

AGENDA

Monday, January 16, 2017

**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**

January 03, 2017

5. Petitions, Communications, Remonstrance and Memorials

A public hearing on Vacation R2016-02 required by State Statute on behalf of H and G Real Estate LLC for all platted & dedicated streets Ridgemont Crossing Section Two Final PUD (**Petitioner Requesting Withdrawal**)

A letter from the Board of Zoning Appeals regarding recommendations from their January 10, 2017 meeting.

A letter from the City Plan Commission regarding recommendations from their January 10, 2017 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2017-01 Rezone from I-1 to R-1 403 W. 4th Street (**Petitioner Requesting Second Reading**)

P.O. NO. 2017-02 Rezone from I-1, C-1, R-1 to C-10 Convenience Store, Fuel Pumps, Car Wash and Pet Facility. 1702 & 1720 Union St.

P.O. NO. 2017-03 Rezone from C-1 and C-6 to R-3 for a 119 Unit Senior Assisted Living Community - 3708 & 3634 Hickory Rd.

8. Resolutions

R2016-35 Honoring Marian Boys Soccer Team State Champions

R2017-02 Use Variance - Automotive Oriented - 1915 N. Cedar St.

9. Ordinances on Second Reading

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

P.O. NO. 2016-33 Amend Ridgemont Crossing PUD NE corner of Fir Rd & Dagoon Tr. to allow Multi-family Residential Uses 360 Units and Club House (**Petitioner Requesting Withdrawal**)

P.O. NO. 2016-34 Vacation of Right of Way of all Platted & Dedicated Streets Ridgemont Crossing Section Two Final PUD (**Petitioner Requesting Withdrawal**)

12. New Business

Consideration of Suspension of Council Rules - State of the City

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

January 03, 2017

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 January 3, 2017, at 7:00 p.m. The meeting was called to order by City Clerk Deborah Block all were asked to stand for the Pledge of Allegiance.

Woody Emmons 1st District
Mike Bellovich 2nd District
Ross Deal 3rd District
Kate Voelker 4th District
Michael Compton 5th District
Ron Banicki 6th District
Joe Canarecci At Large
Matt Mammolenti At Large
Bryan J. Tanner At Large

Chief Deputy Mary Ellen Hazen's roll call showed the following,  **Roll Call.**
Present: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.

Others present; Mike Trippel Council Attorney, Chief Deputy Mary Ellen Hazen, Raven Boston, Deputy.

Clerk Block opened the floor for nominations for President of the Council. Mr. Compton said he would like to nominate Mr. Deal with a second by Mr. Emmons the motion carried.

Mr. Tanner made a motion, to close the nominations with a second by Mr. Banicki the motion carried

Chief Deputy Mary Ellen Hazen polled the Council on the motion to elect Mr. Deal President
 **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.

Clerk Block turned the meeting over to President Ross Deal who opened the floor for nominations for Vice President of the Council. Mr. Banicki nominated Mr. Mammolenti with a second by Mr. Canarecci the motion carried.

President Deal made a motion to close nominations; with a second by Mr. Mammolenti nominations were closed.

Clerk Block polled the Council on the motion to elect Mr. Mammolenti Vice President of the Council  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

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

The minutes from the December 19, 2016 meeting were approved as received from the City Clerk's Office.

Clerk Block read the following Appeal and Petitions to the Council, who referred them to the Board of Zoning Appeals and the City Plan Commission, for their recommendation.

APPEAL NO. 2017-01 Use Variance -Automotive Oriented - 1915 N. Cedar St.

APPEAL NO. 2017-02 Use Variance – R-3 – 119 Unit Senior Assisted Living Community
3708 & 3634 Hickory Rd.

PETITION NO. 2017-01 Rezone from I-1 to R-1 403 W. 4th St.

PETITION NO. 2017-02 Rezone from I-1, C-1, R-1 to C-10 Convenience Store Fuel
Pet Wash Facility – 1702 & 1720 Union St.

PETITION NO. 2017-03 Rezone from C-1 and C-6 to R-3 for a 119 Unit
Senior Assisted Living Community – 3708 & 3634 Hickory Rd.

Clerk Block read the following **RESOLUTION NO. 2016-36** in its entirety and opened for public hearing.

RESOLUTION NO. 2016-36
A RESOLUTION OF THE COMMON COUNCIL
OF THE CITY OF MISHAWAKA, INDIANA
HONORING LINDA DOTSON
FOR HER YEARS OF SERVICE

Clerk Block said Mrs. Dotson was a great friend and their friendship meant a lot. She thanked Mrs. Dotson personally and on behalf of her staff. Clerk Block appreciated all Linda had done and wished her the best for many years to come.

Mayor Wood congratulated Mrs. Dotson and wished her a healthy, happy retirement. He said Mrs. Dotson was always welcoming and made everyone feel like they were family. Mayor Wood presented Mrs. Dotson with a Proclamation and a Key to the City. He stated she would be missed by all.

Mr. Canarecci expressed Mrs. Dotson welcomed everyone with open arms.

Mr. Emmons said he has known Mrs. Dotson for many years. He said she was a warm-hearted and always willing to help.

Mr. Banicki said when there was a question Mrs. Dotson had the answer. He appreciated all she had done. Mr. Banicki wished Mrs. Dotson the best.

Mr. Compton spoke on Mrs. Dotson professionalism. He expressed she was a great friend.

Mrs. Voelker thanked Mrs. Dotson for her hard work and service. She was impressed with Mrs. Dotson's work history.

Mr. Tanner expressed she would always be remembered.

Mr. Bellovich stated Mrs. Dotson was always helpful. He wished Mrs. Dotson healthy years to come.

Mr. Mammolenti said Mrs. Dotson meant a lot to him and his family. He was proud to have worked with and be a friend of Mrs. Dotson.

Mr. Deal said he valued Mrs. Dotson's friendship and wished her good things to come.

Mrs. Dotson thanked everyone for their acknowledgements. She expressed her love for her job and the people she worked with.

Question was called for at 7:23 p.m. for **RESOLUTION NO. 2016-36**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.**

Clerk Block read **RESOLUTION NO. 2017-01** in its entirety and opened it for public hearing.

RESOLUTION NO. 2017-01
A RESOLUTION OF THE COMMON COUNCIL
OF THE CITY OF MISHAWAKA, INDIANA
HONORING STATE CHAMPIONS
PENN GIRLS SOCCER TEAM

Coach Jeff Hart thanked the Council for the Resolution and acknowledgements. He also thanked his assistant coaches for being good role models for the girls. Mr. Hart mentioned the great support from Superintendent Dr. Jerry Thacker. He went on to tell how the girls managed to put the team first and manage a 3.8 G.P.A as a team. Mr. Hart said winning the State Championship brought them closer, and they were no longer just a team, they were a family forever.

Mr. Tanner was proud to have written the resolution. He thanked the team, parents, and coaches.

Mrs. Voelker said as a mother of four athletes, she was proud of the young women and told them they were on the right track to being successful.

Mr. Compton said the girls did a great job balancing school and sports. He was impressed with what the girls accomplished. Mr. Compton went on to tell the girls to continue listening to their coaches.

Mr. Mammolenti congratulated the girls on their win. He said they had great coaches and to focus on keeping academics first.

Mr. Banicki congratulated the girls, parents, and coaches. He told the girls to stay dedicated.

Mr. Canarecci said the girls set good examples and their supporters looked at them as mentors.

Mr. Emmons congratulated the girls on their successful season. He said it was a lot of hard work and effort that all paid off with dedication. Mr. Emmons wished the girls a successful life.

Mr. Deal expressed the enjoyable part of his job was having the opportunity to recognize accomplishments of young people. He said it speaks and gives hope to the community.

Mr. Deal congratulated the girls big win.

Question was called for at 7:43 p.m. for **RESOLUTION NO. 2017-01**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.**

NEW BUSINESS

Bryan Tanner announced soccer signups with the Parks Department.

Mike Compton announced he was proud of Mr. Deal and knows he would be a good leader as president.

President: Ross Deal
Vice-President: Matt Mammolenti

BUDGET & FINANCE COMMITTEE

Mike Compton, Chairman
Joe Canarecci
Mike Bellovich

LAND USE PLANNING COMMITTEE

Ross Deal, Chairman
Kate Voelker
Bryan Tanner

PUBLIC HEALTH & SAFETY/LONG RANGE PLANNING COMMITTEE

Bryan Tanner, Chairman
Matt Mammolenti
Kate Voelker

PUBLIC IMPROVEMENTS COMMITTEE

Woody Emmons, Chairman
Mike Compton
Mike Bellovich

PERSONNEL COMMITTEE

Matt Mammolenti, Chairman
Bryan Tanner
Mike Bellovich

SUB-STANDARD HOUSING COMMITTEE

Joe Canarecci, Chairman
Woody Emmons
Kate Voelker

Mr. Deal asked for a motion for Council Attorney. Mr. Banicki said he would like to make a motion to reappoint Mike Trippel as **Staff Attorney**, he has done a very nice job, always accessible, knowledgeable and great person, with a second by Mr. Mammolenti the motion carried.

Clerk Block read the following appointments to various boards:

PLAN COMMISSION – Woody Emmons
TRAFFIC COMMISSION – Ron Banicki
MBA – Mike Compton
SOLID WASTE – Woody Emmons
MACOG – Joe Canarecci
INSURANCE COMMITTEE – Ross Deal

President Deal asked for a motion to accept these appointments, with motion by Mr. Mammolenti to accept the appointments as read by the Clerk, with a second by Mr. Canarecci motion carried.

Clerk Block asked for a motion for appointments for the **REDEVELOPMENT COMMISSION**, Mr. Mammolenti made a motion to appoint Kris Ermeti and Janet Whitfield Hyduk as members of the Redevelopment Committee, with a second by Mr. Tanner the motion carried

Clerk Block stated **FIRE DEPARTMENT PLATOON STUDY COMMITTEE** – Woody Emmons.

BOARD OF ZONING APPEALS – Chuck Trippel
ANIMAL CONTROL COMMISSION – Mariah Covey
HISTORIC PRESERVATION - Kate Voelker

Clerk Block read the conflict of Interest forms for 2017 have been filled out and signed by Woody Emmons, Mike Bellovich, Matt Mammolenti and Bryan Tanner. Clerk Block asked for a motion to accept the conflict reports. Mr. Mammolenti made a motion to accept, with a second by Mr. Compton the motion carried.

Clerk Block swore in the new Deputy Clerk, Raven Boston

President Ross Deal presented outgoing President Ron Banicki with a plaque for his year as president of the council.

ADJOURNMENT 7:54 p.m.

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

Ross Deal s/
Ross Deal, President



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

January 11, 2017

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
January 10, 2017, 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 #17-01 An appeal submitted by LeHue Realty LLC requesting a Use Variance for **1915 North Cedar Street** to permit an auto body shop, auto repair, and detailing on I-1 Light Industrial zoned property.

The Board, with a vote of 4-0, forwarded an unfavorable recommendation. Staff would request that if the Appeal is approved that it would be subject to the following conditions:

1. Use variance shall be limited to automotive body shop, auto shop, and auto detailing and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted;
2. A site plan shall be submitted to the Department of City Planning showing proposed parking layout in regards provided parking space per use.
3. Temporary signage is prohibited.
4. Any noise generating activities shall be restricted to the hours of 7am-8pm.

APPEAL #17-02 An appeal submitted by Rans Real Estate LLC requesting a Use Variance for **3634 and 3708 Hickory Road** to permit an assisted living facility in R-3 Multi-Family Residential District.

The Board, with a vote of 4-0, forwarded a favorable recommendation.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Lincoln LeHue
Ari Parritz

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 12 2017

CITY CLERK
MISHAWAKA, IN

STAFF REPORT

Location: 1915 N Cedar Street

Date: January 10, 2017

Appeal: 17 01

Prepared By: CH

GENERAL INFORMATION

Applicant: Lincoln & Susan Le-Hue

Status: Property Owner

Request: Use Variance to allow automotive body shop, auto shop, and auto detailing uses

Zoning Classification: I-1 Light Industrial District

Lot Size: 0.74 acres

Applicable Regulations: Section 137-586 I-1 Uses
Section 137-42 (4) Board of Zoning Appeals

SPECIAL INFORMATION

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

Thoroughfare: North Cedar Street

School District: Mishawaka School City

Township: Penn

Public Utilities: Available

Comprehensive Plan: Industrial

ANALYSIS

The appellants are requesting a use variance to allow automotive body shop, auto shop, and auto detailing uses on the property located at 1915 North Cedar Street. The property is currently zoned I-1 Light Industrial, which does not allow the proposed automobile uses. The appellants states that for over 30 years the Le-Hue Machine was in business at this located and occupied roughly half of the building. The Le-Hue Machine now only occupies one bay of the building. The appellants desire to rent out the remainder of the bays for automotive body shop, auto shop, and auto detailing uses.

A request for the proposed use variance, instead of a rezoning to C-4 Automobile Oriented Commercial, would keep the zoning intact for existing businesses, like Le-Hue Machine, while still enabling them to use the property for automobile commercial use.

The property is located along Cedar Street. Light Industrial zoned properties are located to the north, south, and west. Residential uses are present across Cedar Street. The property contains an existing 10,720 square foot industrial building, according to assessor records. There are six (6) overhead doors on

the building, three (3) on the portion of the building along the east side of the property and (3) on the portion of the building along the north side of the property.

Parking will need to be provided for the industrial zoning of (1) space per employee. The appellant will need to provide verification that these parking requirements will be met.

A similar request was submitted in October 2014. Shortly before that time is when the Staff became aware of an existing auto use on the property and recommended that a use variance be obtained in order for the auto use to continue on the property. This request was ultimately denied by the Common Council.

Staff noticed a mobile tire business operating out of one of the bays in June 2016. The owners were contacted and eventually fined. This business moved out in October 2016. A dozen inoperable cars were tagged by Code Enforcement in July 2016.

All pertinent City Departments have reviewed this request and approved offering the following comments:

Building permits will be required for the change of occupancy. The property is located within the Wellhead Protection area. The Water Department suggests applying for a Wellhead Protection Permit, since they will be forwarding the address to the Wellhead Protection Coordinator. The Engineering Department will require sand/oil interceptors be installed per Engineering standards.

RECOMMENDATION

Despite the violations, the Staff feels this is an appropriate use given its proximity to the railroad tracks and other automotive uses, therefore, the Staff recommends in favor of Appeal 17-01, a use variance for automotive body shop, auto shop, and auto detailing uses at 1915 N Cedar Street, subject to the following conditions:

1. Use variance shall be limited to automotive body shop, auto shop, and auto detailing and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted;
2. A site plan shall be submitted to the Department of City Planning showing proposed parking layout in regards provided parking space per use.
3. Temporary signage is prohibited.
4. Any noise generating activities shall be restricted to the hours of 7am-8pm.

This recommendation is based on the following reasons:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed use will have no impact on the adjacent industrial uses that currently operate there. The proposed use is consistent with the existing industrial properties within the area.
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 of the industrial nature of the area along Cedar Street.
3. The need for a variance arises from the nature of the area, where property owners are very protective of the intensive zonings of their properties. A use variance would allow the proposed automobile commercial use, while still protecting the industrial zoning for future use and also protecting the residential users to the north and south.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the current I-1 light Industrial zoning would not allow for the proposed automobile oriented commercial uses.
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies other surrounding areas as industrial. The approval is consistent with the goals and objectives of the Comprehensive Plan given the existing auto commercial uses that are located to the south of this property along Cedar Street.

ATTACHMENTS

AERIAL, PHOTOGRAPHS, VARIANCE REQUEST & LOCATION MAP



Spring 2015 Aerial



12 28 2016

STAFF REPORT

Location: 3708 & 3634 Hickory Road

Date: January 10, 2017

Appeal: 17- 02

Prepared By: DJS

GENERAL INFORMATION

Applicant: Rans Real Estate LLC / Vermillion Development c/o Ari Parritz

Status: Property Owner / Contingent Purchaser

Request: Use Variance to allow a 119 unit assisted living facility in an R-3 Multiple Family Residential District and a Developmental Variance to allow for a reduction in the required number of parking spaces

Zoning Classification: R-3 Multiple Family Residential (pending rezoning Petition 17-03 to be considered by the Plan Commission concurrently with the use variance)

Lot Size: 4.56 acres

Applicable Regulations: Section 137-216 thru 137-217 / R-3 Multiple Family Residential District & Section 137-42 (4) / Board of Zoning Appeals – Use Variance

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Commercial/Sprint, Vacant Building & Evergreen Spa's and Saunas)
South: C-6 Linear Office Commercial (Credit Union/Communitywide Federal Credit Union)
East: C-1 General Commercial (Vacant Land)
West: City of South Bend/LB Local Business & SF1 Single-Family & Two Family District (Multi-Tenant Strip Commercial Building & Single-Family Residential)

Thoroughfare: Hickory Road

School District: Penn-Harris-Madison School Corporation

Township: Penn Township

Public Utilities: All utilities are available and will be extended/connected to the site at the developer's cost

Comprehensive Plan: General Commercial

ANALYSIS

The Appellant, Rans Real Estate LLC, is requesting a use variance for a vacant 4.53 acre parcel of land located at 3708 and 3634 Hickory Road to allow a 119 unit assisted living facility in an R-3 Multiple Family Residential District (rezoning pending) and a developmental variance for a reduction in the required number of parking spaces. The Appellant submitted this petition concurrently with a rezoning petition,

which if approved, will rezone the property from C-1 General Commercial and C-6 Linear Office Commercial to R-3 Multiple Family Residential.

Permitted uses within the R-3 district include apartment complexes, nursing facilities (skilled nursing/long term care facilities), and adult day care centers (respite care), but not explicitly a senior assisted living facility. Staff supports the use variance since assisted living facilities are similar in intensity and function to these permitted uses and include many of the same services such as providing meals, housekeeping, and medical care. The differences in an assisted living facility are that medical care is not provided on a routine basis or around-the-clock like in nursing facilities, and living arrangements are permanent unlike an adult day care.

The conceptual site plan as submitted with the appeal shows that the development will comply with all the required height, area and developmental regulations for the R-3 Multiple Family Residential district except for the required number of parking spaces. Per ordinance, the number of parking spaces required is either 1.5 spaces/unit (179 spaces) for an apartment building or 1 space/1,000 sq. ft. for a nursing home (90 spaces). The developer is proposing a total of 60 spaces, which according to the appeal is the minimum number to provide adequate parking for residents, staff and guests. Per the developer's experience with similar assisted living facilities, parking ratios are based approximately on 1 space per 6 residential units (119 units/6 = 20 spaces), 1 space for each employee at peak employment (25 spaces), and 15-20 spaces for guests. Similar variances for reduced parking have been approved for other senior assisted living, independent living, and nursing facilities in the City of Mishawaka.

The appeal and conceptual site plan have been routed to all applicable City Departments for review and comment. All departments have reviewed and approved the request except for the Fire Department. Therefore, additional comments may follow.

RECOMMENDATION

Staff recommends **approval** of Appeal 17-02 requesting a use variance for property located at 3708 and 3634 Hickory Road to allow a 119 unit assisted living facility in an R-3 Multiple Family Residential District (rezoning pending) and a developmental variance for a reduction in the required number of parking spaces to 60 spaces.

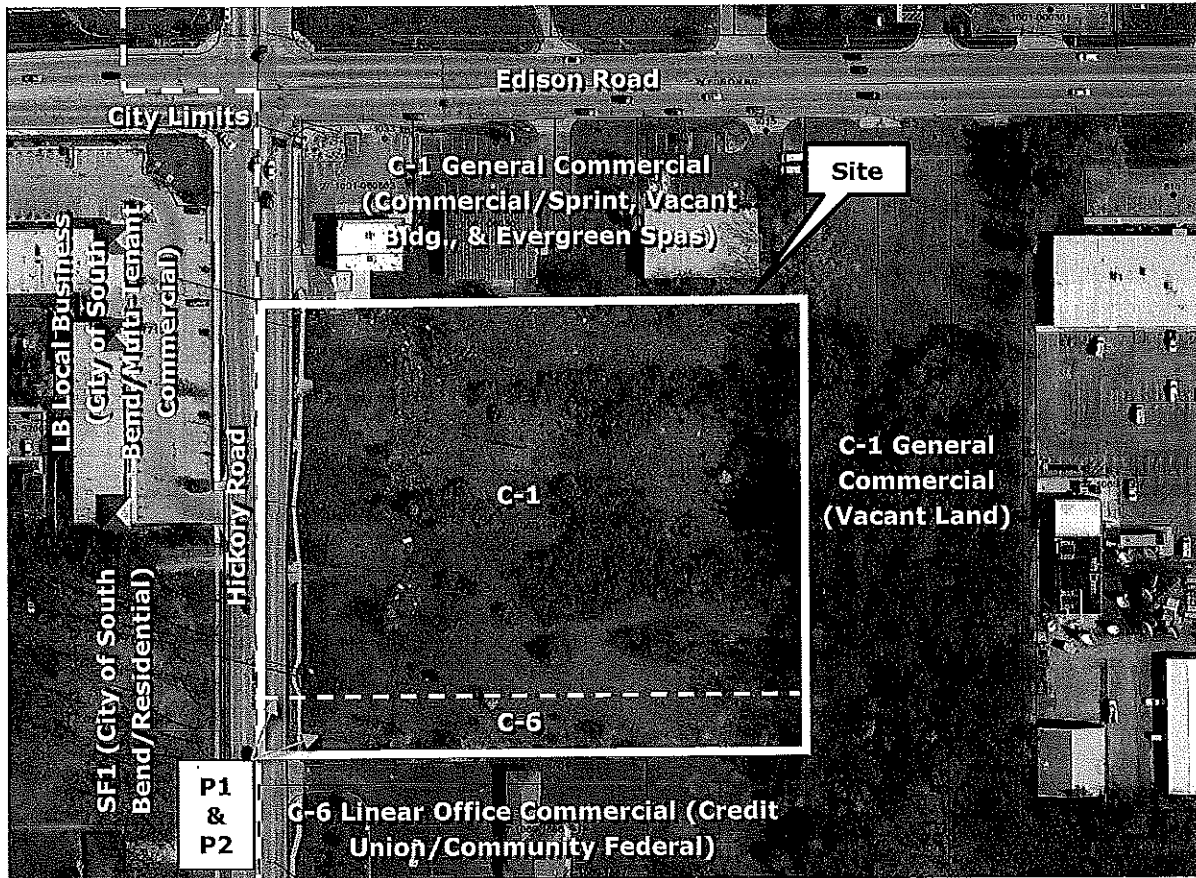
This recommendation is based upon the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because the proposed senior assisted living facility is compatible with the adjacent commercial/retail uses and is similar in intensity and use to other permitted uses in the R-3 Multiple Family District. Based upon the developer's experience with similar assisted living facilities, the reduction in the required number of parking spaces will provide an adequate number of spaces for the residents, employees, and guests;
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 as the proposed assisted living facility is compatible with the existing land uses. Furthermore, the proposed use is less intensive and will not generate as much traffic as many of the permitted uses allowed on the property. Adequate parking will still be provided with the reduction in the number of spaces.
3. The need for the use variance arises from some condition peculiar to the property involved because the proposed zoning allows for various multiple family residential and senior care uses, but does not explicitly permit an assisted living facility.
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought. The zoning ordinance does not allow an assisted living facility in the R-3 Multiple Family Residential District though such a use is similar to many of the permitted uses in this district. Furthermore, the number of parking spaces required per ordinance is excessive since many of the facility's residents no longer possess or drive automobiles.

5. The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. Although more residential in nature, the proposed use for an assisted living facility is consistent with the Comprehensive Plan.

ATTACHMENTS

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



Aerial Photograph – 3708 & 3634 Hickory Road
Proposed 119-unit Assisted Living Facility



P1. Looking northeasterly toward the property to be rezoned
from the credit union access drive to the south



P2. Looking easterly toward the property to be rezoned from
north of the credit union access drive to the south.



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

January 11, 2017

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
January 10, 2017, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

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

PETITION #17-01 A petition submitted by Derec and Jenifer Eggleston requesting to rezone **403 West Fourth Street** from I-1 Light Industrial District to R-1 Single Family Residential District.

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

PETITION #17-02 A petition submitted by Mishawaka LLC requesting to rezone **1702 and 1720 Union Street** from R-1 Single Family Residential, C-1 General Commercial, and I-1 Light Industrial, to C-10 Filling Station Commercial.

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

PETITION #17-03 A petition submitted by Rans Realty LLC requesting a rezoning of **3634 and 3708 Hickory Road** from C-1 General Commercial District and C-6 Linear Office Commercial District to R-3 Multi-Family District.

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

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

Respectfully,

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Jenifer Eggleston
Todd Etzler
Ari Parritz

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 12 2017

CITY CLERK
MISHAWAKA, IN

STAFF REPORT

Location: 403 W. Fourth Street

Date: Jan 10, 2017

Petition: 17 01

Prepared By: KM

GENERAL INFORMATION

Applicant: Deric and Jenifer Eggleston

Status: Property Owners

Request: Rezone from I-1 Light Industrial District to R-1 Single Family Residential District

Zoning Classification: I-1 Light Industrial District

Lot Size: 57.75' X 313.5'

Applicable Regulations: Sec. 137-164 Residential R-1 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-3 City Center Commercial District
South: C-3 City Center Commercial District
East: C-3 City Center Commercial District
West: I-1 Light Industrial District

Thoroughfare: West Fourth Street east of West Street

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioners are requesting to rezone 403 W. Fourth Street from I-1 Light Industrial District to R-1 Single Family Residential District. The property is located on Fourth Street between West and Spring and is surrounded on the north, south, and east by C-3 zonings and I-1 zoning to the west. Uses in the area range from medical offices to single family homes.

The Petitioners state they are remodeling the building back into a single family home and funding is being held by the lender until the property is rezoned to residential. The building, built in 1890, had previously been used as a chiropractor's office for many years. They are requesting first and second reading on January 16, 2017.

Prior to the 1980's residential uses were permitted in the I-1 Light Industrial District. Around 1986 the Zoning Ordinance was amended to prohibit residential uses. The area is predominately residential in nature, so rezoning to R-1 is consistent with nearby uses.

Pertinent City Departments reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition #17-01 to rezone 403 W. Fourth Street from I-1 Light Industrial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. There are multiple zonings in the immediate vicinity and many of the structures are residential in use. The conversion from office to a single family dwelling would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as an industrial project, staff feels that the most desirable use for this property is single-family use;
3. Because the parcel is located in an area of residential properties, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of potential industrial development that could occur with its current zoning, rezoning this property to the R-1 Single Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and will allow the property owner to refinance the home; and,
5. The City's Comprehensive Plan calls for general commercial which is consistent with the downtown vicinity.

ATTACHMENTS

PHOTOGRAPHS, PETITION, AERIAL, LOCATION MAP



403 W. Fourth Street

STAFF REPORT

Location: 1702 & 1720 Union Street (NE of Union St. & Dragoon Tr.)

Date: January 10, 2017

Petition: 17- 02

Prepared By: DJS

GENERAL INFORMATION

Applicant: Mishawaka LLC / Family Express Corporation c/o Todd Etzler, Atty.

Status: Property Owners / Contingent Purchaser

Request: To rezone from I-1 Light Industrial, C-1 General Commercial, and R-1 Single-Family Residential to C-10 Filling Station/Carwash Commercial to allow for the construction of a convenience store with fuel pumps, carwash, and pet wash facility

Zoning Classification: I-1 Light Industrial, C-1 General Commercial and R-1 Single-Family Residential

Lot Size: 1.51 acres

Applicable Regulations: Section 137-529 thru 137-530 / C-10 Filling Station/Carwash Commercial & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single-Family Residential (Residential)
South: C-4 Auto Oriented Commercial (Vacant Convenience Store/Gas Station – Former Blair Hills Mart) & R-1 Single-Family Residential (Church – St. Peter Lutheran)
East: R-1 Single-Family Residential (Vacant/City-Owned Stormwater Retention Basin)
West: R-1 Single-Family Residential (Residential)

Thoroughfare: Union Street & Dragoon Trail

School District: Penn-Harris-Madison School Corporation

Township: Penn Township

Public Utilities: All utilities are available and will be extended/connected to the site at the developer's cost

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioner, Mishawaka LLC, is requesting to rezone two parcels of property located at 1702 & 1720 Union Street from I-1 Light Industrial, C-1 General Commercial, and R-1 Single-Family Residential to C-10 Filling Station/Carwash Commercial to allow for the construction of a new convenience store with fuel pumps, carwash, and pet wash facility.

The parcels were previously developed with two structures both occupied by the 7-Up bottling plant/distribution facility until the early 1980's. Following 7-Up's closure, the northern structure at 1702 Union Street was occupied by various automotive related businesses and a residential/commercial awning business. The southern structure at 1720 Union Street was occupied by numerous commercial uses including a video rental store, fitness center, and fireworks store. Both structures were vacant when the Petitioner purchased the properties in early 2005. They were subsequently demolished in mid-2005 and the parcels have since remained vacant.

Per the conceptual site plan submitted with the rezoning petition, Family Express is proposing to construct an approximate 4,560 sq. ft. one-story convenience store/gas station oriented westerly toward Union Street. Although not shown on the site plan, the petition indicates that a carwash and pet wash facility are also being proposed. The 1.51 acre site has frontage on three streets including 18th Street to the north, Union Street to the west, and Dragoon Trail to the south. Access to the site is currently proposed from all three streets utilizing the approximate locations of the existing curb cuts. The number and locations of the access drives may differ when refinements are made to the final site plan and upon further review by the Engineering Department.

Access easements will be required on the site to allow cross access to and from the former Blair Hills Mart property (406 Dragoon Trail) at the northeast corner of Union Street and Dragoon Trail. Such easements will permit the existing curb cuts on this adjacent property, which are currently too close to the intersection for safe access, to be removed when it is redeveloped. It is the Staff's understanding that Family Express has an interest in this property if an agreement can be reached with the existing property owner. If acquired by Family Express and developed as a part of the overall site, access easements will not be required. The property is currently zoned C-4 Automobile Oriented Commercial and could potentially be developed as a part of the Family Express site without being rezoned as long as the fuel pumps are not located on the parcel. The prior fuel pumps were a legal non-conforming use. The C-4 zoning district does not permit fueling as a permitted use.

Per the parking requirements for the C-10 zoning district, a total of 26 parking spaces must be provided (5.5 spaces per 1,000 sq. ft. of gross floor area). The conceptual site plan indicates that a minimum of 26 parking spaces will be provided.

Similar to the recently developed Family Express locations on Edison Road and Fir Road, Staff is requesting a fuel/oil separator be provided to intercept surface spills/drips that occur over time before surface water takes it to the retention basin/stormwater management area. Per prior discussions with Family Express, stormwater runoff is planned to be stored off-site within the adjacent City owned retention basin to the east. If the use of this basin is approved by the Engineering Department, stormwater calculations shall be provided on the final site/drainage plan to demonstrate that adequate capacity exists within this basin.

With this petition, the Applicant is only seeking to establish the proper zoning required for the proposed uses. If approved, a detailed final site plan shall be submitted for Staff review and Plan Commission approval prior to construction. The final site plan shall address storm drainage, grading, landscaping/screening, and all other required improvements pertinent to the proposed development.

Due to the prior industrial and commercial uses and preferred General Commercial use as identified in the Mishawaka 2000 Comprehensive Plan, Staff supports the request for rezoning. The proposed uses are not out of character with the historical uses and are consistent with the recommended use per the comprehensive plan.

The rezoning petition and conceptual site plan have been routed to all applicable City Departments for review and comment. At the time of writing this report, all departments except the Fire Department have reviewed and have approved the request. Therefore, additional comments may follow.

The Engineering Department commented that the number and location of the proposed access points will likely have to be modified and that all of the site's generated stormwater cannot be stored off-site within the city-owned retention basin to the east. These comments shall be addressed with the submittal of the final site plan.

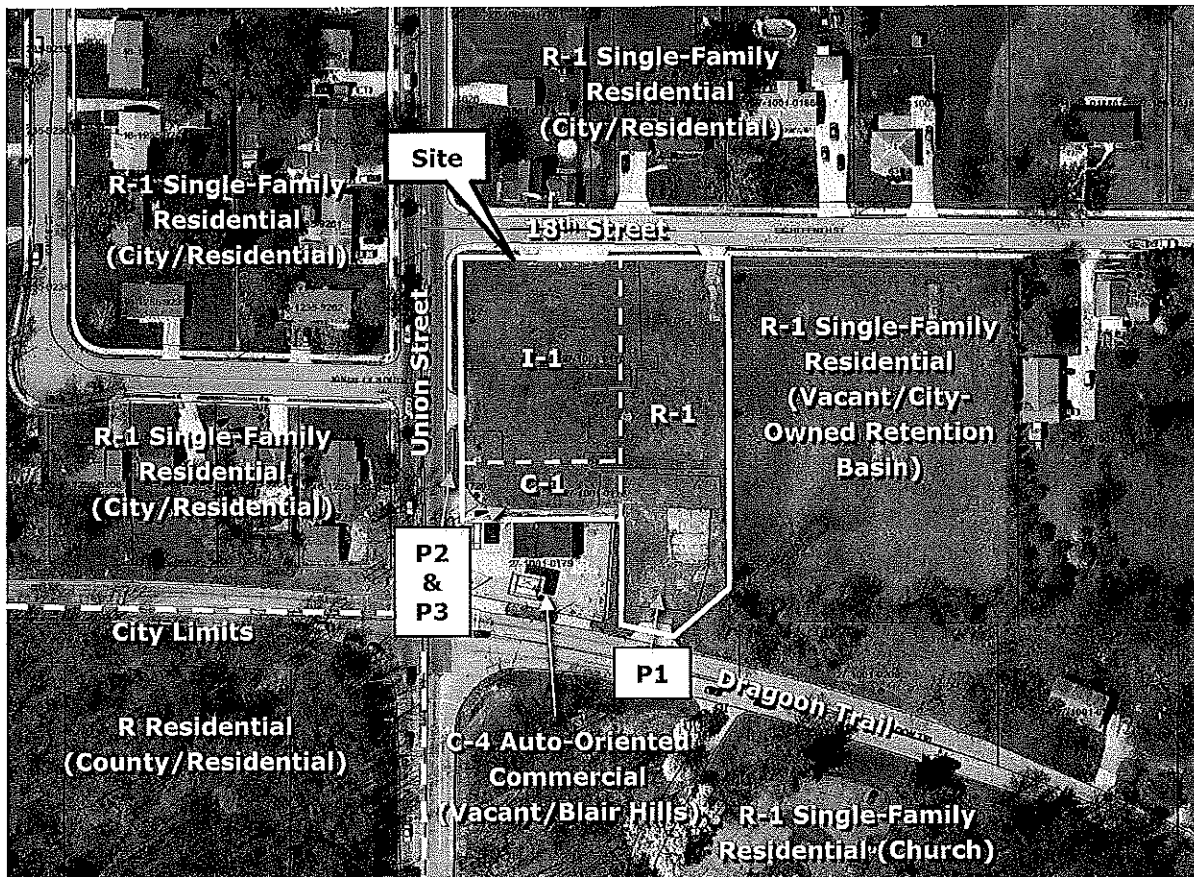
RECOMMENDATION

Staff recommends in **favor** of rezoning Petition 17-02 to rezone approximately 1.51 acres located at 1702 & 1720 Union Street from I-1 Light Industrial, C-1 General Commercial, and R-1 Single-Family Residential to C-10 Filling Station/Carwash Commercial to allow for the construction of a convenience store with fuel pumps, carwash, and pet wash facility. This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject property consists of two vacant parcels located near the intersection of Union Street and Dagoon Trail. These arterial roads are highly travelled corridors providing major north-south and east-west access through the City. A majority of the adjacent properties along this portion of Union Street are single-family residential with a vacant convenience store/gas station located to the south. Although currently undeveloped, the property was previously occupied with various industrial and commercial uses prior to 2005.
2. Character of Buildings – The character of the buildings in the area are predominantly single-family residential with a vacant convenience store/gas station located to the south at the northeast corner of Union Street and Dagoon Trail.
3. The most desirable/highest and best use – Because of the properties location and the prior industrial and commercial uses, the most desirable use for the property is commercial. Although single-family residential properties are adjacent to the west and north, the high traffic volumes along Union Street and Dagoon Trail make long term use of the properties undesirable for residential purposes. Furthermore, portions of the property fronting Union Street are currently zoned for both commercial and industrial use.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the surrounding neighborhood as the existing I-1 Light Industrial and C-1 General Commercial zoning classifications permit industrial and commercial uses on a majority of the property. Landscaping and screening will be required per the C-10 Filling Station/Carwash Commercial district to adequately buffer the proposed use from the adjacent residential properties.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. The proposal is consistent with the Comprehensive Plan.

ATTACHMENTS

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



Aerial Photograph – 1702 & 1720 Union Street
 Proposed Convenience Store with fuel pumps, carwash, and pet wash facility



P1. Looking northerly from Dragon Trail at the proposed access location.



P2. Looking northerly from Union Street toward the vacant property.



P3. Looking easterly from Union Street toward the vacant property.

STAFF REPORT

Location: 3708 & 3634 Hickory Road

Date: January 10, 2017

Petition: 17- 03

Prepared By: DJS

GENERAL INFORMATION

Applicant: Rans Real Estate LLC / Vermillion Development c/o Ari Parritz

Status: Property Owners / Contingent Purchaser

Request: To rezone from C-1 General Commercial and C-6 Linear Office Commercial to R-3 Multiple Family Residential to allow for the construction of a 119 unit senior assisted living community

Zoning Classification: C-1 General Commercial & C-6 Linear Office Commercial - the south 58' feet of the parcel previously being remnant land from the credit union to the south

Lot Size: 4.56 acres

Applicable Regulations: Section 137-216 thru 137-217 / R-3 Multiple Family Residential & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Commercial/Sprint, Vacant Building & Evergreen Spa's and Saunas)
South: C-6 Linear Office Commercial (Credit Union/Communitywide Federal Credit Union)
East: C-1 General Commercial (Vacant Land)
West: City of South Bend/LB Local Business & SF1 Single-Family & Two Family District (Multi-Tenant Strip Commercial Building & Single-Family Residential)

Thoroughfare: Hickory Road

School District: Penn-Harris-Madison School Corporation

Township: Penn Township

Public Utilities: All utilities are available and will be extended/connected to the site at the developer's cost

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioner, Rans Real Estate LLC, is requesting to rezone a vacant 4.53 acre parcel of land located at 3708 and 3634 Hickory Road from C-1 General Commercial and C-6 Linear Office Commercial to R-3 Multiple Family Residential to allow for the construction of a 119 unit senior assisted living community.

The parcel is currently vacant undeveloped property that was previously occupied with several single-family homes until the early 1990s. In 2001 (Petition 01-22), the parcel together with the credit union property to the south was rezoned to the C-1 General Commercial and C-6 Linear Office Commercial classification. The C-1 district portion of the property was rezoned for speculative commercial/strip development as no specific use was identified at that time. The C-6 district portion of the property was rezoned specifically for the development of the credit union. The Petitioner purchased the parcel in 2004.

Per the conceptual site plan submitted with the rezoning petition, Vermillion Development is proposing to construct an approximate 31,400 sq. ft. three-story building, sixty (60) space parking lot, and other required infrastructure (access drives, stormwater detention basin, etc.) to serve the development. The three-story building will be 48 feet in height and include 119 units. One access is proposed along Hickory Road. The location of the access drive may differ when refinements are made to the final site plan and upon further review by the Engineering Department. Several landscaping areas are shown along Hickory Road and within the parking lot with the intent to comply with the commercial landscaping requirements. The development is proposed to be constructed in one phase.

The conceptual site plan indicates that the development will comply with all the required height, area and developmental regulations for the R-3 Multiple Family Residential district except for the required number of parking spaces. Therefore, the Petitioner is requesting a developmental variance from the Board of Zoning Appeals to allow a reduction in the required number of parking spaces from either 1.5 spaces/unit (179 spaces) for an apartment building or 1 space/ 1,000 sq. ft. for a nursing home (90 spaces) to 60 spaces. The developer indicated that the proposed number of spaces will be the minimum sufficient to provide adequate parking for residents, staff and guests. Per the developer's experience with similar assisted living communities, parking ratios are based approximately on 1 space per 6 residential units, 1 space for each employee at peak employment, and 15-20 spaces for guests.

In addition to the developmental variance, the Petitioner is also requesting a use variance from the Board of Zoning Appeals to allow for the proposed assisting living community in the R-3 Multiple Family Residential district. Permitted uses within the R-3 district include apartment complexes, nursing facilities (skilled nursing/long term care facilities), and adult day care centers (respite care), but not explicitly a senior assisted living facility. Assisted living communities are similar in intensity and function to these permitted uses and include many of the same services such as providing meals, housekeeping, and medical care. The differences are that medical care is not provided on a routine basis or around-the-clock like in nursing facilities, and living arrangements are permanent unlike an adult day care.

With this petition, the contingent purchaser is only seeking to establish the proper zoning required for the proposed use. If approved, a detailed final site plan shall be submitted for Staff review and Plan Commission approval prior to construction. The final site plan shall address storm drainage, grading, landscaping, and all other required improvements pertinent to the proposed development.

Since the parcel is currently zoned for commercial use and identified in the Mishawaka 2000 Comprehensive Plan for General Commercial use, Staff supports the request for rezoning. The rezoning is essentially a down zoning as the proposed assisted living facility is less intensive than many of the permitted uses allowed within the C-1 General Commercial. Furthermore, the proposed use is not out of character with the adjacent commercial uses and is consistent with the recommended use per the comprehensive plan.

The rezoning petition and conceptual site plan have been routed to all applicable City Departments for review and comment. All departments have reviewed and approved the request except for the Fire Department. Therefore, additional comments may follow.

Comments from the Engineering Department regarding the options for connection to sanitary sewer and potential need for a larger on-site stormwater retention basin due to high water tables in the area have been forwarded to the Petitioner. Sanitary sewer is not located immediately adjacent to the site along Hickory Road. The closest sanitary sewer main that would be able to accept the capacity demands of the development is on Edison Road east of Hickory Road.

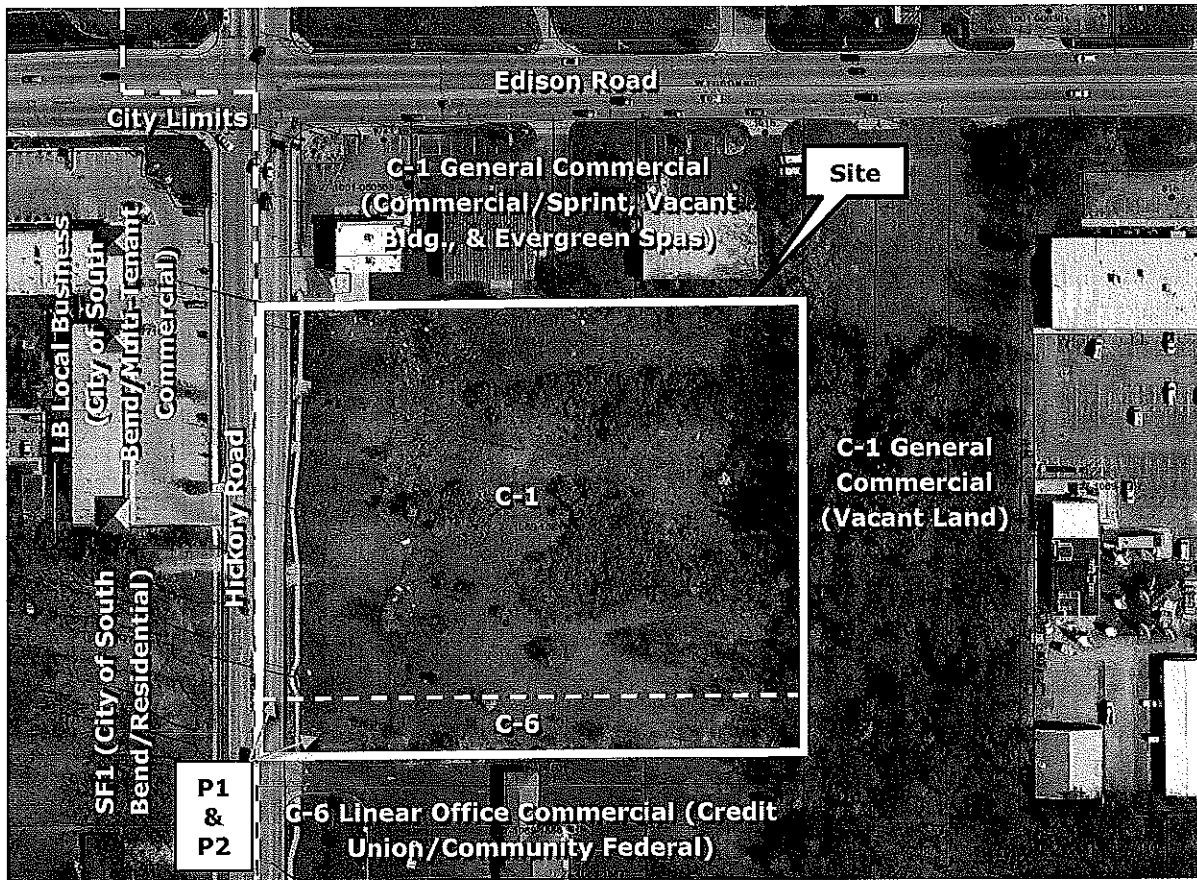
RECOMMENDATION

Staff recommends in **favor** of Petition 17-03 to rezone approximately 4.56 acres located at 3708 and 3634 Hickory Road from C-1 General Commercial and C-6 Linear Office Commercial to R-3 Multiple Family Residential to allow for the construction of a 119 unit senior assisted living community. This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject property consists of a vacant parcel of land located near the intersection of Hickory Road and Edison Road. These arterials roads are highly travelled corridors providing major north-south and east-west access through both the City of Mishawaka and South Bend. Adjacent land uses include commercial/retail to the north, commercial and single family residential to the west in the City of South Bend, a credit union to the south, and vacant land zoned for commercial use to the east. Although currently undeveloped, the property was previously occupied with several single family residences until the 1990s and has remained vacant since being rezoned for commercial use in 2001.
2. Character of Buildings – The character of the buildings in the area vary greatly from single-use commercial buildings to the north, a multi-tenant strip commercial building and single-family residential to the west, and a single-use commercial building with drive-thru to the south. The proposed assisted living facility will be consistent with the character of both the adjacent commercial and residential buildings.
3. The most desirable/highest and best use – Due to the property's location on Hickory Road, a highly travelled arterial roadway, and the adjacent commercial/retail uses, the most desirable use for the property is commercial or multi-family residential.
4. Conservation of property values – The rezoning should not be injurious to property values in the area. The rezoning is essentially a down zoning as the proposed assisted living facility is less intensive than many of the permitted uses allowed within the C-1 General Commercial district.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. Although more residential in nature, the proposed use for an assisted living facility is consistent with the Comprehensive Plan.

ATTACHMENTS

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



Aerial Photograph – 3708 & 3634 Hickory Road
Proposed 119-unit Assisted Living Facility



P1. Looking northeasterly toward the property to be rezoned
from the credit union access drive to the south



P2. Looking easterly toward the property to be rezoned from north of the credit union access drive to the south.

JAN 12 2017

1st Reading 1-16-17
2nd Reading
Passed
Failed
Continued To

PETITION 17-01
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2017-01
ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

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

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

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

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

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

3 1/2 rds E Side Lot 34 4th St O P St. Joseph Iron Works

COMMON ADDRESS: 403 West Fourth Street

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

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

1. There are multiple zonings in the immediate vicinity and many of the
structures are residential in use. The conversion from office to a single family
dwelling would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning
will not be affected in a substantially adverse manner because given the
context of its location, its relationship to surrounding properties, and the
potential of development as an industrial project, staff feels that the most
desirable use for this property is single-family use;
3. Because the parcel is located in an area of residential properties, the rezoning
to R-1 Single-Family Residential is a desirable use for this property;

Proposed Ordinance No: 2017-01

Ordinance No: _____

4. As opposed to the range of potential industrial development that could occur with its current zoning, rezoning this property to the R-1 Single Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and will allow the property owner to refinance the home; and,
5. The City's Comprehensive Plan calls for general commercial which is consistent with the downtown vicinity.

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 _____, 2017, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2017, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at _____ o'clock _____.M.

David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

December 12, 2016

DEC 29 2016

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

CITY CLERK
MISHAWAKA, IN

RE: Petition to Rezone

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

3 ½ rds E Side Lot 34 4th St O P St Joseph Iron Works.
403 W 4th Street, Mishawaka, Indiana 46544.

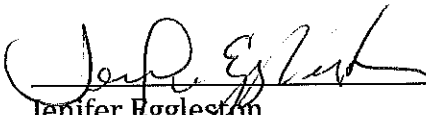
Petitioners own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of ~~A-1~~ District. Said property is residential.

~~T-1~~

Petitioners desire said real estate to be rezoned to R-1 District. Petitioners further state that they intend to utilize said land for residential.

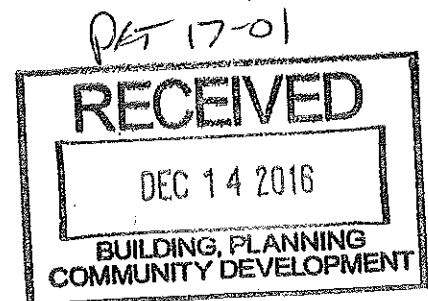
Wherefore, the petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.


Deric Eggleston

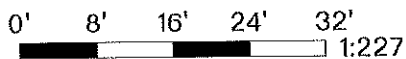
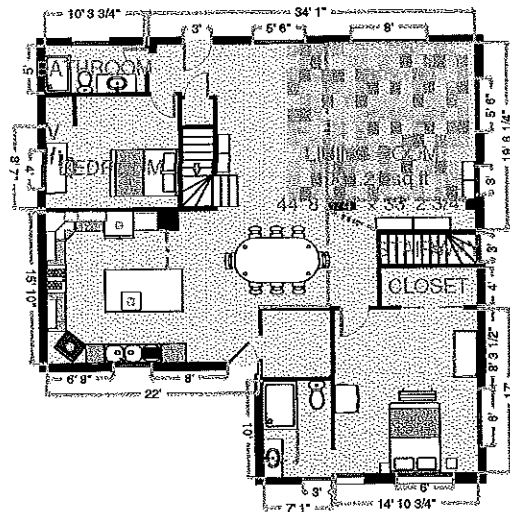

Jenifer Eggleston

Contact Person:

Jenifer Eggleston
403 W 4th Street
Mishawaka IN 46544
(574) 229-7910
jeneggo@mac.com



1st Floor



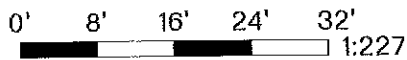
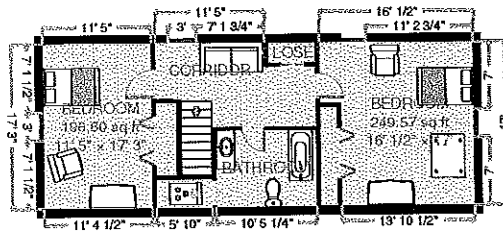
Plan 1

2016-03-18

4023 sq ft
3 Floors
6 Bedrooms
4 Bathrooms

THIS FLOOR PLAN IS PROVIDED WITHOUT WARRANTY OF ANY KIND. SENSORIA DISCLAIMS ANY WARRANTY INCLUDING, WITHOUT LIMITATION, SATISFACTORY QUALITY OR ACCURACY OF DIMENSIONS.

2nd Floor



THIS FLOOR PLAN IS PROVIDED WITHOUT WARRANTY OF ANY KIND. SENSORIA DISCLAIMS ANY WARRANTY INCLUDING, WITHOUT LIMITATION, SATISFACTORY QUALITY OR ACCURACY OF DIMENSIONS.

Plan 1

2016-03-18

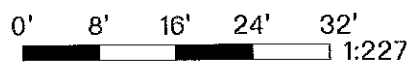
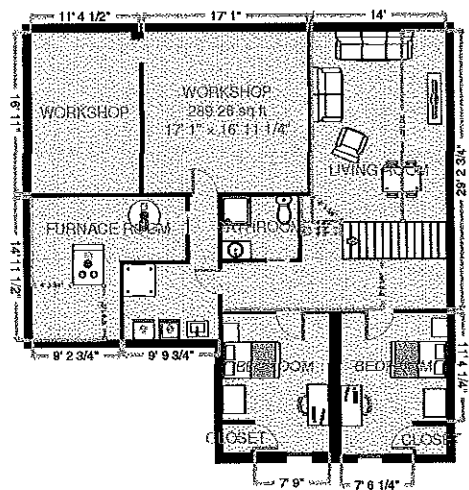
4023 sq ft

3 Floors

6 Bedrooms

4 Bathrooms

Basement



Plan 1

2016-03-18

4023 sq ft

3 Floors

6 Bedrooms

4 Bathrooms

THIS FLOOR PLAN IS PROVIDED WITHOUT WARRANTY OF ANY KIND. SENSORIA DISCLAIMS ANY WARRANTY INCLUDING, WITHOUT LIMITATION, SATISFACTORY QUALITY OR ACCURACY OF DIMENSIONS.

FW: rezoning 403 W 4th Street

Derek Spier

Wed 1/4/2017 4:33 PM

To: Mary Ellen Hazen <mhazen@mishawaka.in.gov>;

Cc: jeneggo@me.com <jeneggo@me.com>; Kari Myers <kmyers@mishawaka.in.gov>;

Mary Ellen-

See below request for a first and second reading at first Council meeting following the January Plan Commission meeting. To be clear, this Council meeting will be on January 16th.

Please let the petitioner know if anything else is required for this request.

Thank you for your assistance.

Best regards,

Derek Spier, AICP
Senior Planner / Economic Development Specialist

City of Mishawaka
600 East Third Street
Mishawaka, IN 46544

p: 574-258-1625
f: 574-968-6999
e: dspier@mishawaka.in.gov

-----Original Message-----

From: Jenifer Eggleston [mailto:]
Sent: Wednesday, January 04, 2017 4:11 PM
To: Derek Spier <dspier@mishawaka.in.gov>
Subject: rezoning 403 W 4th Street

Dear Derek,

This is Deric Eggleston from 403 W 4th Street.

I'm writing in regard to our conversation yesterday. You mentioned that it would be possible to get a second reading the same day as our first reading.

We are on the Planning Commission agenda for Tuesday, January 10 for a petition to rezone our home (403 W 4th

Street) from commercial to residential. Our funding for remodeling the home is being held by our lender until the property is rezoned and we were hoping to get those funds released as soon as possible.

Please, let us know if that is possible, when we need to appear and what you need from us.

Thanks,
Jenifer and Deric Eggleston

JAN 12 2017

PETITION 17-02

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2017-02

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

1st Reading 1-16-17
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:

PARCEL 1: A parcel of land being a part of the West Half of Section 22, Township 37 North, Range 3 East, City of Mishawaka, Penn Township, St. Joseph County, Indiana, and being more particularly described as follows: Commencing at the intersection of South right of way line of Eighteenth Street (a 51.5 foot right of way) and the East right of way line of Union Street (a 60 foot right of way); thence South 0°00'00" West (bearing assumed) along said East right of way line of Union Street, a distance of 155.00 feet to the place of beginning; thence South 89°27'17" East, a measured distance of 35.56 feet; thence South 0°27'50" West, a measured distance of 25.45 feet; thence South 89°27'17" East, a measured distance of 82.61 feet; thence South 0°27'50" West, a measured distance of 8.68 feet; thence South 88°17'20" East, a measured distance of 125.74 feet; thence South 0°00'17" West, a measured distance of 158.94 feet to the North right of way line of Dragoon Trail; thence North 78°39'16" West, along said North right of way of Dragoon Trail a measured distance of 102.79 feet; thence North 0°55'31" East, a measured distance of 94.45 feet; thence North 89°04'29" West, a measured distance of 144.00 feet to the East right of said Union Street, thence North 0°00'00" East along said East right of way line, a measured distance of 80.96 feet to the place of beginning.

EXCEPTING THEREFROM a part of the West Half of Section 22, Township 37 North, Range 3 East, St. Joseph County, Indiana, described as follows: Commencing at the Southwest corner of the Northwest Quarter of said section; thence South 77°44'26" East 235.05 feet along the centerline of Dragoon Trail; thence along said centerline Southeasterly 44.72 feet along an arc to the right and having a radius of 2,291.83

Proposed Ordinance No: 2017-02

Ordinance No: _____

feet and subtended by a long chord having a bearing of South 77°10'53" East and a length of 44.72 feet to the Southeast corner of the owner's land; thence North 0°05'59" West 30.84 feet along the East line of the owner's land to the boundary of said Dragoon Trail Northwesterly 38.12 feet along an arc to the left and having a radius of 2,321.83 feet and subtended by a long chord having a bearing of North 77°16'12" West and a length of 38.12 feet; thence North 77°44'26" West 13.05 feet; thence North 47°43'26" East 67.35 feet to the East line of the owner's land; thence South 0°05'59" East 56.48 feet along said East line to the point of beginning.

PARCEL II: A parcel of land being a part of the West Half of Section 22, Township 37 North, Range 3 East, City of Mishawaka, Penn Township, St. Joseph County, Indiana, and being more particularly described as follows: Beginning at the point of intersection of the South right of way line of Eighteenth Street (a 51.5 foot right of way) and the East right of way line of Union Street (a 60 foot right of way), said beginning point being the Northwest corner of a parcel of land conveyed to Seven-Up Bottling Company of Indiana, Inc. by Warranty Deed recorded in Deed Record 726, page 621 in the Office of the Recorder of St. Joseph County, Indiana; thence South 89°04'29" East, along said South right of way line, a measured distance of 244.01 feet; thence South 0°07'17" West a measured distance of 190.07 feet; thence North 88°17'20" West, a measured distance of 125.74 feet; thence North 0°27'50" East, a measured distance of 8.68 feet; thence North 89°27'17" West, a measured distance of 82.61 feet; thence North 0°27'50" East, a measured distance of 25.45 feet; thence North 89°27'17" West, a measured distance of 35.56 feet to the East right of way line of said Union Street; thence North 0°00'00" East along said East right of way line, a measured distance of 155.00 feet to the place of beginning.

COMMON ADDRESS: 1702 and 1720 Union Street

which real estate is now classified as R-1 Single Family Residential District, C-1 General Commercial District, and I-1 Light Industrial District shall hereafter be within and a part of that District known as C-10 Filling Station Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

1. Existing Conditions – The subject property consists of two vacant parcels located near the intersection of Union Street and Dragoon Trail. These arterial roads are highly travelled corridors providing major north-south and east-west access through the City. A majority of the adjacent properties along this portion of Union Street are single-family residential with a vacant convenience store/gas station located to the south. Although currently undeveloped, the property was previously occupied with various industrial and commercial uses prior to 2005.
2. Character of Buildings – The character of the buildings in the area are predominantly single-family residential with a vacant convenience store/gas station located to the south at the northeast corner of Union Street and Dragoon Trail.

Proposed Ordinance No: 2017-02

Ordinance No: _____

3. The most desirable/highest and best use – Because of the properties location and the prior industrial and commercial uses, the most desirable use for the property is commercial. Although single-family residential properties are adjacent to the west and north, the high traffic volumes along Union Street and Dragoon Trail make long-term use of the properties undesirable for residential purposes. Furthermore, portions of the property fronting Union Street are currently zoned for both commercial and industrial use.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the surrounding neighborhood as the existing I-1 Light Industrial and C-1 General Commercial zoning classifications permit industrial and commercial uses on a majority of the property. Landscaping and screening will be required per the C-10 Filling Station/Carwash Commercial district to adequately buffer the proposed use from the adjacent residential properties.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. The proposal 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 _____, 2017, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2017, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at _____ o'clock ____M.

David A. Wood, Mayor

December 20, 2016

RECEIVED
DEBORAH S. BLOCK, MMC

DEC 29 2016

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

CITY CLERK
MISHAWAKA, IN

RE: PETITION TO REZONE

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

See Legal Description, attached as Exhibit A
Commonly known as 1702 and 1720 Union, Mishawaka, IN 46544.

Petitioner owns one hundred (100%) percent of the above described real estate which carries zoning classifications of I-1 Industrial District, C-1 Commercial District, and R-1 Residential District. Said real estate is currently vacant land.

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

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.

Mishawaka LLC

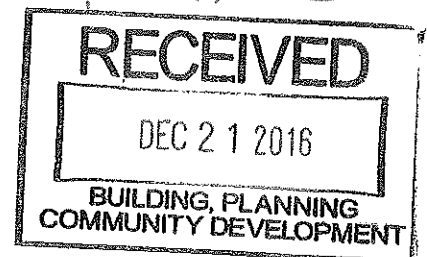
By:

 TRUSTEE

Its:

TRUSTEE FOR JAMES G. JOHNSON TRUST

Contact Person:
Todd A. Etzler, General Counsel
Family Express Corporation
213 South State Road 49
Valparaiso, IN 46383
(219) 462-0144 x 207
tetzler@familyexpress.com





December 20, 2016

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

RE: Mishawaka, LLC
Petition to Rezone

Dear Council Members,

This letter is to inform the Board Members that we have granted authority to Family Express Corporation and Danch, Harner & Associates to represent us at the Mishawaka Plan Commission and Mishawaka Common Council meetings at which our Rezoning Request will be heard.

If you have any questions concerning this matter, please feel free to give me a call at (765) 463-1585.

Sincerely,



Jim Johnson, Mishawaka, LLC
JAMES G. JOHNSON TRUST



Exhibit A
Legal Description

PARCEL I: A parcel of land being a part of the West Half of Section 22, Township 37 North, Range 3 East, City of Mishawaka, Penn Township, St. Joseph County, Indiana, and being more particularly described as follows: Commencing at the intersection of South right of way line of Eighteenth Street (a 51.5 foot right of way) and the East right of way line of Union Street (a 60 foot right of way); thence South 0°00'00" West (bearing assumed) along said East right of way line of Union Street, a distance of 155.00 feet to the place of beginning; thence South 89°27'17" East, a measured distance of 35.56 feet; thence South 0°27'50" West, a measured distance of 25.45 feet; thence South 89°27'17" East, a measured distance of 82.61 feet; thence South 0°27'50" West, a measured distance of 8.68 feet; thence South 88°17'20" East, a measured distance of 125.74 feet; thence South 0°00'17" West, a measured distance of 158.94 feet to the North right of way line of Dragoon Trail; thence North 78°39'16" West, along said North right of way of Dragoon Trail a measured distance of 102.79 feet; thence North 0°55'31" East, a measured distance of 94.45 feet; thence North 89°04'29" West, a measured distance of 144.00 feet to the East right of said Union Street, thence North 0°00'00" East along said East right of way line, a measured distance of 80.96 feet to the place of beginning.

EXCEPTING THEREFROM a part of the West Half of Section 22, Township 37 North, Range 3 East, St. Joseph County, Indiana, described as follows: Commencing at the Southwest corner of the Northwest Quarter of said section; thence South 77°44'26" East 235.05 feet along the centerline of Dragoon Trail; thence along said centerline Southeasterly 44.72 feet along an arc to the right and having a radius of 2,291.83 feet and subtended by a long chord having a bearing of South 77°10'53" East and a length of 44.72 feet to the Southeast corner of the owner's land; thence North 0°05'59" West 30.84 feet along the East line of the owner's land to the boundary of said Dragoon Trail Northwesterly 38.12 feet along an arc to the left and having a radius of 2,321.83 feet and subtended by a long chord having a bearing of North 77°16'12" West and a length of 38.12 feet; thence North 77°44'26" West 13.05 feet; thence North 47°43'26" East 67.35 feet to the East line of the owner's land; thence South 0°05'59" East 56.48 feet along said East line to the point of beginning.

JMB

PARCEL II: A parcel of land being a part of the West Half of Section 22, Township 37 North, Range 3 East, City of Mishawaka, Penn Township, St. Joseph County, Indiana, and being more particularly described as follows: Beginning at the point of intersection of the South right of way line of Eighteenth Street (a 51.5 foot right of way) and the East right of way line of Union Street (a 60 foot right of way), said beginning point being the Northwest corner of a parcel of land conveyed to Seven-Up Bottling Company of Indiana, Inc. by Warranty Deed recorded in Deed Record 726, page 621 in the Office of the Recorder of St. Joseph County, Indiana; thence South $89^{\circ}04'29''$ East, along said South right of way line, a measured distance of 244.01 feet; thence South $0^{\circ}07'17''$ West a measured distance of 190.07 feet; thence North $88^{\circ}17'20''$ West, a measured distance of 125.74 feet; thence North $0^{\circ}27'50''$ East, a measured distance of 8.68 feet; thence North $89^{\circ}27'17''$ West, a measured distance of 82.61 feet; thence North $0^{\circ}27'50''$ East, a measured distance of 25.45 feet; thence North $89^{\circ}27'17''$ West, a measured distance of 35.56 feet to the East right of way line of said Union Street; thence North $0^{\circ}00'00''$ East along said East right of way line, a measured distance of 155.00 feet to the place of beginning.

Property Owners

ANDERSON DEANE R	5015 Seminole Blvd Lot 235	Reddington Shores FL	33708
BLACK THOMAS A	125 Virginia St	Mishawaka IN	46544
BONNELL ROBERT R & JILL D	307 Kings Ct	Mishawaka IN	46544
BRYCE PETERS FINANCIAL CORPSEE TRANS NOTES	2790 Wendel Way	Reno NV	89502
CALLANDER FORREST C JR & LOIS J	426 E 18th St	Mishawaka IN	46544
CITY OF MISHAWAKA % CITY HALL	600 E 3rd St	Mishawaka IN	46544
DAVIS KELLI B	1626 S Union	Mishawaka IN	46544
EAKINS AUSTIN E W/LIFE ESTATE FOR SCHOEN EMMA J	1624 Kings Ct	Mishawaka IN	46544
ESTRADA ANTONIO B & GABRIEL GARCIA R	314 Kings Court	Mishawaka IN	46544
FARHAN ABDAL RAHMAN	P. O. Box 11664	South Bend IN	46634
GULATTA VICTOR J & WANDA N	501 E 18th St	Mishawaka IN	46544
HAMAN DANIELLE R	1630 Kings Ct	Mishawaka IN	46544
HODSON RONALD L AND JOLENE K	508 E Dragoon Tr	Mishawaka IN	46544
KLOPFENSTINE WILLIE R	450 E 18th	Mishawaka IN	46544
KLOPFENSTEIN JAMES G	436 E 18th St	Mishawaka IN	46544
MAGRAMES JOHN F & ANGELIKA	16025 Chandler Blvd	Mishawaka IN	46544
MARTIN BOYD ALLEN & JANICE ELAINE	1723 S Union St	Mishawaka IN	46544
MATHIS JOHN D & DELORES J	1701 Union St	Mishawaka IN	46544
MCCLURE JOHNATHAN J AND STACY SAMANTHA N	1624 Union St	Mishawaka IN	46544
NASH WILLIAM L & CHARLOTTE A	1635 Union St	Mishawaka IN	46544
PENROD RICK L AND MICHAEL W AND SKORA LORI J AND RODTS SUSAN M	1615 S Union St	Mishawaka IN	46544
RIFFLE DANIEL L & TERESA A	233 Kings Ct	Mishawaka IN	46544
SMITH DAVID S	1629 Union St	Mishawaka IN	46544
ST PETER LUTHERN CHURCH INC	437 Dragoon Tr Po Box 186	Mishawaka IN	46544
STOPCZYNSKI KYLE	418 E 18th St	Mishawaka IN	46544
UMBAUGH TIMOTHY J & KATIE L	1702 Kings Ct	Mishawaka IN	46544
WILEMON JOHN JR	232 Kings Ct	Mishawaka IN	46544
WINGEART HARMON	1638 Kings Ct	Mishawaka IN	46544

FAMILY EXPRESS - DRAGOON & UNION
MISHAWAKA, INDIANA
SITE CONCEPT

EXISTING LEGEND

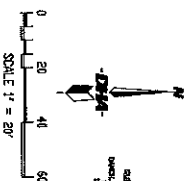
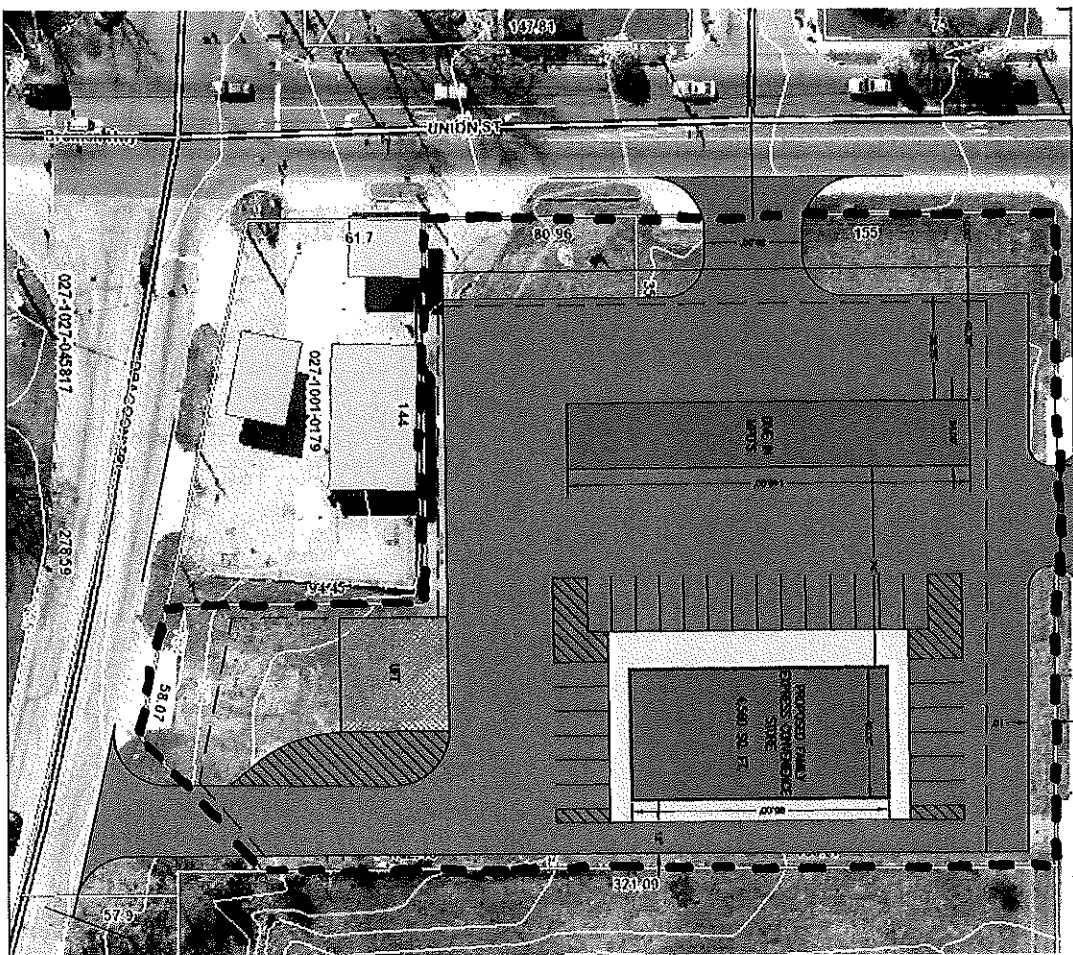
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DISSEMINATION & INFORMATION
DUMICH, JENNIFER & ASSOCIATES, INC.
1645 COLLEGE DRIVE
SOUTH BEND, IN 46708
(219) 234-4000
ATTN: JENNIFER DUMICH

DHA **Dunck, Harmer & Associates, Inc.**
Land Surveyors • Professional Engineers
Landscape Architects • Land Planners
2850 E. Spruce • Suite 100 • Englewood • CO • 801-733-0800 • 8700
1403 Broadway • Suite 200 • South Salt Lake • UT 84143

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TABULATED SITE DATA

1). ACREAGE OF SITE 1.51 AC.

2). PROPOSED LAND USE: CONVENIENCE STORE WITH GAS PUMPS,
A PET WASH FACILITY, AND A CARWASH FACILITY.

3). PARKING RATIO REQUIRED BY ORDINANCE;

A. AUTOMOTIVE USES; 5.5 SPACES PER 1,000 SQ.FT. OF GROSS
FLOOR AREA;

NUMBER OF SPACES REQUIRED FOR 4,560 SQ.FT. OF

GROSS FLOOR AREA 26 SPACES

NUMBER OF SPACES PROVIDED..... 26+ SPACES

4). PROPOSED LAND COVERAGE:

	SQUARE FOOTAGE	% OF SITE
A. BUILDINGS	8,136	8.12
B. PARKING, WALKS AND DRIVES.....	64,536	64.41
C. OPEN SPACE	27,500	27.45
TOTAL	100,172	100.00

5). BUILDINGS SHOWN ARE 1 STORY.

6). BUILDINGS WILL BE CONNECTED TO MISHAWAKA UTILITIES.

7). DRIVEWAY OPENINGS SHOWN ARE EXISITING.

8). LANDSCAPING AND SIGNAGE PER MISHAWAKA ZONING STANDARDS.

TABULATED SITE DATA

- 1). ACREAGE OF SITE 1.51 AC.
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4). PROPOSED LAND COVERAGE:	<u>SQUARE FOOTAGE % OF SITE</u>	
A. BUILDINGS	8,136	8.12
B. PARKING, WALKS AND DRIVES.....	TBD	TBD
C. OPEN SPACE	TBD	TBD
TOTAL	TBD	TBD

- 5). BUILDINGS SHOWN ARE 1 STORY.
- 6). BUILDINGS WILL BE CONNECTED TO MISHAWAKA UTILITIES.
- 7). DRIVEWAY OPENINGS AS SHOWN.
- 8). LANDSCAPING AND SIGNAGE PER MISHAWAKA ZONING STANDARDS.

Fwd: Family Express Issues

Deb Block

Thu 1/5/2017 11:15 AM

To: Mary Ellen Hazen <mhazen@mishawaka.in.gov>; Raven S. Boston <rboston@mishawaka.in.gov>;

Sent from my iPhone

Begin forwarded message:

From: Ken Prince <kprince@mishawaka.in.gov>
Date: January 5, 2017 at 10:59:20 AM EST
To: DL-Council <DL-Council@mishawaka.in.gov>, "David A. Wood" <dwood@mishawaka.in.gov>
Cc: Christa Hill <chill2@mishawaka.in.gov>, Geoffrey Spiess <gspiess@mishawaka.in.gov>
Subject: Family Express Issues

Good morning all,

I have received complaints from a Council Member regarding outside storage at the Family Express locations on Edison and Douglas Roads. Specifically, a skid of water softener salt in each location.

I then received an e-mail from Family Express's corporation counsel this morning that a Council Member had just contacted them about the violation.

Before Christmas I personally visited each location with Christa Hill in my office who handles most of the enforcement for the Department. We had sent letters prior to that time but they were returned because all mail must be sent to corporate and not the store location. This was our issue, not Family Express's.

Following this week's Council meeting, I reached out to their counsel since they had not been moved. I was assured that Family Express was aware of the violation and they were working to correct it. In this case, the salt is provided by an outside vendor who moves the skids by fork lift. Given the weather, they did not want to make their employees haul the bags and move the skid themselves. The vendor is supposed to have the skids moved back this week. I accepted the explanation and we are just providing additional time for them to be moved before moving to any further enforcement action. Family Express has been good to work with and we have no reason to believe that compliance will not be achieved in short order.

The other item is that the representatives for Family Express were told that they cannot have any outside storage/display by the Council member who contacted them directly. On these sites, that is not the case. In a few instances (Kroger on McKinley and Martin's at Heritage Square) we did place extra conditions as part of the use variance or PUD zoning. These properties have a straight C-10 zoning. They are allowed to have outside storage/display. It just needs to meet the building

Fwd: Family Express Issues

Deb Block

Thu 1/5/2017 11:15 AM

To: Mary Ellen Hazen <mhazen@mishawaka.in.gov>; Raven S. Boston <rboston@mishawaka.in.gov>;

Sent from my iPhone

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Date: January 5, 2017 at 10:59:20 AM EST
To: DL-Council <DL-Council@mishawaka.in.gov>, "David A. Wood" <dwood@mishawaka.in.gov>
Cc: Christa Hill <chill2@mishawaka.in.gov>, Geoffrey Spiess <gspiess@mishawaka.in.gov>
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JAN 12 2017

1st Reading 1-16-17
2nd Reading
Passed
Failed
Continued To

PETITION 17-03

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2017-03

CITY CLERK
MISHAWAKA, IN

ORDINANCE NO. _____

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

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

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

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

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

PARCEL I: A PARCEL OF LAND IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, DESCRIBED AS FOLLOWS, VIZ: BEGINNING ON THE WEST LINE OF SAID SECTION 4, AT A POINT 372 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4, RUNNING THENCE EAST, A DISTANCE OF 495 FEET; THENCE SOUTH 78 FEET, THENCE WEST 495 FEET; THENCE NORTH 78 FEET TO THE PLACE OF BEGINNING, AND BEING KNOWN AS LOT NUMBER FIVE (5) IN THE PROPOSED PLAT OF FELIX DEGROOTE'S SUBDIVISION, EXCEPTING 8 FEET IN WIDTH, NORTH AND SOUTH, TAKEN OFF OF AND FROM THE ENTIRE LENGTH OF THE NORTH SIDE OF SAID PROPOSED LOT NUMBER 5.

PARCEL II: BEGINNING AT A POINT 450 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST; THENCE EAST 495 FEET; THENCE SOUTH 86 FEET; THENCE WEST 495 FEET; THENCE NORTH 86 FEET TO THE PLACE OF BEGINNING AND BEING KNOWN AS LOT NUMBER SIX (6) IN THE PROPOSED PLAT OF FELIX DEGROOTE'S SUBDIVISION, IN ST. JOSEPH COUNTY, INDIANA, EXCEPTING THEREFROM THE FOLLOWING: THE EAST 20 FEET OF THE WEST 40 FEET OF THE FOLLOWING DESCRIBED REAL ESTATE: A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, ST. JOSEPH COUNTY, INDIANA DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 450 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST; THENCE EAST 495 FEET; THENCE SOUTH 86 FEET; THENCE WEST 495 FEET; THENCE NORTH 86 FEET TO THE PLACE OF BEGINNING.

Proposed Ordinance No: 2017-03

Ordinance No: _____

PARCEL III: THE NORTH 58 FEET OF LOT NUMBER 7 IN THE FELIX DEGROOTE AND CATHERINE DEGROOTE UNRECORDED PLAT IN PENN TOWNSHIP, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 536 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST; THENCE EAST 495 FEET; THENCE SOUTH 86 FEET; THENCE WEST 495 FEET; THENCE NORTH 86 FEET TO THE PLACE OF BEGINNING, IN ST. JOSEPH COUNTY, INDIANA.

PARCEL IV: A PARCEL OF LAND IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, DESCRIBED AS BEGINNING AT A POINT 278 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4; RUNNING THENCE EAST A DISTANCE OF 495 FEET; THENCE SOUTH 94 FEET; THENCE WEST 495 FEET; THENCE NORTH 94 FEET TO THE PLACE OF BEGINNING, AND BEING KNOWN AS LOT 4 AND THE NORTH 8 FEET OF LOT NUMBER 5 ON AN UNRECORDED PLAT OF DEGROOTE'S SUBDIVISION, EXCEPTING THEREFROM THE EAST 20 FEET OF THE WEST 40 FEET OF THE ABOVE DESCRIBED TRACT.

PARCEL V: A PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, DESCRIBED AS BEGINNING AT POINT 192 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4; RUNNING THENCE EAST 495 FEET, THENCE SOUTH 86 FEET, THENCE WEST 495 FEET, THENCE NORTH 86 FEET, TO THE POINT OF BEGINNING, AND BEING COMMONLY KNOWN AS LOT NUMBER THREE (3) IN FELIX AND CATHERINE DE GROOTE PROPOSED SUBDIVISION.

COMMON ADDRESS: 3634 and 3708 Hickory Road

which real estate is now classified as C-1 General Commercial District and C-6 Linear Office Commercial District shall hereafter be within and a part of that District known as R-3 Multi-Family Residential 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 consists of a vacant parcel of land located near the intersection of Hickory Road and Edison Road. These arterials roads are highly travelled corridors providing major north-south and east-west access through both the City of Mishawaka and South Bend. Adjacent land uses include commercial/retail to the north, commercial and single family residential to the west in the City of South Bend, a credit union to the south, and vacant land zoned for commercial use to the east. Although currently undeveloped, the property was previously occupied with several single-family residences until the 1990s and has remained vacant since being rezoned for commercial use in 2001.
2. Character of Buildings – The character of the buildings in the area vary greatly from single-use commercial buildings to the north, a multi-tenant strip commercial building and single-family residential to the west, and a single-use commercial building with drive-thru to the south. The proposed assisted

Proposed Ordinance No: 2017-03

Ordinance No: _____

living facility will be consistent with the character of both the adjacent commercial and residential buildings.

3. The most desirable/highest and best use – Due to the property's location on Hickory Road, a highly travelled arterial roadway, and the adjacent commercial/retail uses, the most desirable use for the property is commercial or multi-family residential.
4. Conservation of property values – The rezoning should not be injurious to property values in the area. The rezoning is essentially a down zoning as the proposed assisted living facility is less intensive than many of the permitted uses allowed within the C-1 General Commercial district.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. Although more residential in nature, the proposed use for an assisted living facility 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 _____, 2017, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2017, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at _____ o'clock _____.M.

David A. Wood, Mayor

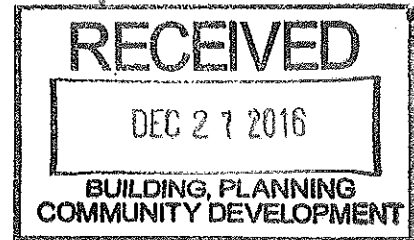
RECEIVED
DEBORAH S. BLOCK, MMC

PET 17-03

December 21, 2016

DEC 29 2016

CITY CLERK
MISHAWAKA, IN



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

RE: PETITION TO REZONE

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

PARCEL I:

A PARCEL OF LAND IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, DESCRIBED AS FOLLOWS, VIZ: BEGINNING ON THE WEST LINE OF SAID SECTION 4, AT A POINT 372 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4, RUNNING THENCE EAST, A DISTANCE OF 495 FEET; THENCE SOUTH 78 FEET, THENCE WEST 495 FEET; THENCE NORTH 78 FEET TO THE PLACE OF BEGINNING, AND BEING KNOWN AS LOT NUMBER FIVE (5) IN THE PROPOSED PLAT OF FELIX DEGROOTE'S SUBDIVISION, EXCEPTING 8 FEET IN WIDTH, NORTH AND SOUTH, TAKEN OFF OF AND FROM THE ENTIRE LENGTH OF THE NORTH SIDE OF SAID PROPOSED LOT NUMBER 5.

PARCEL II:

BEGINNING AT A POINT 450 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST; THENCE EAST 495 FEET; THENCE SOUTH 86 FEET; THENCE WEST 495 FEET; THENCE NORTH 86 FEET TO THE PLACE OF BEGINNING AND BEING KNOWN AS LOT NUMBER SIX (6) IN THE PROPOSED PLAT OF FELIX DEGROOTE'S SUBDIVISION, IN ST. JOSEPH COUNTY, INDIANA, EXCEPTING THEREFROM THE FOLLOWING: THE EAST 20 FEET OF THE WEST 40 FEET OF THE FOLLOWING DESCRIBED REAL ESTATE: A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, ST. JOSEPH COUNTY, INDIANA DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 450 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST; THENCE EAST 495 FEET; THENCE SOUTH 86 FEET; THENCE WEST 495 FEET; THENCE NORTH 86 FEET TO THE PLACE OF BEGINNING.

PARCEL III:

THE NORTH 58 FEET OF LOT NUMBER 7 IN THE FELIX DEGROOTE AND CATHERINE DEGROOTE UNRECORDED PLAT IN PENN TOWNSHIP, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 536 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST; THENCE EAST 495 FEET; THENCE SOUTH 86 FEET; THENCE WEST 495 FEET; THENCE NORTH 86 FEET TO THE PLACE OF BEGINNING, IN ST. JOSEPH COUNTY, INDIANA.

PARCEL IV:

A PARCEL OF LAND IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, DESCRIBED AS BEGINNING AT A POINT 278

FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4; RUNNING THENCE EAST A DISTANCE OF 495 FEET; THENCE SOUTH 94 FEET; THENCE WEST 495 FEET; THENCE NORTH 94 FEET TO THE PLACE OF BEGINNING, AND BEING KNOWN AS LOT 4 AND THE NORTH 8 FEET OF LOT NUMBER 5 ON AN UNRECORDED PLAT OF DEGROOTE'S SUBDIVISION, EXCEPTING THEREFROM THE EAST 20 FEET OF THE WEST 40 FEET OF THE ABOVE DESCRIBED TRACT.

PARCEL V:

A PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, DESCRIBED AS BEGINNING AT POINT 192 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4; RUNNING THENCE EAST 495 FEET, THENCE SOUTH 86 FEET, THENCE WEST 495 FEET, THENCE NORTH 86 FEET, TO THE POINT OF BEGINNING, AND BEING COMMONLY KNOWN AS LOT NUMBER THREE (3) IN FELIX AND CATHERINE DE GROOTE PROPOSED SUBDIVISION.

The parcels are commonly known as 3708 and 3634 Hickory Road, Mishawaka, IN.

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 and C-6 District. Said property is vacant and undeveloped with overgrown brush.

Petitioner desires said real estate to be rezoned to R-3 District. Petitioner further states that the party to whom they intend to sell these parcels intends to utilize said land to construct a 119-unit senior assisted living community. An analysis of the current and proposed zoning is attached to this petition, as is a conceptual site plan of the parcel.

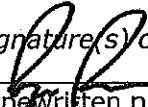
The approval of this rezoning will not be injurious to the public health, safety, morals, or general welfare of Mishawaka as it entails the construction of a thriving new community on a parcel that does not function with its highest and best use.

Adjacent properties will not be adversely affected by this rezoning or by the construction of a new assisted living community. The new community will be safe, practical, aesthetically pleasing inside and out, and separated from the adjacent properties through setbacks and landscaping. Traffic in and out of the community should also not adversely impact the adjacent properties as most of the community's residents no longer drive nor possess cars.

The strict application of the existing zoning for this parcel would prevent the Petitioner from constructing the community in an efficient and economical manner.

The petitioner also includes a more complete analysis of the existing and proposed zoning features, as well as a conceptual site plan.

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(s) of Property Owner(s)
Ryan Rans
Type/Written name also

Signature(s) of Property Owner(s)

Type/Written name also

CONTACT PERSON:

NAME: ARI PARRITZ

ADDRESS: 401 N FRANKLIN ST, SUITE 4 SOUTH, CHICAGO, IL 60654

PHONE NUMBER: 312-239-3535

EMAIL: ARI.PARRITZ@VERMILIONDEVELOPMENT.COM

BEHLES+BEHLES

architectureinteriordesignplanning

818 CHURCH STREET
EVANSTON, ILLINOIS 60201
T 847.854.0440
F 847.854.0441
WWW.BEHLESBEHLES.COM

ZONING ANALYSIS

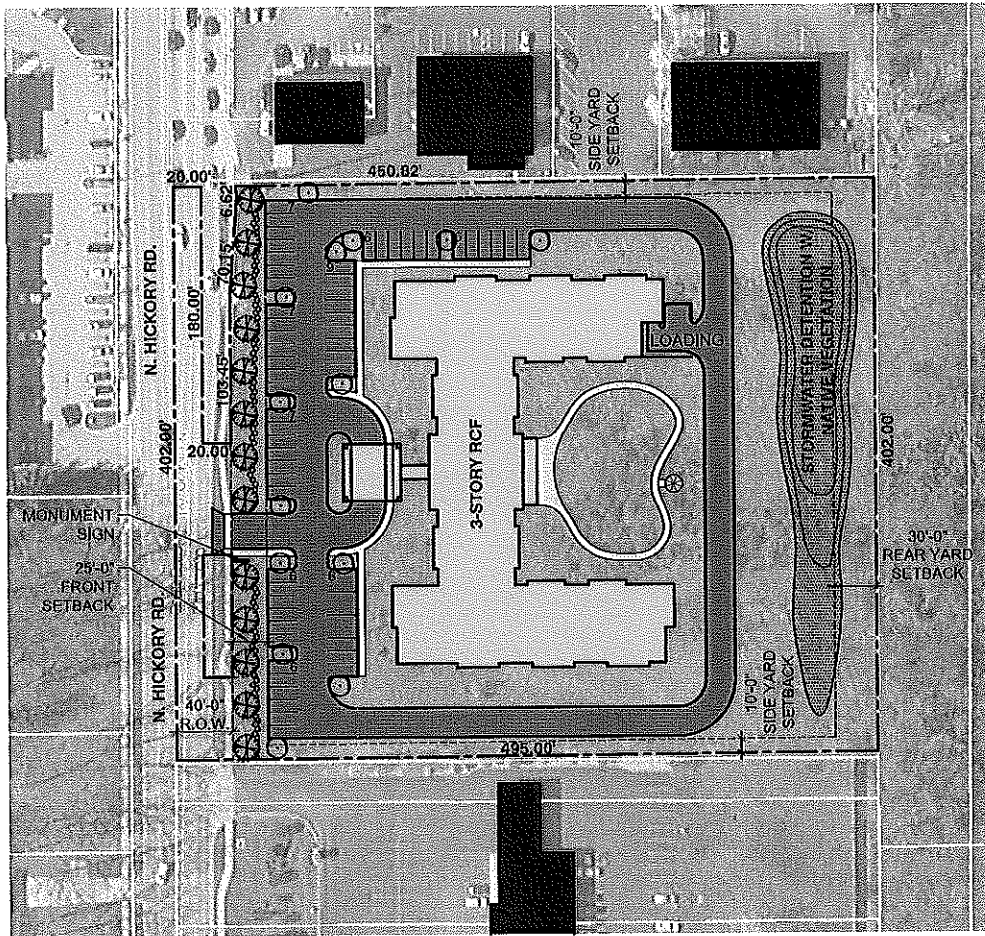
Re. Vermilion Development – Mishawaka, IN
Residential Care Facility (Assisted Living)
December 16, 2016

Existing Site Characteristics:	1 parcel 495' deep x 402' wide, fronting Hickory Road (includes half of R.O.W width) Total area: 193,459 SF
Existing Zoning District:	C-1 Commercial:
Proposed Use	Residential Care Facility (Assisted Living)
Proposed Zoning District	R-3 Residential – Use Variance required for Residential Care Facility (Assisted Living).

Zoning Characteristics	C-1	R-3	Proposed Project
Use	Various Commercial uses	Various residential Uses	Residential Care Facility (Assisted Living)
Height:	3 stories, 48'	10 stories, 120'	3 stories, 48'
Front Yard:	25'	25'	25'
Interior Side Yard:	5'	10' (for 3 stories)	10'
Rear Yard:	15% lot depth, but not > 30'	30' for 3 stories)	30'
Minimum Lot Area:	6,600 SF (sewer/water available)	119 x 1500 SF = 178,500 SF	193,459 SF
Minimum Lot Width:	60' (sewer/water available)	90' (over 4 units)	402'

ZONING ANALYSIS
Vermilion Development – Mishawaka, IN
Residential Care Facility (Assisted Living)

Zoning Characteristics	C-1	R-3	Proposed Project
Maximum Lot Coverage:	75%	60% or 116,075 SF	44% or 85,000 (approx.)
Parking	4 per 1,000 GSF	1 per 1,000 GSF (approx. 95) Parking space = 180 SF (min) Parking space = 8.5' wide (min)	60
Landscape Requirements			
Street Trees (Deciduous):	locate within R.O.W. @ 30' o/c; Ginko Biloba (preferred); 3.5" caliper;		
Parking Screening from Street:	evergreen shrubs in continuous hedge between lot & street; 24" height Supplement with vertical plantings: ornamental or deciduous shade trees		
Parking Lots:	locate deciduous shade trees within parking lot not > 100' apart Curbed landscaped islands shall be min. 10' wide (with curbs); min. 180 SF		
Signage Requirements			
Sign Type:	Low profile freestanding identification signs are encouraged		
Size:	not >6' high; not > 20' long; Letters not > 18" high;		
Quantity:	maximum of one freestanding sign shall be permitted per street frontage		
Lighting:	internal illumination or uplighting of identification signs shall be encouraged		



ZONING CHARACTERISTIC	R-3 DISTRICT REQUIREMENTS	PROPOSED PROJECT
PROPOSED USE	APTS, NURSING FACILITIES, ETC.	RESIDENTIAL CARE FACILITY (ASSISTED LIVING)
HEIGHT	10 STORIES, 120'	3 STORIES, 48'
FRONT YARD	25'	25'
INT. SIDE YARD	10' (FOR 3 STORIES)	10'
REAR YARD	30' (FOR 3 STORIES)	30'
MINIMUM LOT AREA	119 x 1500 SF = 178,500 SF	193,459 SF
MINIMUM LOT WIDTH	90' (OVER 4 UNITS)	402'
MAXIMUM LOT COVERAGE	60% = 116,075 SF	44% = 85,000 APPROX.
PARKING	1 PER 1,000 GSF (APPROX. 95)	60

RESIDENTIAL CARE FACILITY (119 UNITS)			
SITE AREA	193,459 SF (4.44 ACRES)		
PER FLOOR AREA	31,400 SF (APPROX.)		
TOTAL BUILDING AREA	94,200 SF (APPROX.)		
TOTAL PARKING SPACES	60 (3 ACCESSIBLE)		

UNIT COUNT	STUDIO	1-BED	TOTAL
3RD FLOOR	30	21	51
2ND FLOOR	30	21	51
1ST FLOOR	9	8	17
TOTAL	69	50	119

PROPOSED SITE PLAN



VERMILION DEVELOPMENT - MISHAWAKA, IN - RCF

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ARCHITECTS+PLANNERS
2019

City of Mishawaka

RESOLUTION NO. R2016-35

- WHEREAS:** the South Bend Tribune Headline reads “Marian Boys Repeat as 1-A State Soccer Champs”. The Marian Knights Boys Soccer Team won the 2015 Class 1-A State Championship with a dominant 4-0 win over Providence High School at Indiana University-Purdue University Indianapolis’ Carroll Stadium on Saturday, October 29th, 2016.
- WHEREAS:** this Marian Knights Team won the 9th Sectional, 6th Regional, 3nd Semi-State and 2st consecutive State Title for the Marian Boys Soccer Program; and,
- WHEREAS:** the Marian Knights Official State Championship Roster was complete with outstanding student athletes: #2-Christian Manzo, #3-Oscar Tavarez, #4-Maximiliano Frausto, #5-Justin Saavedra, #6-Alex Kokot, #7-Christian Juarez, #8-Johnathan Tavarez, #9-Roberto Ontiveros, #10-Jordan Morris, #11-William Tiller, #13-Gabriel Davey, #14-Alfredo Medina, #15-Alejandro Rodela, #16-Juan Botello, #17-Gabriel Martinez, #19-Jacob Schmidt, #20-Michael Baughman, #21-Adam Evans, #23-Edward Morrison, #26-Francisco Tavarez, #31-Dominic Blum, #41-Jonathan Wang, #191-Matteus Webb, Goal Keepers- Hunter Renner, Michael Cataldo, Anthony Garatoni, Michael Wuszke; and,
- WHEREAS:** all teams are dependent upon their Coaching Staff and it is an honor to recognize this talented and dedicated group of Coaches for their time, patience, understanding and mentoring of this State Championship Team: Head Coach-Ben Householter, who has 19 years of experience as Marian’s Varsity Boys Soccer Coach, Assistant Coach-Alfredo Juarez, Assistant Coach-John Jonas, Assistant Coach-Matt Englert, Assistant Coach-Alex Juarez, Team Managers, Athletic Trainers, Assistant Athletic Director-Kyle Hanyzewski, Athletic Director-Steve Ravotto and Principal-Mark Kirzeder; and,

NOW THEREFORE, let it be Known and Resolved by the City of Mishawaka Common Council, Mayor and City Clerk, that January 16, 2017 is hereby proclaimed

Marian Knights Boys Soccer Team Day

in our community and we call upon all of our citizens to join us in saluting and congratulating this talented and truly remarkable group of young men and thanking them for their efforts on behalf of their school, the community and the citizens of Mishawaka.

Dale “Woody” Emmons,
1st District

Ron Banicki,
6th District

Mike Bellovich, 2nd District

Matt Mammolenti Vice President
At Large

Ross Deal, President
3rd District

Bryan Tanner At Large

Kate Voelker, 4th District

Joe Canarecci, At Large

S. Michael Compton
5th District

David A. Wood, Mayor

Deborah S. Block, IAMC, MMC
City Clerk

JAN 12 2017

APPEAL #17-01

RESOLUTION NO. 2017-02

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:

1915 North Cedar Street, 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 an unfavorable 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 **1915 North Cedar Street, Mishawaka, Indiana**, more particularly known and described as follows:

The Northwest Quarter of Section 10, Township 37 North, Range 3 East, in the City of Mishawaka, Indiana. Commencing at the Northeast Corner of the NW Quarter of said Section 10; Thence South 1 degree-23'-35" East 670.38 feet along the center line of Merrifield Street; thence South 88 degrees-36'-25" West 20 feet to the intersection of the West right of the way line of Merrifield Street and the Northwesterly right-of-way line of Cedar Street; thence along said right-of-way line of Cedar Street 391.00 feet and subtended by a long chord 381.59 feet in length and having a bearing of South 49 degrees-14'-16" West to the point of beginning; thence South 27 degrees-22'-47" West 134.08 feet along the Northwesterly right of the way line of Cedar Street; thence North 62 degrees-37'-13" West 210.54 feet to the Easterly right of way line of the Grand Trunk and Western Railroad; thence North 27 degrees-20'-41" East 156.55 feet along said Easterly right of way line; thence South 60 degrees-50'-25" East 210.98 feet to the Northwesterly right of way line of Cedar Street; thence along said right of way line 15.92 feet along a curve to the left having a radius of 512.46 feet and subtended by a long chord 15.92 feet in length and having a bearing of South 28 degrees-16'-11" West to the point of beginning.

The Use Variance, if approved, will permit an auto body shop, auto repair, and detailing on I-1 Light Industrial zoned property subject to the following conditions of approval:

1. Use Variance shall be limited to automotive body shop, auto shop, and auto detailing and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted.
2. A site plan shall be submitted to the Department of City Planning showing proposed parking layout in regards to provided parking space per use.
3. Temporary signage is prohibited.
4. Any noise generating activities shall be restricted to the hours of 7am-8pm.

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 proposed use will have no impact on the adjacent industrial uses that currently operate there. The proposed use is consistent with the existing industrial properties within the area.
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 of the industrial nature of the area along Cedar Street.
3. The need for a variance arises from the nature of the area, where property owners are very protective of the intensive zonings of their properties. A Use Variance would allow the proposed automobile commercial use, while still protecting the industrial zoning for future use and also protecting the residential users to the north and south.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the current I-1 light Industrial zoning would not allow for the proposed automobile oriented commercial uses.
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies other surrounding areas as industrial. The approval is consistent with the goals and objectives of the Comprehensive

RESOLUTION #2017-02
1915 North Cedar Street
Page 3 of 3

Plan given the existing auto commercial uses that are located to the south of this property along Cedar Street.

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 _____, 2017, at _____ o'clock _____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2017, at _____ o'clock _____ .m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at _____ o'clock _____ .m.

David A. Wood, Mayor

LeHue Realty LLC
1915 N. Cedar Street
Mishawaka, IN 46545

December 12, 2016

Planning Department
City Hall
600 East Third Street, Room 201
Mishawaka, IN 46544

Dear Sir or Madam:

We are applying for a Use Variance for said property. To allow automotive body shop, auto shop, and auto detailing use on the property located at 1915 North Cedar Street. The property is currently zoned I-1 Light Industrial, which does not allow the proposed automobile uses. The appellants states that for over 30 years the Le-Hue Machine was in business at this located and occupied roughly half of the building. The Le-Hue Machine now only occupies one bay of the building. We have had trouble leasing out bays to leasers that fall within the guidelines and The appellants desire to lease out other units for automotive body shop, auto shop, and auto detailing uses.

A. Approval will not be injurious to public health, safety, morals or general welfare of the community because the leasers wouldn't be any different than the other leasers we have.

B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner, Recently vacant buildings in our area have been broken into, having more traffic and people around will actually improve the area.

C. I don't know if I would say that the variance arises from some condition peculiar to the property involved, it's a sign of the times. Le-Hue Machine was in business for almost 30 years and took up half of the building, now it's down to one bay.

D. Strict application of the terms of this chapter will constitute unnecessary hardship if applied to the property for which the variance is sought because it significantly cuts the amount of leasers that qualify to use the space, thereby causing a financial hardship for the owners.

RECEIVED
DEBORAH S. BLOCK MMC

DEC 28 2016

CITY CLERK
MISHAWAKA, IN

Sincerely,


Lincoln Dale LeHue
President

AP 17-01

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 17 2016

CITY CLERK
MISHAWAKA, IN

PETITION 16-27

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2016-33

ORDINANCE NO. _____

1st Reading 11-21-16
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 forwarded an unfavorable recommendation regarding the reclassification of the zoning as herein set forth of the real estate hereinafter described as set forth in I.C. 36-7-4-605.

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

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

A PARCEL LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, A PORTION OF SAID PARCEL BEING LOTS ONE (1) THROUGH TWENTY-FIVE (25), ONE HUNDRED FIFTEEN (115) AND ONE HUNDRED SIXTEEN (116) AND ONE HUNDRED TWENTY-SIX (126) THROUGH ONE HUNDRED THIRTY-ONE (131) AS SHOWN ON THE RECORDED PLAT OF RIDGEMONT CROSSING SECTION TWO FINAL P.U.D. RECORDED AUGUST 15, 2006 AS DOCUMENT NO. 0635283 AND AMENDED BY AFFIDAVIT RECORDED NOVEMBER 19, 2007 AS DOCUMENT NO. 0745276 IN THE OFFICE OF THE RECORDER OF SAINT JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 00°00'30" WEST ALONG THE WEST LINE OF SAID SECTION 23, 726.25 FEET; THENCE NORTH 89°59'30" EAST, 40.00 TO THE EAST RIGHT-OF-WAY LINE OF FIR ROAD AND THE SOUTHWEST CORNER OF SAID LOT 12, AND THE POINT OF BEGINNING; THENCE NORTH 00°00'30" WEST ALONG THE SAID EAST RIGHT-OF-WAY, 643.83 FEET (REC. NORTH 00°05'01" EAST, 644.46 FEET) TO THE NORTHWEST CORNER OF SAID LOT 18; THENCE NORTH 89°38'04" EAST, 216.11 FEET (REC. NORTH 89°43'36" EAST, 216.11 FEET); THENCE NORTH 84°21'55" EAST, 144.59 FEET (REC. NORTH 84°27'38" EAST, 144.61 FEET); THENCE NORTH 89°39'48" EAST, 229.52 FEET (REC. NORTH 89°43'36" EAST, 229.50 FEET); THENCE SOUTH 05°46'04" WEST, 42.12 FEET (REC. SOUTH 05°46'04" WEST, 42.24 FEET); THENCE NORTH 89°38'05" EAST, 120.38 FEET (REC. NORTH 89°43'36" EAST, 120.38 FEET) TO THE WEST RIGHT-OF-WAY LINE OF CANE RIVER DRIVE; THENCE NORTH 57°14'52" EAST, 68.84 FEET TO THE EAST RIGHT-OF-WAY LINE OF CANE RIVER DRIVE; THENCE NORTH 88°54'03" EAST, 127.72 FEET (REC. NORTH 88°57'58" EAST, 128.70 FEET); THENCE NORTH 13°21'11" WEST, 7.68 FEET (REC. NORTH 13°21'49" WEST); THENCE NORTH 88°57'08" EAST, 130.88 FEET (REC. NORTH 89°02'39" EAST); THENCE NORTH

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Ordinance No: _____

13°44'23" EAST, 29.87 FEET (REC. NORTH 13°49'54" EAST, 29.87 FEET); THENCE NORTH 61°11'39" EAST, 109.70 FEET (REC. NORTH 61°17'10" EAST, 109.70 FEET); THENCE NORTH 13°52'32" WEST, 123.31 FEET (REC. NORTH 13°47'01" WEST, 123.31 FEET) TO THE SOUTH RIGHT-OF-WAY LINE OF GAULEY RIVER DRIVE; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 12.96 FEET, WITH A RADIUS OF 470.00 FEET, WITH A CHORD BEARING OF NORTH 80°24'33" EAST (REC. NORTH 80°30'04" WEST), WITH A CHORD LENGTH OF 12.96 FEET; THENCE NORTH 08°42'23" WEST, 60.00 FEET (REC. NORTH 08°48'03" WEST, 60.00 FEET) TO THE NORTH RIGHT-OF-WAY LINE OF GAULEY RIVER DRIVE; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE OF GAULEY RIVER DRIVE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 37.54 FEET, WITH A RADIUS OF 530.00 FEET, WITH A CHORD BEARING OF SOUTH 79°10'13" WEST (REC. SOUTH 79°15'44" WEST), WITH A CHORD LENGTH OF 37.53 FEET; THENCE NORTH 00°21'54" WEST, 196.46 FEET (REC. NORTH 00°16'23" WEST, 196.46 FEET); THENCE NORTH 89°36'58" EAST, 452.00 FEET (REC. NORTH 89°42'29" EAST, 452.00 FEET); THENCE NORTH 00°24'08" WEST, 185.00 FEET (REC. NORTH 00°18'37" WEST, 185.00 FEET) TO THE SOUTH RIGHT-OF-WAY LINE OF WALNUT CANYON COURT; THENCE NORTH 89°36'58" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE, 5.00 FEET (REC. NORTH 89°42'29" EAST, 5.00 FEET); THENCE NORTH 00°23'02" WEST, 60.00 FEET (REC. NORTH 00°17'31" WEST, 60.00 FEET) TO THE NORTH RIGHT-OF-WAY LINE OF WALNUT CANYON COURT; THENCE SOUTH 89°36'58" WEST (REC. SOUTH 89°42'29" WEST) ALONG SAID NORTH RIGHT-OF-WAY LINE OF WALNUT CANYON COURT, 5.00 FEET; THENCE NORTH 00°21'55" WEST, 295.25 FEET (REC. NORTH 00°16'24" WEST); THENCE SOUTH 89°59'17" EAST, 228.14 FEET; THENCE SOUTH 00°04'41" EAST, 138.60 FEET; THENCE SOUTH 89°59'17" EAST, 236.91 FEET; THENCE SOUTH 00°08'06" EAST, 1569.93 FEET TO THE CENTERLINE OF DRAGOON TRAIL; THENCE ALONG SAID CENTER LINE FOR THE NEXT TWO (2) COURSES, AND WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 261.30 FEET, WITH A RADIUS OF 1091.88 FEET, WITH A CHORD BEARING OF NORTH 84°41'30" WEST, WITH A CHORD LENGTH OF 260.68 FEET, AND THENCE SOUTH 89°17'06" WEST, 787.53 FEET; THENCE NORTH 00°43'30" WEST, 40.00 FEET (REC. NORTH 00°37'59" WEST) TO THE NORTH RIGHT-OF-WAY LINE OF DRAGOON TRAIL; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE FOR THE NEXT TWO (2) COURSES, SOUTH 89°16'30" WEST, 853.54 FEET, AND WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 75.73 FEET, WITH A RADIUS OF 4754.08 FEET (REC. 4759.29 FEET), WITH A CHORD BEARING OF NORTH 89°48'26" WEST (REC. SOUTH 89°48'49" WEST), WITH A CHORD LENGTH OF 75.73 FEET TO THE POINT OF BEGINNING.

CONTAINING 44.77 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: Ridgemont Crossing Planned Unit Development

which real estate is now classified as S-2 Planned Unit Development District and if approved, shall hereafter be amended to allow for the construction of a 360-unit multi-family residential apartment complex, while reserving land for the completion of the existing Ridgemont Crossing Subdivision and maintaining an outlot for future unspecified development. Such approval would be subject to the following conditions:

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Proposed Uses:

1. The final planned unit development plat and site plans shall be consistent with the three use (Parcel) areas identified in Exhibit 'A' as prepared by staff. Although the width and depth of parcels may be modified based on actual configurations developed in the construction drawing phase, the area of the use, general layout, and concept shall follow Exhibit 'A'. Substantial changes to any proposed uses shall require both a rezoning and change of the preliminary planned unit development site plan, if proposed. Uses permitted within each parcel shall be as follows:

Parcel 1-	Area- Uses-	Maximum of 21.33 Acres Multi-family residential not to exceed 360 units. Market rate as committed by the developer. Construction costs will not be subsidized by Federal, State, or local tax dollars or tax credits. Single Family Residential to provide for the completion of the Ridgemont Crossing Single Family subdivision
Parcel 2-	Area- Uses-	Minimum of 13.0 Acres Single Family Residential to provide for the completion of the Ridgemont Crossing Single Family subdivision
Parcel 3-	Area-	The residual acreage, roughly 10.5 acres. Single Family Residential to provide for the completion of the Ridgemont Crossing Single Family subdivision

Traffic Impact:

1. The developer shall install a center left turn lane and designated right turn lane within both Dragoon Trail and Fir Road in the areas of the proposed entrances. Given the proximity of the entrances to the intersection of Fir Road and Dragoon Trail, the City Director of Engineering may require the developer to carry the required turn lane improvements to or through the intersection of Fir Road and Dragoon Trail or potentially require the developer to move the entrance further away from the intersection so that the resulting geometry is clear and meets conventional standards.
2. Any additional right-of-way required for Fir Road or Dragoon Trail associated with the proposed development project area shall be dedicated. Right of way shall include 40' from center for both streets with a potential corner cut at the intersection of Fir Road and Dragoon Trail. Outside of the right of way, a 15' wide utility, walk and landscape easement shall be provided along both Fir Road and Dragoon Trail. The developer shall coordinate the timing of pending City improvements with the needed/required improvements of the

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development. Required improvements shall be directed by and subject to the approval of the City Director of Engineering.

Internal Road and walkway connections:

1. The developer shall provide a separate construction access from Dragoon Trail to the proposed single family subdivision which is intended to complete the Ridgemont Crossing subdivision. The intent is to limit the number of heavy equipment trucks going through the residential subdivision. This shall be required to remain in place until roughly 90% of the homes/infrastructure of the single family subdivision is in place and may be removed only when deemed acceptable by the City Director of Engineering. This access shall be shown and improved as part of any final plat or site plan completed for either the apartments or residential subdivision.
2. The developer is responsible for coordinating with the Ridgemont Crossing Home Owners Association and adjacent property owners regarding what happens to the Cane River Drive stub street as part of any final site plan filed for the proposed apartment project. At the request of the Home Owners Association and adjacent property owners, the developer shall be responsible for removing this stub street and providing for grading of the area, drainage and curb modifications to Gauley River Drive. If the homeowners association/property owners desire the stub street to remain, or cannot agree/refuse to provide direction to the developer, the stub street shall remain in place. The developer shall also be responsible for working with the applicable title companies to resolve the gap in property ownership resulting from the bankruptcy transfer and platting errors. Clear ownership and access to this gap property shall be identified as part of or prior to any final plat or site plan approval for any of the three parcels identified herein.
3. At a minimum, a 5' wide concrete internal sidewalk shall be provided throughout the proposed apartment development and shall be extended to the right-of-way line of both Fir Road and Dragoon Trail.

Stormwater Run-off/Utilities:

1. The quantity and type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering. If not otherwise addressed, the developer must accommodate the storm water management needs for the entire Ridgemont Crossing subdivision as part of phase 1 of any project. This would include the apartment project, the single family portion, or the undeveloped vacant land.
2. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as approved by the City Director of Engineering.
3. The developer is responsible for extending and completing infrastructure in the previously platted phases of Ridgemont Crossing only as necessary to serve the proposed new single family section of Ridgemont Crossing (parcel 2). This infrastructure shall be completed or bonded for as part of any new single family plat as required by the City Director of Engineering.

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Lighting:

1. Parcel 1- All site lighting for parcel 1 shall be limited to 25 feet in height. 90-degree full cut-off fixtures shall be required for both pole and wall mounted fixtures for parcel 1. Ornamental lighting similar to the City standard Sternberg lights may be provided in lieu of cut-off fixtures subject to the review and approval of the Planning Commission. No pole mounted fixtures shall be provided within 100 feet of the north property line of Parcel 1. No more than 1 fixture shall be provided per pole and the wattage shall not be greater than 250 watts. The average/design level of illumination for areas within Parcels 1 shall not exceed 0.5 footcandles.
2. Parcels 2- All site lighting for parcels 2 shall be consistent with the existing Ridgemont Crossing subdivision.
3. A lighting plan shall be submitted with each final planned unit development plan/plat submission.

Signage:

1. A maximum of two ground mounted signs may be permitted on Parcel 1, one at each proposed entrance. Each sign shall not exceed 8' in height and shall utilize a masonry base that matches the proposed building architecture. A maximum display area of 32 square feet shall be permitted for each sign.
2. Temporary signage and flags shall comply with the on premise sign ordinance of the City

Building Limitations/Architecture (Parcel 1):

1. The proposed apartment architecture shall utilize masonry materials on a minimum of 2/3 of all building facades that isn't glass. Masonry shall include standard masonry brick or stone. Larger concrete blocks may not be included within this 2/3 requirement. The remaining 1/3 of the building facades shall be masonry or incorporate other high quality materials such as fiber cement board or other wood or composite lap siding. Vinyl siding or metal building panels shall not be permitted
2. Balconies or patios shall be provided for all units.
3. Proposed apartments shall maintain a minimum of a 120' building setback from the existing and proposed Ridgemont Crossing single family home subdivision. A 60' building setback shall be provided along both Dragoon trail and Fir Road.
4. Proposed apartments may not exceed more than three stories and may not exceed 40' in height.

Parking/Landscaping/Fencing/Dumpster (Parcel 1):

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1. A minimum of 1.5 parking spaces shall be provided for each proposed apartment unit.
2. A 50 foot wide green space buffer with a 4-foot high earthen berm and planting shall be provided between the existing and proposed single family residential subdivision and the proposed apartment construction on Parcel #1. Planting on the berm shall include spruce and/or fir evergreen trees planted in a triangular spacing no further than 12' feet apart for the entire length of the buffer. At the time of planting, trees shall be a minimum of 8' in height. Deciduous shade trees shall also be planted within the same 50 foot buffer no greater than 40 feet on center, and shall be a minimum of 3" in caliper at the time of planting. Within the required buffer, a minimum of 21 ornamental trees shall be dispersed uniformly throughout the entire buffer area in clusters of 3. Ornamental trees shall be a minimum of 2" in caliper at the time of planting.
3. C-1 general commercial landscaping standards shall be required along the entire length of Fir Road and Dragoon Trail, and within proposed parking lot areas. Foundation plantings shall be provided at the base surrounding all buildings.
4. Dumpsters and mechanical equipment shall be screened from view. Dumpsters shall be screened by a masonry wall matching the building materials of the apartment buildings. Dumpster locations shall be located minimum of 100 feet south of the north property line.
5. A standard 6' solid vinyl or composite board fence shall be provided along the north property line between the proposed apartments and the existing and proposed Ridgemont Crossing single family residential subdivision. A 4' high black ornamental steel or aluminum commercial grade picket fence shall be placed along both Fir Road and Dragoon Trail for the entire length of the proposed apartment project.

Single Family Residential Development Standards:

1. The proposed platting of lots to complete the existing Ridgemont Crossing Subdivision shall provide for lot sizes, setbacks, and covenant restrictions to match the existing Ridgemont Crossing subdivision. A preliminary planned unit development site plan shall be provided for the entire remaining vacant single family property prior to filing any final plat that divides the apartment property from the remaining land.

Reversion of Apartment Zoning:

1. The developer shall file a final planned unit development site plan within one calendar year and start construction of the apartment project within 18 months of the date of approval of the Common Council. If either one of these dates are missed, the apartment use for the property shall be considered null and void and shall revert back to single family residential. This provision has been placed to allow the City to adjust conditions relative to changes that may occur over time.

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

1. Existing Conditions - The subject parcel is located on Fir Road and Dragoon Trail, both are currently moderately travelled collector roads where traffic volumes are expected to increase due to the on-going growth of the City. The site has a high tension power line through it, and an existing industrial park located on its border to the east. The site is adjacent and connected to the existing Ridgemont Crossing single family residential subdivision. As such, extensive conditions on the proposed development are necessary to insure both compatibility with the adjacent single family subdivision and the cohesive development of the property in general.
2. Character of Buildings in Area - The character of buildings and land uses located along the Fir Road and Dragoon Trail corridors are far ranging. On Fir Road the site is impacted the most by two single Family residential subdivisions being Ridgemont Crossing and Rosewood. Beyond those subdivisions there is a very large mobile home park and scattered industrial and commercial properties. On Dragoon Trail, an Industrial park is located to the east, and to the south of the site is George Wilson Park. The mix of residential, commercial, and industrial uses identifies a diversity of uses where apartments and single family uses are both appropriate.
3. The most desirable/highest and best use - With the property's location along the increasingly travelled Fir Road and Dragoon Trail corridors combined with the adjacent high tension power lines, the proposed mix of apartment and single family residential uses could be considered as the highest and best use of the property.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area because the proposed multi-family residential use would be subject to a lengthy number of development conditions designed to insure the quality of the proposed development while providing a buffer to neighboring properties.
5. Comprehensive Plan - This property was identified with a preferred use as manufactured home residential in the Mishawaka 2000 Comprehensive Plan. Given that the manufactured housing demand has changed since the time of completion of the comprehensive plan, the proposed multi-family use is reasonably consistent with multiple uses contained within the Fir Road and Dragoon Trail corridors.

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

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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

AUG 31 2016

CITY CLERK
MISHAWAKA, IN

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

August 19, 2016

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

The undersigned, H & G Real Estate, LLC, respectfully shows that they are the owners of the following described real estate located in the City of Mishawaka, St. Joseph County, Indiana:

A PARCEL LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, A PORTION OF SAID PARCEL BEING LOTS ONE (1) THROUGH TWENTY-FIVE (25), ONE HUNDRED FIFTEEN (115) AND ONE HUNDRED SIXTEEN (116) AND ONE HUNDRED TWENTY-SIX (126) THROUGH ONE HUNDRED THIRTY-ONE (131) AS SHOWN ON THE RECORDED PLAT OF RIDGEMONT CROSSING SECTION TWO FINAL P.U.D. RECORDED AUGUST 15, 2006 AS DOCUMENT NO. 0635283 AND AMENDED BY AFFIDAVIT RECORDED NOVEMBER 19, 2007 AS DOCUMENT NO. 0745276 IN THE OFFICE OF THE RECORDER OF SAINT JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23; THENCE NORTH 00°00'30" WEST ALONG THE WEST LINE OF SAID SECTION 23, 726.25 FEET; THENCE NORTH 89°59'30" EAST, 40.00 TO THE EAST RIGHT-OF-WAY LINE OF FIR ROAD AND THE SOUTHWEST CORNER OF SAID LOT 12, AND THE POINT OF BEGINNING; THENCE NORTH 00°00'30" WEST ALONG THE SAID EAST RIGHT-OF-WAY, 643.83 FEET (REC. NORTH 00°05'01" EAST, 644.46 FEET) TO THE NORTHWEST CORNER OF SAID LOT 18; THENCE NORTH 89°38'04" EAST, 216.11 FEET (REC. NORTH 89°43'36" EAST, 216.11 FEET); THENCE NORTH 84°21'55" EAST, 144.59 FEET (REC. NORTH 84°27'38" EAST, 144.61 FEET); THENCE NORTH 89°39'48" EAST, 229.52 FEET (REC. NORTH 89°43'36" EAST, 229.50 FEET); THENCE SOUTH 05°46'04" WEST, 42.12 FEET (REC. SOUTH 05°46'04" WEST, 42.24 FEET); THENCE NORTH 89°38'05" EAST, 120.38 FEET (REC. NORTH 89°43'36" EAST, 120.38 FEET) TO THE WEST RIGHT-OF-WAY LINE OF CANE RIVER DRIVE; THENCE NORTH 57°14'52" EAST, 68.84 FEET TO THE EAST RIGHT-OF-WAY LINE OF CANE RIVER DRIVE; THENCE NORTH 88°54'03" EAST, 127.72 FEET (REC. NORTH 88°57'58" EAST, 128.70 FEET); THENCE NORTH 13°21'11" WEST, 7.68 FEET (REC. NORTH 13°21'49" WEST); THENCE NORTH 88°57'08" EAST, 130.88 FEET (REC. NORTH 89°02'39" EAST); THENCE NORTH 13°44'23" EAST, 29.87 FEET (REC. NORTH 13°49'54" EAST, 29.87 FEET); THENCE NORTH 61°11'39" EAST, 109.70 FEET (REC. NORTH 61°17'10" EAST, 109.70 FEET); THENCE NORTH 13°52'32" WEST, 123.31 FEET (REC. NORTH 13°47'01" WEST, 123.31 FEET) TO THE SOUTH RIGHT-OF-WAY LINE OF GAULEY RIVER DRIVE; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE WITH A CURVE TURNING TO THE RIGHT WITH

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AN ARC LENGTH OF 12.96 FEET, WITH A RADIUS OF 470.00 FEET, WITH A CHORD BEARING OF NORTH 80°24'33" EAST (REC. NORTH 80°30'04" WEST), WITH A CHORD LENGTH OF 12.96 FEET; THENCE NORTH 08°42'23" WEST, 60.00 FEET (REC. NORTH 08°48'03" WEST, 60.00 FEET) TO THE NORTH RIGHT-OF-WAY LINE OF GAULEY RIVER DRIVE; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE OF GAULEY RIVER DRIVE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 37.54 FEET, WITH A RADIUS OF 530.00 FEET, WITH A CHORD BEARING OF SOUTH 79°10'13" WEST (REC. SOUTH 79°15'44" WEST), WITH A CHORD LENGTH OF 37.53 FEET; THENCE NORTH 00°21'54" WEST, 196.46 FEET (REC. NORTH 00°16'23" WEST, 196.46 FEET); THENCE NORTH 89°36'58" EAST, 452.00 FEET (REC. NORTH 89°42'29" EAST, 452.00 FEET); THENCE NORTH 00°24'08" WEST, 185.00 FEET (REC. NORTH 00°18'37" WEST, 185.00 FEET) TO THE SOUTH RIGHT-OF-WAY LINE OF WALNUT CANYON COURT; THENCE NORTH 89°36'58" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE, 5.00 FEET (REC. NORTH 89°42'29" EAST, 5.00 FEET); THENCE NORTH 00°23'02" WEST, 60.00 FEET (REC. NORTH 00°17'31" WEST, 60.00 FEET) TO THE NORTH RIGHT-OF-WAY LINE OF WALNUT CANYON COURT; THENCE SOUTH 89°36'58" WEST (REC. SOUTH 89°42'29" WEST) ALONG SAID NORTH RIGHT-OF-WAY LINE OF WALNUT CANYON COURT, 5.00 FEET; THENCE NORTH 00°21'55" WEST, 295.25 FEET (REC. NORTH 00°16'24" WEST); THENCE SOUTH 89°59'17" EAST, 228.14 FEET; THENCE SOUTH 00°04'41" EAST, 138.60 FEET; THENCE SOUTH 89°59'17" EAST, 236.91 FEET; THENCE SOUTH 00°08'06" EAST, 1569.93 FEET TO THE CENTERLINE OF DRAGOON TRAIL; THENCE ALONG SAID CENTER LINE FOR THE NEXT TWO (2) COURSES, AND WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 261.30 FEET, WITH A RADIUS OF 1091.88 FEET, WITH A CHORD BEARING OF NORTH 84°41'30" WEST, WITH A CHORD LENGTH OF 260.68 FEET, AND THENCE SOUTH 89°17'06" WEST, 787.53 FEET; THENCE NORTH 00°43'30" WEST, 40.00 FEET (REC. NORTH 00°37'59" WEST) TO THE NORTH RIGHT-OF-WAY LINE OF DRAGOON TRAIL; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE FOR THE NEXT TWO (2) COURSES, SOUTH 89°16'30" WEST, 853.54 FEET, AND WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 75.73 FEET, WITH A RADIUS OF 4754.08 FEET (REC. 4759.29 FEET), WITH A CHORD BEARING OF NORTH 89°48'26" WEST (REC. SOUTH 89°48'49" WEST), WITH A CHORD LENGTH OF 75.73 FEET TO THE POINT OF BEGINNING.

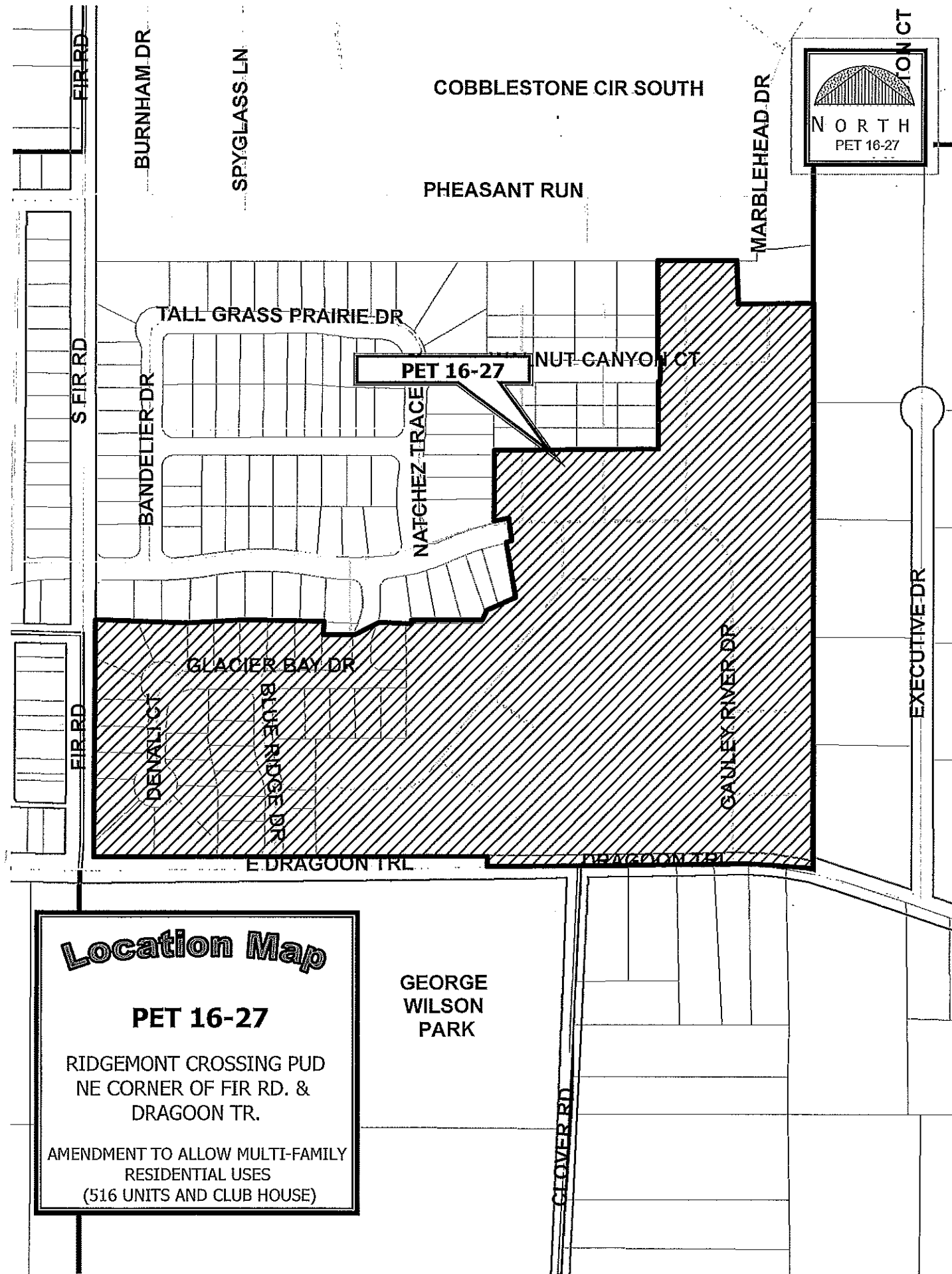
CONTAINING 44.77 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

Also commonly known as property located at the northeast corner of Fir Road and Dragoon Trail, Mishawaka, Indiana 46544. The above described parcel of land is presently zoned "S-2" Planned Unit Development district and was approved to allow single-family residential uses.

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

Wherefore, the Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka city plan commission and that after



Location Map

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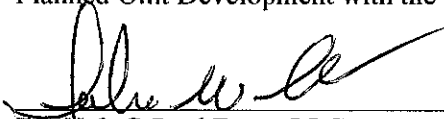
RIDGEMONT CROSSING PUD
NE CORNER OF FIR RD. &
DRAGON TR.

AMENDMENT TO ALLOW MULTI-FAMILY
RESIDENTIAL USES
(516 UNITS AND CLUB HOUSE)

GEORGE
WILSON
PARK

CLOVER RD

hearing, an appropriate ordinance be enacted allowing for the requested amended "S-2"
Planned Unit Development with the proposed "R-3" Residential District Use.



For H & G Real Estate LLC
828 E. Jefferson Blvd.
South Bend, IN 46617

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

NOV 17 2016

CITY CLERK
MISHAWAKA, IN

1st Reading 11-21-16
2nd Reading
Passed
Failed
Continued To

PETITION #16-28

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2016-34

ORDINANCE NO. _____

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

WHEREAS, H and G Real Estate LLC has filed a petition for vacation of the public right-of-way described in Section 1 below;

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

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

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

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

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

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

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

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

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

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

Part of the Southwest Quarter of Section 23, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, which is described as:

PROPOSED ORDINANCE NO. 2016-34

ORDINANCE NO.

1. The 60-foot right-of way running North-South for approximately 505.11-feet, commonly known as Blue Ridge Drive, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.
2. A portion of 50-foot right-of-way running East-West between Denali Court and Cane River Drive for approximately 546-feet, commonly known as Glacier Bay Drive, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.
3. A portion of 50-foot right-of-way running East from the centerline of Cane River Drive approximately 123.92-feet, commonly known as Glacier Bay Drive, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.
4. The varied width right-of-way running North-South for approximately 259-feet, commonly known as Denali Court, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.
5. A portion of 50-foot right-of-way running North from the centerline of Glacier Bay Drive for approximately 130.57-feet, commonly known as Cane River Drive, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.
6. A portion of 60-foot right-of-way running East from the centerline of Blue Ridge Drive for approximately 115.00-feet, commonly known as Muir Woods Drive, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.

Subject to all legal right-of-ways, easements, and restrictions of record.

COMMONLY KNOWN AS: Cane River Drive, Glacier Bay Drive, Blue Ridge Drive, Denali Court, and Muir Woods Drive.

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

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. If the concurrent development request is approved, the proposed vacation would provide for a logical termination of streets. If the concurrent development is not approved, the streets as originally platted could be recreated by a separate plat.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The proposed adjacent use as apartments requires a significant buffer and separation from the existing single family residential subdivision. The proposed vacation allows for that separation.
- 3) The streets do not provide access to any church, school, public building or place, they have not been developed or improved at all, and thus will not hinder the public's access to any of the aforementioned destination.

PROPOSED ORDINANCE NO. 2016-34

ORDINANCE NO. __

- 4) The proposed vacation will not hinder the use of any public way, utility, or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

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

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

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

AUG 31 2016

CITY CLERK
MISHAWAKA, IN

Date: August 19, 2016

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

RE: Petition for vacation of Public Right of Way:

The undersigned for H and G Real Estate LLC, respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right of way(s) located in the City of Mishawaka, St. Joseph County, Indiana:

Part of the Southwest Quarter of Section 23, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, which is described as:

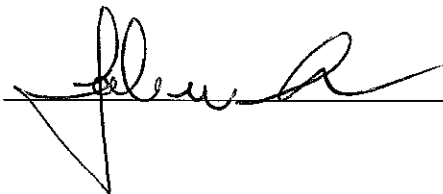
- 1) The 60-foot right-of way running North-South for approximately 505.11-feet, commonly known as Blue Ridge Drive, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.
- 2) A portion of 50-foot right-of-way running East-West between Denali Court and Cane River Drive for approximately 546-feet, commonly known as Glacier Bay Drive, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.
- 3) A portion of 50-foot right-of-way running East from the centerline of Cane River Drive approximately 123.92-feet, commonly known as Glacier Bay Drive, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.
- 4) The varied width right-of-way running North-South for approximately 259-feet, commonly known as Denali Court, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.
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- 6) A portion of 60-foot right-of-way running East from the centerline of Blue Ridge Drive for approximately 115.00-feet, commonly known as Muir Woods Drive, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.

Subject to all legal right-of-ways, easements, and restrictions of record.

Ret 16-28

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

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

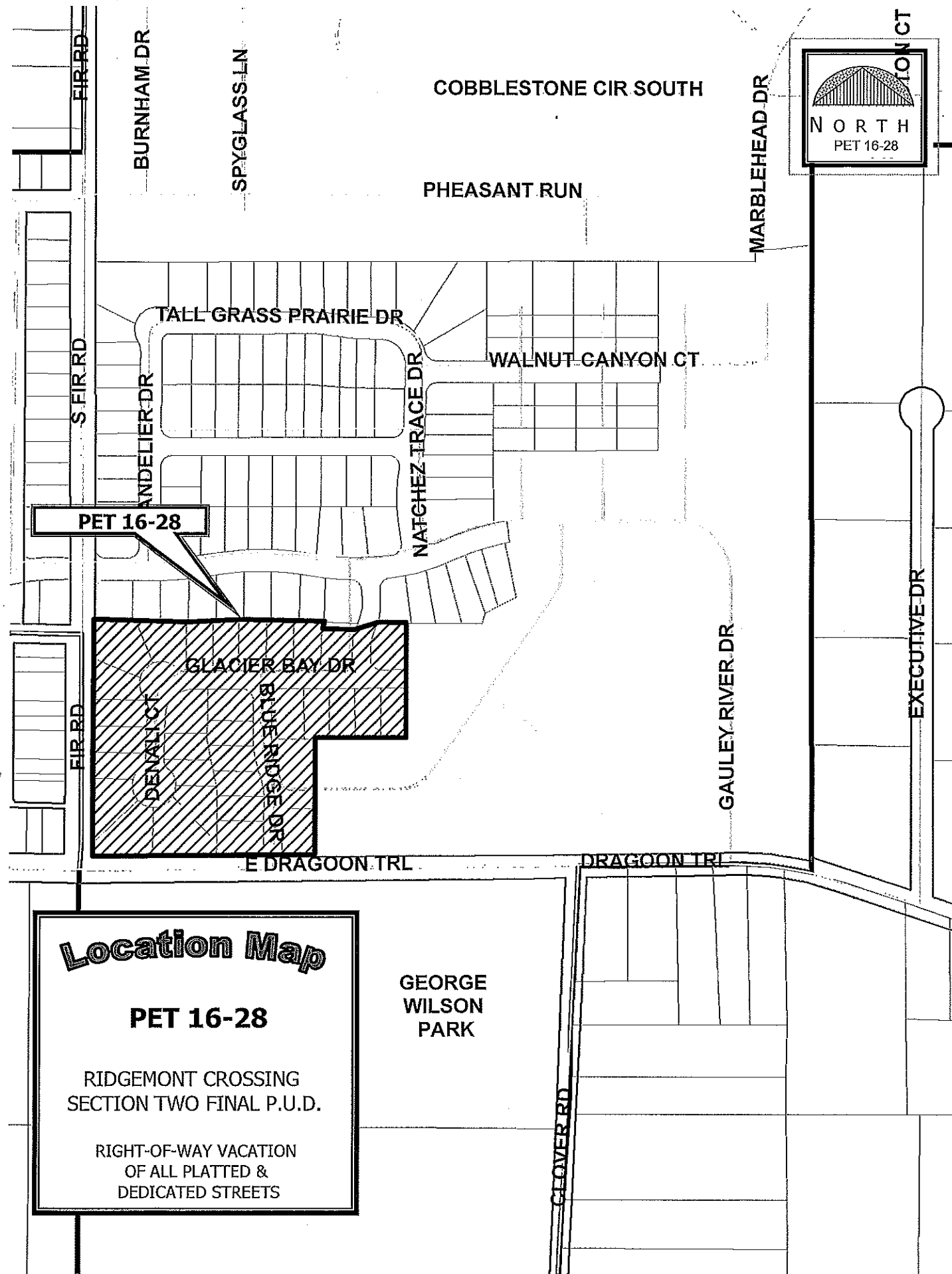
 (Signature)

John Green (Printed Name)

For H and G Real Estate LLC
828 E. Jefferson Blvd.
South Bend, IN 46617

Contact Person:

Michael J. Danch
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, Indiana 46628
574-234-4003, Fax 574-234-4119



PET 16-28

Location Map

PET 16-28

RIDGEMONT CROSSING
SECTION TWO FINAL P.U.D.

RIGHT-OF-WAY VACATION
OF ALL PLATTED &
DEDICATED STREETS

GEORGE
WILSON
PARK

NOTICE OF HEARING
Vacation No. 2016-02
Date of Hearing: September 19,
2016

Time of Hearing: 7:00 PM
PLEASE TAKE NOTICE:
Vacation NO. 2016-02 – Petition No.
2016-28

A petition has been filed by H and G
Real Estate LLC for Vacation of Public
Right of Way

Vacation NO. 2016-02 – Petition No.
2016-28

Part of the Southwest Quarter of
Section 23, Township 37 North, Range
3 East, Penn Township, City of
Mishawaka, St. Joseph County, Indiana,
which is described as:

1) The 60-foot right-of way running
North-South for approximately 505.11-
feet, commonly known as Blue Ridge
Drive, as platted within the Ridgemont
Crossing Section Two Final P.U.D. Plat,
Document No. 0635283.

2) A portion of 50-foot right-of-way
running East-West between Denali
Court and Cane River Drive for
approximately 546-feet, commonly
known as Glacier Bay Drive, as platted
within the Ridgemont Crossing Section
Two Final P.U.D. Plat, Document No.
0635283.

3) A portion of 50-foot right-of-way
running East from the centerline of Cane
River Drive approximately 123.92-feet,
commonly known as Glacier Bay Drive,
as platted within the Ridgemont
Crossing Section Two Final P.U.D. Plat,
Document No. 0635283.

4) The varied width right-of-way
running North-South for approximately
259-feet, commonly known as Denali
Court, as platted within the Ridgemont
Crossing Section Two Final P.U.D. Plat,
Document No. 0635283.

5) A portion of 50-foot right-of-way
running North from the centerline of
Glacier Bay Drive for approximately
130.57-feet, commonly known as Cane
River Drive, as platted within the
Ridgemont Crossing Section Two Final
P.U.D. Plat, Document No. 0635283.

6) A portion of 60-foot right-of-way
running East from the centerline of Blue
Ridge Drive for approximately 115.00-
feet, commonly known as Muir Woods
Drive, as platted within the Ridgemont
Crossing Section Two Final P.U.D. Plat,
Document No. 0635283.

Subject to all legal right

Notices are sent to the petitioner and to
the owners of property affected by the
petition. A hearing upon this petition
will be held in the Council

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

Respectfully,
Deborah S. Block
City Clerk

12-----

State of Indiana St. Joseph County

Personally Appeared Before Me The Undersigned:

Nancy Nich

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

XX One TWO THREE

times successively to-wit:

On the 8th day of September , 2016, and

On the day of , 2016, and

On the day of , 2016,

Subscribed & Sworn To Before Me
This 8th day of September , 2016

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

CHARGES: \$ 35.46

DHA

Danch, Harner & Associates, Inc.

Land Surveyors ■ Professional Engineers

Landscape Architects ■ Land Planners

Office: (574)234-4003 / (800)594-4003 ■ Fax: (574)234-4009

1643 Commerce Drive ■ South Bend, IN 46628

City of Mishawaka Plan Commission
Attn: Mr. Ken Prince - Plan Director
600 East Third Street
Mishawaka, Indiana 46544

September 7, 2016

RE: Amended PUD and Street Vacation Petition request for
Northeast corner of Fir Road and Dragoon Trail,
Mishawaka, Indiana:

Dear Mr. Prince:

On behalf of our clients, we are requesting a tabling of the above amended PUD and Street Vacation Petition request until the October 11th meeting of the Plan Commission.

If you have any questions concerning this matter, please feel free to give me a call at 234-4003.

Sincerely,

Michael J. Danch

Michael J. Danch
President
Danch, Harner & Associates, Inc.

File No. 160215 "C" Md.

PET 16-28

DL
emailed to Council & City
on 9-14-16

NOTICE OF HEARING

Vacation No. 2016-02

Date of Hearing: September 19, 2016

Time of Hearing: 7:00 PM

PLEASE TAKE NOTICE:

Vacation NO. 2016-02 - Petition No. 2016-28

A petition has been filed by H and G Real Estate LLC for
Vacation of Public Right of Way
Vacation NO. 2016-02 - Petition No. 2016-28

Part of the Southwest Quarter of Section 23, Township 37 North, Range 3 East, Penn Township,
City of Mishawaka, St. Joseph County, Indiana, which is described as:

- 1) The 60-foot right-of-way running North-South for approximately 505.11-feet, commonly known as Blue Ridge Drive, as platted within the Ridgemont Crossing Section Two Final P.U.D. Plat, Document No. 0635283.
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Subject to all legal right

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

Respectfully,

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