 2016 through December 31, 2016, while the new health facility is under construction. The property is located near the southwest corner of Beacon Parkway and Capital Avenue. *The Zoning Ordinance permits one temporary construction building incidental to the erection of buildings.*

The Appellant states the high-quality building will be medium gray with painted plywood siding and black mansard roof eave and have a temporary parking area for four (4) cars. The temporary membership sales office will provide a safe place for residents to visit during the community membership drive. The appeal asks for the use of the office through the end of October, 2016, however, staff has no issue with extending the date until December 31, 2016, should the need arise.

All pertinent City departments have reviewed and approved the request.

## RECOMMENDATION

Staff recommends ***approval*** of Appeal #16-16 to permit a 12' X 42' temporary membership sales office to be located on the property through December 31, 2016. This recommendation is based upon the following Findings of Fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because the structure will be professionally installed, maintained, and removed upon the end of use by the end of 2016.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the site is sufficiently large enough to safely accommodate the construction trailer and the temporary membership sales office.

3. The need for the variance arises from some condition peculiar to the property in that the Zoning Ordinance does not allow for additional temporary offices on a property besides the construction trailer and it wouldn't be safe/practical to incorporate the construction office and membership sales office into the same building.

4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought because the Zoning Ordinance does not allow for the use of an additional temporary structure on the property during construction of the main building and the health facility would not be allowed to conduct on-site membership sales without it.

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

## ATTACHMENTS

Photograph, Appeal, Site Plan, and Location Map

3221 Beacon Parkway – Beacon Health Campus
Looking Southeasterly at proposed temporary membership sales office location
from Beacon Parkway & Capital Avenue.

# City of Mishawaka

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

RECEIVED
DEBORAH S. BLOCK, MMC
MAY 11 2016
CITY CLERK
MISHAWAKA, IN

May 11, 2016

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
May 10, 2016, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

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

**PETITION #16-16** A petition submitted by RKG Holdings L.L.C. requesting to rezone **3837 Lincolnway East** from R-2 Two Family Residential District to C-4 Automobile Oriented Commercial District.

The Commission, with a vote of 6-2, recommended approval.

**PETITION #16-18** A petition submitted by Ari Lambridis requesting to rezone **2419 Lincolnway West** from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial District.

The Commission, with a vote of 7-1, recommended approval.

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

Respectfully,

Kari Myers

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Karen Gerver
Nick Scarlatis

# STAFF REPORT

Location: 3837 Lincolnway East Date: May 10, 2016

PET 16 16 Prepared By: CH

## GENERAL INFORMATION

| | |
|---|---|
| Applicant: | Richard and Karen Gerver |
| Status: | Property Owners |
| Request: | To rezone from C-4 Automobile Oriented Commercial and R-2 Two-Family Residential to C-4 Automobile Oriented Commercial |
| Zoning Classification: | C-4 Automobile Oriented Commercial (Northern 180') and R-2 Two-Family Residential |
| Lot Size: | 1.10 acres |
| Applicable Regulations: | Sec. 137-40 Plan Commission<br>Section 137-41 Amendment to Zoning Ordinance & Zoning Map |

## SPECIAL INFORMATION

| | | |
|---|---|---|
| Area Development Pattern: | North: | R-1 Single Family Residential (Twin Branch School) |
| | South: | R-2 Two-Family Residential |
| | East: | C-1 General Commercial and R-2 Two-Family Residential |
| | West: | C-1 General Commercial and R-2 Two-Family Residential |
| Thoroughfare: | Lincolnway East | |
| School District: | School City of Mishawaka | |
| Public Utilities: | All utilities are available to the site | |
| Comprehensive Plan: | General Commercial | |

## ANALYSIS

The petitioner, RKG Holdings LLC, is requesting to rezone an additional 200' of property located at 3837 Lincolnway East to C-4 Automobile Oriented Commercial to allow for the sale/storage of used cars. This property currently has split zoning. A 0.18 acre portion at the northeast corner of this land was rezoned C-4 Automobile Oriented Commercial in September 2014. Since that time the business has expanded, outgrowing the area rezoned. Several cars can be seen parked in the grass of the R-2 Two-Family Residential zoned property on the aerial photograph from 2015.

Given that the northern part of this property is zoned for C-4 uses, the rezoning of the property and use are appropriate. There will still be a 100' buffer of R-2 Two-Family Residential zoning between the house to the south.

However, there are some site issues that will need to be addressed. For instance, new or expanded permanent non-construction related drives, parking areas, alleys shall be hard-surfaced. Gravel or stone surfaces shall not be considered an acceptable stable surface when used for vehicular traffic and parking. Engineering is asking a master plan be submitted. The area is a combination of commercial and residential. Engineering would like to see how the additional storage for cars will be integrated. The master plan shall show hard surface, storm water management, access, etc. A final site plan will need to be approved before improvements, like paving, can be started.

## RECOMMENDATION

The Planning Department recommends approval of Petition 16-16 to rezone the northern 380' of Lots #2 and 3 Ward's Subdivision, property located at 3837 Lincolnway East from C-4 Automobile Oriented Commercial and R-2 Two-Family Residential to C-4 Automobile Oriented Commercial. This recommendation is based upon the following findings of fact:

1. Given the property's close proximity to commercially zoned property and adjacent to C-4 zoned property, the C-4 zoning would be compatible with the surrounding commercial properties uses in the area.

2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-4 Automobile Oriented Commercial

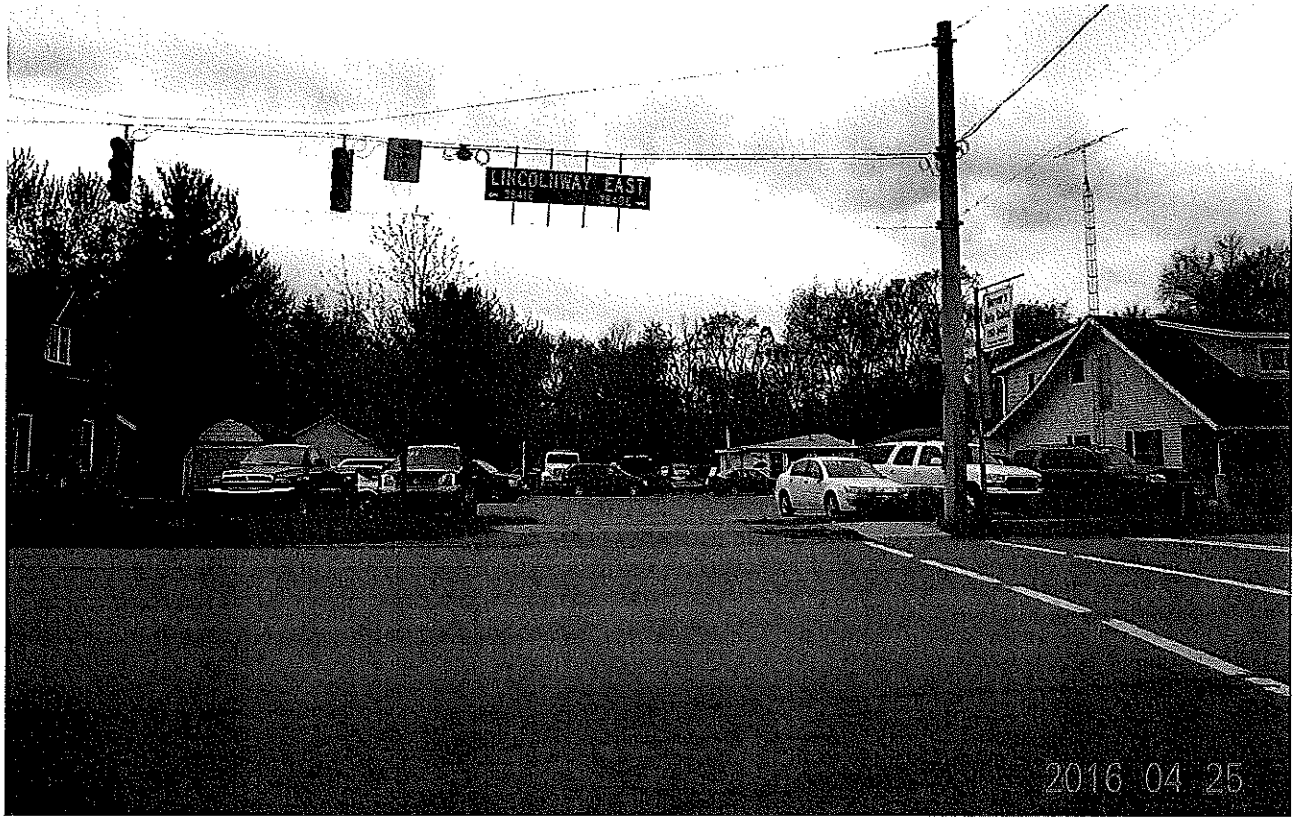
3. Because the parcel is located adjacent to commercial properties along heavily traveled corridors, the C-4 zoning classification would be compatible and is a desirable use for this property;

4. C-4 zoning classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding commercial area by further expanding the automobile commercial use that currently exists on the property.

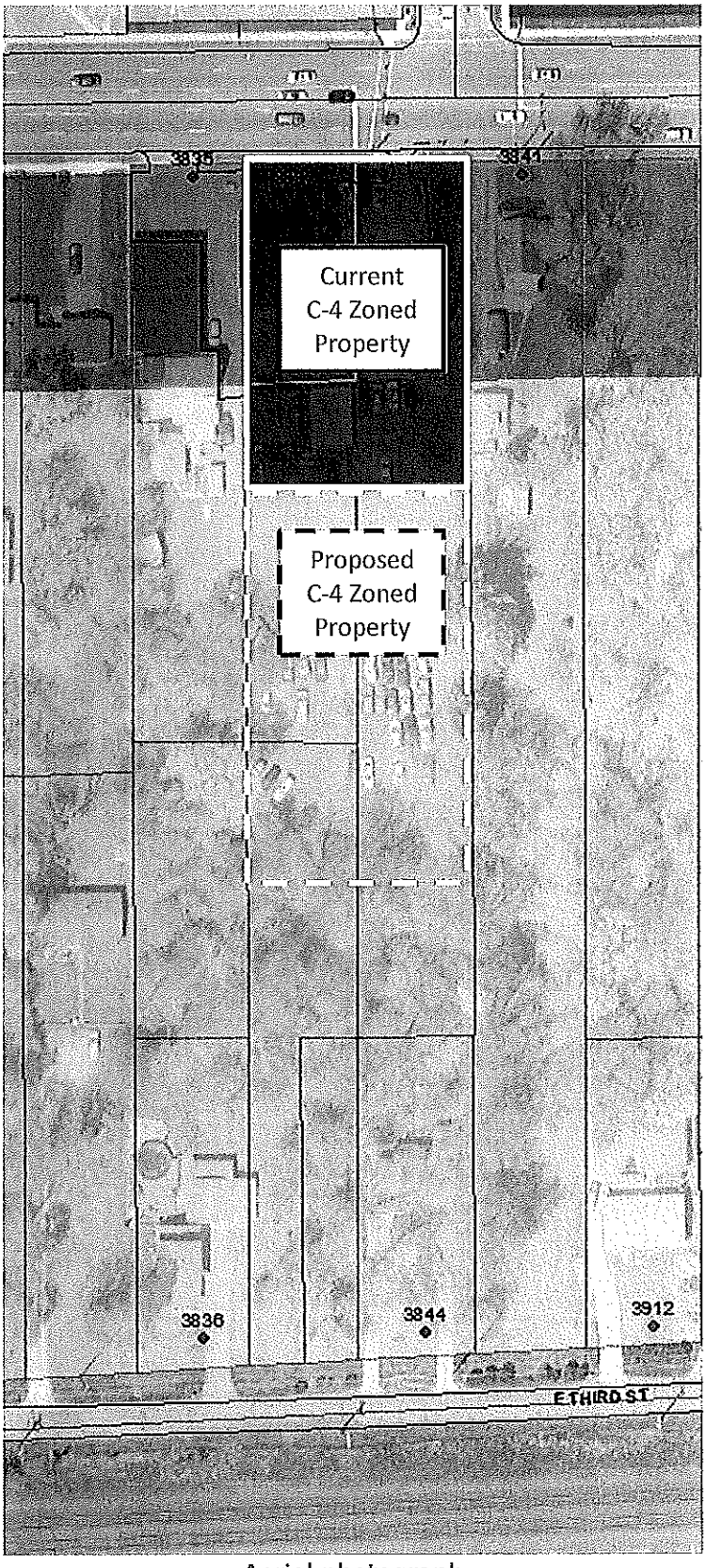
5. The proposed C-4 Automobile Oriented Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along the Lincolnway East corridor.

## ATTACHMENTS

Photograph, Aerial, Petition, Location Map




View looking onto property to be rezoned




Aerial photograph

# STAFF REPORT

Location: 2419 Lincoln Way West (Gyros King) Date: May 10, 2016

Petition: 16- 18 Prepared By: DJS

## GENERAL INFORMATION

| | |
|---|---|
| Applicant: | King Gyros HD One, Inc. / Ari Lambridis |
| Status: | Property Owner |
| Request: | Rezone from the C-1 General Commercial District to the C-7 Auto-Oriented Restaurant Commercial District to allow the addition of a drive-thru window for an existing restaurant. |
| Zoning Classification: | C-1 General Commercial District |
| Lot Size: | Approximately 0.35 acres |
| Applicable Regulations: | 137-455 – 137-457 Commercial C-1 District<br>137-41 Amendments to the Zoning Map |

## SPECIAL INFORMATION

| | | |
|---|---|---|
| Area Development Pattern: | North: | C-1 General Commercial and C-7 Auto-Oriented Restaurant Commercial (Professional Office, Retail and Residential) |
| | South: | Conrail Railroad & I-1 Light Industrial (Industrial south of railroad tracks) |
| | East: | C-1 General Commercial (Residential) |
| | West: | C-4 Auto Oriented Commercial (Used Automobile Sales) |
| Thoroughfare: | Lincoln Way West & N. Russell Ave. | |
| School District: | School City of Mishawaka | |
| Township: | Penn | |
| Public Utilities: | All utilities are available to the site | |
| Comprehensive Plan: | General Commercial (Downtown Retail Sales and Shopping Centers) | |

## ANALYSIS

The Petitioner, King Gyros HD One, Inc., is requesting to rezone property located at 2419 Lincoln Way West from the C-1 General Commercial District to the C-7 Automobile Oriented Restaurant Commercial District to allow the addition of a drive-thru window. The property is currently developed and occupied by a Gyros King restaurant.

The Petitioner desires to construct a small addition (4' x 10') for a new drive-thru window on the east side of the building. Further improvements to the site are proposed including exterior façade renovations, a new concrete patio enclosed with flower planter boxes for outside dining space on the north side of the

building, new curbed landscape areas including three on the periphery of the parking lot and one adjacent to the new drive-thru on the south side of the building, new wrought iron ornamental and cedar wood privacy fencing on the south and east property lines, a new wood fence enclosure for the dumpster, and a reconfigured and restriped parking lot to accommodate the new drive-thru. The new landscaping areas will be planted with grass and landscaping, parking lot screening along Lincoln Way West, and new trees. The reconfigured parking lot will include a handicapped accessible space near the building entrance, parallel parking to the south of the building, and angled parking to the east of the building due to the adjacent access drive becoming one-way.

According to the proposed site plan, a total of 19 parking spaces will be provided which is less than the required 35 parking spaces per ordinance (15 per 1,000 of gross floor area). A variance to allow a reduction in required number of parking spaces along with developmental variances for reduced building and parking lot setbacks (existing), reduced landscaping, and type of dumpster enclosure were submitted in conjunction with the rezoning petition (Appeal 16-14).

All pertinent City Departments have reviewed the rezoning request. The only comments received were from the Engineering Department that stated the restaurant needs to be brought into compliance with the Fats, Oils, and Grease (FOG) Ordinance. This requires the addition of an appropriately sized and designed exterior grease interceptor.

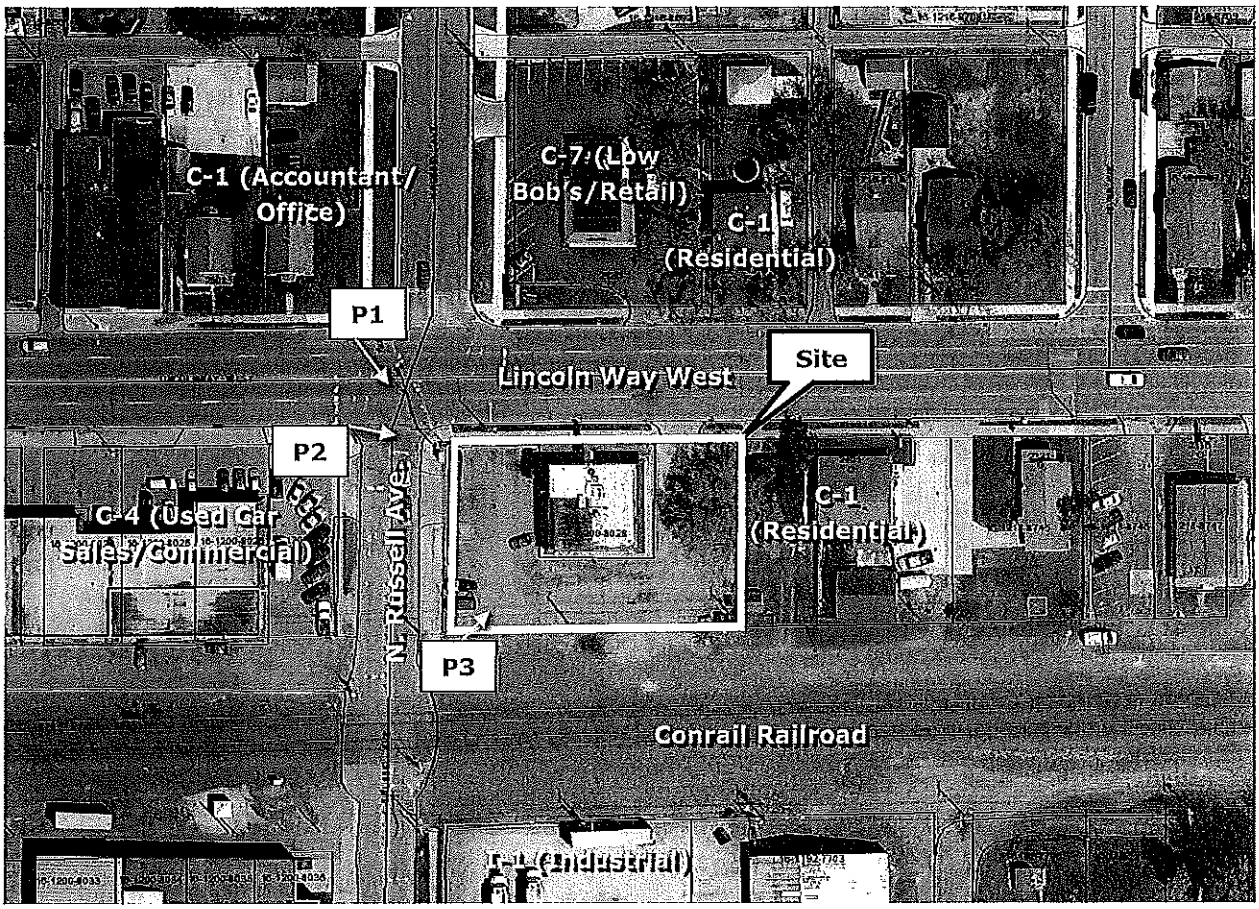
## RECOMMENDATION

Staff recommends in favor of Petition 16-18 to rezone property located at 2419 Lincoln Way West from the C-1 General Commercial District to the C-7 Automobile Oriented Restaurant Commercial District to allow the addition of a drive-thru window for an existing restaurant. This recommendation is based on the following findings of fact:

1. Existing Conditions – The site is currently developed, occupied with an existing restaurant, and located within the Lincoln Way West commercial corridor adjacent to several commercially-zoned properties. The adjacent properties are used for office, retail, and single-family residential to the north; used automobile sales to the west; the railroad and industrial to the south; and single-family residential to the east.
2. Character of Buildings in Area – The character of the adjacent buildings vary greatly including a prior single-family residential house converted into an office use, a tobacco retailer, single-family residential, a used automobile business, and industrial.
3. The most desirable/highest and best use – Due to the property's location along Lincoln Way West, which is primarily a commercial corridor with limited single-family uses, the most desirable use for the property continues to be commercial. The rezoning will allow for the addition of a drive-thru and redevelopment of an existing restaurant use.
4. Conservation of property values – The proposed rezoning to allow the addition of a drive-thru will not be injurious to property values in the surrounding area. Further improvements to the exterior building façade and parking lot, additional landscaping, and fencing and screening will further conserve, or potentially increase, the adjacent property values.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, approved in 1990, guided general commercial uses along this portion of the Lincoln Way West corridor.

## ATTACHMENTS

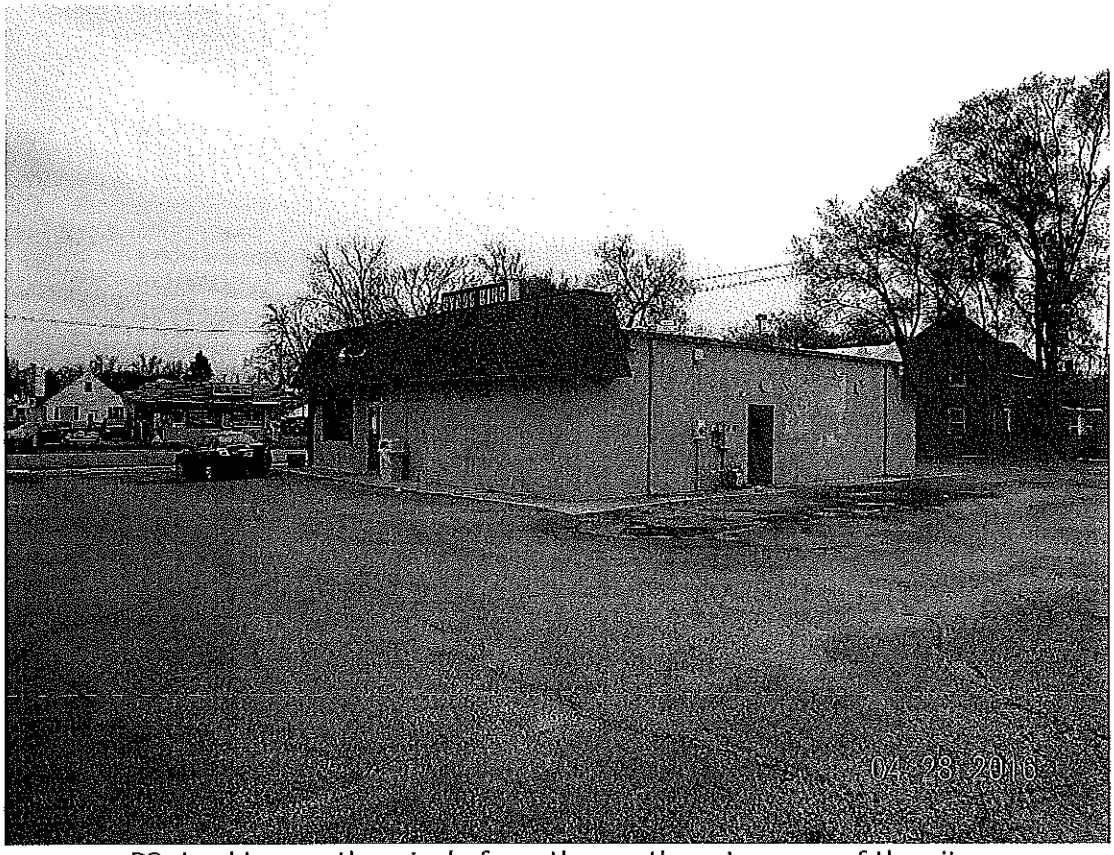
Aerial Photograph, Photographs, Petition, Location Map, Preliminary Site Plan




Aerial Photograph
2419 Lincoln Way West – Gyros King Restaurant

P1. Looking southeasterly into the site and existing parking area.

P2. Looking easterly from the northwest corner of the site.



P3. Looking northeasterly from the southwest corner of the site.

RECEIVED
DEBORAH S. BLOCK, MMC
MAY 11 2016
CITY CLERK
MISHAWAKA, IN

1st Reading 5-16-16
2nd Reading
Passed
Failed
Continued To

PETITION 16-16

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2016-08

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:

The North 380' or so of Ward Subdivision, Lot 2 and 3

COMMON ADDRESS: 3837 Lincolnway East

which real estate is now classified as R-2 Two Family Residential District shall hereafter be within and a part of that District known as C-4 Automobile Oriented 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. Given the property's close proximity to commercially zoned property and adjacent to C-4 zoned property, the C-4 zoning would be compatible with the surrounding commercial properties uses in the area.

2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-4 Automobile Oriented Commercial.

3. Because the parcel is located adjacent to commercial properties along heavily traveled corridors, the C-4 zoning classification would be compatible and is a desirable use for this property.

Proposed Ordinance No: 2016-08

Ordinance No: _____

4. C-4 zoning classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding commercial area by further expanding the automobile commercial use that currently exists on the property.

5. The proposed C-4 Automobile Oriented Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along the Lincolnway East corridor.

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 _____, 2016, at _____ o'clock ___.M.

_____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this _____ day of _____, 2016, at _____ o'clock ____.M.

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

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

_____
David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

APR 28 2016

CITY CLERK
MISHAWAKA, IN

RECEIVED
APR 07 2016

Pet 16-16

April 7,2016
Honorable Members of the
Common Council
City of Mishawaka, Indiana
And
Mishawaka Planning Commission
City of Mishawaka, Indiana

**Re: Petition to Rezone**

The undersigned RKG Holdings L.L.C. 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:

The North 380' or so of Ward Subdivision Lot 2 and 3

3837 Lincolnway East

Mishawaka, Indiana 46544

RKG Holdings own one hundred (100%) percent of the above described parcel of land which carries a zoning classification R-2 which is a two family residential zoning.

RKG Holdings desire said real estate to be rezoned to C-4 District which is an automobile oriented commercial district. RKG Holdings further state that they intend to utilize said land for future inventory.

Wherefore, RKG Holdings 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.

Signature of Property Owner
Richard Gerver

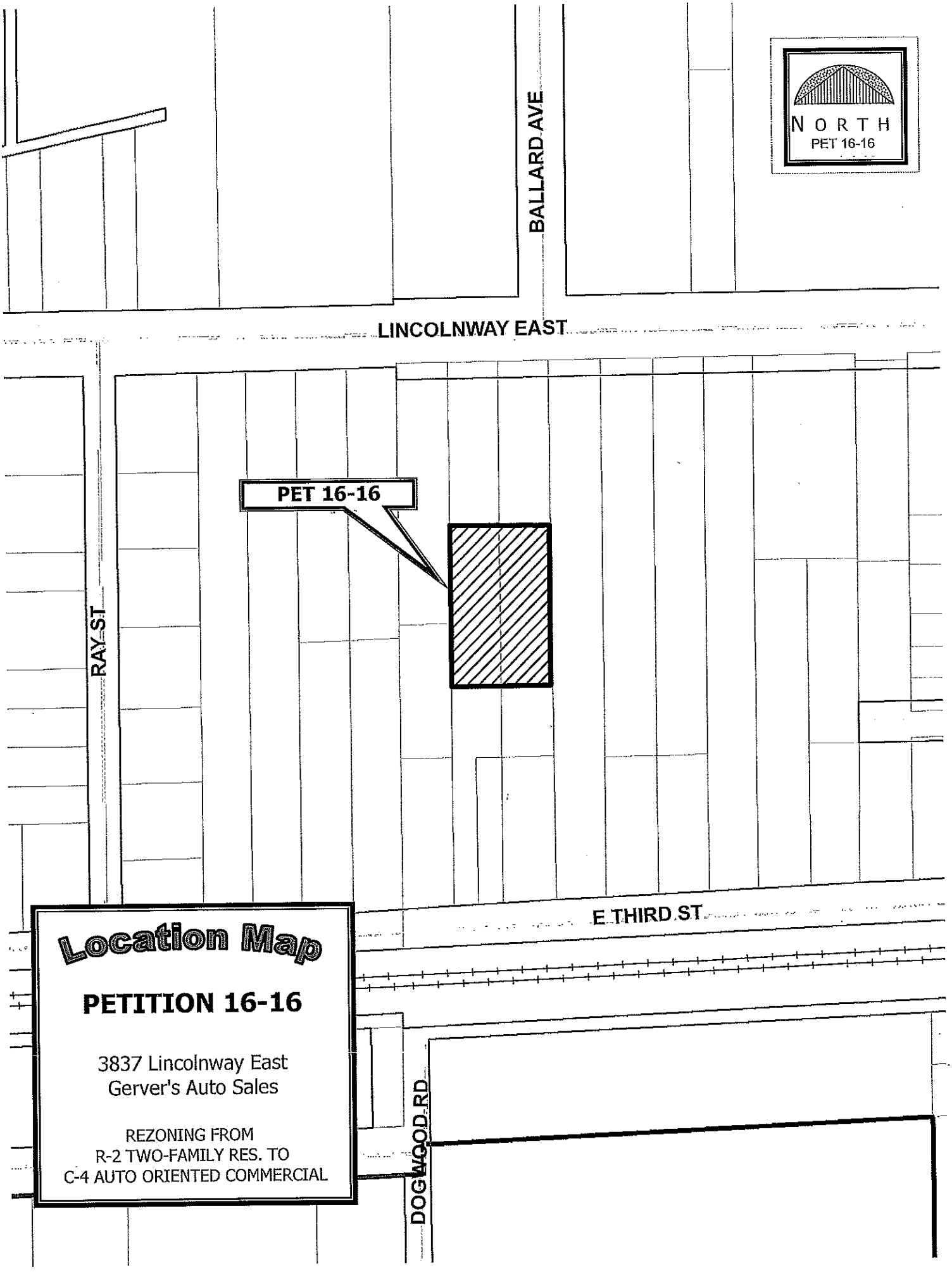
Richard Gerver

Signature of Property Owner
Karen M Gerver

Karen Gerver

**Contact Person:**

Karen Gerver
3839 LWE , Mishawaka, Indiana 46544
574-252-5482
gerversgarage@att.net


BALLARD AVE
NORTH
PET 16-16
LINCOLNWAY EAST
PET 16-16
RAY ST
E THIRD ST
DOGWOOD RD
Location Map
PETITION 16-16
3837 Lincolnway East
Gerver's Auto Sales
REZONING FROM
R-2 TWO-FAMILY RES. TO
C-4 AUTO ORIENTED COMMERCIAL

RECEIVED
DEBORAH S. BLOCK, MMC
MAY 11 2016
CITY CLERK
MISHAWAKA, IN

1st Reading 5-16-16
2nd Reading
Passed
Failed
Continued To

PETITION 16-18

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2016-09

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:

Lots 5, 6, 7, and 8, Springbrook Addition

COMMON ADDRESS: 2419 Lincolnway West

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as C-7 Automobile Oriented Restaurant 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 site is currently developed, occupied with an existing restaurant, and located within the Lincoln Way West commercial corridor adjacent to several commercially-zoned properties. The adjacent properties are used for office, retail, and single-family residential to the north; used automobile sales to the west; the railroad and industrial to the south; and single-family residential to the east.

2. Character of Buildings in Area – The character of the adjacent buildings vary greatly including a prior single-family residential house converted into an office use, a tobacco retailer, single-family residential, a used automobile business, and industrial.

Proposed Ordinance No: 2016-09

Ordinance No: _____

3. The most desirable/highest and best use – Due to the property's location along Lincoln Way West, which is primarily a commercial corridor with limited single-family uses, the most desirable use for the property continues to be commercial. The rezoning will allow for the addition of a drive-thru and redevelopment of an existing restaurant use.

4. Conservation of property values – The proposed rezoning to allow the addition of a drive-thru will not be injurious to property values in the surrounding area. Further improvements to the exterior building façade and parking lot, additional landscaping, and fencing and screening will further conserve, or potentially increase, the adjacent property values.

5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, approved in 1990, guided general commercial uses along this portion of the Lincoln Way West corridor.

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 _____, 2016, at _____ o'clock ___.M.

_____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this _____ day of _____, 2016, at _____ o'clock ____.M.

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

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

_____
David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

APR 28 2016

CITY CLERK
MISHAWAKA, IN

April 18, 2016

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, Ari Lambridis, respectfully show he is the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

*Lots 5, 6, 7 and 8 Springbrook Addition*

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 District. Said property is used as a restaurant.

Petitioner desires said real estate to be rezoned to C-7 District.
Petitioner further states that they intend to utilize said land for the existing restaurant and needs the rezoning to add a drive thru service to the customers.

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

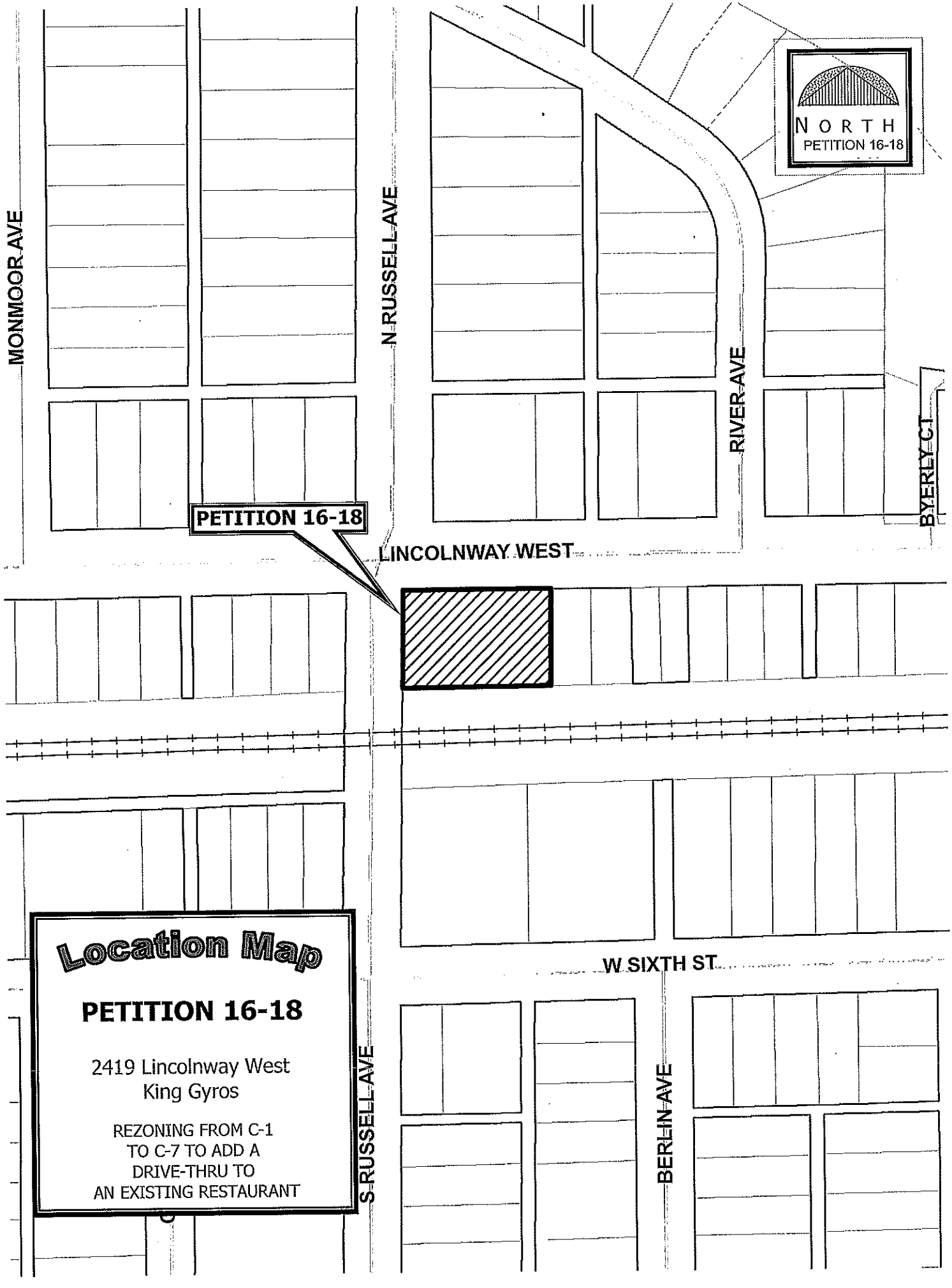
4-19-2016.

*Ari Lambridis*

**CONTACT PERSON:**
Nick Scarlatis
5405 W 127th Street
Crestwood, IL 60445
PHONE: 708-653-5200
FAX : 708-653-6202
EMAIL: nick@scarlatis.com

RECEIVED
APR 20 2016

Pet 16-18


NORTH
PETITION 16-18
MONMOOR AVE
N RUSSELL AVE
RIVER AVE
BYERLY CT
PETITION 16-18
LINCOLNWAY WEST
W SIXTH ST
S RUSSELL AVE
BERLIN AVE
Location Map
PETITION 16-18
2419 Lincolnway West
King Gyros
REZONING FROM C-1
TO C-7 TO ADD A
DRIVE-THRU TO
AN EXISTING RESTAURANT

RECEIVED
DEBORAH S. BLOCK, MMC
MAY 11 2016
CITY CLERK
MISHAWAKA, IN

APPEAL #16-16

RESOLUTION NO. 2016-19

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:

**3221 Beacon Parkway, Granger, Indiana**

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

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

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

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

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **3221 Beacon Parkway, Granger, Indiana**, more particularly known and described as follows:

A PART OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 3 EAST, ST. JOSEPH COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 23; THENCE SOUTH 00°33'26" EAST ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, 2,484.75 FEET TO THE POINT OF BEGINNING AND A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF PROPOSED FIR ROAD-CAPITAL AVENUE CORRIDOR; THENCE THE FOLLOWING (2) COURSES AND DISTANCES ALONG SAID SOUTHERLY RIGHT-OF-WAY: 1) NORTH 48°15'13" EAST, 360.31 FEET; 2) SOUTH 86°05'17" EAST, 28.60 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF CAPITAL AVENUE; THENCE THE FOLLOWING (3) COURSES AND DISTANCES ALONG SAID WESTERLY RIGHT-OF-WAY: 1) SOUTH 42°35'06" EAST, 70.90 FEET; 2) SOUTH 37°30'51" EAST, 451.77 FEET; 3) SOUTH 40°31'24" EAST, 557.77 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF THE INDIANA TOLL ROAD; THENCE SOUTH 51°30'08" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY, 2920.66 FEET TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 23; THENCE NORTH 00°24'31" WEST ALONG SAID EAST LINE, 667.27 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF POROPOSED FIR ROAD-CAPITAL AVENUE CONNECTOR, ALSO BEING A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF

860.00 FEET, SUBTENDED BY A CHORD LENGTH OF 782.96 FEET, BEARING NORTH 50°12'30" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE AND RIGHT-OF-WAY 812.89 FEET; THENCE NORTH 23°07'48" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY, 873.31 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 940.00 FEET, SUBTENDED BY A CHORD LENGTH OF 408.89 FEET, BEARING NORTH 35°41'30" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE AND RIGHT-OF-WAY 412.18 FEET; THENCE NORTH 48°15'13" EAST ALONG SAID SOUTHERLY RIGHT OF WAY, 166.85 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED PARCEL CONTAINING 47.2 ACRES, MORE OR LESS, AND SUBJECT TO ANY EASEMENTS, COVENANTS, AND RIGHT-OF-WAY OF RECORD.

The Use Variance will permit a 12' X 42' temporary membership sales office to be placed on the property from May 2016, through December 2016.

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

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

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because the structure will be professionally installed, maintained, and removed upon the end of use by the end of 2016.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the site is sufficiently large enough to safely accommodate the construction trailer and the temporary membership sales office.

3. The need for the variance arises from some condition peculiar to the property in that the Zoning Ordinance does not allow for additional temporary offices on a property besides the construction trailer and it wouldn't be safe/practical to incorporate the construction office and membership sales office into the same building.

4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought because the Zoning Ordinance does not allow for the use of an additional temporary structure on the property during construction of the main building and the health facility would not be allowed to conduct on-site membership sales without it.

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

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of_____, 2016, at _____o'clock _____ .m.

_____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this _____day of _____2016, at _____ o'clock ___m.

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

APPROVED by me this _____ day of_____, 2016, at _____o'clock _____.m.

_____
David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC
APR 28 2016
CITY CLERK
MISHAWAKA, IN

RECEIVED
APR 20 2016
PLANNING & ZONING
COMMUNITY DEVELOPMENT

AP 16-16

April 20, 2016

Board of Zoning Appeals
City of Mishawaka, Indiana

RE: Beacon Health Mishawaka Campus
Use Variance for Temporary Membership Sales Office
3221 Beacon Parkway at Capital Avenue
Mishawaka, IN

The undersigned appellant respectfully shows the Board:

1. Beacon Health System, is the owner of the following described real estate located within the City of Mishawaka, Harris Township, St. Joseph County, State of Indiana, to-wit:

A PART OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 3 EAST, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 23; THENCE SOUTH 00°33'26" EAST ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, 2,484.75 FEET TO THE POINT OF BEGINNING AND A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF PROPOSED FIR ROAD-CAPITAL AVENUE CONNECTOR; THENCE THE FOLLOWING (2) COURSES AND DISTANCES ALONG SAID SOUTHERLY RIGHT-OF-WAY: 1) NORTH 48°15'13" EAST, 360.31 FEET; 2) SOUTH 86°05'17" EAST, 28.60 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF CAPITAL AVENUE; THENCE THE FOLLOWING (3) COURSES AND DISTANCES ALONG SAID WESTERLY RIGHT-OF-WAY: 1) SOUTH 42°35'06" EAST, 70.90 FEET; 2) SOUTH 37°30'51" EAST, 451.77 FEET; 3) SOUTH 40°31'24" EAST, 557.77 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY OF THE INDIANA TOLL ROAD; THENCE SOUTH 51°30'08" WEST ALONG SAID NORTHERLY RIGHT OF WAY, 2920.66 FEET TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 23; THENCE NORTH 00°24'31" WEST ALONG SAID EAST LINE, 667.27 FEET TO THE SOUTHERLY RIGHT OF WAY OF PROPOSED FIR ROAD-CAPITAL AVENUE CONNECTOR, ALSO BEING A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 860.00 FEET, SUBTENDED BY A CHORD LENGTH OF 782.96 FEET, BEARING NORTH 50°12'30" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE AND RIGHT OF WAY 812.89 FEET; THENCE NORTH 23°07'48" EAST ALONG SAID SOUTHERLY RIGHT OF WAY, 873.31 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 940.00 FEET, SUBTENDED BY A CHORD LENGTH OF 408.89 FEET, BEARING NORTH 35°41'30" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE AND RIGHT OF WAY 412.18 FEET; THENCE NORTH 48°15'13" EAST ALONG SAID SOUTHERLY RIGHT OF WAY, 166.85 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED PARCEL CONTAINING 47.2 ACRES, MORE OR LESS, AND SUBJECT TO ANY EASEMENTS, COVENANTS, AND RIGHT OF WAY OF RECORD.

2. The above-described real estate presently has a zoning classification of **PUD** District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant is constructing at the site a new 68,000 sf Health and Fitness Center and wishes to place on the site a temporary membership sales office trailer from May 2016 until end of October 2016.
4. Beacon Health wishes to prepare a limited area of the site with a temporary off street parking area for (4) cars serving a temporary office trailer, constructed of premanufactured T-111 painted plywood siding and black mansard roof eave. The structure will be a medium gray with a graphic fabric sign 8' x 32' on the street side of the trailer.

5. The Zoning Ordinances of the City of Mishawaka does not clearly address temporary office trailers and we do hereby request a Use Variance to allow this proposed use.

6. Beacon Health in its charge and initiative to encourage health and fitness to the community at-large, is making a substantial investment in Mishawaka. With the new facility under construction, it is not feasible to have sales office within a construction site and building under construction. The use of a higher quality temporary sales office trailer will support a community membership drive in preparation of the opening of this new hospital fitness facility.

7.1 This variance approval will not be injurious to the public health, safety, morals or general welfare of the community. The temporary office will be professionally installed, maintained and removed upon end of use in late October 2016; and its use will provide a safe place to allow residents a place to visit during the community membership drive.

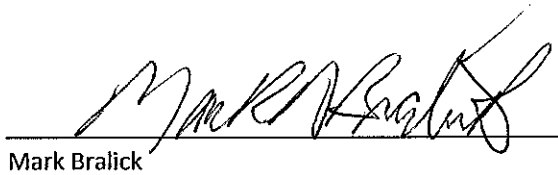
7.2. The temporary office will not detract from any of the adjacent open land that currently exists on the new public roadway. The office will not impact the adjacent properties during its use in normal business hours of operation, or any other part of the day.

7.3 The use of temporary office trailers is not directly addressed in the PUD development plan and this application of a Use Variance for the temporary office provides for its use.

7.4 By omission, and/or not allowing the use of a temporary office, there will be a hardship to this property and Owner. The success of the fitness center within the community and for the not-for-profit hospital needs an active sales program to encourage memberships for fitness.

7.5 The approval of this temporary use will not interfere with the long-term Mishawaka 2000 comprehensive Plan. The use of this temporary office is very short lived in the Mishawaka 2000 Plan time frame. Additionally, the success of this project, with the help from the temporary office, will help assure success for Beacon Health & Fitness, which is in compliance and supports the Mishawaka 2000 plan.

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



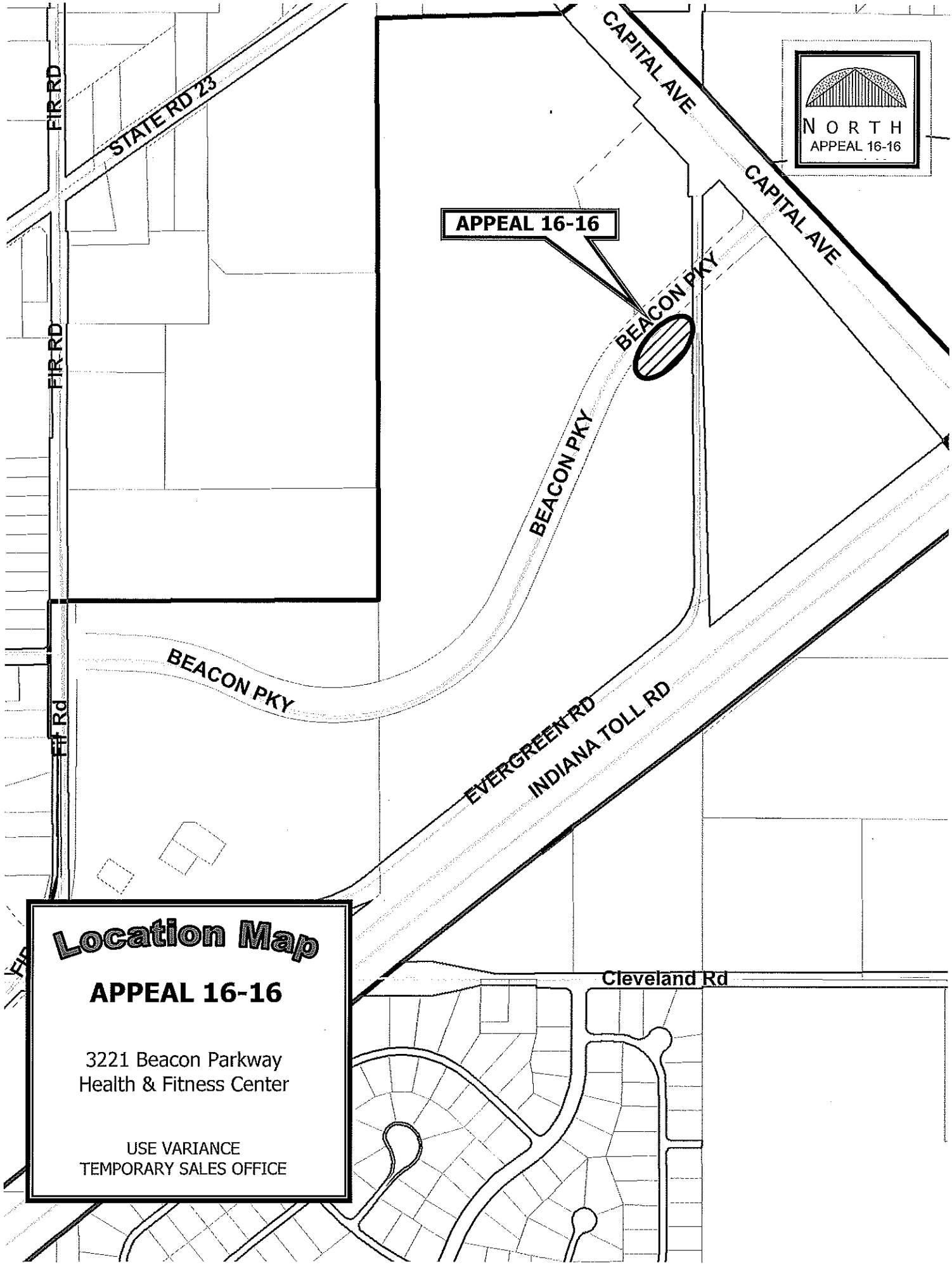
Mark Bralick

Director of Projects & Construction
Beacon Health System
615 N. Michigan St.
South Bend, IN 46601
mbralick@beaconhealthsystem.org
voice: 574-523-3367

**CONTACT PERSON:**

Philip E. Panzica, RA Project Architect
Panzica Building Corporation
422 E. Monroe Street Suite 320
South Bend, IN 46601
pepanzica@panzica.net
voice: 574-234-0124

End




# Location Map

## APPEAL 16-16

3221 Beacon Parkway
Health & Fitness Center

USE VARIANCE
TEMPORARY SALES OFFICE