

AGENDA

Monday, August 15, 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**

August 1, 2016

5. Petitions, Communications, Remonstrance and Memorials

A letter from the Board of Zoning Appeals regarding recommendations from their August 9, 2016 meeting.

A letter from the Mishawaka City Plan Commission regarding recommendations from their August 9, 2016 meeting.

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

P.O. NO. 2016-16 Annex and Zone to C-4 Automobile Oriented - 1732 E. McKinley Ave.

P.O. NO. 2016-17 Rezone from R-1 to C-1 for parking lot for 1617 Milburn Blvd (Pone Express)

P.O. NO. 2016-18 Amend the PUD for Beacon Health Systems, Inc. and Memorial Health Systems, Inc. and Site Signage 3221 Beacon Parkway

8. Resolutions

R2016-23 Use Variance for Used Auto Parts Services - 1732 E. McKinley

R2016-24 Use Variance for a 140' Monopole Communications Tower - 5225 Grape Rd - Restore Habitat for Humanity

9. Ordinances on Second Reading

P.O. NO. 2016-14 Establishing a Local Option Income Tax (LOIT) Special Distribution Fund (Assigned to Budget and Finance Committee)

P.O. NO. 2016-15 Additional Funds - Public Safety LOIT \$10,000, Park Non-Reverting \$32,500, Rainy Day \$450,000, LOIT Special Dist. \$950,000 (Assigned to Budget and Finance Committee)

- 10. Privilege of the Floor - Non-Agenda Items**
- 11. Unfinished Business**
- 12. New Business**
- 13. Adjournment**

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

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements, contact Geoffrey Spiess, ADA Coordinator, at (574) 258-1615.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

August 1, 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 August 1, 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.

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

Absent: Mrs. Voelker.

Others present; Mike Triple Council Attorney

The minutes from the July 18, 2016 meeting were approved as received from the City Clerk's Office.

Mayor Wood's Youth Council, led by Jamie Wood, Debbie Gregg, & Lou Ann consists of 33 students for 2015-2016 who worked diligently to raise money and gather food to feed 65 families at Thanksgiving. They visited the Police Station and got to work with the K-9 Unit and experienced the Taser Guns. These students worked on a Habitat House Build and built walls for a house on Marion Street.

Their Leadership projects consisted of six groups of five and the following is a list of projects they worked on Cleaner/A Greener Community Neighborhoods, Marketing Downtown Mishawaka, Battell Center Renovation, Public Recreation for our Youth, and Create A Master Plan of Bendix Park, which resulted in some really great ideas. The "Public Recreation for our Youth" won the challenge.

Mayor Wood said he would be making a presentation to Mayor's at the IACT Mayor's Institute.

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

- | | |
|-----------------------------|---|
| APPEAL NO. 2016-27 | Use Variance for Used Auto Parts Services – 1732 East McKinley Avenue |
| APPEAL NO. 2016-29 | Use Variance for a 140' Monopole Communications Tower – 5225 Grape Road – Restore Habitat for Humanity. |
| PETITION NO. 2016-22 | Annex and Zone to C-4 Automobile Oriented 1732 E. McKinley Avenue |
| PETITION NO. 2016-23 | Rezone from R-1 to C-1 for parking lot for 1617 Milburn Blvd. (Pone Express) |

PETITION NO. 2016-14 Establishing a Local Option Income Tax (LOIT) Special Distribution Fund

PETITION NO. 2016-15	Additional Funds – Public Safety Loit	\$10,000
	Park Non-Reverting	32,000
	Rainy Day	450,000
	LOIT Special Dist.	950.000

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

PROPOSED ORDINANCE NO. 2016-14

**ESTABLISHING A LOCAL OPTION INCOME TAX
(LOIT) SPECIAL DISTRIBUTION FUND)**
(Assigned to Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2016-15

**AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2016**
(Assigned to Budget and Finance Committee)

NEW BUSINESS

Mr. Deal said the Twin Branch National Night Out would be August 2, at Twin Branch Park from 5 to 7 p.m. with food, games, and prizes.

Mr. Tanner said his meeting this month would be on August 8th at Battell Center at 6 p.m.

Mr. Emmons said he would not be having a monthly meeting this August; he would have one in September to discuss the School Referendum Presentation.

Mayor Wood announced there would be a National Night Out at Hillis Hans Park and the 4th Street Group at 4th and Merrifield.

ADJOURNMENT 7:31 p.m.

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

Ronald S. Banicki _____/s/
Ronald S. Banicki, President



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

August 10, 2016

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 10 2016

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
August 9, 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 Variances were considered:

APPEAL #16-27 An appeal submitted by Michael Niedbalski requesting a Use Variance for **1732 East McKinley Avenue** to permit the following: used auto parts sales, auto wrecking and dismantling, possessing two or more inoperable cars, storing, disposing, salvaging or recycling vehicles.

The Board, with a vote of 4-0, recommended approval.

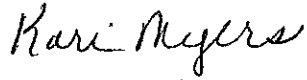
APPEAL #16-29 An appeal submitted by Habitat for Humanity of St. Joseph County, Inc., requesting a Use Variance for **5225 Grape Road** to permit a 140' communications tower on C-4 Automobile Oriented Commercial zoned property.

The Board, with a vote of 3-1, recommended approval subject to the following conditions:

- 1) The monopole tower shall not exceed more than 140 ft. in height (does not include height of attached antenna apparatus and lighting rod).
- 2) A fence of no higher than 7-foot will be allowed around the base of the tower and equipment building. Barbed wire is not permitted.
- 3) An Administrative Site Plan shall be submitted for the property. The site plan shall be consistent with the schematic site plan submitted.
- 4) The proposed 12' access drive between the existing asphalt parking area and the access gate into the compound shall be paved.
- 5) A storm water drainage plan shall be submitted to include an adequate system and means to capture all runoff from the new impervious surface areas.

- 6) A row of evergreen trees shall be planted 10' on center along the northern 84' fence enclosure and along the western 25' fence enclosure to screen the compound area. The evergreen trees shall be 6' in height at the time of planting.

Respectfully,

A handwritten signature in cursive script that reads "Kari Myers".

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Michael Niedbalski
Andy Fitz

STAFF REPORT

Location: 1718 E McKinley and 1732 E McKinley

Date: August 9, 2016

Appeal: 16 27

Prepared By: CH

GENERAL INFORMATION

Applicant: Michael Niedbalski

Status: Property Owner

Request: Use variance to allow:

- 1) selling used major component parts of vehicles;
- 2) wrecking or dismantling vehicles for resale of their major component parts;
- 3) rebuilding salvage, wrecked or dismantled vehicles;
- 4) disposing of recyclable materials to a scrap metal processor or other appropriate facility;
- 5) possessing two (2) or more inoperable vehicles subject to registration for more than thirty (30) days;
- 6) engaging in the business of storing, disposing, salvaging or recycling of vehicles, vehicle hulks or the parts of vehicles.

Zoning Classification: Currently unincorporated St. Joseph County Commercial and C-1 General Commercial being annexed and rezoned to C-4 Automobile Oriented Commercial

Lot Size: 1.58 acres

Applicable Regulations: 137.42 Board of Zoning Appeals (4) Variance of Use

SPECIAL INFORMATION

Area Development Pattern: North: Unincorporated St. Joseph County (Residential)
South: C-4 Automobile Oriented Commercial
East: C-4 Automobile Oriented Commercial/Unincorporated St. Joseph County (Commercial)
West: C-1 General Commercial/Unincorporated St. Joseph County (Commercial)

Thoroughfare: McKinley Highway

School District: Penn-Harris-Madison School Corporation

Township: Penn Township

Public Utilities: All utilities are available and existing

Comprehensive Plan: General Commercial

ANALYSIS

The property at 1718 and 1732 E McKinley Highway has been operating as a salvage business since 1978. Currently the front 150' is in the City of Mishawaka zoned C-1 General Commercial and the remainder of the property is zoned C Commercial District under St. Joseph County's jurisdiction. In addition to this Use Variance, the petitioner is also requesting annexation of the rear portion of both lots and rezoning the entire property C-4 Automobile Oriented Commercial.

The State of Indiana now requires a zoning affidavit for many of the activities taking place on the site. The petitioner has requested a use variance to allow: 1) selling used major component parts of vehicles; 2) wrecking or dismantling vehicles for resale of their major component parts; 3) rebuilding salvage, wrecked or dismantled vehicles; 4) disposing of recyclable materials to a scrap metal processor or other appropriate facility; 5) possessing two (2) or more inoperable vehicles subject to registration for more than thirty (30) days; and 6) engaging in the business of storing, disposing, salvaging or recycling of vehicles, vehicle hulks or the parts of vehicles. These activities are not allowed in C-1 General Commercial and would only be allowed as a conditional use in I-2 Heavy Industrial. Instead of zoning the property to I-2 Heavy Industrial, a use variance will allow these uses to continue, while the C-4 Automobile Oriented Commercial District will match the surrounding zoning along the McKinley Highway corridor.

All the buildings, fencing and landscaping are existing. The owner is a certified Indiana Clean Yard according to Indiana Department of Environmental Management's criteria. They recycle all automobiles in an environmentally-friendly manner, properly disposing of all hazardous materials, including fluids, batteries, tires and components containing mercury according to the regulations set forth by the IDEM.

All pertinent City Departments have reviewed the request and have not identified any objections or concerns.

RECOMMENDATION

Staff recommends in favor of Petition # 16-22 to allow: 1) selling used major component parts of vehicles; 2) wrecking or dismantling vehicles for resale of their major component parts; 3) rebuilding salvage, wrecked or dismantled vehicles; 4) disposing of recyclable materials to a scrap metal processor or other appropriate facility; 5) possessing two (2) or more inoperable vehicles subject to registration for more than thirty (30) days; and 6) engaging in the business of storing, disposing, salvaging or recycling of vehicles, vehicle hulks or the parts of vehicles, located at 1718 and 1732 E McKinley Highway. This recommendation is based upon the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the business has been operating for many years at this location. The owner has been designated a certified Indiana Clean Yard through IDEM;
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 business has been operating at this site for many years, and similar automobile oriented commercial development exist along the McKinley Highway corridor;
3. The need for the variance arises from some condition peculiar to the property involved in that the business has been operating for several years, however now requires a zoning affidavit, thus requiring the Use Variance for the proposed uses;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance as drafted, would not permit the Appellant to continue to run their business;
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area along McKinley Highway for general commercial.

ATTACHMENTS

Aerial Photo, Site Photographs, Petition





An overall view of the site. Includes two buildings and fenced in area.



A close up of inside the fence.

STAFF REPORT

Location: 5225 Grape Road (ReStore)

Date: August 9, 2016

Appeal: 16-29

Prepared By: DJS

GENERAL INFORMATION

Applicant: Habitat for Humanity of St. Joseph County, Inc. / Mastec Network Solutions

Status: Property Owner / Agent, Zoning & Permit Manager

Request: Use variance to allow a telecommunications facility consisting of a 140 foot monopole tower with attached antennas and a fenced compound to include an equipment building and generator

Zoning Classification: C-4 Automobile Oriented Commercial

Lot Size: 84' x 26' (2,184 sq. ft.) area to be leased within the 5 acre lot

Applicable Regulations: Section 137-42 / Board of Zoning Appeals (4) Variance of Use

SPECIAL INFORMATION

Area Development Pattern: North: C-6 Linear Office Commercial (Office/Afdent Dental Lab) & C-1 General Commercial (Commercial/Batteries Plus, Multi-Tenant building including Forge Staffing and Verizon, and Ossip Optometry)

South: S-2 Planned Unit Development (Commercial/AA Mini-Storage Facility) & C-1 General Commercial (Commercial/Multi-Tenant building including Springleaf Financial, Louis Tax Shop & Jade's Nails)

East: C-4 Automobile Oriented Commercial (Auto Sales & Service/Gurley Leep)

West: S-2 Planned Unit Development (Office/Afdent Dental Office & Single-Family Residential/Summerfield Subdivision)

Thoroughfare: Grape Road

School District: School City of Mishawaka

Public Utilities: All utilities are available and/or will be extended to the site at the owner's/developer's expense

Comprehensive Plan: Service Commercial (Office Parks, Medical Centers & Hotels)

ANALYSIS

The Applicant, Habitat for Humanity of St. Joseph County, is requesting a use variance to allow a telecommunications facility consisting of a 140 foot monopole tower with attached antennas, and a 2,184 sq. ft. compound area, to be located on their property at 5225 Grape Road. Habitat for Humanity operates a ReStore at the site.

ReStore, which is open to the general public, is a nonprofit home improvement store and donation center that sells discounted new and gently used furniture, home accessories, building materials, and appliances. Proceeds generated from the store support Habitat's numerous programs including the building of new homes for low-income families throughout St. Joseph County and the City of Mishawaka. Although not relevant to the consideration of the proposed request, the additional potential income from the tower lease will further support Habitat's programs and home building efforts.

The 84' x 26' compound area will be constructed at the base of the proposed tower within the northwest corner of the site. It will be enclosed with a 6' high chain link fence and will include a 137 sq. ft. equipment building and generator. The site plan shows no additional landscaping. *Staff is requesting that a solid row of evergreen trees be planted 10' on center along the northern 84' fence line and along the western 25' fence line enclosing the compound area.*

The tower will initially be equipped with twelve (12) AT&T wireless communications antenna at the top of the monopole. The antenna array will consist of three (3) sets of flat panel antennas composed of four (4) antennas each. Each antenna is approximately 97 inches tall and 12 inches wide and 8 inches deep. The monopole will be designed to accommodate a total of four (4) carriers.

The location of the tower, as proposed, sits within a mixed-use area consisting of both commercial and residential properties. Properties to the north along Douglas Road, to the east along Grape Road, and immediately to the south are commercial. The nearest residential property from the proposed base of the tower is approximately 140' to the southwest within the Summerfield subdivision. A berm and privacy fence are present at the eastern end of Canterbury Court providing screening between the residential area and the ReStore property/proposed tower location. Additional screening will be maintained within an approximate 55'x70' area located to the west of the proposed fenced compound.

At the time of writing this Staff Report, the Planning Department has received no phone calls or letters of remonstrance opposing the location of the proposed tower.

Staff has attached an aerial photograph of the proposed compound location within the site together with photographs depicting the adjacent current and future views toward the tower. These photographs were provided by the Applicant.

For reference, the Zoning Ordinance of the City of Mishawaka requires "communication broadcasting towers" to be constructed as a conditional use in the I-2 Heavy Industrial Zoning District. Due to the unique requirements for locating such facilities, and in consideration of the tower height and equipment pads needed, requests to erect towers and construct the accompanying equipment need to be evaluated on an individual basis. The Conditional Use Permit process allows the City to do just that. Because the property on which the proposed tower is to be constructed is zoned C-4 Auto Oriented Commercial, not I-2 Heavy Industrial, a conditional use cannot be obtained. Therefore, the Petitioner is requesting a use variance to vary from the permitted uses identified within the C-4 Commercial District to allow a telecommunications facility with a single 140 foot monopole tower and fenced compound with an equipment building and generator.

The Staff feels that the proposed use of the site for a telecommunications facility and tower is appropriate given the context and location within a primarily commercial area, and existing screening/buffering present between the residential and commercial uses. Communication towers require a specific geographic location and elevation to insure proper coverage. The proposed location represents an optimal location for one of these towers required for the desired coverage.

As a reminder to the Board, Federal law does not allow local government to consider "environmental factors" relative to the review and approval of cell phone tower and technology.

All pertinent City Department have reviewed and approved the use variance request with the Electric Department providing the following comments:

1. Any existing electrical facilities requiring relocation not covered under the Terms and Conditions of Electrical Service shall be at the owner's/developer's expense. Please be aware that Mishawaka Utilities has a three phase underground line in the area of construction.

RECOMMENDATION

The staff recommends in favor Appeal 16-29 to allow a telecommunications facility consisting of a 140 foot monopole tower with attached antennas and a fenced compound to include an equipment building and generator subject to the following conditions:

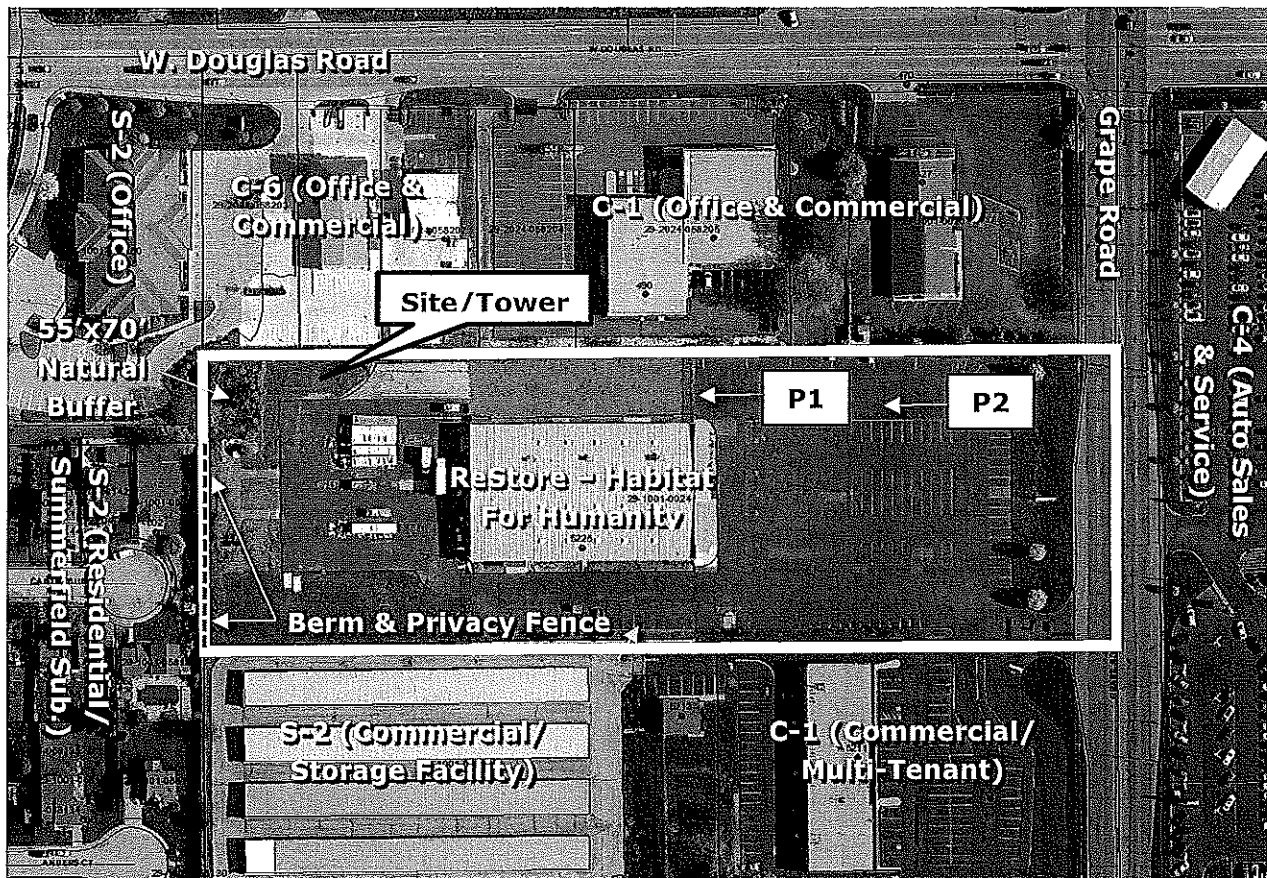
- 1) The monopole tower shall not exceed more than 140 ft. in height (does not include height of attached antenna apparatus and lighting rod).
- 2) A fence of no higher than 7-foot will be allowed around the base of the tower and equipment building. Barbed wire is not permitted.
- 3) An Administrative Site Plan shall be submitted for the property. The site plan shall be consistent with the schematic site plan submitted.
- 4) The proposed 12' access drive between the existing asphalt parking area and the access gate into the compound shall be paved.
- 5) A storm water drainage plan shall be submitted to include an adequate system and means to capture all runoff from the new impervious surface areas.
- 6) A row of evergreen trees shall be planted 10' on center along the northern 84' fence enclosure and along the western 25' fence enclosure to screen the compound area. The evergreen trees shall be 6' in height at the time of planting.

This recommendation is based upon the following findings of fact:

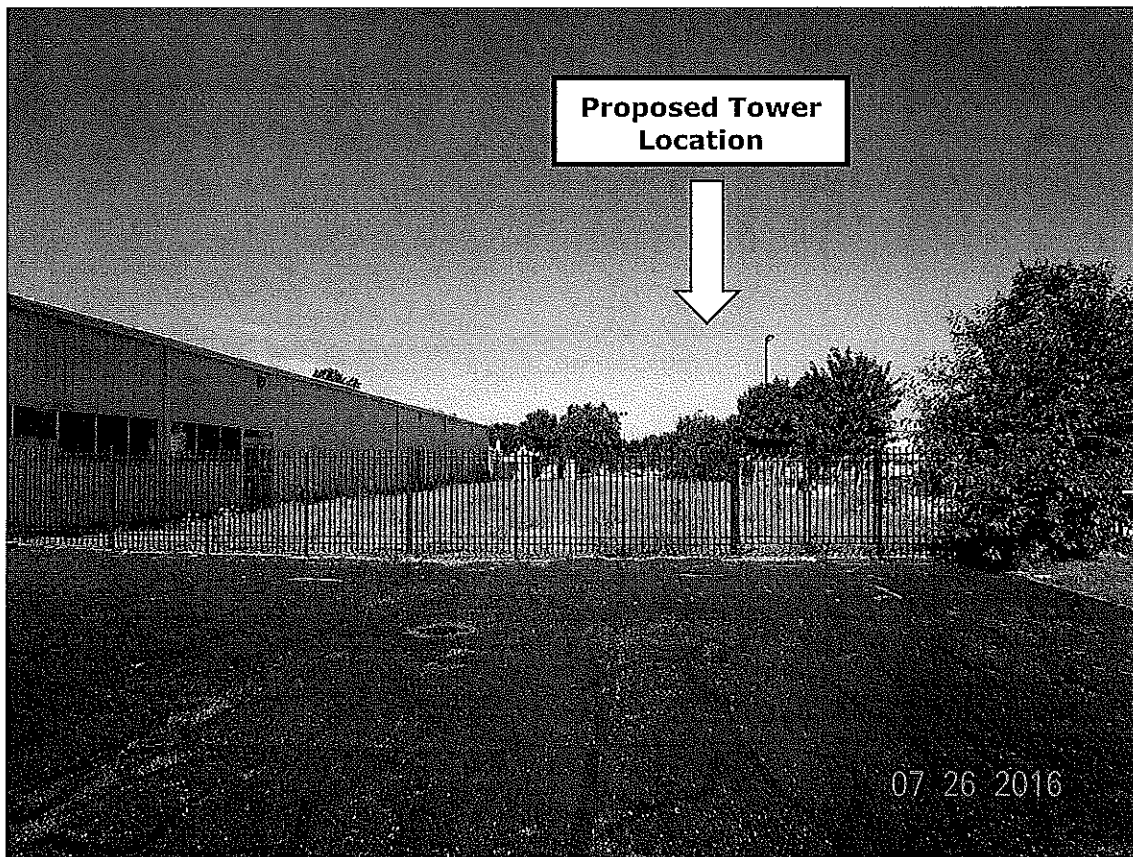
1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the property on which the tower is to be located is adjacent to commercial uses to the north, east, and south while adequate screening/buffering is present between the property and the residential subdivision to the west. The telecommunication facility and tower will be constructed and managed according to all regulatory codes.
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 area is primarily surrounded by commercial development; and adequate screening/buffering is present between where the tower is sited on the applicant's property and the residential properties to the west.
3. The need for the variance arises because the Zoning Ordinance for the City of Mishawaka restricts the installation of all telecommunications towers from all zoning districts other than the I-2 Heavy Industrial District. With the increase usage of cell phones, the number of properly zoned properties in areas needed to provide adequate call coverage and becoming less available. However, each site needs to be evaluated on an individual basis.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because cell towers are only allowed in industrial zoned properties. The use of cellular phones and technology are continually increasing creating a higher demand for better cellular coverage for users. The location of properties zoned heavy industrial within the City requires that sites be evaluated on a case by case basis relative to the context of a specific location.
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan. Although the Comprehensive Plan identifies this property for Service Commercial, the Comprehensive Plan will not be substantially interfered with because of the limited use of the property and the specific hardships/development characteristics of the site associated with the request.

ATTACHMENTS

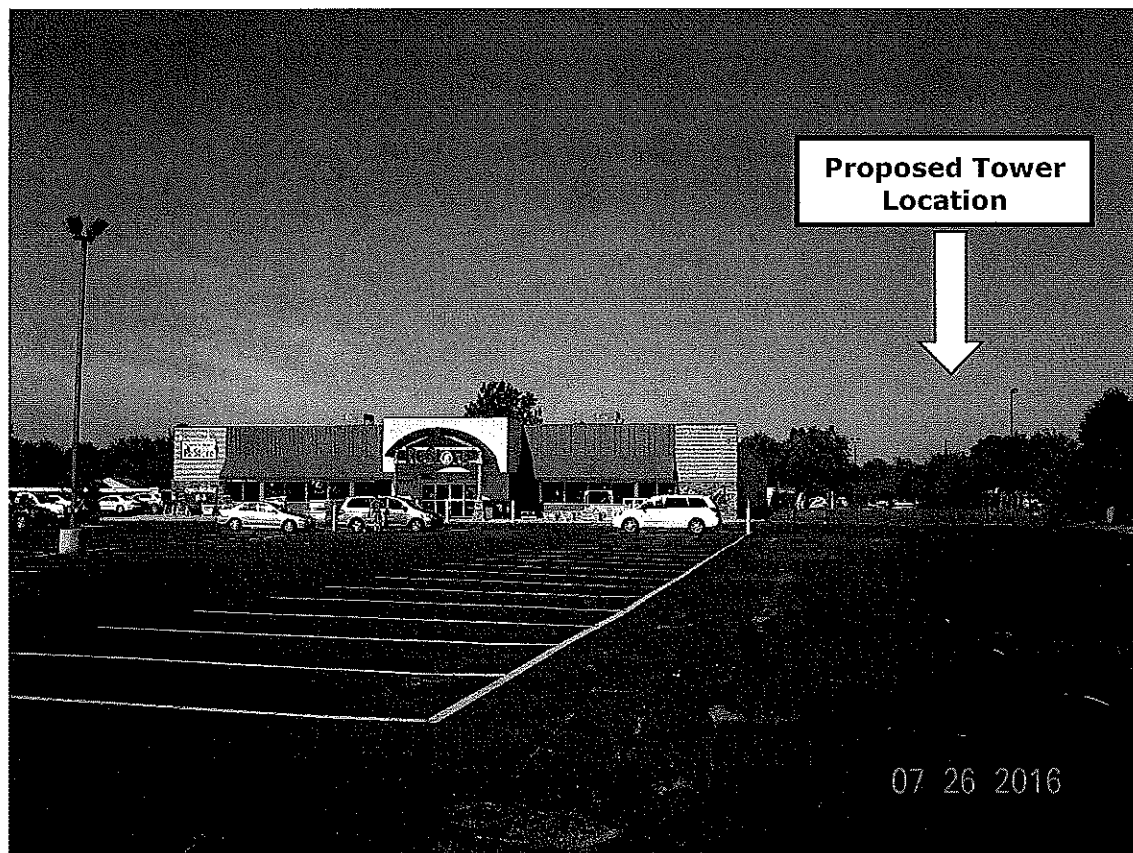
Aerial, Photograph(s), Appeal, Photographs depicting the adjacent current and future views toward the tower location, Site Plan(s), Location Map



Aerial Photograph
5225 Grape Road – ReStore & Proposed Tower Location



P1. Looking westerly from the northwest corner of the Restore building toward the proposed tower location.



P2. Looking westerly from the northwest corner of the ReStore parking lot along Grape Road.



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

August 10, 2016

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 10 2016

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
August 9, 2016, Public Hearing
Certification of Proposed Ordinances

CITY CLERK
MISHAWAKA, IN

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 #16-22 A petition submitted by Michael Niedbalski requesting to annex and zone property at **1732 East McKinley Avenue** to C-4 Automobile Oriented Commercial District.

The Commission, with a vote of 9-0, recommended approval.

PETITION #16-23 A petition submitted by Lila M. Filippone requesting to rezone **1613 Milburn Boulevard** from R-1 Single Family Residential District to C-1 General Commercial District.

The Commission, with a vote of 9-0, recommended approval.

PETITION #16-24 A petition submitted by Beacon Health Systems, Inc., and Memorial Health Systems, Inc., (**3221 Beacon Parkway**) requesting to amend the Walker Planned Unit Development and NW Capital and Toll Road Planned Unit Development to modify the previously approved sign program.

The Commission, with a vote of 9-0, recommended approval.

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

Respectfully,

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Michael Niedbalski
Lila Filippone
Phil Panzica

STAFF REPORT

Location: 1718 E McKinley and 1732 E McKinley

Date: August 9, 2016

Petition: 16 22

Prepared By: CH

GENERAL INFORMATION

Applicant: Michael Niedbalski

Status: Property Owner

Request: To annex 0.62 acres and zone 1.58 acres to C-4 Automobile Oriented Commercial

Zoning Classification: Unincorporated St. Joseph County Commercial and C-1 General Commercial

Lot Size: 1.58 acres

Applicable Regulations: Section 137-379 to 137-380 C-4 Automobile Oriented Commercial
Section 137-41 Amendments to the Zoning Map
Indiana Code 36-4-3 2.1 and 36-4-3-3.1

SPECIAL INFORMATION

Area Development Pattern: North: Unincorporated St. Joseph County (Residential)
South: C-4 Automobile Oriented Commercial
East: C-4 Automobile Oriented Commercial/Unincorporated St. Joseph County (Commercial)
West: C-1 General Commercial/Unincorporated St. Joseph County (Commercial)

Thoroughfare: McKinley Highway

School District: Penn-Harris-Madison School Corporation

Township: Penn Township

Public Utilities: All utilities are available and existing

Comprehensive Plan: General Commercial

ANALYSIS

Historically, along McKinley Highway, only the 150' immediately north of the right of way was in the City of Mishawaka. The property in the City is zoned C-1 General Commercial and the property currently under St. Joseph County's jurisdiction is zoned C Commercial District. This property is 62.5% contiguous to the existing City limit. This is more than double the 25% contiguity required by the recent amendment to the Indiana Code. Staff suggested that the property be annexed to the City so it was no longer governed by two jurisdictions. In 2010 a similar annexation took place at 1500 McKinley Highway.

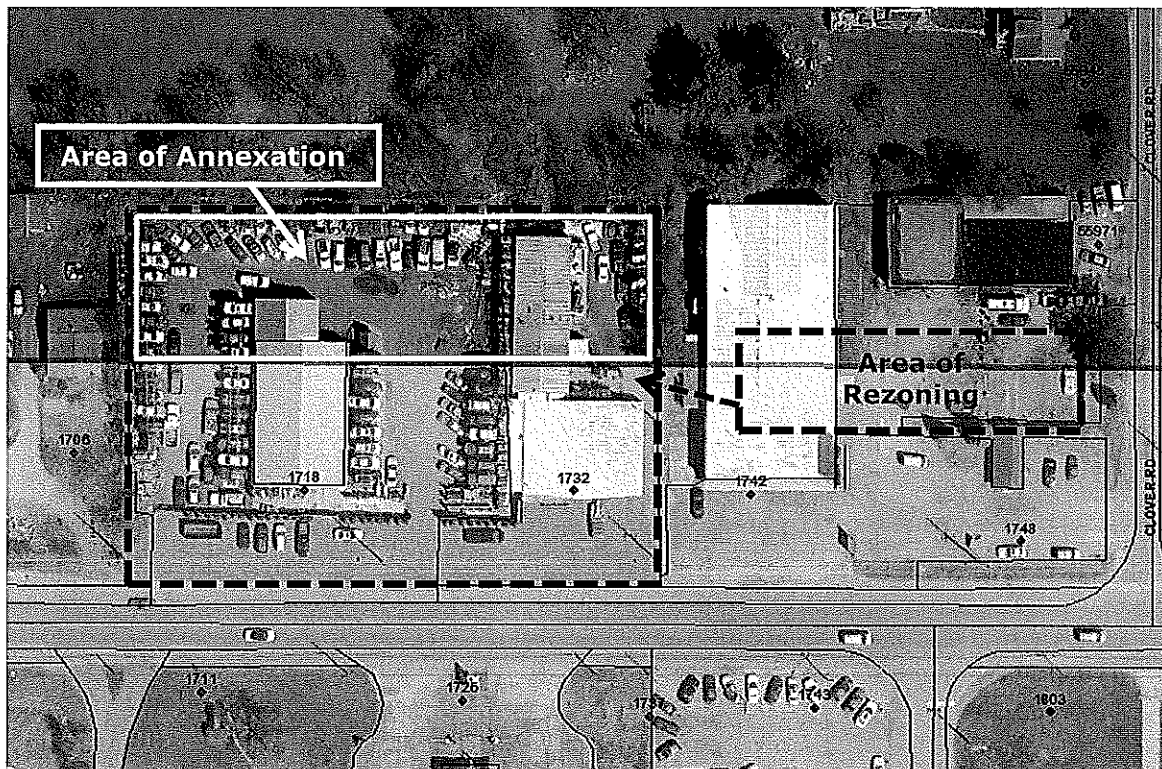
As part of with this annexation request, the applicant is requesting the entire property be rezoned to C-4 Automobile Oriented Commercial. Also before the Board of Zoning Appeals is a Use Variance for automobile salvage and recycling.

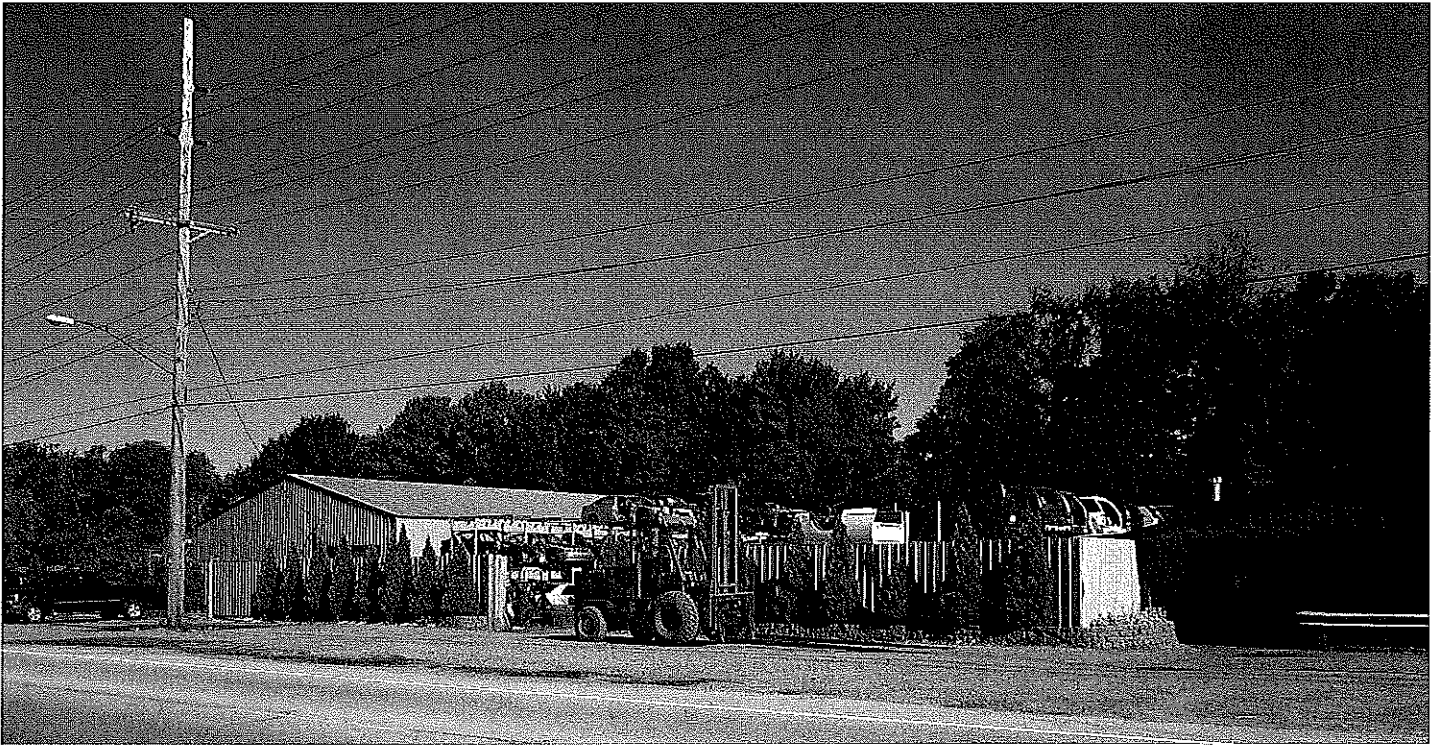
At the time of writing this staff report, Engineering comments were not available. Other City Departments have reviewed the request and have not identified any objections or concerns.

Staff recommends in favor of Petition # 16-22 to annex 0.62 acres and rezone approximately 1.58 acres located at 1718 and 1732 E McKinley Highway, into the City of Mishawaka with a zoning of C-4 Automobile Oriented Commercial. This recommendation is based on the following findings of fact:

1. Existing Conditions- The property has been used in this fashion for almost 40 years, but in two different jurisdictions.
2. Character of Buildings – The character of the buildings along McKinley Highway is commercial, a number of them automobile oriented.
3. The most desirable/highest and best use – Because of the parcels’ location along the corridor and the property’s historical use, the most desirable use for the property is automobile oriented commercial.
4. Conservation of property values- The proposed zoning will not be injurious to property values in the surrounding neighborhood, because commercial uses already exist along the McKinley Highway corridor, in close proximity to annexation area.
5. Comprehensive Plan- The Mishawaka 2000 Comprehensive Plan identified the McKinley Highway corridor as general commercial. The petition to annex and zone to C-4 Automobile Oriented Commercial is consistent with the Comprehensive Plan.

Aerial Photo, Site Photographs, Petition, and Annexation Diagram





An overall view of the site. Includes two buildings and fenced in area.



A close up of inside the fence.

STAFF REPORT

Location: 1613 Milburn Boulevard

Date: August 9, 2016

Petition: 16- 23

Prepared By: DJS

GENERAL INFORMATION

Applicant: Lila M. Filippone

Status: Property Owner

Request: Rezone from the R-1 Single Family Residential District to the C-1 General Commercial District

Zoning Classification: R-1 Single Family Residential

Lot Size: 0.11 acres (41' x 115')

Applicable Regulations: 137.300 – 137.303 Commercial C-1 District
137.41 Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Residential & Day Care Facility/ABC Learn N' Play Academy) & R-1 Single Family Residential (Residential)
South: R-1 Single Family Residential (Residential)
East: R-1 Single Family Residential (Residential)
West: C-1 General Commercial (Bar/Tavern – Poné Express & Residential)

Thoroughfare: Milburn Boulevard

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available or will be extended to/throughout the site at the expense of the owner/developer.

Comprehensive Plan: Low Density Residential (Single Family Homes)

ANALYSIS

The Petitioner, Lila M. Filippone, is requesting to rezone approximately 0.11 acres of land from the R-1 Single Family Residential District to the C-1 General Commercial District.

The property currently includes an 879 sq. ft. single-family home and an approximate 18'x24' detached garage in the rear yard accessible from the public alley to the south. The home, which was constructed in 1924, is currently unoccupied and has fallen in disrepair over the last several years. The Applicant acquired the property in March 2016.

If rezoned, the Applicant desires to demolish all the structures on the property and construct a parking lot to serve the adjacent commercial and residential building to the west. This building is occupied by the Poné Express tavern and two apartments on the second floor. The tavern patrons, employees, and residential tenants currently do not have access to any off-street parking spaces.

Per the conceptual site plan submitted with the rezoning petition, the new parking lot is anticipated to provide approximately 8 spaces. Access to the lot is proposed only from the alley to the south with the drive aisle being one-way to the north. The exit along Milburn Boulevard will be "right-out only" due to the presence of a landscaped median. Additional landscaping and screening (fencing) is shown along the east property line to buffer the adjacent residential use.

With this petition, the Applicant is only seeking to establish the proper zoning required for the proposed parking area. If approved, a detailed final site plan will be required for administrative review and approval prior to construction. The final site plan shall address storm drainage, grading, landscaping, and other required improvements.

All pertinent City Departments have reviewed the proposed rezoning and approved the request.

The Engineering Department commented that a final site plan will be required.

The Water Department commented that Indiana 811 should be contacted for utility locates prior to site demolition and construction of the parking lot.

RECOMMENDATION

Staff recommends in favor of Petition 16-23 to rezone approximately 0.11 acres of land located at 1613 Milburn Boulevard from the R-1 Single Family Residential District to the C-1 General Commercial District. This recommendation is based on the following findings of fact:

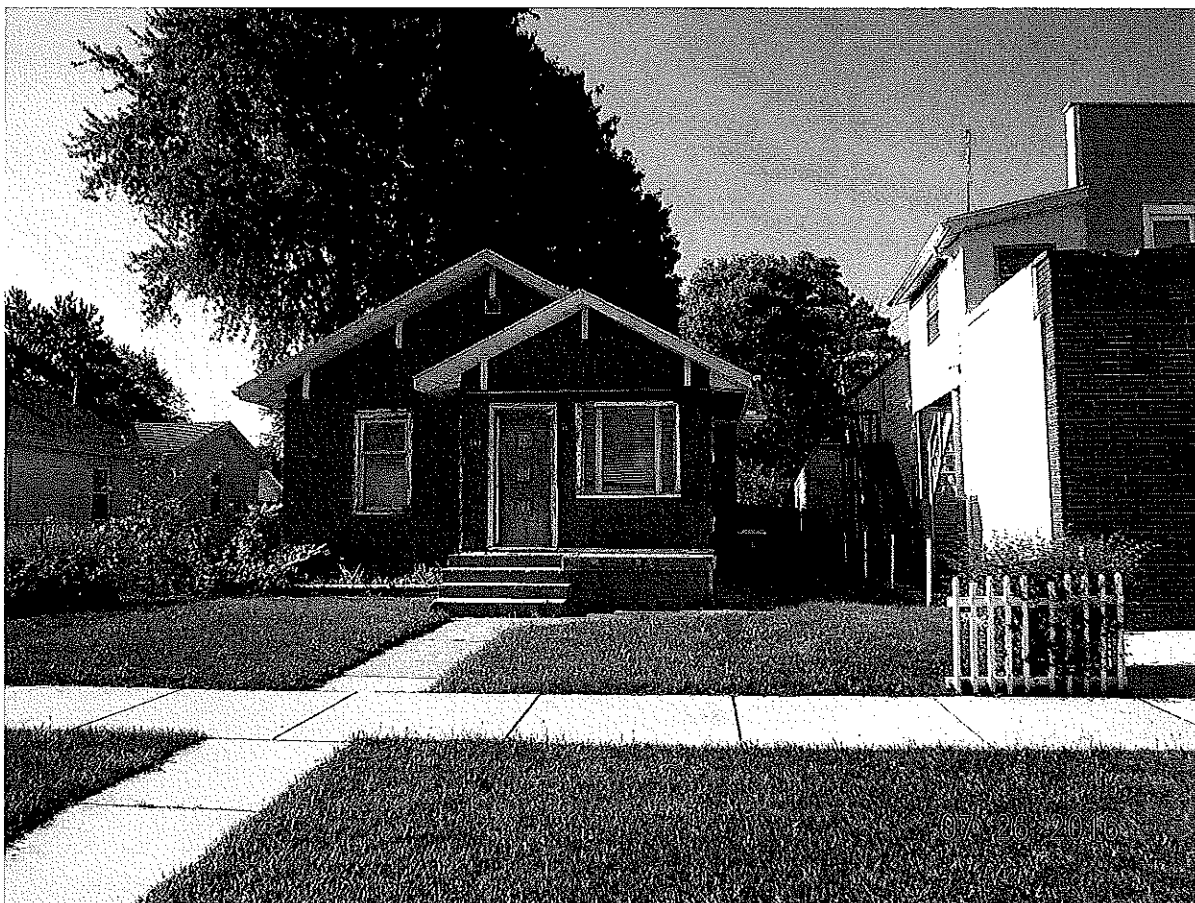
1. Existing Conditions – The subject property includes an unoccupied single-family home and detached garage that has recently fallen into disrepair. Properties along this portion of Milburn Boulevard are primarily single-family residential with a mixed-use commercial and multi-family residential building to the west and a day care facility to the north.
2. Character of Buildings in Area – A majority of the adjacent structures and development along Milburn Boulevard is single-family residential. A mixed-use commercial and residential building is located immediately to the west.
3. The most desirable/highest and best use – Because of the property's location adjacent to a mixed-use commercial and multi-family residential building, the most desirable use for the property is redevelopment as a single-family residential use or expansion of the adjacent commercial use. The rezoning will allow the site to be developed for a highly needed off-street parking lot to serve the tavern's customers, employees, and residential tenants.
4. Conservation of property values – The proposed rezoning will not be injurious to property values in the surrounding area since it will result in the demolition of a dilapidated house and garage, and allow for the improvement of the site as a parking lot. A final site plan will be required prior to construction of the parking lot to ensure compliance with all development regulations, including screening and landscaping, and design standards.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided low density residential uses for this area. However, the expansion of the adjacent mixed-use property is not out of character for the area.

ATTACHMENTS

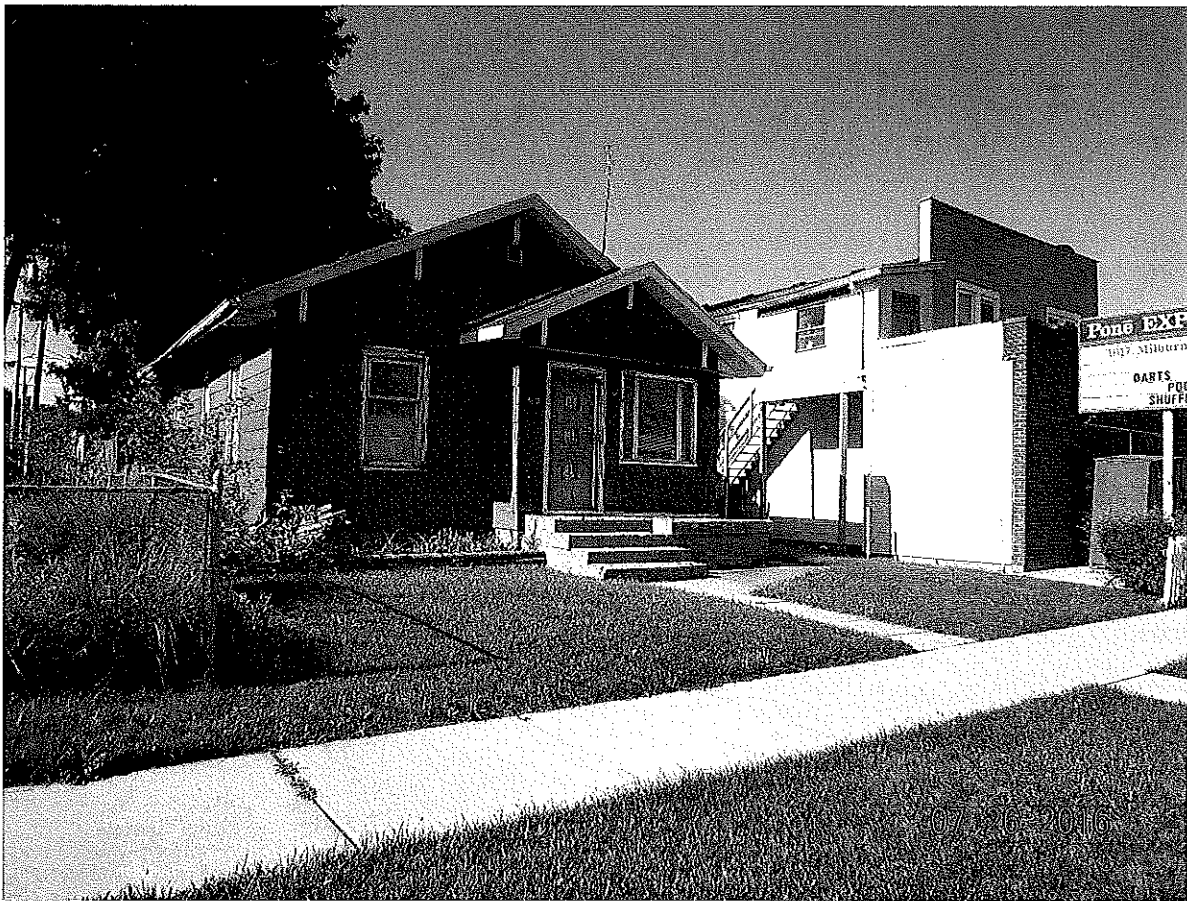
Aerial Photograph, Photographs, Petition, Location Map, Preliminary/Conceptual Site Plan



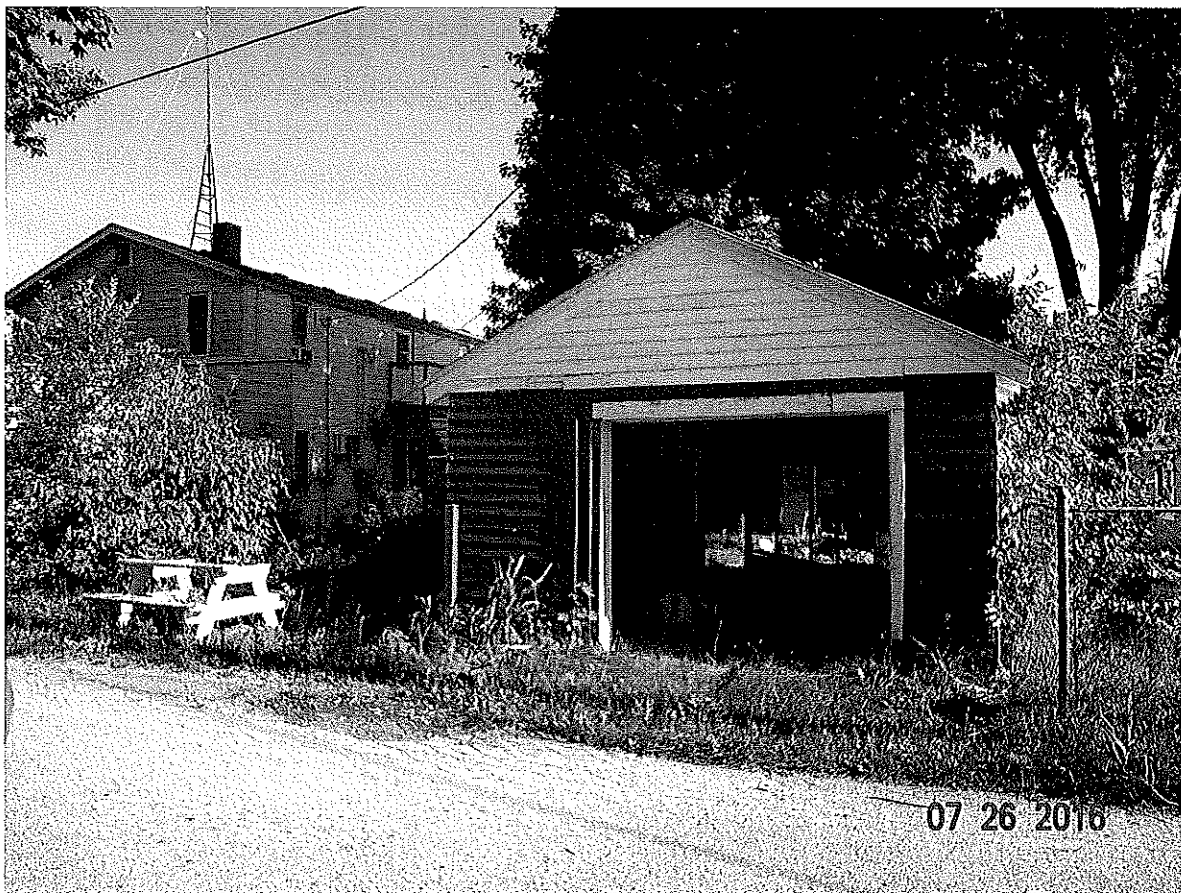
Aerial Photograph – 1613 Milburn Boulevard



P1. Looking southerly toward area to be rezoned for a parking lot.
The existing house is to be demolished.



P2. Looking southwesterly toward area to be rezoned and the adjacent mixed-use building. The existing house is to be demolished.



P3. Looking northwesterly toward area to be rezoned for a parking lot.

STAFF REPORT

Location: 3221 Beacon Parkway

Date: August 9, 2016

Petition: 16 24

Prepared By: CH

GENERAL INFORMATION

Applicant: Beacon Health Systems/Panciza Architecture Group

Status: Property Owner/Agent

Request: Amend Walker and Northwest Capital & Toll Road
Planned Unit Developments (Signage)

Zoning Classification: S-2 Planned Unit Development

Lot Size: 47.2 acres

Applicable Regulations: Section 137-671 S-2 Planned Unit Development

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development
South: Unincorporated St. Joseph County
East: Unincorporated St. Joseph County
West: S-2 Planned Unit Development

Thoroughfare: Capital Avenue and Beacon Parkway

School District: Penn-Harris-Madison School Corporation

Township: Harris

Public Utilities: All utilities are available to be extended to the site

Comprehensive Plan: This area was not identified on the Mishawaka 2000 Comprehensive Plan.

ANALYSIS

The Applicant is requesting to amend both the Walker and Northwest Capital & Toll Road Planned Unit Developments Comprehensive Sign Program to allow for: Campus Identity signage; Development Entry Road signage; Internal Development Parcel signage; and Internal Directional signage. This amendment would replace and supersede the signage components of the original PUD plans approved in 2012 and 2008. The Beacon Health and Fitness Center building is nearing completion, prompting a desire for signage not just for that building, but for the overall campus. Staff suggested a comprehensive sign package be proposed at this time to avoid additional amendments for each building.

When the Walker, Northwest Capital & Toll Road, and Northeast Fir & Cleveland Road Planned Unit Developments were developed, the On-Premise Sign Standards were varied to allow for a hierarchy of signage given the large size of the sites (30, 95, and 44 acres respectively). The development signs were limited to 15' in height, 150 square feet and did not allow animated/electronic reader boards. Each development parcel was permitted one freestanding sign following the regulations of the freestanding sign corridor overlay district. These signs shall be limited to 8' in height, including a 3' masonry base, and

contain no more than 60 square feet. Electronic reader boards were permitted at no more than 1/3 the display area of the sign.

Staff met with Beacon and Beacon's agent, Panzica Architecture Group, and discussed the original standards with what was proposed. It was determined that four types of signage were necessary: Campus Identity signage, Development Entry Road signage, Internal Development Parcel signage, and Internal Directional signage. The Applicant is proposing the following:

- Campus Identity signage is proposed at 15' in height and 150 square feet of display area, 33% of which could have an electronic reader board. There will be two Campus Identity signs, located at the southwest corner of Capital Avenue and Beacon Parkway and at the northwest corner of Beacon's 47.2 acre site. They would be setback 10' from the property line.
- Development Entry Road signage is proposed at 15' in height and 150 square feet of display area, 33% of which could have an electronic reader board. There will be four Development Entry Road signs, two at each entrance. These signs would be setback 10' from the property line or curb.
- Internal Development Parcel signage is proposed at 10' in height and 150 square feet of display area. These signs shall be oriented so they are not visible from the public roadway and they shall not be within any building setback. They will still be setback 10' from curb or pavement edge.
- Internal Directional signage is proposed at 8' in height and 100 square feet of display area.

A diagram was submitted identifying the location of each type of sign was provided. No graphics were proposed.

The sign package as proposed has a total of 600-900 square feet of display area in signs seen from the road. Given that the 47.2 acre property has approximately 2,600' of frontage, it could be broken down into two signs at the maximum 450 square feet of display area with an additional 183 square feet of display area from the leftover frontage, which is a total of 1,083 square feet of display area. Or, using the Beacon Health and Fitness site as an example, if that building has about 500' of frontage, which would be allowed a 208 square foot sign and there were 4 additional sites of similar size, the total amount of road signage would be 1040 square feet of display area.

The request to increase the area of the Internal Development Parcel signage from a maximum of 60 square feet to 150 square feet is excessive in the Staff's opinion. For consistency, 60 square feet is what most businesses on Main Street and Edison Lakes utilize.

Even though the directional signs are internal to the site and not visible from Beacon Parkway, the size proposed is larger than other similar directional signs. For comparison, similar directional signage for the St. Joseph Regional Medical Center was approved at 10'9" and 57 square feet (pictured below).

All pertinent City departments have reviewed and approved the request. Engineering requests that care is taken to not install signs in the right-of-way.

RECOMMENDATION

Staff recommends **approval** of Petition #16-24 with the following modifications (underlined):

1. Campus Identity signage is proposed at 15' in height and 150 square feet of display area, 33% of which could have an electronic reader board. There will be two Campus Identity signs, located at the southwest corner of Capital Avenue and Beacon Parkway and at the northwest corner of Beacon's 47.2 acre site. They would be setback 10' from the property line.
2. Development Entry Road signage is proposed at 15' in height and 150 square feet of display area, 33% of which could have an electronic reader board. There will be four Development Entry Road signs, two at each entrance. Development Entry Road signage can have one double sided, or two one sided signs, at each entrance, not two double sided signs. These signs would be setback 10' from the property line or curb.

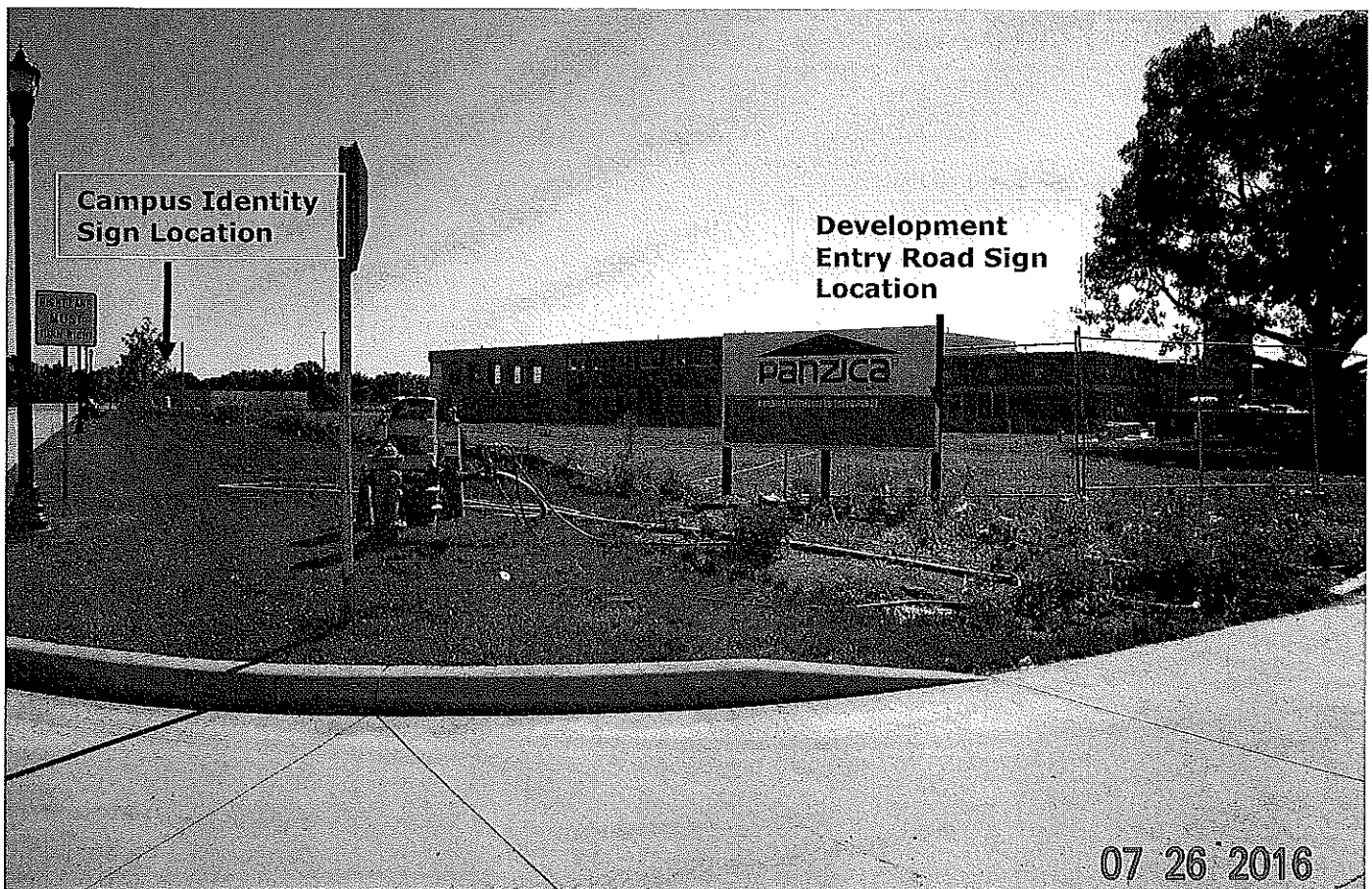
3. Internal Development Parcel signage is proposed at 10' in height and ~~150~~ 60 square feet of display area. These signs shall be oriented so they are not visible from the public roadway and they shall not be within any building setback. They will still be setback 10' from curb or pavement edge.
4. Internal Directional signage is proposed at ~~8'~~ 10' in height and ~~100~~ 60 square feet of display area.

The recommendation is based on the following findings of fact:

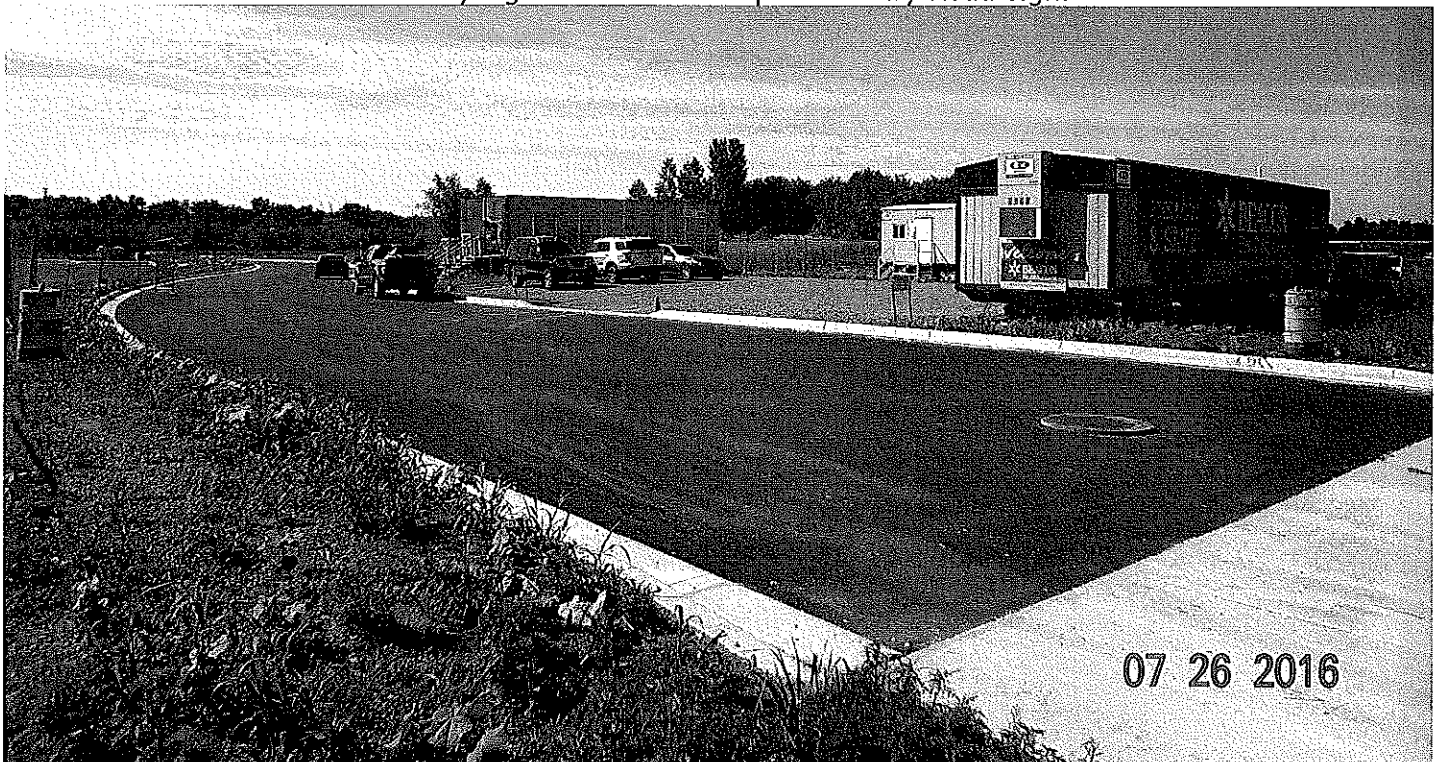
1. Existing Conditions - The amendment will not alter or negatively impact the existing conditions of the surrounding area because the proposed sign package has been amended to be comparable to other large scale developments.
2. Character of Buildings in Area - There are no other buildings or signage along this stretch of Beacon Parkway, however, the other proposed use is a 60,000 sq. ft. Bayer Healthcare Office Building.
3. The Most Desirable/Highest and Best Use - The proposed amendment for signage use within the PUD is not inconsistent with surrounding zoning classifications.
4. Conservation of Property Values - The proposed amendment will not be injurious to property values in the surrounding area because of the large scale of this development and surrounding developments.
5. Comprehensive Plan - This area was not identified on the Mishawaka 2000 Comprehensive Plan, however, the development is consistent with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

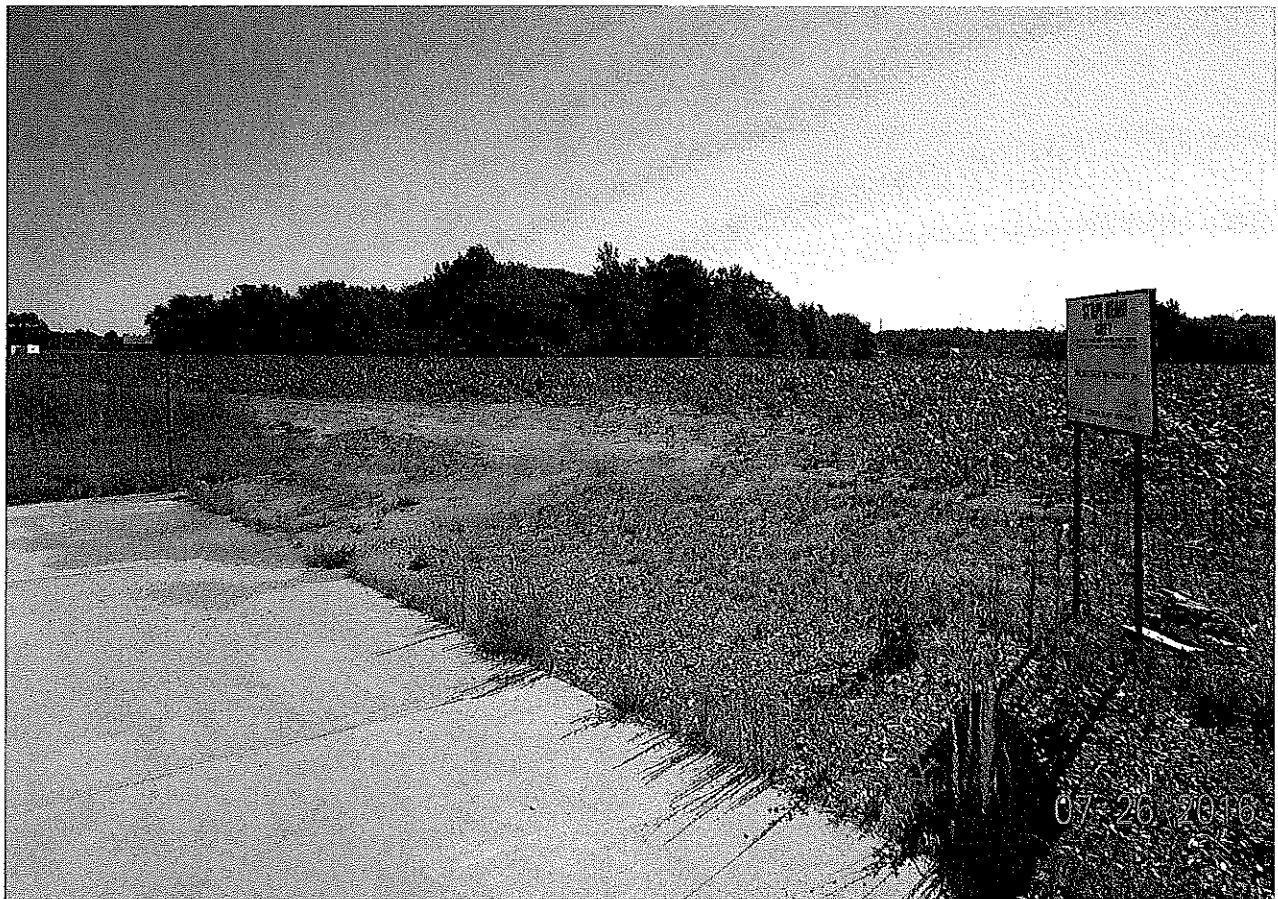
PHOTOS, PETITION, PROPOSED SIGN PACKAGE, SITE PLAN/LOCATION MAP



A view of the Beacon Health and Fitness Center under construction and proposed locations of one Campus Identity sign and one Development Entry Road sign.



A view of the eastern entrance into the site.



A view of the western entrance and proposed location of one of the Development Entry Road signs.



Existing directional sign at St. Joseph Regional Medical Center

RECEIVED
DEBORAH S. BLOCK, MMC

PETITION #16-22

AUG 10 2016

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2016-16

CITY CLERK
MISHAWAKA, IN

ORDINANCE NO. _____

1st Reading 8-15-16
2nd Reading
Passed
Failed
Continued To

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

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

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

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

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

A parcel of land in the South West Quarter of the South West Quarter of Section No. 2, Township No. 37 North, Range No. 3 East, described as follows:

Beginning at a point 869.7 feet East of the Southwest corner of said Section No. 2, running thence East a distance of 90 feet; thence North 242 feet; thence West 91.69 feet; thence South 242 feet to the place of beginning; and being known as Lot Numbered 1 on the recorded plat of Sults Baby Farms of Penn Township.

ALSO: Part of the Southwest Quarter of the Southwest Quarter of Section No. 2, Township 37 North, Range 3 East, described as follows:

Beginning at a point 660 feet East of the Southwest corner of said Section No. 2; thence North 237 feet; thence East 209.7 feet; thence South 237 feet; thence West 209.7 feet to the place of beginning.

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of C-4 Automobile Oriented Commercial District.

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

Proposed Ordinance No. 2016-16

Ordinance No. _____

1. Existing Conditions- The property has been used in this fashion for almost 40 years, but in two different jurisdictions.
2. Character of Buildings – The character of the buildings along McKinley Highway is commercial, a number of them automobile oriented.
3. The most desirable/highest and best use – Because of the parcels' location along the corridor and the property's historical use, the most desirable use for the property is automobile oriented commercial.
4. Conservation of property values- The proposed zoning will not be injurious to property values in the surrounding neighborhood, because commercial uses already exist along the McKinley Highway corridor, in close proximity to annexation area.
5. Comprehensive Plan- The Mishawaka 2000 Comprehensive Plan identified the McKinley Highway corridor as general commercial. The petition to annex and zone to C-4 Automobile Oriented Commercial is consistent with the Comprehensive Plan.

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

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

July 15, 2016

JUL 28 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 Annexation and Zoning Classification

The undersigned appellant, Michael Niedbalski, respectfully shows that he is the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

A parcel of land in the South West Quarter of the South West Quarter of Section No. 2, Township No. 37 North, Range No. 3 East, described as follows:

Beginning at a point 869.7 feet East of the Southwest corner of said Section No. 2, running thence East a distance of 90 feet; thence North 242 feet; thence West 91.69 feet; thence South 242 feet to the place of beginning; and being known as Lot Numbered 1 on the recorded plat of Sults Baby Farms of Penn Township.

ALSO:

Part of the Southwest Quarter of the Southwest Quarter of Section No. 2, Township 37 North, Range 3 East, described as follows:

Beginning at a point 660 feet East of the Southwest corner of said Section No. 2; thence North 237 feet; thence East 209.7 feet; thence South 237 feet; thence West 209.7 feet to the place of beginning.

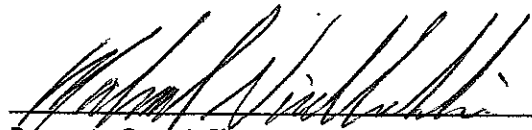
Petitioner owns One Hundred percent (100%) of the above-described parcel of land which is located at 1732 E. McKinley Avenue, Mishawaka, Indiana 46545, and that the petitioner desires the same to be annexed to the city of Mishawaka, Indiana, with a zoning classification of C-4. Petitioner further states he intends to utilize said land as it has been used for the past 38 years, as an automobile recycling facility conforming to state and local rules and regulations.

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

Petitioner further shows this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed, which is urban in character and is an economic and social part of the City of Mishawaka, providing necessary services to the City of Mishawaka and State of Indiana by the proper dismantling and responsible disposal of end-of-life vehicles, the fluids they contain and components that may contain mercury. Our facility is certified by the Indiana Department of Environmental Management (IDEM) as an Indiana Clean Yard.

JUL 19 2016
Pet 16-22

Wherefore, petitioner prays and respectfully requests that the Common Council of the City Mishawaka refer this matter to the Mishawaka City Plan Commission, and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a C-4 zoning classification.


Property Owner Signature

Michael Niedbalski

Print Property Owner Name

Contact Person:

Michael Niedbalski
1732 E McKinley Avenue
Mishawaka, Indiana 46545
Phone: (574) 259-4644 ext.3
Fax: (574) 259-4688
Email: mike@mikesautosalvage.com



FIR RD

CLOVER RD

PET 16-22

CITY OF MISHAWAKA
LIMITS

C (COUNTY)

C-1 (MISH)

CLOVER RD

E MC KINLEY AVE

Location Map

PETITION 16-22

1732 E. McKinley Ave.

ANNEXATION & REZONING FROM
C COMMERCIAL (COUNTY) & C-1
GENERAL COMMERCIAL TO C-4
AUTOMOBILE ORIENTED
COMMERCIAL

CLOVER RD

E LA SALLE AVE

N BYRKIT AVE

PETITION 16-23

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2016-17

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 10 2016

CITY CLERK
MISHAWAKA, IN

1st Reading 8-15-16
2nd Reading
Passed
Failed
Continued To

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

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

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

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

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

Lot Numbered Two Hundred Thirty-Two (232) in Milburn Place Addition to the City of Mishawaka, as per plat thereof recorded March 29, 1907, in Plat Book 9, Page 64, in the Office of the Recorder of St. Joseph County, Indiana.

COMMON ADDRESS: 1613 Milburn Boulevard

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

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

1. Existing Conditions – The subject property includes an unoccupied single-family home and detached garage that has recently fallen into disrepair. Properties along this portion of Milburn Boulevard are primarily single-family residential with a mixed-use commercial and multi-family residential building to the west and a day care facility to the north.
2. Character of Buildings in Area – A majority of the adjacent structures and development along Milburn Boulevard is single-family residential. A mixed-use commercial and residential building is located immediately to the west.

Proposed Ordinance No: 2016-17

Ordinance No: _____

3. The most desirable/highest and best use – Because of the property's location adjacent to a mixed-use commercial and multi-family residential building, the most desirable use for the property is redevelopment as a single-family residential use or expansion of the adjacent commercial use.
The rezoning will allow the site to be developed for a highly needed off-street parking lot to serve the tavern's customers, employees, and residential tenants.
4. Conservation of property values – The proposed rezoning will not be injurious to property values in the surrounding area since it will result in the demolition of a dilapidated house and garage, and allow for the improvement of the site as a parking lot. A final site plan will be required prior to construction of the parking lot to ensure compliance with all development regulations, including screening and landscaping, and design standards.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided low density residential uses for this area. However, the expansion of the adjacent mixed-use property is not out of character for the area.

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

JUL 28 2016

CITY CLERK
MISHAWAKA, IN

July 18, 2016

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

JUL 20 2016

Pet 16-23

RE: PETITION TO REZONE

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

Lot Numbered Two Hundred Thirty Two 232 in Milburn Place Addition to the City of Mishawaka. As per Plat Thereof Recorded March 29, 1907 in Plat Book 9, Page 64 in the office of the Recorder of Saint Joseph County, IN. Common address is 1613 Milburn Blvd. Mishawaka Indiana 46544.

Petitioner owns one hundred 100% of the above described parcel of land which carries a zoning classification of ^{R-1} Residential District. Said property is to be demolished.

Petitioner desires said real estate to be rezoned to C-1 Commercial District. Petitioner further states that she intends to utilize said land for a parking lot.

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.

Signature of Property Owner

Lila M. Filippone

Contact Person: Lila M. Filippone

1526 South Main Street, Mishawaka IN 46544

Phone Number 574-255-5061 Cell Number 574-993-5452



MILBURN BLVD

MILBURN BLVD

PET 16-23

MERIDIAN ST

HENDRICKS ST

Location Map

PETITION 16-23

1613 MILBURN BLVD.

REZONING FROM R-1 SINGLE
FAMILY RESIDENTIAL TO C-1 GENERAL
COMMERCIAL FOR PARKING LOT
FOR 1617 MILBURN BLVD. TO WEST

PETITION 16-24

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2016-18

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 10 2016

CITY CLERK
MISHAWAKA, IN

1st Reading 8-15-16
2nd Reading
Passed
Failed
Continued To

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

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

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

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

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

A Part of Section 23, Township 38 North, Range 3 East, Clay Township, City of Mishawaka, 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, 2484.75 feet to the point of beginning and a point on the Southerly Right-of-Way of proposed Fir Road-Capital Avenue Connector (A.K.A. Beacon Parkway); thence the following Two (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 Three (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 (A.K.A. Beacon Parkway), 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.

Proposed Ordinance No: 2016-18

Ordinance No: _____

COMMON ADDRESS: 3221 Beacon Parkway

which real estate is now classified as S-2 Planned Unit Development District and shall and shall hereafter amend the Comprehensive Sign Program with the following modifications:

1. Campus Identity signage is proposed at 15' in height and 150 square feet of display area, 33% of which could have an electronic reader board. There will be one (1) Campus Identity sign located at the southwest corner of Capital Avenue and Beacon Parkway. The sign will be setback 10' from the property line.
2. Development Entry Road signage is proposed at 15' in height and 150 square feet of display area, 33% of which could have an electronic reader board. Development Entry Road signage can have one double sided, or two one-sided signs, at each entrance, not two double sided signs. These signs would be setback 10' from the property line or curb.
3. Internal Development Parcel signage is proposed at 10' in height and 100 square feet of display area. These signs shall be oriented so they are not visible from the public roadway and they shall not be within any building setback. They will still be setback 10' from curb or pavement edge.
4. Internal Directional signage is proposed at 10' in height and 60 square feet of display area.

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

1. Existing Conditions - The amendment will not alter or negatively impact the existing conditions of the surrounding area because the proposed sign package has been amended to be comparable to other large scale developments.
2. Character of Buildings in Area - There are no other buildings or signage along this stretch of Beacon Parkway, however, the other proposed use is a 60,000 sq. ft. Bayer Healthcare Office Building.
3. The Most Desirable/Highest and Best Use - The proposed amendment for signage use within the PUD is not inconsistent with surrounding zoning classifications.
4. Conservation of Property Values - The proposed amendment will not be injurious to property values in the surrounding area because of the large scale of this development and surrounding developments.
5. Comprehensive Plan - This area was not identified on the Mishawaka 2000 Comprehensive Plan, however, the development is consistent with the goals, objectives, and policies of the Comprehensive Plan.

Proposed Ordinance No: 2016-18

Ordinance No: _____

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

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

JUL 28 2016



CITY CLERK
July 20, 2016 MISHAWAKA, IN

PET 16-24

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

RE: Beacon Health Systems, Inc. and Memorial Health Systems, Inc.,
Petition for an Amended PUD:

The undersigned, Beacon Health Systems, Inc. and Memorial Health Systems, Inc., the Petitioners, respectfully shows that they are the owners of the following described real estate located in the City of Mishawaka, Penn Township, St. Joseph County, Indiana:

A Part of Section 23, Township 38 North, Range 3 East, Clay Township, City of Mishawaka, 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, 2484.75 feet to the point of beginning and a point on the Southerly Right-of-Way of proposed Fir Road-Capital Avenue Connector (A.K.A. Beacon Parkway); thence the following Two (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 Three (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 (A.K.A. Beacon Parkway), 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.

Containing 47.2 acres, more or less, and subject to any easements, covenants, and right-of-ways of record.

Also commonly known as the Southwest corner of Capital Avenue and Fir Road-Capital Avenue Connector (A.K.A. Beacon Parkway), Granger, Indiana 46530.

The above described parcel of land is presently zoned "S-2" Planned Unit Development District under the City of Mishawaka zoning development codes.

The Petitioners desire to amend the existing standards for the previously approved "S-2" Planned Unit Development District, known by Mishawaka Petition # 08-27, Proposed Ordinance No. 2008-39, and Ordinance No. 5186. The requested amended standards would be for the above described real estate portion of the previously approved "S-2" Planned Unit Development District. More specifically the Petitioners are requesting amended standards for Campus Identity Signage, Development Entry Road Signage, Internal Development Parcel signage and Internal Directional Signage.

CAMPUS IDENTITY SIGNAGE: The current PUD ordinance allows for development signage that is up to 15'-0" in height including masonry base of up to 3'-0" with a maximum display area of 150 square feet per sign. The PUD is to be amended to allow for (2) two Campus Identity signs up to 15'-0" tall with maximum display area of 150 square feet and may have two faces with similar copy on each face. The monument base is not included in display area calculation. The signs shall be located with (1) one at the southwest corner of the Capital Avenue at Beacon Parkway intersection and (1) one sign at the northwest corner of the Beacon 47.2 acre site. These signs may be in the building setback area, but minimum 10'-0" setback from the respective property line. See attached Exhibit "A" for locations.

The Campus Identity signage may be illuminated by either uplighting or internal backlighting, uplights must be setback minimum 5'-0" from respective property line. The Campus Identity signage may have an electronic reader board that does not exceed 33% of the display area.

DEVELOPMENT ENTRY ROAD SIGNAGE: The current PUD ordinance allows for development signage that is up to 15'-0" in height including masonry base of up to 3'-0" with a maximum display area of 150 square feet per sign. The PUD is to be amended to allow for Development Entry Road Signage at each of the (2) two approved and constructed Beacon Parkway access approach drives. Each of the entry drives may each have up to (2) signs per entry that are up to 15'-0" tall including the masonry base and a display area up to 150 square feet. The monument base is not included in the display area calculation. These signs may be in the building setback area, but minimum 10'-0" setback from the respective property line and minimum 10'-0" from the approach drive face of curb. See attached Exhibit "A" for locations.

The Development Entry Road signage may be illuminated by either uplighting or internal backlighting, uplights must be setback minimum 5'-0" from respective property line or driveway. The Development Entry Road signage may have an electronic reader board that does not exceed 33% of the display area.

INTERNAL DEVELOPMENT PARCEL SIGNAGE: The PUD is to be amended to allow (1) one sign identification of each individual building structure or designated development parcel from the internal development roadway. The internal development parcel signage shall be maximum 10'-0" tall including up to a 3'-0" masonry monument base and have a display area of up to 150 square feet. The monument base is not included in the display area calculation. These signs may be double faced. The signs shall be oriented so as not to be readily visible from the public roadway and they shall not be

within any building setback area. Internal development parcel signage shall be minimum 10'-0" setback from the face of curb, or pavement edge if there are no curbs, in the development roadway.

INTERNAL DIRECTIONAL SIGNAGE: The PUD is to be amended to allow internal directional signage within the campus to guide staff and guests to their campus destination. The directional signage shall be maximum 8'-0" tall including a masonry monument base up to 3'-0" tall. The directional signage shall be up to 100 square feet of display area and may have (2) two faces. This signage shall be internal to the site and not visible to the public roadways. These signs may be illuminated with uplighting or internal lighting.

These requested amended changes to the PUD Development standards are shown on the attached Exhibit A site plan.

All other previously approved PUD standards for Mishawaka Petition # 08-27, Proposed Ordinance No. 2008-39, Ordinance No. 5186 and previous amendment Ordinance No. 5441 shall be adhered to for the development of the above described property.

Wherefore, the Petitioners prays 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 the rezoning the above described parcel of real estate located in the City of Mishawaka, Indiana.



Jeffrey P. Costello
Vice President & Chief Financial Officer
Beacon Health System, Inc.
615 N. Michigan Street
South Bend, IN 46601
574-647-3699



Jeffrey P. Costello
Vice President & Chief Financial Officer
Memorial Health Systems, Inc.
615 N. Michigan Street
South Bend, IN 46601
574-647-3699

Contact person:
Philip E. Panzica, RA, NCARB
President / Principal Architect
Panzica Architecture Group
416 East Monroe Street, Suite 320
South Bend, Indiana 46601
(574) 234-1123
e-mail: pepanzica@panzica.net

End



July 20, 2015

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

RE: Beacon Health Systems, Inc. & Memorial Health Systems, Inc.
Amended PUD Request:

Dear Council Members,

This letter is to inform the Board Members that we have granted authority to Panzica Architecture Group of South Bend to represent us at the Mishawaka Plan Commission and Mishawaka Common Council meetings at which our Amended PUD Request will be heard.

If you have any questions, or require additional information concerning this matter, please feel free to give me a call at 574-647-3699.

Sincerely,

Jeffrey P. Costello
Vice President & Chief Financial Officer
Beacon Health System, Inc.
615 N. Michigan Street
South Bend, IN 46601

Jeffrey P. Costello
Vice President & Chief Financial Officer
Memorial Health Systems, Inc.
615 N. Michigan Street
South Bend, IN 46601

LEGAL DESCRIPTION

A Part of Section 23, Township 38 North, Range 3 East, Clay Township, City of Mishawaka, 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, 2484.75 feet to the point of beginning and a point on the Southerly Right-of-Way of proposed Fir Road-Capital Avenue Connector (A.K.A. Beacon Parkway); thence the following Two (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 Three (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 (A.K.A. Beacon Parkway), 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. Containing 47.2 acres more or less. Subject to any easements, covenants and right-of-ways of record.

Also commonly known as the Southwest corner of Capital Avenue and Fir Road-Capital Avenue Connector (A.K.A. Beacon Parkway), Granger, Indiana 46530.

PETITIONERS:

Beacon Health System, Inc.
615 N. Michigan Street
South Bend, IN 46601

Memorial Health Systems, Inc.
615 N. Michigan Street
South Bend, IN 46601

ARCHITECT:

Philip E. Panzica, RA, NCARB
President / Principal Architect
Panzica Architecture Group
416 East Monroe Street, Suite 320
South Bend, Indiana 46601
(574) 234-1123

AMENDED PUD REQUEST:

The Petitioners desire to amend the existing standards for the previously approved "S-2" Planned Unit Development District, known by Mishawaka Petition # 08-27, Proposed Ordinance No. 2008-39, and Ordinance No. 5186 and previously amended Ordinance No. 5441. The requested amended standards would be for the above described real estate portion of the previously approved "S-2" Planned Unit Development District. More specifically the Petitioners are requesting amended standards for Campus Identity Signage, Development Entry Road Signage, Internal Development Parcel signage and Internal Directional Signage.

GENERAL AMENDED PUD NOTES FOR SITE SIGNAGE:

CAMPUS IDENTITY SIGNAGE:

- A) Allow for (2) two Campus Identity signs up to 15'-0" tall with maximum display area of 150 square feet. The monument base is not included in display area calculation.
- B) Each sign may have (2) two faces with similar copy on each face.
- C) The signs shall be located with (1) one at the southwest corner of the Capital Avenue at Beacon Parkway intersection and (1) one sign at the northwest corner of the Beacon 47.2 acre site.
- D) The signs may be in the building setback area, but minimum 10'-0" setback from the respective property line.
- E) The Campus Identity signage may be illuminated by either uplighting or internal backlighting, uplights must be setback minimum 5'-0" from respective property line.
- F) The Campus Identity signage may have an electronic reader board that does not exceed 33% of the display area

DEVELOPMENT ENTRY ROAD SIGNAGE:

- A) At each of the (2) two approved and constructed Beacon Parkway access approach drives allow up to (2) signs per entry that are up to 10'-0" tall including the masonry base and a display area up to 150 square feet. The monument base is not included in the display area calculation.
- B) Each sign may have (2) two faces with similar copy on each face
- C) Signs may be within the building setback area, but minimum 10'-0" setback from the respective property line and minimum 10'-0" from the approach drive face of curb.
- D) Signage may be illuminated by either uplighting or internal backlighting, uplights must be setback minimum 5'-0" from respective property line or driveway.
- E) Entry Road signage may have an electronic reader board that does not exceed 33% of the display area.

INTERNAL DEVELOPMENT PARCEL SIGNAGE:

- A) Internal development parcel signage shall be maximum 10'-0" tall including up to a 3'-0" tall masonry monument base and have a display area of up to 150 square feet. The monument base is not included in the display area calculation. These signs may be double faced.
- B) Internal development signs shall be oriented so as not to be readily visible from the public roadway and they shall not be within any building setback area. Internal development parcel signage shall be minimum 10'-0" setback from the face of curb, or pavement edge if there are no curbs, in the development roadway.

These requested amended changes to the PUD Development standards are shown on the attached Exhibit A site plan.

INTERNAL DIRECTIONAL SIGNAGE:

- A) Directional signage shall be maximum 8'-0" tall including a masonry monument base up to 3'-0" tall. The directional signage shall be up to 100 square feet of display area and may have (2) two faces.
- B) This signage shall be internal to the site and not visible to the public roadways. These signs may be illuminated with uplighting or internal lighting.

All other previously approved PUD standards for Mishawaka Petition # 08-27, Proposed Ordinance No. 2008-39, Ordinance No. 5186 and previous amendment Ordinance No. 5441 shall be adhered to for the development of the above described property.

OTHER PUD STANDARDS:

- A). PREVIOUSLY APPROVED PUD STANDARDS SHALL BE ADHERED TO OTHER THAN THE ABOVE AMENDED STANDARDS.

PROPERTY OWNERS LIST:

1ST SOURCE BANK
100 N. Michigan St.
2nd Floor
South Bend, Indiana 46601

Capital Plaza LLC
11652 Oakwood Lane
Granger, Indiana 46530

Harris Prairie Church of Christ
14719 State Road 23
Granger, Indiana 46530

Granger Property Development LLC
211 North Eddy Street
South Bend, Indiana 46617

CITY OF MISHAWAKA INDIANA
600 East Third St
Mishawaka, Indiana 46544

Morris Realty LLC
54731 Beaver Creek Trail
Mishawaka, Indiana 46545

Mark A. & June A. Stroud
Trustees of Mark and June Stroud Living Trust
52233 Evergreen
Granger, Indiana 46530

MEMORIAL HEALTH SYSTEM INC
615 N Michigan St
South Bend, Indiana 46601

GOLATA MARY, CLEMENT CHRISTINE M GOLATA
CATHERINE A GOLATA FAMILY TRUST
W/ GOLATA RAYMOND L & ANDREE J AS TRUSTEES
GOLATA CHARITABLE REMAINDER UNITRUST
W/ GOLATA RAYMOND L & ANDREE J TRUSTEES
P.O. Box 790153
Virgin, Utah 84779

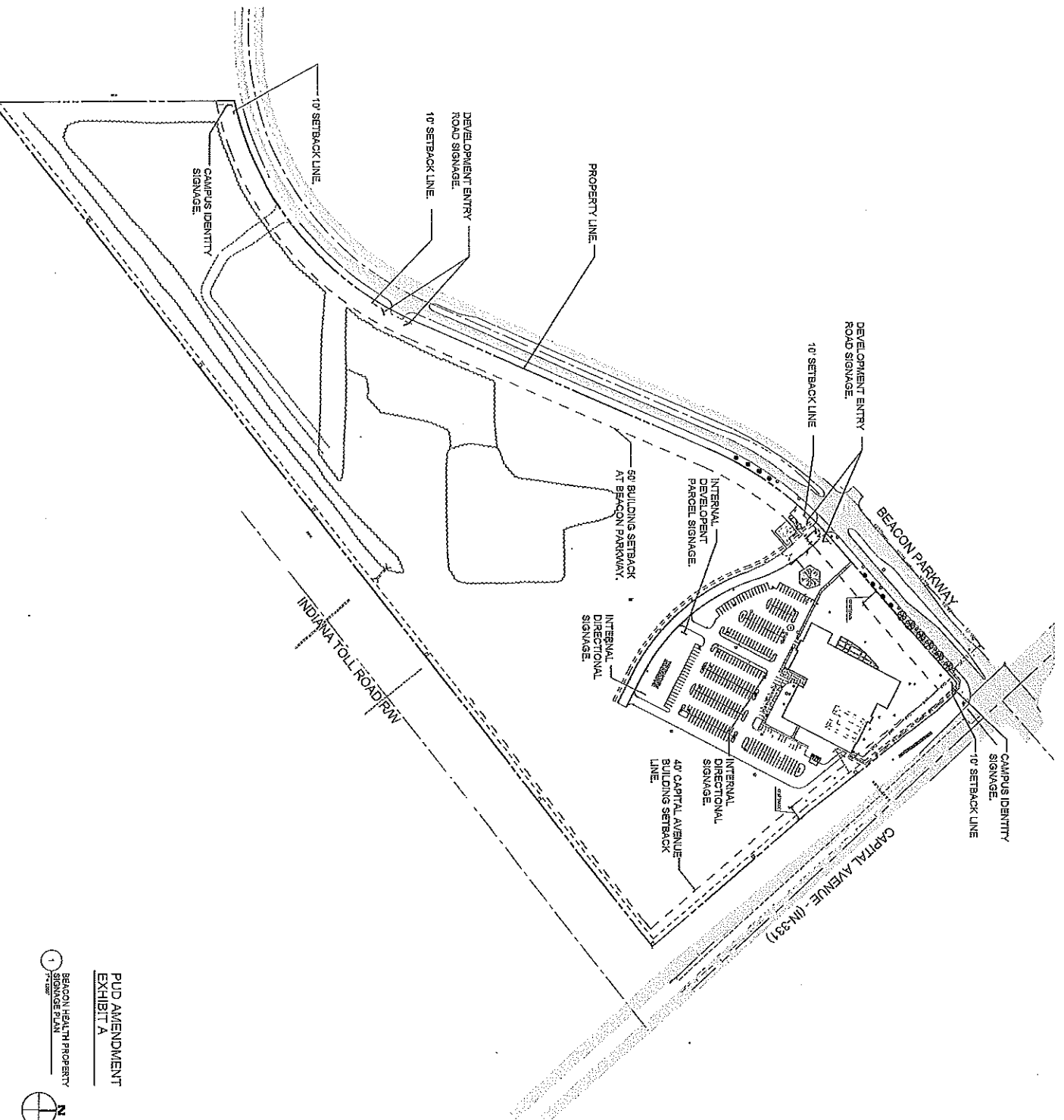
WALKER GEORGE AUGUST WALKER JEROME
FRANCIS MCCAY
ROSALIE ANN BULKIN CAROLYN LEE DEFREE
UW VIRGINIA MAY
52200 Snowberry Road
New Carlisle, Indiana 46552

Donald E. and Mary J. Frush
14710 State Road 23
Granger, Indiana 46530

State of Indiana
INDOT LaPorte Dist.
LaPorte, Indiana 46352

Harold H. and Nancy D. Hall
52177 Evergreen Road
Granger, Indiana 46530

End



**PUD AMENDMENT
EXHIBIT A**

1 BEACON HEALTH PROPERTY
SIGNAGE PLAN



DO A DIVISION OF SHINKENBERRY INC. DESIGN ORGANIZATION Planning / Architecture / Engineering / Interior Design 27 West 34th Suite 301 New York, NY 10018 212.675.4100 www.shinkenberry.com		Panzica BUILDING CORPORATION 418 East 10th St., Suite 300 New York, NY 10003 212.675.4100 www.panzica.com	
PROJECT NAME: BEACON HEALTH PROPERTY PROJECT NO.: BEACON HEALTH & FITNESS BEACON PARKWAY AT CAPITAL AVE ELIZABETH, NJ		DATE: 07/20/2013 DRAWN BY: SWK	
PROJECT NO.: BEACON HEALTH PROPERTY SIGNAGE PLAN		SHEET NO.: EXB-A	



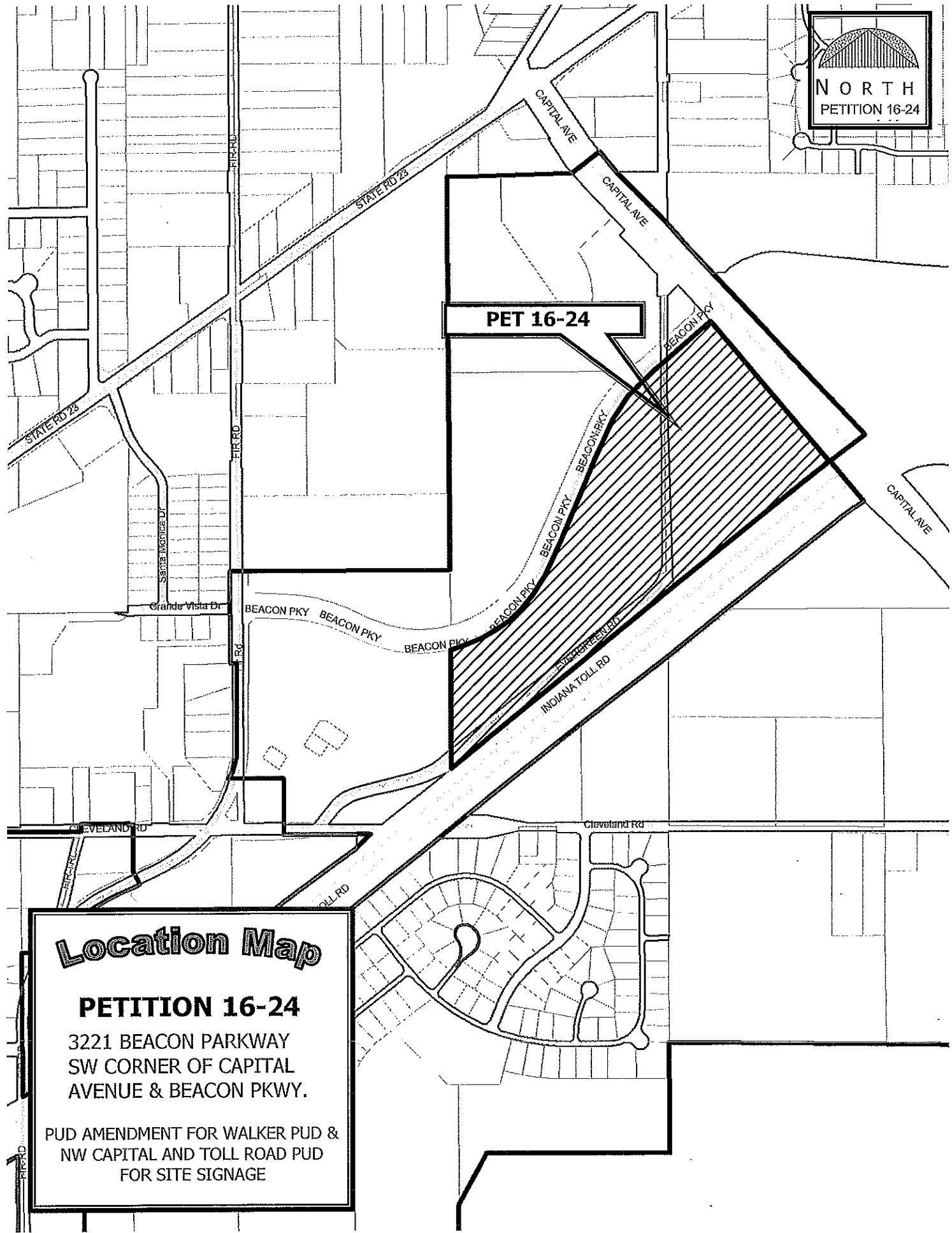
PET 16-24

Location Map

PETITION 16-24

3221 BEACON PARKWAY
SW CORNER OF CAPITAL
AVENUE & BEACON PKWY.

PUD AMENDMENT FOR WALKER PUD &
NW CAPITAL AND TOLL ROAD PUD
FOR SITE SIGNAGE



RECEIVED
DEBORAH S. BLOCK, MMC

AUG 10 2016

APPEAL #16-27

RESOLUTION NO. 2016- 23

CITY CLERK
MISHAWAKA, IN

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:

**1718 East McKinley Avenue and 1732 East McKinley Avenue,
Mishawaka, Indiana**

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

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

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

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

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **1718 East McKinley Avenue and 1732 East McKinley Avenue, Mishawaka, Indiana**, more particularly known and described as follows:

A parcel of land in the South West Quarter of the South West Quarter of Section No. 2, Township No. 37 North, Range No. 3 East, described as follows:

Beginning at a point 869.7 feet East of the Southwest corner of said Section No. 2, running thence East a distance of 90 feet; thence North 242 feet; thence West 91.69 feet; thence South 242 feet to the place of beginning; and being known as Lot Numbered 1 on the recorded plat of Sults Baby Farms of Penn Township.

ALSO: Part of the Southwest Quarter of the Southwest Quarter of Section No. 2, Township 37 North, Range 3 East, described as follows:

Beginning at a point 660 feet East of the Southwest corner of said Section No. 2; thence North 237 feet; thence East 209.7 feet; thence South 237 feet; thence West 209.7 feet to the place of beginning.

The Use Variance will allow: 1) selling used major component parts of vehicles; 2) wrecking or dismantling vehicles for resale of their major component parts; 3) rebuilding salvage, wrecked or dismantled vehicles; 4) disposing of recyclable materials to a scrap metal processor or other appropriate facility; 5) possessing two (2) or more inoperable vehicles subject to registration for more than thirty (30) days; and 6) engaging in the business of storing, disposing, salvaging or recycling of vehicles, vehicle hulks or the parts of vehicles,

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. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the business has been operating for many years at this location. The owner has been designated a certified Indiana Clean Yard through IDEM;
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 business has been operating at this site for many years, and similar automobile oriented commercial development exist along the McKinley Highway corridor;
3. The need for the variance arises from some condition peculiar to the property involved in that the business has been operating for several years, however now requires a zoning affidavit, thus requiring the Use Variance for the proposed uses;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance as drafted, would not permit the Appellant to continue to run their business; and
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area along McKinley Highway for general commercial.

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

JUL 28 2016

July 15, 2016

CITY CLERK
MISHAWAKA, IN

JUL 19 2016

Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned Appellant, Michael Niedbalski, respectfully shows the board:

AP 1732 16-27
E McKinley

1. I, Michael Niedbalski, am the owner of the following described real estate, located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

A parcel of land in the South West Quarter of the South West Quarter of Section No. 2, Township No. 37 North, Range No. 3 East, described as follows:

Beginning at a point 869.7 feet East of the Southwest corner of said Section No. 2, running thence East a distance of 90 feet; thence North 242 feet; thence West 91.69 feet; thence South 242 feet to the place of beginning; and being known as Lot Numbered 1 on the recorded plat of Sults Baby Farms of Penn Township.

ALSO:

Part of the Southwest Quarter of the Southwest Quarter of Section No. 2, Township 37 North, Range 3 East, described as follows:

Beginning at a point 660 feet East of the Southwest corner of said Section No. 2; thence North 237 feet; thence East 209.7 feet; thence South 237 feet; thence West 209.7 feet to the place of beginning.

2. The above-described real estate presently has a zoning classification of C-1 District under the zoning ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner:
Automobile recycling facility.
4. Appellant desires to change the non-conforming zoning classification to a conforming classification of C-4 with a variance that allows: selling used major component parts of vehicles, wrecking or dismantling vehicles for resale of their major component parts, rebuilding salvage, wrecked or dismantled vehicles, disposing of recyclable materials to a scrap metal processor or other appropriate facility, possessing two (2) or more inoperable vehicles subject to registration for more than thirty (30) days, and engaging in the business of storing, disposing, salvaging or recycling of vehicles, vehicle hulks or the parts of vehicles.
5. The State of Indiana requires an established place of business as defined by IC9-13-2-50.
6. Without this variant being granted, current operation of a long-established business within the City of Mishawaka would not be possible.
7. (1) Will approval be injurious to the public health, safety, morals or general welfare of the community?

No, because we have been conducting this business at this location for 38 years. We recycle all of our automobiles in an environmentally-friendly manner, properly disposing of all hazardous materials, including fluids, batteries, tires, and components containing mercury according to the regulations set forth by the Indiana Department of Environmental Management (IDEM). We are a certified Indiana Clean Yard, according to IDEM's criteria.

- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

No. Besides the reasons stated above, we have always tried to maintain and improve our property and business in a manner that reflects our concern for not only others' perception of who we are and what we do, but also not to detract from the values of ours or our neighbors' businesses or homes.

- (3) Is the need for the variance arise from some condition peculiar to the property involved?

Yes. To be licensed by the State of Indiana as an automobile recycling facility, we must be in compliance with IC9-13-2-50, and obtain zoning approval for our place of business.

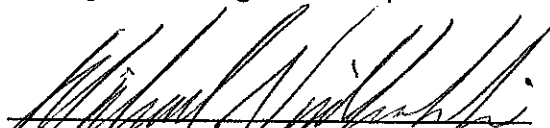
- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

Yes. An unnecessary hardship would be created for the families of my employees if we are unable to continue to conduct business, as we have been for the past 38 years. It would also adversely affect the community and the City of Mishawaka, because as far as I know, we are the only Indiana Clean Yard located within the City of Mishawaka.

- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

No. We believe that having all of our property under one jurisdiction, instead of two, as it is now, will be beneficial, not only to my business, but also to the City of Mishawaka, as we continue to operate in an environmentally-responsible manner, thereby supporting our local community.

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



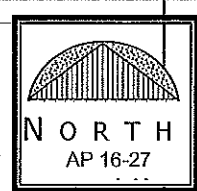
Property Owner Signature

Michael Niedbalski

Print Property Owner Name

Contact Person:

Michael Niedbalski
1732 E McKinley Avenue
Mishawaka, Indiana 46545
Phone: (574) 259-4644 ext.3
Fax: (574) 259-4688
Email: mike@mikesautosalvage.com



FIR RD

CLOVER RD

CLOVER RD

AP 16-27

CITY OF MISHAWAKA
LIMITS

C COMM. (COUNTY)
PENDING C-4 (MISH)
C-1 (MISH)
PENDING C-4 (MISH)

E MC KINLEY AVE

Location Map

AP 16-27

1732 E. McKinley Ave.

USE VARIANCE FOR USED AUTO PARTS
SALES; AUTO WRECKING &
DISMANTLING; POSSESSING TWO OR
MORE INOPERABLE CARS; AND
STORING, DISPOSING, SALVAGING
OR RECYCLING VEHICLES

CLOVER RD

E LA SALLE AVE

N BYRKIT AVE

AUG 10 2016

APPEAL #16-29

RESOLUTION NO. 2016- 24

CITY CLERK
MISHAWAKA, IN

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:

5225 Grape Road, Mishawaka, Indiana

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

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

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

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

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **5225 Grape Road, Mishawaka, Indiana**, more particularly known and described as follows:

That part of the Northwest Quarter of Section No. 33, Township 38 North, Range 3 East, bounded by a line running as follows, viz: Beginning at a point on the North and South center line of said Section 33, 204 feet south of the Northeast corner of the Northwest quarter of said Section; thence running west 825 feet; thence South 264 feet; thence East 825 feet to the North and South center line of said Section; thence North along said center line 264 feet to the place of beginning.

The Use Variance will allow a 140' communications tower on C-4 Automobile Oriented Commercial zoned property subject to the following conditions of approval:

- 1) The monopole tower shall not exceed more than 140 ft. in height (does not include height of attached antenna apparatus and lighting rod).
- 2) A fence of no higher than 7-foot will be allowed around the base of the tower and equipment building. Barbed wire is not permitted.
- 3) An Administrative Site Plan shall be submitted for the property. The site plan shall be consistent with the schematic site plan submitted.

- 4) The proposed 12' access drive between the existing asphalt parking area and the access gate into the compound shall be paved.
- 5) A storm water drainage plan shall be submitted to include an adequate system and means to capture all runoff from the new impervious surface areas.

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. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the property on which the tower is to be located is adjacent to commercial uses to the north, east, and south while adequate screening/buffering is present between the property and the residential subdivision to the west. The telecommunication facility and tower will be constructed and managed according to all regulatory codes.
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 area is primarily surrounded by commercial development; and adequate screening/buffering is present between where the tower is sited on the applicant's property and the residential properties to the west.
3. The need for the variance arises because the Zoning Ordinance for the City of Mishawaka restricts the installation of all telecommunications towers from all zoning districts other than the I-2 Heavy Industrial District. With the increase usage of cell phones, the number of properly zoned properties in areas needed to provide adequate call coverage and becoming less available. However, each site needs to be evaluated on an individual basis.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because cell towers are only allowed in industrial zoned properties. The use of cellular phones and technology are continually increasing creating a higher demand for better cellular coverage for users. The location of properties zoned heavy industrial within the City requires that sites be evaluated on a case by case basis relative to the context of a specific location.

5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan. Although the Comprehensive Plan identifies this property for Service Commercial, the Comprehensive Plan will not be substantially interfered with because of the limited use of the property and the specific hardships/development characteristics of the site associated with the request.

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

JUL 20 2016

JUL 19 2016

Date: July 18, 2016

To: City of Mishawaka, Indiana

CITY CLERK
MISHAWAKA, IN

The undersigned appellant respectfully shows the Board:

AP 16-29

1. I, Habitat for Humanity of St. Joseph County, Inc., am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to wit:

5225 Grape Road, Mishawaka IN, 46545:

That part of the Northwest Quarter of Section No. 33, Township 38 North, Range 3 East, bounded by a line running as follows, viz: Beginning at a point on the North and South center line of saidf Section 33, 204 feet south of the Northeast corner of the Northwest quarter of said Section; thence running west 825 feet; thence South 264 feet; thence East 825 feet to the North and South center line of said Section; thence North along said center line 264 feet to the place of beginning.

2. The above described real estate presently has a zoning classification of C-4, Auto-Oriented Commercial District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above described property in the following manner: ReStore – a nonprofit home improvement store and donation center that sells new and gently used furniture, home accessories, building materials, and appliances to the public at a fraction of the retail price. All proceeds generated are used by Habitat for Humanity of St. Joseph County to build more homes within the local community.
4. Appellant desires to construct a 140 foot monopole, and to install twelve (12) wireless telecommunications antennas on the monopole at 5225 Grape Road. The antenna array will consist of three (3) sets of flat, panel antennas composed of four (4) antennas each. Each antenna is approximately 97 inches tall and 12 inches wide and 8 inches deep. A fenced compound will also be constructed at the base of the monopole, within which an AT&T equipment shelter and generator will be located. The monopole will be designed to accommodate a total of four (4) carriers.
5. The Zoning Ordinance of the City of Mishawaka requires a Use Variance in order to construct a use other than those specifically permitted under Section 137-379(b).
6. Strict adherence to the Ordinance requirements will create an unusual hardship by effectively preventing AT&T from expanding and improving its network and in providing optimal voice and data streaming services, as well as reliable E-911 services, to businesses and residents within the surrounding area.

7. Use Variance Proofs

A. Will Approval be injurious to the public health, safety, morals or general welfare of the Community:

NO. The site is fully developed and adequately served with existing infrastructure improvements. The proposed facility will not generate any traffic, will generate no emissions, and will not place any undue demand on existing utility facilities. There will therefore be no adverse impact on the adjacent property or neighborhood.

B. Will the use and value of the area adjacent to property included in the Variance be affected in a substantially adverse manner?

NO. Approval of the telecommunications facility will have no negative impact on the use and value of surrounding properties. The property is commercial in nature and the addition of a telecommunications facility as an accessory use, will in fact provide a direct and tangible benefit through the provision of wireless communication service to the area.

C. Does the need for the variance arise from some condition peculiar to the property involved?

YES. The condition that gives rise to the need for a variance is the specific zoning designation of the subject property itself.

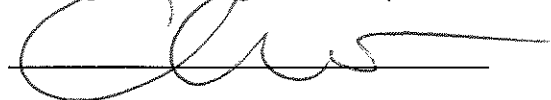
D. Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

YES. Strict application of Section 137-379(b) of the Zoning Ordinance would limit the full use and enjoyment of the subject property, and prevent the highest and best use of the property, which is an ideal location for the siting of telecommunications facility that will be a direct benefit to the present business located on the property, and its customers.

E. Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

NO. The Comprehensive Plan recognizes the value and benefits of a strong commercial sector, and a reliable and robust wireless telecommunications network is vital to maintaining and growing that sector of the community.

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



Andy Fitz / Mastec Network Solutions on behalf of the property owner

Contact Person: Andy Fitz, 1351 E .Irving Park Road, Itasca, IL. 60143, 773-368-0109
andy.fitz@mastec.com

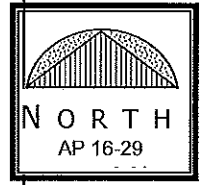
UNIVERSITY PARK DR

JENNY LN

W DOUGLAS RD

GRAPE RD

GRAPE RD



AP 16-29

PROPOSED
TOWER
LOCATION

ANDERS CT

Location Map

AP 16-29

5225 GRAPE ROAD - RESTORE
HABITAT FOR HUMANITY

USE VARIANCE FOR A 140' MONOPOLE
COMMUNICATIONS TOWER

1st Reading 8-1-16
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 28 2016

Proposed Ordinance NO. 2016-14

CITY CLERK
MISHAWAKA, IN

ORDINANCE NO. _____

ESTABLISHING A LOCAL OPTION INCOME TAX (LOIT) SPECIAL DISTRIBUTION FUND

WHEREAS, the Indiana General Assembly, through Senate Enrolled Act 67, and the Indiana Department of Local Government Finance, are requiring political subdivisions in Indiana to establish a new and separate fund to receive special Local Option Income Tax (LOIT) distributions; and

WHEREAS, the Indiana Code 6-3.6-9-1, et al has been modified requiring such fund to be established; and

WHEREAS, the City is to obtain funds from the special LOIT distributions from the County for the purposes detailed in the Indiana Code.

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

Section 1. The City of Mishawaka, Indiana hereby establishes Fund 257 LOIT Special Distribution Fund to receive Special Distributions from the County.

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

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

On this _____ day of _____, 2016 at _____ o'clock, _____.M.

Ronald Banicki, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on 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

CITY OF MISHAWAKA

JUL 28 2016

CITY CLERK
MISHAWAKA, IN

DAVID A. WOOD, MAYOR

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

Date: July 28, 2016
To: Honorable Members of the Common Council
From: Rebecca Miller *RM*
Re: Additional appropriations and new fund ordinance

I have a number of additional appropriations and a new fund ordinance for your approval.

A total of \$1,871,070.58 from Local Option Income Tax was received in May from the State as part of the plan to fund street repairs. Approximately 25% of this total was receipted into Rainy Day as allowed by statute.

The new fund ordinance is for this LOIT Special Distribution for the balance of the distribution totaling \$1,404,000.

An additional appropriation for \$950,000 is being presented to appropriate these funds for the State's highway matching grant program. The Engineering department has worked diligently to process and apply for this matching grant.

The \$467,070.58 balance of the new LOIT distribution was receipted into Rainy Day. I am asking to appropriate \$450,000 of it for employee health insurance and Park's property/liability insurance and their utilities. The Park operating fund was hit especially hard by circuit breaker, and the necessity to move some of the tax rate to the General fund for budget year 2016 also reduced funding.

An additional \$10,000 in Public Safety LOIT is to appropriate grant money that was received in 2015. These funds are being used to buy the Kidprint Child Photo ID Card System and radar equipment.

Lastly, I am asking for approval to appropriate funds in the Park Non-Reverting fund. We are currently paying for consulting for park projects out of CEDIT. These items will now be paid with the strategic planning money in Non-Reverting. Also, there are items needed this year at the newly renovated Battell Center. These include: a floor scrubber machine to clean the new flooring properly, refinishing of the stage, and portable basketball hoops for a new youth program this winter.

Please contact me with any questions.

c: David A. Wood, Mayor
Gary West, Director of Engineering
Phil Blasko, Park Superintendent

JUL 28 2016

1st Reading 8-1-16
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2016-15

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2016

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

Section 1. An emergency exists which requires the appropriation of additional
funds for the fiscal year ending December 31, 2016 in addition to that set out in detail in the
published budget.

Section 2. There is hereby appropriated from the Public Safety LOIT Fund of the
City of Mishawaka the sum of \$10,000.00 for assignment as follows:

Public Safety LOIT

Capital Outlays

211-50-445-08	Police Equipment	\$ <u>10,000.00</u>
		\$ 10,000.00

Section 3. There is hereby appropriated from the Park Non-Reverting Fund of the
City of Mishawaka the sum of \$32,500.00 for assignment as follows:

Park Non-Reverting

Other Services and Charges

214-50-431-06	Consulting	\$ 25,000.00
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Capital Outlays

214-50-444-05	Improvements not Building	\$ 3,600.00
214-50-445-14	Park Equipment	\$ <u>3,900.00</u>
		\$ 32,500.00

Section 4. There is hereby appropriated from the Rainy Day Fund of the City of
Mishawaka the sum of \$450,000.00 for assignment as follows:

Rainy Day

Personal Services

245-50-413-05	Employee Insurance Benefits	\$200,000.00
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Other Services and Charges

245-50-434-90	Insurance, Claims	\$105,431.00
245-50-435-01	Utilities – MU	\$119,569.00
245-50-435-02	NIPSCO	<u>\$ 25,000.00</u>
		\$450,000.00

Section 5. There is hereby appropriated from the LOIT Special Distribution Fund of the City of Mishawaka the sum of \$950,000.00 for assignment as follows:

LOIT Special Distribution

Other Services and Charges

257-50-431-06	Consulting	\$200,000.00
257-50-436-03	Street Repair	<u>\$750,000.00</u>
		\$950,000.00

Section 6. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

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

On this _____ day of _____, 2016 at _____ o'clock, _____.M.

Ronald S. Banicki, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on 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