

AGENDA

Monday, March 6, 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**

February 20, 2017

5. Petitions, Communications, Remonstrance and Memorials

Appeal No. 2017-07 Use Variance to allow a Restaurant with Drive-thru 308 W. Cleveland Rd.(Proposed Biggby Coffee)

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2017-11 Transfer Funds - LOIT Special Distribution Fund - \$7,500.00

8. Resolutions

R2017-04 Waiver of Non-Compliance Application for Barak River Rock, LLC 116 & 128 W. Mishawaka Ave. & W. Grove St.

9. Ordinances on Second Reading

P.O. NO. 2017-06 Additional Funds - LOIT Special Distribution - \$225,000.00 (Assigned to Budget and Finance Committee)

P.O. NO. 2017-07 City of Mishawaka & Habitat for Humanity Various Addresses Rezone from C-1 to R-1 for New Residential Homes - area of S. Merrifield Ave., E. Third St. and E. Fourth St. (Assigned to Land Use Planning Committee)

P.O. NO. 2017-08 Rezone from R-1 to R-3 Multi-family for an Assisted Living Facility - 1128 W. Dragoon Trail and Logan St. (Assigned to Land Use Planning Committee)

P.O. NO. 2017-09 PUD Amendment Various Conditions for Development & a Variance for Architectural Building Materials - NW corner 3729 Bremen Highway & US 20 Bypass (Assigned to Land Use Planning Committee)

P.O. NO. 2017-10 Rezone from C-1 to R-1 for Two New Houses Habitat for Humanity 2 vacant Lots E. of 1612 LWE (Assigned to Land Use Planning Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

P.O. NO. 2017-04 Adopting Revised Rates and Charges for Wastewater (Assigned to Budget and Finance Committee)

P.O. NO. 2017-05 Adopting Revised Rates and Charges for Water (Assigned to Budget and Finance Committee)

12. New Business

13. Adjournment

At this time I know of no other business to come before the Council.

Deborah S. Block, IAMC, MMC, City Clerk

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

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

February 20, 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 February 20, 2017, at 7:00 p.m. The meeting was called to order by President Ross Deal all were asked to stand for the Pledge of Allegiance



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.

The minutes from the February 6, 2017 meeting were approved as received from the City Clerk's Office.

Clerk Block read a letter from the City Plan Commission regarding recommendations from their February 14, 2017 meeting.

PETITION #17-05 A petition submitted by the City of Mishawaka and Habitat for Humanity of St. Joseph County requesting to rezone **850 and 858 East Fourth Street, 851, 852, 853, 854, 856, 858, 860, and 862 East Third Street, and 119 and 121 South Merrifield Avenue** from C-1 General Commercial District to R-1 Single Family Residential District.

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

PETITION #17-06 A petition submitted by Margaret B. Conner requesting to rezone **1128 West Dragoon Trail** from R-1 Single Family Residential District to R-3 Multi-Family Residential District.

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

PETITION #17-07 A petition submitted by KLT Properties, LLC, requesting to amend the Gateway Plaza Planned Unit Development for various conditions for development and waiver from architectural building materials.

The Commission, with a vote of 5-3, recommended approval subject to the following conditions which shall both modify and be in addition to the conditions of the original planned unit development:

1. The self-storage component of the PUD shall be permitted to proceed as the first phase of the planned unit development without the approval and written consent of all property owners within the Planned Unit Development subject to the completion of following prior to starting construction:

- A. The Developer of the self-storage component shall provide design development level drawings of the proposed extension of Meijer Drive and re-alignment of Elmwood Avenue as depicted in the Developer's petition, subject to the review and approval of the City of Mishawaka Director of Engineering. The drawings need to identify the right-of-way necessary for the completion of the project including grading, utilities, storm drainage, and other associated improvements.
 - B. The Developer shall obtain and dedicate all necessary additional right-of-way and easements to allow for the extension of Meijer Drive and re-alignment of Elmwood Avenue as depicted in the developer's petition.
 - C. The Developer shall prepare and submit a development agreement proposal for the review and approval of both the City of Mishawaka Redevelopment Commission and the City of Mishawaka Board of Public Works and Safety. The agreement shall include the estimated timing and phasing of the road re-alignment as well as the acquisition, use, and improvement associated with using the current INDOT created access road currently located in unincorporated St. Joseph County. This agreement shall be approved at the sole discretion of the City of Mishawaka Redevelopment Commission and Board of Public Works and Safety. This condition is in no way intended to commit or bind either the Commission or the Board relative to any matter contained herein.
 - D. If temporary access is provided to the self-storage component, as part of the development agreement or other legal instrument, the developer shall waive any legal or implied right to the land associated with the temporary access drive once the permanent access as proposed is extended to the north property line of the developer's site.
2. The Architectural standards for the PUD shall only apply to the office component of the self-lock storage. The storage units may be constructed out of all metal siding and roofing, but shall meet all other applicable architectural standards.

PETITION #17-08 A petition submitted by Habitat for Humanity of St. Joseph County requesting to rezone two (2) vacant lots adjacent and **east of 1612 Lincolnway East** from C-1 General Commercial District to R-1 Single Family Residential.

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

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

PROPOSED ORDINANCE NO. 2017-06

**AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2017**
(Assigned to the Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2017-07

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA.
(Assign to the Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2017-08

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.
(Assign to the Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2017-09

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.
(Assign to the Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2017-10

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.
(Assign to the Land Use Planning Committee)

NEW BUSINESS

A reminder of two upcoming public information meetings regarding water and wastewater rate increases. The meetings would be at 7:00PM at City Hall on February 21, 2017 and March 2, 2017.

ADJOURNMENT 7:08 p.m.

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

Ross Deal s/
Ross Deal, President

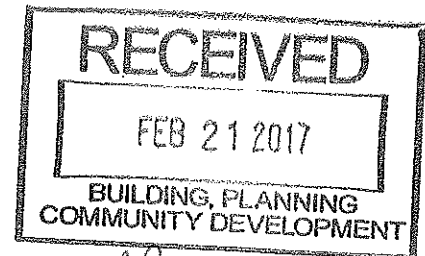
RECEIVED
DEBORAH S. BLOCK, MMC

DATE: February 17, 2017

FEB 21 2017

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

CITY CLERK
MISHAWAKA, IN



The undersigned appellant respectfully shows the Board:

AP 17-07

1. Mark Shea, Trustee of the John C. Shea Sr. Revocable Trust and Rosemary Shea, Trustee of the Rosemary Shea Revocable Trust which own the following described real estate located within the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana, to-wit:

Legal Description:

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA BEING DESCRIBED AS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION AND THE CENTERLINE OF INDIANA HIGHWAY 23 (CLEVELAND ROAD) WHICH IS NORTH 90-00'00" EAST, 656.26 FEET FROM THE SOUTH QUARTER POST OF SAID SECTION, SAID POINT ALSO ON THE CENTERLINE OF LEO STREET, THENCE NORTH 00-00'-46" WEST ALONG SAID CENTERLINE, 363.26 FEET TO THE SOUTH LINE OF THE RECORDED PLAT OF COUNTRY SIDE ESTATES SECTION 3; THENCE SOUTH 90-00'-00" EAST ALONG SAID SOUTH LINE, 667.79 FEET TO THE EAST LINE OF THE WEST HALF OF SAID SOUTHEAST QUARTER; THENCE SOUTH 00-00'-46" EAST ALONG SAID EAST LINE, 363.26 FEET ; TO THE SOUTH LINE OF SAID SECTION AND THE CENTERLINE OF INDIANA HIGHWAY 23(CLEVELAND ROAD); THENCE NORTH 90-00'-00" WEST ALONG SAID SOUTH LINE AND CENTERLINE, 667.79 FEET TO THE POINT OF THE BEGINNING. SUBJECT ALL LEGAL HIGHWAYS OF RECORD.

Common Address:

Centennial Place
230 W. Cleveland Road
Granger, IN 46530

2. The above-described real estate presently has a zoning classification of Commercial C-2 Shopping Center District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner: As a shopping center.
4. Appellant desires to have a tenant open and operate a Biggby Coffee shop with drive-through service at 308 W. Cleveland Road, Granger IN 46530. This is an existing end-cap unit at Centennial Place where the previous retail tenant operated with drive-through service since 1994.
5. The Zoning Ordinance of the City of Mishawaka permits restaurants without drive-through service. Sec.137-326 (a) (46).

6. Strict adherence to the Ordinance requirements would create an undue hardship because the tenant, Biggby Coffee, expects to conduct 70% of its business with drive-through service to its customers. Emily and Ravneet Singh are residents of the local community who own the Biggby Coffee franchise. In December 2016 the Singhs entered into a long term lease with the Appellant and have invested significant funds to purchase equipment and franchise rights. Strict adherence to the Ordinance in this case would prevent the Singhs from successful operation of Biggby Coffee, resulting in failure to meet their financial and contractual obligations with Appellant and Biggby Coffee corporate. *See Affidavit of Emily and Ravneet Singh attached as Exhibit A.*

Strict adherence to the Ordinance would also cause undue hardship to the Appellant if its new tenant is not permitted to operate with drive-through service. Centennial Place is the only business owned by the Appellant trusts and is operated by the family of its founder, John C. Shea Sr. It provides the financial support of Rosemary Shea, Mr. Shea's surviving spouse. The rental income from the Biggby Coffee lease is essential to the continued successful operation of Centennial Place, a member of the local business community for over 23 years. *See Affidavit of Mark Shea, Trustee; attached as Exhibit B.*

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

- (1) Approval will not be injurious to the public health, safety, morals or general welfare of the community. The safety and welfare of all visitors to Centennial Place is a primary concern for the Appellant. If approved, proper customer vehicle routing for the Biggby Coffee drive-through service will be ensured by improvements the Appellant will make to the existing drive-through and the common area parking lot, as well as by proper signage which will be installed by Biggby Coffee. Biggby Coffee will relocate an existing parking island to provide for improved vehicle line-up at the drive-through window. *See Centennial Place Site Plan, attached as Exhibit C and Google Earth aerial view attached as Exhibit D.*

The drive-through line-up will accommodate five or six passenger vehicles for ordering and pick-up of coffee drinks. Existing dual driveways provide Centennial Place with superior ingress and egress on Cleveland Road and eastbound vehicles on Cleveland now have the benefit of a left-hand turn lane to enter (and leave) Centennial Place. After entering the driveway, Biggby customer vehicles will travel in the same direction and manner as those of the existing drive-through did for 23 years. Additional directional signage for Biggby customers will be installed inside the parking lot to increase the safety and welfare of all visitors to Centennial Place. *See Affidavits of Mark Shea, and Emily and Ravneet Singh, attached as Exhibits A and B attached.*

Approval will enhance the general welfare of the community by providing a choice of coffee beverage service that is locally owned and operated while also creating jobs for twenty-five workers. In addition, the eleven locally owned and operated retail tenants at Centennial Place will benefit significantly from the new and additional visitors that

Biggby Coffee will attract to the complex. *See Affidavit of Emily and Ravneet Singh, Exhibit A.*

- (2) The use and value of the area adjacent to the property included in the variance will not be affected in any adverse manner. The adjacent property to the east has commercial zoning and has proposed a shopping center similar to Centennial Place. There will be no change to the configuration of the buildings or property site of Centennial Place that will have any effect on the commercial property to the west across Leo St. Likewise, the proposed variance will have no effect on the residential property to the north. There is no roadway that connects Centennial Place to the residences to the north and the existing barriers as required by ordinance will not be disturbed.
- (3) The need for the variance does not arise from some condition peculiar to the property. The existing drive-through was operated by a previous retail tenant since 1994.
- (4) Strict application of the terms of this chapter constitutes an unnecessary hardship if applied to the property for which the variance is sought. The Shea family and Emily and Ravneet Singh would experience financial hardship as described in paragraph six above. In addition, the eleven local retail tenants of Centennial Place would be adversely affected and the community deprived of 25 jobs, if Biggby Coffee is not permitted to operate successfully in the complex. This combined hardship is unnecessary because the property for which Appellant seeks the variance has an existing drive-through that will be improved to eliminate all concerns for public safety and proper traffic flow.
- (5) Approval will not interfere in any way with the Mishawaka 2000 Comprehensive Plan. On the contrary, approval would be consistent with the Plan's vision for the growth and vitality of the north Mishawaka trade center.

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

Signature of Property Owner/Title Holder

Rosemary Shea

Print Name Here

Rosemary Shea

Second Property Owner/Title Holder

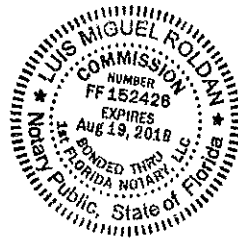
Mark F Shea, Trustee

Print Name Here

Mark Shea

Notary:

Luis Miguel Roldan



CONTACT PERSON:

Name: Mark Shea

Address: 466 s Prospect Avenue

Day Phone Number: 630.258.3065

Fax Number:

Email: mshea24@comcast.net

AFFIDAVIT OF MARK F. SHEA

1. I, Mark F. Shea am a competent adult and make this Affidavit based on personal knowledge of the facts stated.
2. I reside in Elmhurst, DuPage County, Illinois.
3. I serve as Trustee of the John C. Shea Sr. Revocable Trust.
4. The John C. Shea Sr. Revocable Trust owns real estate located within the City of Mishawaka, Clay Township, St. Joseph County, Indiana; commonly known as Centennial Place, 230 W. Cleveland Road.
5. Centennial Place was founded By John C. Shea Sr. and has been operating as a shopping center since 1994.
6. Centennial Place is the only commercial real estate owned and operated by the Shea Trusts.
7. Since 2013 Centennial Place has been operated by the Shea family and provides the financial support of Rosemary Shea, Mr. Shea's surviving spouse.
8. In December, 2016 the Shea Trusts executed a long-term lease with Ravneet and Emily Singh for the premises in Centennial Place known as 308 W. Cleveland Road, to open and operate a Biggby Coffee franchise.
9. The rental income from the Biggby Coffee lease is essential to the continued successful operation of Centennial Place.
10. Since 1994, 308 W. Cleveland has been an "end-cap" unit operating as a retail business with drive-through service.
11. Ravneet and Emily Singh desire to provide drive-through service to customers of Biggby Coffee at Centennial Place.
12. The drive-through line-up for 308 W. Cleveland will accommodate five or six Biggby Coffee customer vehicles, depending on size and type.

13. It is intended that Biggby Coffee customers will follow the same route, in the same manner as the retail drive-through customers have done since 1994.
14. It is intended that an existing parking lot island will be relocated and directional signage installed to assist Biggby Coffee customers with the drive-through process.
15. Centennial Place currently provides proper customer parking as required by ordinance:

Required @ 5 per 1000 sq ft	157.5
Required @ 10 per 1000 sq ft	44

Total Required	202
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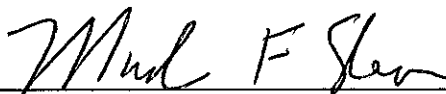
Total Existing Spaces	217
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16. Strict adherence to the Ordinance requirements of Sec. 137-326 (a) (46) would cause undue hardship to Rosemary Shea and the Shea family by preventing the successful operation of Centennial Place.

Date: February 17, 2017

I swear and affirm subject to penalties for perjury, that the above statements are true and correct.

Notary Seal



Mark F. Shea

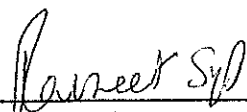
AFFIDAVIT OF RAVNEET SINGH AND EMILY SINGH

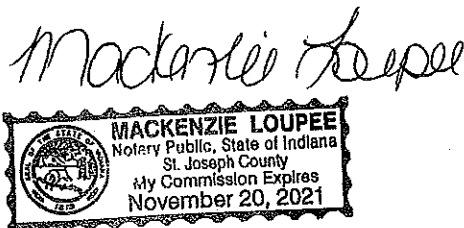
1. We, Ravneet & Emily Singh, are competent adults and make this Affidavit based on personal knowledge of the facts stated.
2. We reside at 13859 Hearthside Drive, City of Granger, St. Joseph County, Indiana.
3. Since August 2012 We have owned and operated the Biggby Coffee franchise at 195 County Road 6E, Elkhart, IN.
4. In December 2016 we executed a ten-year Lease with the John C. Shea Sr. Revocable Trust and Rosemary Shea Revocable Trust for 2,020 square foot premises at 308 W. Cleveland Road, Mishawaka, Indiana to open and operate a second Biggby Coffee franchise at Centennial Place shopping center.
5. The Elkhart Biggby Coffee shop operates with drive-thru service, Monday through Friday 5 a.m. to 8 p.m. Saturday 6 am – 8pm and Sunday 7 a.m. to 8 p.m.
6. Approximately 70 % of the daily customers at the Elkhart Biggby Coffee shop are drive-thru service, 90 % of which occurs before 10:00 a.m.
7. I anticipate the Centennial Place Biggby Coffee shop to have customer numbers and patterns substantially similar to those of the Elkhart Biggby Coffee shop.
8. The plans for the drive-thru window at the Centennial Place Biggby Coffee include signage and parking lot markings to ensure traffic safety and proper vehicle traffic routing at Centennial Place.
9. Drive-thru service is essential for the successful operation of our Biggby Coffee shop at Centennial Place.
10. Strict adherence to the Ordinance Sec. 137-326 (a) (46) would cause undue hardship in that it would prevent us from the successful operation of our business and prevent us from meeting our financial and contractual obligations.
11. We anticipate employing 25 people at the Centennial Place location.

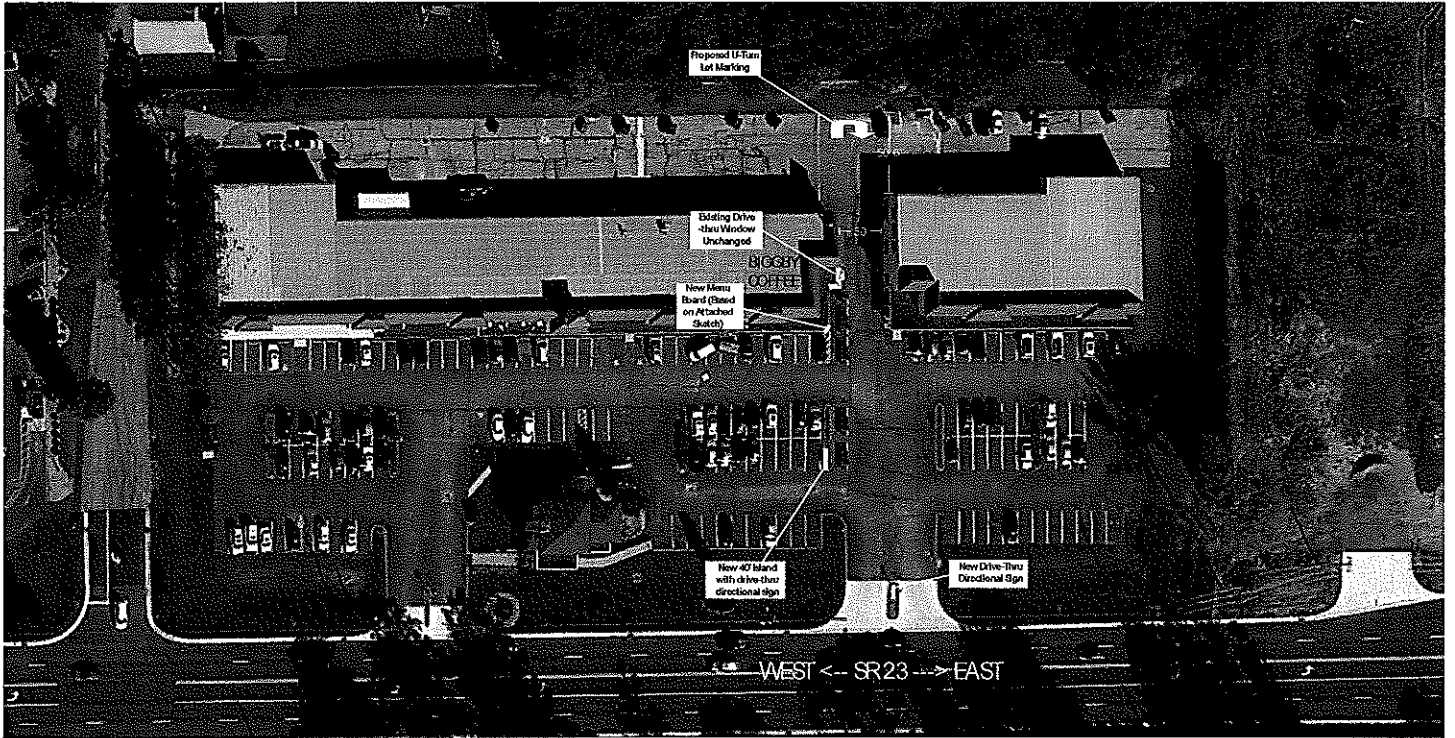
Date: February 22, 2017

We swear and affirm, subject to penalties for perjury, that the above statements are true and correct.

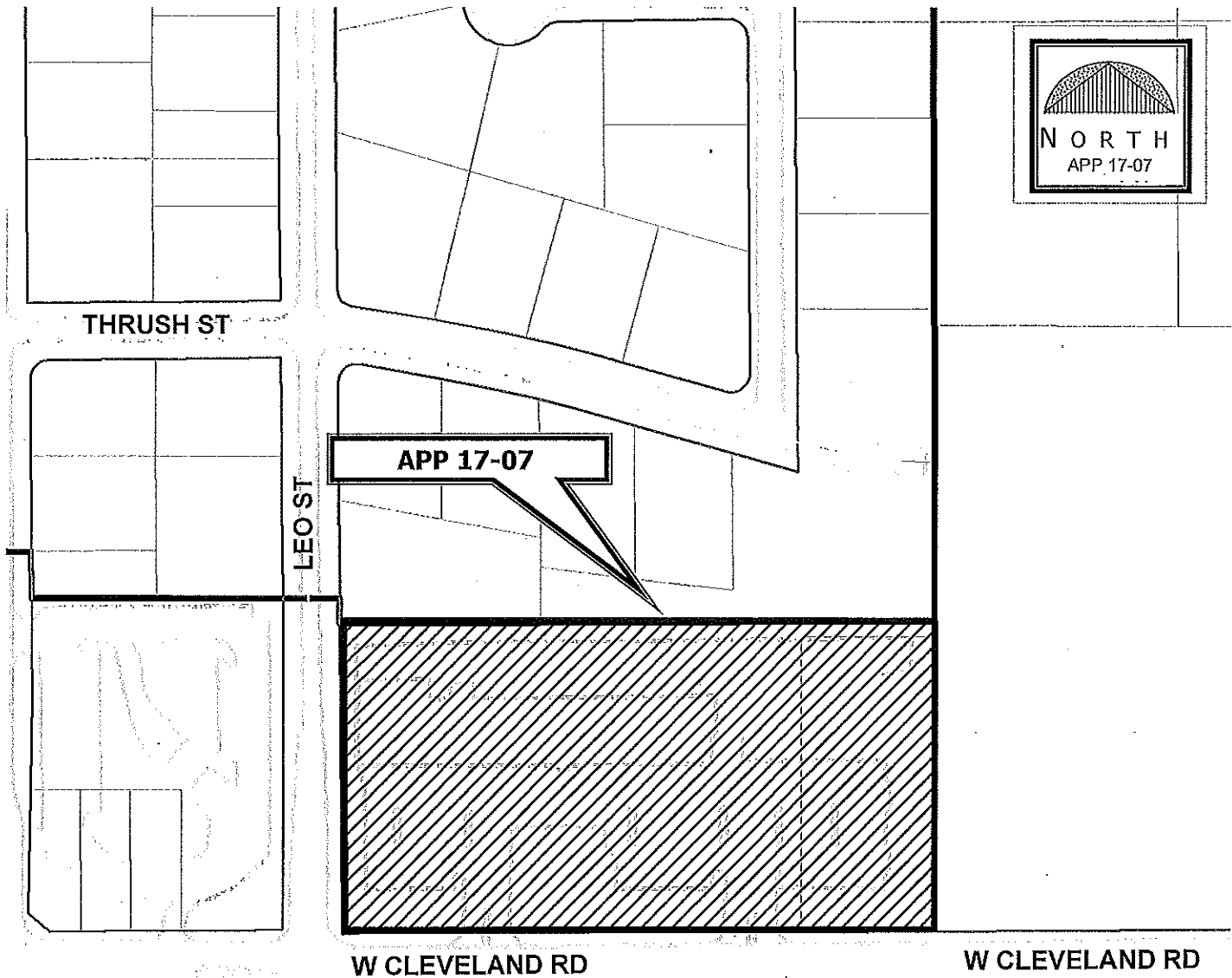

Emily Singh

 02/18/2017
Ravneet Singh





VD ROAD



Location Map

APPEAL 17-07

JOHN C. & ROSEMARY SHEA
308 W. CLEVELAND ROAD

CENTENNIAL PLACE
PROPOSED BIGGBY COFFEE

USE VARIANCE TO ALLOW A
RESTAURANT WITH DRIVE-THRU

FEB 27 2017

1st Reading 3-6-17
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2017-11

CITY CLERK
MISHAWAKA, IN

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2017

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

Section 1. An emergency exists which requires the transfer and reappropriation of funds within the Central Services Department in the General Fund budget adopted for the fiscal year ending December 31, 2017.

Section 2. There is hereby transferred and reappropriated the sum of \$7,500.00 as follows:

LOIT Special Distribution Fund

From: <u>Capital Outlays</u>		
257-50-445-02	Highway Equipment	<u>\$7,500.00</u>
	Total	\$7,500.00

To: <u>Other Services and Charges</u>		
257-50-436-01	Repairs and Maintenance	<u>\$7,500.00</u>
	Total	\$7,500.00

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

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

_____ day of _____, 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



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF PARKS AND RECREATION
Phil Blasko, Park Superintendent

Date: February 24, 2017
To: Honorable Members of the Common Council
From: Phil Blasko
Re: Transfer

At this time, we find the need to request a transfer of \$7,500 from LOIT Special Distribution, account number 257-50-445-02 to account number 257-50-436-01. This transfer is to cover an estimated bill of \$5,000 for repairs to a 1-Ton Chassis Mini Dump.

From: <u>Capital Outlays</u>		
257-50-445-02	Highway Equipment	<u>\$7,500.00</u>
	Total	\$7,500.00
To: <u>Other Services and Charges</u>		
257-50-436-01	Repairs and Maintenance	<u>\$7,500.00</u>
	Total	\$7,500.00

Please contact me with any questions.

Sincerely,

Phil Blasko
Parks Superintendent

c: David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK MMC

FEB 27 2017

CITY CLERK
MISHAWAKA, IN



Expense Budget Performance Report

Fiscal Year to Date 02/27/17
Include Rollup Account and Rollup to Account

Account	Account Description	Adopted Budget	Budget Amendments	Amended Budget	Current Month Transactions	YTD Encumbrances	YTD Transactions	Budget - YTD Transactions	% Used/ Rec'd	Prior Year Total
Fund 257	LOIT Special Distribution									
Department 50	Non-Departmental									
EXPENSE										
431	Consulting									
431.06	Consulting	.00	.00	.00	.00	.00	9,583.22	(9,583.22)	+++	4,452.79
	431 - Consulting Totals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,583.22	(\$9,583.22)	+++	\$4,452.79
436	Repairs and Maintenance									
436.01	Repairs and Maintenance	.00	.00	.00	.00	5,288.00	.00	(5,288.00)	+++	.00
	436 - Repairs and Maintenance Totals	\$0.00	\$0.00	\$0.00	\$0.00	\$5,288.00	\$0.00	(\$5,288.00)	+++	\$0.00
445	Highway Equipment									
445.02	Highway Equipment	140,000.00	.00	140,000.00	.00	.00	.00	140,000.00	0	.00
	445 - Highway Equipment Totals	\$140,000.00	\$0.00	\$140,000.00	\$0.00	\$0.00	\$0.00	\$140,000.00	0%	\$0.00
	EXPENSE TOTALS	\$140,000.00	\$0.00	\$140,000.00	\$0.00	\$5,288.00	\$9,583.22	\$125,128.78	11%	\$4,452.79
	Department 50 - Non-Departmental Totals	(\$140,000.00)	\$0.00	(\$140,000.00)	\$0.00	(\$5,288.00)	(\$9,583.22)	(\$125,128.78)	11%	(\$4,452.79)
Fund 257	LOIT Special Distribution Totals	\$140,000.00	\$0.00	\$140,000.00	\$0.00	\$5,288.00	\$9,583.22	\$125,128.78		\$4,452.79
	Grand Totals	\$140,000.00	\$0.00	\$140,000.00	\$0.00	\$5,288.00	\$9,583.22	\$125,128.78		\$4,452.79

RESOLUTION NO. 2017-04

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA WAIVING THE REQUIRED FILING DATE OF MAY 10, 2016, OR SUBSEQUENT APPLICABLE DATE PER I.C. 6-1.1-12.1-5 (B), AND ACCEPTANCE OF THE LATE FILING OF THE DEDUCTION APPLICATION FOR THE REAL ESTATE REHABILITATION LOCATED IN AN ECONOMIC REVITALIZATION AREA ESTABLISHED BY RESOLUTION NO. R 2013-21 FOR BARAK RIVER ROCK, LLC LOCATED AT 116 & 128 W. MISHAWAKA AVENUE, AND 117, 123, 129 & 135 W. GROVE STREET

WHEREAS, the Common Council of the City of Mishawaka, Indiana, has adopted Resolution No. R 2013-21, pursuant to Indiana Code 6-1.1-12.1, establishing the real estate located at 116 & 128 W. Mishawaka Avenue and 117, 123, 129, and 135 W. Grove Street (Tax Parcel 016-2004-0133) as an economic revitalization area for purposes of a five (5) year real estate tax abatement for Barak River Rock, LLC (the "Company"); and

WHEREAS, Resolution No. R 2013-21 was presented and adopted by the Mishawaka Common Council on November 6, 2013; and

WHEREAS, Scott Sivan, Managing Partner of Barak River Rock LLC, states that the Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (Form 322/RE) was not filed by the Company by the due date because of an incorrect belief that a previously submitted Form 322/RE was sufficient and covered all subsequent years; and

WHEREAS, the assessed value after rehabilitation is \$1,541,500.00 and the assessed value before rehabilitation was \$53,400.00 resulting in a deduction of \$1,488,100.00 to which the Company would be entitled had it filed its Form 322/RE on time; and

WHEREAS, the Company otherwise qualifies for the deduction.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Mishawaka, Indiana, as follows:

SECTION 1. The Company has presented testimonial evidence of the following facts in support of this Resolution:

A. The Company states that they were unaware that Form 322/RE needed to be filed on May 10, 2016 or within 30 days after the assessment notice was mailed, so Form 322/RE was filed, albeit untimely, on February 21, 2017.

B. The Company estimated a total project cost of \$14,500,000 in the Compliance with Statement of Benefits Real Estate Improvements (Form CF-1/Real Property) submitted on March 23, 2016 which falls within the \$14,000,000 to \$17,000,000 range as stated in their original petition for tax abatement. Four (4) new positions have been created with a total annual payroll of \$390,000. The new employee goal was five (5) to eight (8) jobs with a total annual payroll of \$200,000.

C. The project is an outstanding asset to the Mishawaka community.

D. All other required documentation has been received from the Company by the required due dates.

SECTION II. The foregoing facts, taken together, lead the Common Council to conclude that compelling reasons exist to waive the filing deadline applicable to the Form 322/RE required to be filed under I.C. 6-1.1-12.1.

SECTION III. The Common Council hereby approves the requested waiver of the filing deadline for the Form 322/RE, and pursuant to Indiana Code 6-1.1-12.1-9.5 adopts this Resolution authorizing acceptance of the Form 322/RE filed by the Company on February 21, 2017.

RESOLVED THIS _____ DAY OF MARCH, 2017.

President
Mishawaka City Common Council

ATTEST:

Deborah Ladyga-Block, City Clerk

PRESENTED by me to the Mayor of the City of Mishawaka, Indiana on this _____
Day of March 2017 at _____ o'clock, . M.

Deborah Ladyga-Block, City Clerk

APPROVED AND SIGNED by me on this _____, day of March, 2017 at _____ o'clock,
____.m.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

February 27, 2017

RECEIVED
DEBORAH S. BLOCK, MMC

FEB 28 2017

CITY CLERK
MISHAWAKA, IN

Mr. Woody Emmons, 1st District City Council
Mr. Mike Bellovich, 2nd District City Council
Mr. Ross Deal, 3rd District City Council
Mrs. Kate Voelker, 4th District City Council
Mr. Michael Compton, 5th District City Council
Mr. Ron Banicki, 6th District City Council
Mr. Joe Canarecci, At-Large City Council
Mr. Matt Mammolenti, At-Large City Council
Mr. Bryan Tanner, At-Large City Council
Mrs. Deborah Block, City Clerk

RE: Resolution 2017-04

**Waiver of Non-Compliance for Accepting the Deduction Application from Assessed
Valuation of Structures in an Economic Revitalization Area
Barak River Rock, LLC – Commonly known as River Rock Apartments at 116 & 128 W.
Mishawaka Avenue & 117, 123, 129 and 135 W. Grove Street**

Dear Council Members and Clerk:

Property owners who have applied for and been granted a tax abatement for either real or personal property on or after July 1, 1991, must file a report with the Mishawaka Common Council and the St. Joseph County Auditor's Office reporting the extent to which there has been compliance with the goals set forth in the Statement of Benefits (SB-1) filed at the time of the action granting the aforesaid abatement.

Due to a misunderstanding on the compliance requirements, the proper deadlines for filing the Application for Deduction from Assessed Valuation in Economic Revitalization Area (Form 322/RE) was not met in order for Barak River Rock, LLC to receive their approved deduction. Please see the attached letter from Barak River Rock, LLC dated February 20, 2017 explaining the circumstances of the late filing and a copy of Form 322/RE as filed with the St. Joseph County Auditor on February 21, 2017.

According to the CF-1/Real Property, as attached, Barak River Rock LLC estimated a total project cost of \$14.5 million falling within the \$14-17 million range as stated in their original petition for tax abatement. Additionally, the company estimated that five (5) to eight (8) new positions would be created with a total payroll of \$200,000. In actuality, a total of four (4) new positions were created with a total annual payroll of \$390,000 which is substantially higher than estimated.

PLANNING • COMMUNITY DEVELOPMENT • REDEVELOPMENT • ECONOMIC DEVELOPMENT • HISTORIC PRESERVATION

City Hall • 600 East Third Street • Mishawaka IN • 46544-2241

Community Development • Redevelopment • Economic Development Phone: (574) 258-1609 Fax: (574) 968-6999

Planning • Historic Preservation Phone: (574) 258-1625 Fax: (574) 968-6999

E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com

The attached resolution waives a late filing by Barak River Rock LLC pursuant to IC 6-1.1-12.1-9.5, allowing the company receive the reduction in assessed value (i.e. tax abatement) as previously approved by the Council.

Thank you. Please contact me if you have any questions.

Sincerely,



Derek J. Spier, AICP

Senior Planner & Economic Development Specialist

cc: David A. Wood, Mayor

PLANNING • COMMUNITY DEVELOPMENT • REDEVELOPMENT • ECONOMIC DEVELOPMENT • HISTORIC PRESERVATION

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E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com

Barak River Rock, LLC

117 W. Grove St., Suite 103
Mishawaka, IN 46545
Property Tax ID 016-2004-0133



February, 20, 2017

Kathy Gregorich
Office Manager/Settlement Specialist
St. Joseph County Auditor's Office
2nd Floor County City Building
227 W. Jefferson
South Bend, IN 46601

RE: Tax Abatement for Barak River Rock, LLC for 16 pay 17 taxes (#016-2004-0133)

Dear Kathy,

Thank you for assisting us in our option to pursue a Waiver of Non-Compliance under I.C. 6-1.1-12.1-9.5 for Barak River Rock, LLC.

Even though we are in full compliance with the City of Mishawaka for our abatement, we neglected to timely file form 322/RE in 2016 with the St. Joseph County Auditor's Office. We actually filed form 322/RE a year too early in 2015 and we are humbly asking the council for their continued support with our abatement.

We believe our situation qualifies for the Waiver because:

1. Form 322/RE Application For Deduction From Assessed Valuation of Structures In Economic Revitalization Areas (ERA) was filed, but unfortunately it was filed a year early.
2. Once the miss filing was found, every effort was made by the kind employees at the Mishawaka Planning Office and the St. Joseph County Auditor's Office to get us back in compliance ASAP. This letter for Waiver of Non-Compliance is a result of our efforts.
3. The 2016 form 322/RE and this letter are now filed with the St. Joseph County Auditor's Office and included with this letter.
4. We are otherwise in compliance with the tax abatement regulations.

Please help us continue with the intent of all parties involved to allow our tax abatement filing to be accepted for 2016 pay 2017.

Sincerely,


Scott Sivan, Managing Partner
Barak River Rock, LLC



APPLICATION FOR DEDUCTION FROM ASSESSED VALUATION OF STRUCTURES IN ECONOMIC REVITALIZATION AREAS (ERA)

State Form 18379 (R14 / 8-18)

Prescribed by the Department of Local Government Finance

20 16 PAY 20 17

FORM 322 / RE

FEB 2017

INSTRUCTIONS:

1. This form is to be filed in person or by mail with the County Auditor of the county in which the property is located.
2. To obtain this deduction, a Form 322 / RE must be filed with the County Auditor before May 10 in the year in which the addition to assessed valuation (or new assessment) is made, or not later than thirty (30) days after the assessment notice is mailed to the property owner if it was mailed after April 10. If the property owner misses the May 10 deadline in the initial year of assessment, he can apply between January 1 and May 10 of a subsequent year for the remainder of the abatement term. (See also IC 6-1.1-12.1-11.3 concerning the failure to file a timely application.)
3. A copy of the Form 11, the approved Form SB-1 / Real Property, the resolution adopted by the designating body, and the Form CF-1 / Real Property must be attached to this application.
4. The Form CF-1 / Real Property must be updated annually and provided to the County Auditor and the designating body for each assessment year in which the deduction is applicable.
5. Please see IC 6-1.1-12.1 for further instructions.
6. Taxpayer completes Sections I, II and III below.
7. If property located in an economic revitalization area is also located in an allocation area as defined in IC 36-7-14-39 or IC 36-7-15.1-26, an application for the property tax deduction may not be approved unless the Commission that designated the allocation area adopts a resolution approving the application (IC 6-1.1-12.1-2(k)).
8. Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities (IC 6-1.1-12.1-3):
 - a. Private or commercial golf course
 - b. Country club
 - c. Massage parlor
 - d. Tennis club
 - e. Skating facility, including roller skating, skateboarding or ice skating
 - f. Racquet sport facility (including handball or racquet ball court)
 - g. Hot tub facility
 - h. Suntan facility
 - i. Racetrack
 - j. Any facility, the primary purpose of which is (a) retail food and beverage service; (b) automobile sales or service; or (c) other retail; (unless the facility is located in an economic development-target area established under IC 6-1.1-12.1-7).
 - k. Residential, unless the facility is a multi-family facility that contains at least 20% of the units available for use by low and moderate income individuals, or unless the facility is located in an economic development target area established under IC 6-1.1-12.1-7, or the area is designated as a residentially distressed area which is required to meet conditions as cited in IC 6-1.1-12.1-2(c)(1 & 2).
 - l. Package liquor store [see IC 6-1.1-12.1-3(e)(12)]

SECTION I - DESCRIPTION OF PROPERTY

The owner hereby applies to the County Auditor for a deduction pursuant to IC 6-1.1-12.1-5 beginning with the assessment date January 1, 20 ____.

County <u>St. Joseph</u>	Township <u>Mishawaka - Penn</u>	DLGF taxing district number <u>016</u>	Key number <u>016-2004-0133</u>
Name of owner <u>Barak River Rock, LLC</u>		Legal description from Form 11	
Property address (number and street, city, state, and ZIP code) <u>116 W. Mishawaka Ave, Mishawaka, IN 46545</u>			Date of Form 11 (month, day, year) <u>2/10/2017</u>
Type of structure <u>Multi-Family Concrete Podium Wood Frame</u>			Use of structure <u>Apartments</u>
Governing body that approved ERA designation <u>Mishawaka</u>		Date ERA designation approved (month, day, year)	Resolution number <u>2013-20</u>

SECTION II - VERIFICATION OF OWNER OR REPRESENTATIVE

Signature of owner or representative (I hereby certify that the representations on this application are true.)		Date signed (month, day, year) <u>2/20/2017</u>
Printed name of owner or representative <u>Scott Sivan</u>	Address (number and street, city, state, and ZIP code)	

SECTION III - STRUCTURES As of 1/1/2016

AUDITOR'S USE

A. Rehabilitation structure	1. Assessed valuation AFTER rehabilitation	\$ <u>1,541,500</u>	
	2. Assessed valuation BEFORE rehabilitation	\$ <u>53,400</u>	
	3. Difference in assessed valuation (Line 1 minus Line 2)	\$ <u>1,488,100</u>	
	4. Assessed valuation eligible for deduction (for the increase in AV from the rehabilitation, not including the increase in AV from the reassessment of the entire structure)	\$ <u>1,488,100</u>	
B. New structure	1. Assessed valuation	\$ <u>1,488,100</u>	
	2. Assessed valuation eligible for deduction	\$ <u>1,488,100</u>	

SECTION IV - VERIFICATION OF ASSESSING OFFICIAL

I verify that the above described structure was assessed and the owner was notified on _____, with the effective date of the assessment being January 1, 20 ____, and that the assessed valuations in Section III are correct.

Signature of assessing official	Printed name of assessing official	Date (month, day, year)
---------------------------------	------------------------------------	-------------------------



COMPLIANCE WITH STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51786 (R3 / 2-13)

Prescribed by the Department of Local Government Finance

20 ____ PAY 20 ____

FORM CF-1 / Real Property

PRIVACY NOTICE

The cost and any specific individual's salary information is confidential; the balance of the filing is public record per IC 6-1.1-12.1-5.1 (c) and (d).

INSTRUCTIONS:

1. This form does not apply to property located in a residentially distressed area or any deduction for which the Statement of Benefits was approved before July 1, 1991.
2. Property owners must file this form with the county auditor and the designating body for their review regarding the compliance of the project with the Statement of Benefits (Form SB-1/Real Property).
3. This form must accompany the initial deduction application (Form 322/RE) that is filed with the county auditor.
4. This form must also be updated each year in which the deduction is applicable. It is filed with the county auditor and the designating body before May 15, or by the due date of the real property owner's personal property return that is filed in the township where the property is located. (IC 6-1.1-12.1-5.1(b))
5. With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance form (Form CF-1/Real Property).

SECTION 1		TAXPAYER INFORMATION		
Name of taxpayer	Barak River Rock, LLC		County	St. Joseph
Address of taxpayer (number and street, city, state, and ZIP code)	300 S. St. Louis Blvd 46617		DI.GF taxing district number	71-023
Name of contact person	Scott Sivan, Managing Partner		Telephone number	(574) 302 7236

SECTION 2		LOCATION AND DESCRIPTION OF PROPERTY	
Name of designating body	Resolution number	Estimated start date (month, day, year)	
Common Council of the City of Mishawaka		9/01/15	
Location of property	Lots 1-9 & 19-26 in the Plat of Lawrence and		Actual start date (month, day, year)
	Battell Subdivision Bk 27		1/04/16
Description of real property improvements	Development and Construction of 139,000 sq		Estimated completion date (month, day, year)
	Mixed-Use Residential/Retail Project 73 units		8/31/16
			Actual completion date (month, day, year)

SECTION 3				EMPLOYEES AND SALARIES	
		EMPLOYEES AND SALARIES		AS ESTIMATED ON SB-1	ACTUAL
Current number of employees	4				
Salaries	32,500 Per month				
Number of employees retained	N/A				
Salaries	N/A				
Number of additional employees	N/A				
Salaries	N/A				

SECTION 4			COST AND VALUES	
COST AND VALUES		REAL ESTATE IMPROVEMENTS		
AS ESTIMATED ON SB-1	COST		ASSESSED VALUE	
Values before project	155,000			
Plus: Values of proposed project	14,500,000		Def. Under Reg. 17	
Less: Values of any property being replaced	155,000			
Net values upon completion of project	14,345,000		Def. Under Reg. 17	
ACTUAL	COST		ASSESSED VALUE	
Values before project				
Plus: Values of proposed project				
Less: Values of any property being replaced				
Net values upon completion of project				

SECTION 5			WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER	
WASTE CONVERTED AND OTHER BENEFITS		AS ESTIMATED ON SB-1	ACTUAL	
Amount of solid waste converted				
Amount of hazardous waste converted				
Other benefits:				

SECTION 6			TAXPAYER CERTIFICATION	
I hereby certify that the representations in this statement are true.				
Signature of authorized representative	Title		Date signed (month, day, year)	
	Managing Partner		3.23.16	

**OPTIONAL: FOR USE BY A DESIGNATING BODY WHO ELECTS TO REVIEW THE COMPLIANCE WITH STATEMENT OF BENEFITS (FORM CF-1)
THAT WAS APPROVED AFTER JUNE 30, 1991**

INSTRUCTIONS: (IC 6-1.1-12.1-5.1 and IC 6-1.1-12.1-5.9)

1. Not later than forty-five (45) days after receipt of this form, the designating body may determine whether or not the property owner has substantially complied with the Statement of Benefits (Form SB-1/Real Property).
2. If the property owner is found **NOT** to be in substantial compliance, the designating body shall send the property owner written notice. The notice must include the reasons for the determination and the date, time and place of a hearing to be conducted by the designating body. The date of this hearing may not be more than thirty (30) days after the date this notice is mailed. A copy of the notice may be sent to the county auditor and the county assessor.
3. Based on the information presented at the hearing, the designating body shall determine whether or not the property owner has made reasonable efforts to substantially comply with the Statement of Benefits (Form SB-1/Real Property) and whether any failure to substantially comply was caused by factors beyond the control of the property owner.
4. If the designating body determines that the property owner has **NOT** made reasonable efforts to comply, then the designating body shall adopt a resolution terminating the property owner's deduction. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes. The designating body shall immediately mail a certified copy of the resolution to: (1) the property owner; (2) the county auditor; and (3) the county assessor.

We have reviewed the CF-1 and find that:

- ☒ the property owner **IS** in substantial compliance
- ☐ the property owner **IS NOT** in substantial compliance
- ☐ other (specify) _____

Reasons for the determination (attach additional sheets if necessary)

Signature of authorized member Ronald S. Banicki President Date signed (month, day, year) 04-18-2016

Attested by: Deborah S. Block, City Clerk Designating body Mishawaka Common Council

If the property owner is found not to be in substantial compliance, the property owner shall receive the opportunity for a hearing. The following date and time has been set aside for the purpose of considering compliance. (Hearing must be held within thirty (30) days of the date of mailing of this notice.)

Time of hearing ☐ AM ☐ PM Date of hearing (month, day, year) _____ Location of hearing _____

HEARING RESULTS (to be completed after the hearing)

☐ Approved ☐ Denied (see instruction 4 above)

Reasons for the determination (attach additional sheets if necessary)

Signature of authorized member _____ Date signed (month, day, year) _____

Attested by: _____ Designating body _____

APPEAL RIGHTS [IC 6-1.1-12.1-5.9(e)]

A property owner whose deduction is denied by the designating body may appeal the designating body's decision by filing a complaint in the office of the Circuit or Superior Court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner.

RECEIVED
DEBORAH S. BLOCK, MMC

FEB 09 2017

CITY CLERK
MISHAWAKA, IN

1st Reading 2-20-17

2nd Reading

Passed

Failed

Continued To

PROPOSED ORDINANCE NO. 2017-06

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2017

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

Section 1. An emergency exists which requires the appropriation of additional
funds for the fiscal year ending December 31, 2017 in addition to that set out in detail in the
published budget.

Section 2. There is hereby appropriated from the LOIT Special Distribution Fund
of the City of Mishawaka the sum of \$225,000.00 for assignment as follows:

LOIT Special Distribution

Capital Outlays

257-50-445-02

Highway Equipment

\$225,000.00

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

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

On this _____ day of _____, 2017 at _____ o'clock, _____. M.

Ross Deal, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

on this _____ day of _____, 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



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

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

Date: February 9, 2017
To: Honorable Members of the Common Council
From: Rebecca Miller
Re: Additional Appropriation LOIT Special Distribution Fund

I am requesting approval of an additional appropriation from the LOIT Special Distribution fund for first reading on February 20, 2017. A Street Sweeper was in Commissioner Ryan's capital requests for the 2017 budget, however, its omission went unnoticed until after the budget was approved.

This ordinance uses funding from the new LOIT fund that is earmarked for street improvements and street equipment. You may remember in 2016, we appropriated \$182,500.00 for consulting and \$767,500.00 to transfer to the Local Matching Bridge and Road fund to match the grant awarded by the State.

Thank you for your consideration. Please contact me with any questions.

c: David A. Wood, Mayor
Tim Ryan, Street Department Commissioner
Chris Jamrose, Director of Engineering

RECEIVED
DEBORAH S. BLOCK, MMC

FEB 09 2017

CITY CLERK
MISHAWAKA, IN



CITY OF MISHAWAKA

OFFICE OF THE CITY CLERK

DEBORAH S. BLOCK, IAMC, MMC, CITY CLERK

NOTICE TO TAXPAYERS OF PROPOSED ADDITIONAL APPROPRIATION

Notice is hereby given the taxpayers of Mishawaka, St. Joseph County, Indiana, that the Common Council will meet in City Hall, 600 East Third Street at 7:00 p.m. on the 6th day of March 2017 and will consider the following additional appropriations in excess of the budget for the current year.

PROPOSED ORDINANCE 2017-06

LOIT Special Distribution

Capital Outlays

257-50-445-02 Highway Equipment \$225,000.00

Taxpayers appearing at such meeting shall have a right to be heard thereon. The additional appropriations as finally made will be referred to the State Board of Tax Commissioners. The Board shall issue a written determination within 15 days of receipt of the proposal.

Deborah S. Block, IAMC, MMC, City Clerk
Publish 02-23-2017

FEB 16 2017

CITY CLERK
MISHAWAKA, IN

PETITION 17-05

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2017-07

ORDINANCE NO. _____

1st Reading 2-20-17
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:

A PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 37 NORTH, RANGE 3 EAST, IN PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 25 AND 26 IN PARK'S ADDITION AS RECORDED IN PLAT BOOK 7, PAGES 76-76A (INSTR. #1900023) IN THE OFFICE OF RECORDER OF ST. JOSEPH COUNTY, INDIANA.

LOT 24 IN SAID PARK'S ADDITION EXCLUDING THE WEST 5.84 FEET AND 52 FEET OF SAID LOT.

LOTS 18 AND G IN SAID PARK'S ADDITION EXCLUDING LOTS 1 AND 2 IN CASEY'S MINOR SUBDIVISION AS RECORDER UNDER INSTRUMENT NUMBER 9508489 IN THE OFFICE OF SAID RECORDER.

LOTS 1 AND 2 IN CASEY'S MINOR SUBDIVISION AS RECORDED UNDER INSTRUMENT NUMBER 9508489 IN THE OFFICE OF SAID RECORDER.

COMMON ADDRESSES: 851, 852, 853, 854, 856, 858, 860, and 862 East Third Street; 850 and 858 East Fourth Street; and 119 and 121 South Merrifield Avenue

which real estate is now classified as C-1 General Commercial 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.

Proposed Ordinance No: 17-07

Ordinance No: _____

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

1. Existing Conditions – The subject properties are located within a predominantly single-family residential area with limited adjacent multi-family and commercial uses.
2. Character of the Buildings in the Area – A majority of the existing buildings in the area are single-family residential structures with limited multi-family and commercial structures located along Lincoln Way East to the north and S. Merrifield Avenue to the east.
3. The most desirable/highest and best use - Because the parcels are located in an area consisting of primarily single-family residences, the rezoning to R-1 Single-Family Residential for the proposed and future single-family residential development is the most desirable and best use.
4. Conservation of property values - As opposed to the type of commercial development that could potentially occur with the current zoning classification, rezoning the parcels to the R-1 Single-Family Residential District to permit single-family residential use will have a favorable and stabilizing impact on the neighborhood and will conserve property values in the immediate and surrounding residential neighborhood.
5. Comprehensive Plan - The proposed R-1 Single Family Residential zoning is consistent with the City's Comprehensive Plan which indicated Low Density Residential for this area. The proposed R-1 Single Family Residential zoning classification is consistent with the existing residential uses in the area.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2017, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: _____

Ordinance No: _____

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

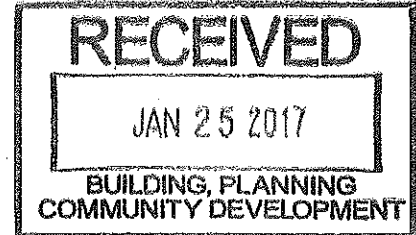
RECEIVED
DEBORAH S. BLOCK, MMC

FEB 01 2017

CITY CLERK
MISHAWAKA, IN

January 19, 2017

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



Pet 17-05

RE: PETITION TO REZONE

The undersigned, City of Mishawaka and Habitat for Humanity of St. Joseph County, 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:

A PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 37 NORTH, RANGE 3 EAST, IN PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 25 AND 26 IN PARK'S ADDITION AS RECORDED IN PLAT BOOK 7, PAGES 76-76A (INSTR. #1900023) IN THE OFFICE OF RECORDER OF ST. JOSEPH COUNTY, INDIANA.

LOT 24 IN SAID PARK'S ADDITION EXCLUDING THE WEST 5.84 FEET AND SOUTH 52 FEET OF SAID LOT.

LOTS 18 AND G IN SAID PARK'S ADDITION EXCLUDING LOTS 1 AND 2 IN CASEY'S MINOR SUBDIVISION AS RECORDED UNDER INSTRUMENT NUMBER 9508489 IN THE OFFICE OF SAID RECORDER.

LOTS 1 AND 2 IN CASEY'S MINOR SUBDIVISION AS RECORDED UNDER INSTRUMENT NUMBER 9508489 IN THE OFFICE OF SAID RECORDER.

THE COMMON ADDRESSES OF THE ABOVE PARCELS: 850 AND 858 EAST 4TH STREET; 851, 852, 853, 854, 856, 858, 860, AND 862 EAST 3RD STREET; AND 119 AND 121 SOUTH MERRIFIELD AVENUE, CITY OF MISHAWAKA, 46544.

Petitioner(s) own one hundred (100%) percent of the above described parcels of land which carry a zoning classification of C-1 General Commercial District. Said properties are currently vacant undeveloped land.

Petitioner(s) desire said real estate to be rezoned to R-1 Single-Family Residential District. Petitioner(s) further state that they intend to utilize said land for single-family residential development.

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 rezoning the above described parcel of land located in the City of Mishawaka.



Kenneth B. Prince, ASLA. AICP
City Planner

Jim Williams
Executive Director
Habitat for Humanity of St. Joseph
County

CONTACT PERSON:

DEREK J. SPIER, AICP
PLANNING DEPARTMENT
600 E. 3RD STREET
MISHAWAKA, IN 46544
PH. 574-258-1625
FAX 574-968-6999
DSPIER@MISHAWAKA.IN.GOV

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Petitioner(s) desire said real estate to be rezoned to R-1 Single-Family Residential District. Petitioner(s) further state that they intend to utilize said land for single-family residential development.

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 rezoning the above described parcel of land located in the City of Mishawaka.

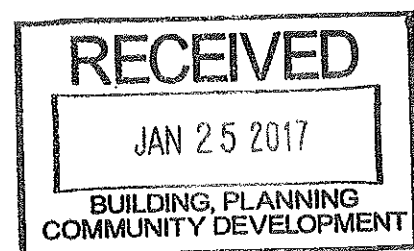
Kenneth B. Prince, ASLA. AICP
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DSPIER@MISHAWAKA.IN.GOV



LINCOLNWAY EAST

PET 17-05 (HATCHED)

S MERRIFIELD AVE



E THIRD ST

E THIRD ST

S MERRIFIELD AVE

S MERRIFIELD AVE

Location Map

PETITION 17-05

CITY OF MISHAWAKA &
HABITAT FOR HUMANITY
OF ST. JOSEPH COUNTY
VARIOUS ADDRESSES

REZONING FROM C-1 GENERAL
COMM. TO R-1 SF RES. TO ALLOW
FOR INFILL RESIDENTIAL HOMES

FEB 16 2017

CITY CLERK
MISHAWAKA, IN

PETITION 17-06

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. **2017-08**

ORDINANCE NO. _____

1st Reading 2-20-17
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:

All that part of the West Half of the West Half of the Northwest Quarter of Section 21, Township 37 North, Range 3 East, that lies North of the Highway known as Dagoon Trail.

EXCEPTING THEREFROM Twenty (20) acres off of the North end described as follows: Beginning at the Northwest corner of said Section 21, Township and Range aforesaid; thence running South 1308.69 feet; thence East 665.70 feet; thence North 1308.69 feet to the North line of said Section 21; thence West 665.80 feet to the place of beginning.

COMMON ADDRESS: 1128 West Dagoon Trail

which real estate is now classified as R-1 Single Family Residential District shall hereafter be within and a part of that District known as 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, located at the northeast corner of W. Dagoon Trail and S. Logan Street, is primarily undeveloped agricultural land with a single-family house and an accessory structure/barn. The adjacent roadways are lesser travelled corridors providing north-south and east-west access throughout the City of Mishawaka. Adjacent land uses

Proposed Ordinance No: 2017-08

Ordinance No: _____

include Marian High School to the west, City-owned vacant property and a capital improvements staging area to the north, Marian High School athletic fields to the east, and Sisters of St. Francis convent and Franciscan Alliance corporate offices to the south.

2. Character of Buildings – The adjacent properties include a limited number of existing buildings that are visible from the public right-of-way. Marian High School is visible to the west while small recreational structures and associated facilities are visible to the east. The buildings on the Sisters of St. Francis property to the south cannot be viewed from the street due to the severe change in elevation and it being heavily wooded.
3. The most desirable/highest and best use – Due to the property's location adjacent to various low intensity land uses, including a private school, recreational fields, convent, and corporate offices, the most desirable use of the property is a similar low intensity commercial or residential use.
4. Conservation of property values – The rezoning should not be injurious to property values in the area. The proposed assisted living facility and other permitted uses in the R-3 Multiple Family Residential District are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided industrial development within this property as an extension of the industrial zoned land to the north. However, industrial use is not ideal due to the existing adjacent uses. Since the proposed assisted living facility is less intensive than an industrial use and residential in nature, it is more compatible with the adjacent land uses and does not conflict with the goals and objectives 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 _____, 2017, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: 17-08

Ordinance No: _____

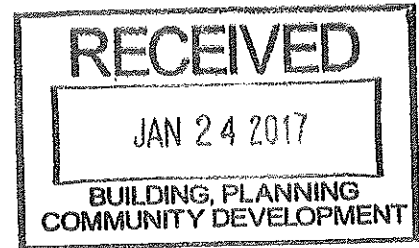
PRESENTED by me to the Mayor this _____ day of _____,
2017, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

January 24, 2017



Ret 17-06

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

RECEIVED
DEBORAH S. BLOCK, MMC

FEB 01 2017

CITY CLERK
MISHAWAKA, IN

RE: PETITION TO REZONE

Ladies and Gentlemen:

Margaret B. Conner is the owner of record (the "Owner"), as shown in the Office of the St. Joseph County Auditor, of the following described real estate in the City of Mishawaka, County of St. Joseph, State of Indiana (the "Property"), to wit:

SEE EXHIBIT "A" ATTACHED HERETO FOR LEGAL DESCRIPTION

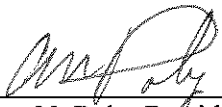
The Owner owns one hundred percent (100%) of the Property, which carries a zoning classification of R1 District. Said property is currently used for single family residential purposes. The Owner has consented to authorize AHEPA Affordable Housing Management Company, Inc. (the "Petitioner") to file a rezone petition for the Property. The Owner's consent is attached hereto as Exhibit "B".

Petitioner desires the Property be rezoned to R3 District. Petitioner further states that it intends to utilize the Property for the development of an affordable assisted living facility.

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.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

Petitioner: **AHEPA Affordable Housing Management Company, Inc.**

By: 
Arthur N. Poly, President and CEO

CONTACT PERSON

Name: Courtney S. Figg, Esq.
Address: Quarles & Brady LLP
135 N. Pennsylvania Street, Suite 2400
Indianapolis, IN 46204
Phone: (317) 399-2859
Fax: (317) 957-5059
Email: Courtney.Figg@quarles.com

QB43517690.1

January 24, 2017

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

RE: CONSENT TO PETITION TO REZONE

Ladies and Gentlemen:

I am the owner of record, as shown in the Office of the St. Joseph County Auditor, of the following described real estate in the City of Mishawaka, County of St. Joseph, State of Indiana (the "Property"), to wit:

SEE EXHIBIT "A" ATTACHED HERETO FOR LEGAL DESCRIPTION

Please be advised that I hereby authorize AHEPA Affordable Housing Management Company, Inc., the Petitioner, to execute any and all documents necessary for the purpose of rezoning the Property, per the attached petition. The Property presently carries a zoning classification of R1 District. The Petitioner desires the Property to be rezoned to R3 District.

Owner: **Margaret Conner**

Signature: Margaret B. Conner

By POA Rechel K. Conner

STATE OF INDIANA)

) SS:

COUNTY OF ST. JOSEPH)

Subscribed and sworn to me this 24th day of January, 2017.

My Commission Expires:

County of Residence:

Dianne M. Kazmierczak
Notary Public

Printed Name

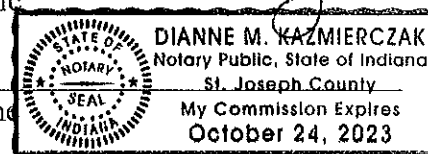


EXHIBIT A

to

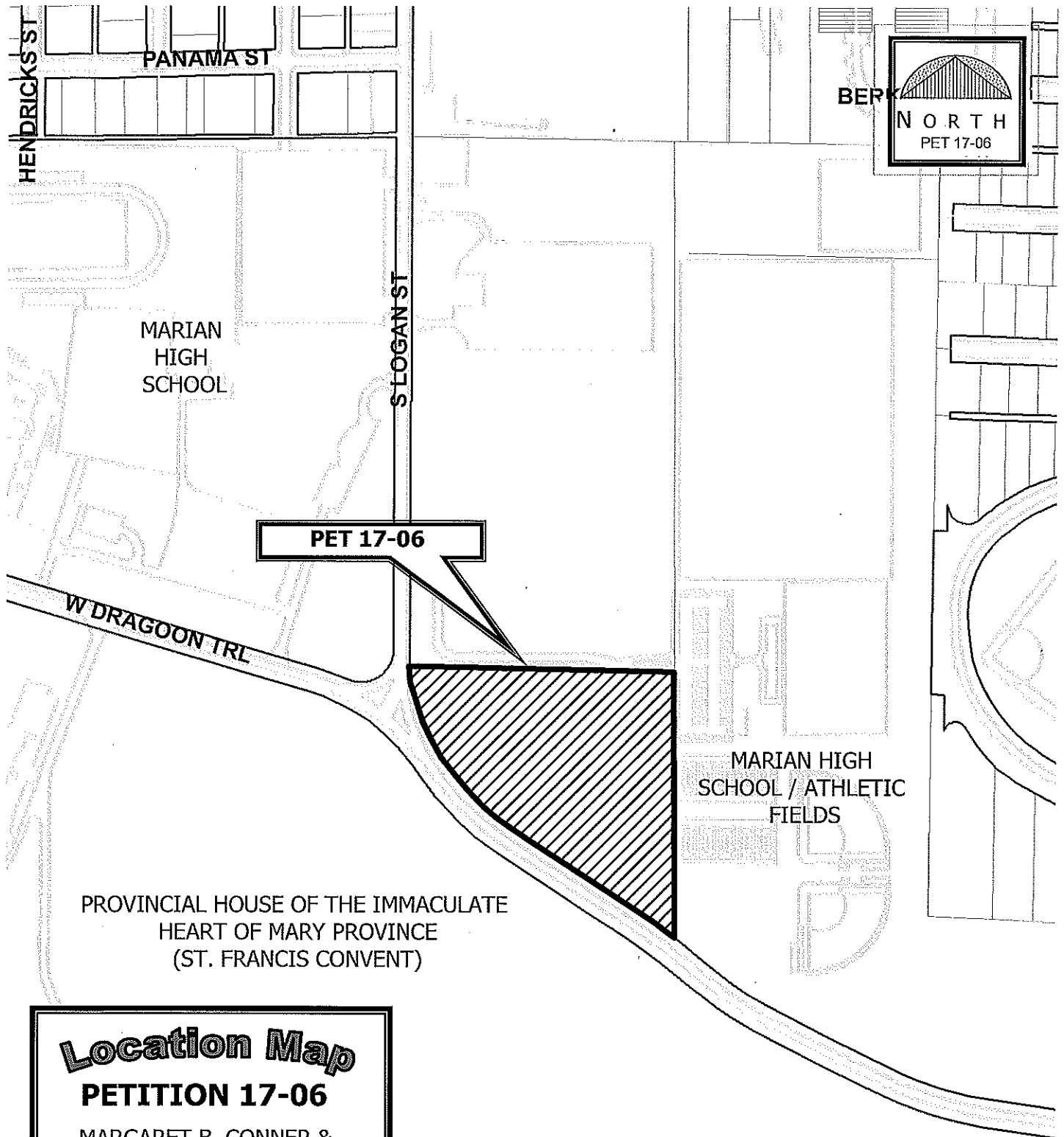
AHEPA Affordable Housing Management Company, Inc. Petition to Rezone

LEGAL DESCRIPTION OF PREMISES IN ST. JOSEPH COUNTY, INDIANA:

All that part of the West Half of the West Half of the Northwest Quarter of Section 21, Township 37 North, Range 3 East, that lies North of the Highway known as Dragoon Trail.

EXCEPTING THEREFROM Twenty (20) acres off of the North end described as follows:
Beginning at the Northwest corner of said Section 21, Township and Range aforesaid; thence running South 1308.69 feet; thence East 665.70 feet; thence North 1308.69 feet to the North line of said Section 21; thence West 665.80 feet to the place of beginning.

Premises Address: 1128 West Dragoon Trail
Mishawaka, IN 46544



Location Map

PETITION 17-06

MARGARET B. CONNER &
AHEPA AFFORDABLE HOUSING
MANAGEMENT COMPANY, INC.
1128 W. DRAGON TRAIL

REZONING FROM R-1 SINGLE FAMILY
RES. TO R-3 MULTI FAMILY RES.
FOR AN ASSISTED LIVING FACILITY

FEB 16 2017

1st Reading 2-20-17
2nd Reading
Passed
Failed
Continued To

PETITION 17-07
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2017-09
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:

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

Proposed Ordinance No: 17-09

Ordinance No: _____

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

COMMON ADDRESS: Northwest Corner of US 20 Bypass and Bremen Highway

which real estate is now classified as S-2 Planned Unit Development District and shall hereafter be amended to allow for the immediate construction of a self-lock storage facility on the southernmost portion of the PUD, subject to the following conditions which shall both modify and be in addition to the conditions of the original planned unit development:

1. The self-storage component of the PUD shall be permitted to proceed as the first phase of the planned unit development without the approval and written consent of all property owners within the Planned Unit Development subject to the completion of following prior to starting construction:
 - A. The Developer of the self-storage component shall provide design development level drawings of the proposed extension of Meijer Drive and re-alignment of Elmwood Avenue as depicted in the Developer's petition, subject to the review and approval of the City of Mishawaka Director of Engineering. The drawings need to identify the right-of-way necessary for the completion of the project including grading, utilities, storm drainage, and other associated improvements.
 - B. The Developer shall obtain and dedicate all necessary additional right-of-way and easements to allow for the extension of Meijer Drive and re-alignment of Elmwood Avenue as depicted in the developers petition.
 - C. The Developer shall prepare and submit a development agreement proposal for the review and approval of both the City of Mishawaka Redevelopment Commission and the City of Mishawaka Board of Public Works and Safety. The agreement shall include the estimated timing and phasing of the road re-alignment as well as the acquisition, use, and improvement associated with using the current INDOT created access road currently located in unincorporated St. Joseph County. This agreement shall be approved at the sole discretion of the City of Mishawaka Redevelopment Commission and Board of Public Works and Safety. This condition is in no way intended to commit or bind either the Commission or the Board relative to any matter contained herein.
 - D. If temporary access is provided to the self-storage component, as part of the development agreement or other legal instrument, the developer shall waive any legal or implied right to the land associated with the temporary access drive once the permanent access as proposed is extended to the north property line of the developer's site.
2. The Architectural standards for the PUD shall only apply to the office component of the self lock storage. The storage units may be constructed out

Proposed Ordinance No: 17-09

Ordinance No: _____

of all metal siding and roofing, but shall meet all other applicable architectural standards.

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

1. Existing Conditions - The subject parcel is located on Bremen Highway at the intersection of the US 20 By-Pass. The high volumes of traffic, high-tension electric wires and the lack of immediate access make this parcel suitable for a self-lock storage use.
2. Character of Buildings in Area - The character of buildings surrounding the parcel are currently residential in nature. The area adjacent to Bremen Highway is zoned for higher intensity commercial uses. The proposed self-lock storage units will provide for a transitional use between the residential and more intensive commercial uses planned for along Bremen Highway.
3. The most desirable/highest and best use - With the property's location along the US 20 Bypass and high-tension power lines, the most desirable use for the property is a low intensity commercial or industrial storage use.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area because the proposed development site will be disconnected from the adjacent residential uses long-term both by access and by screening with landscaping and fencing.
5. Comprehensive Plan- This property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan, the proposed self-lock storage use is reasonably consistent with that guided use.

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

Proposed Ordinance No: 17-09

Ordinance No: _____

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

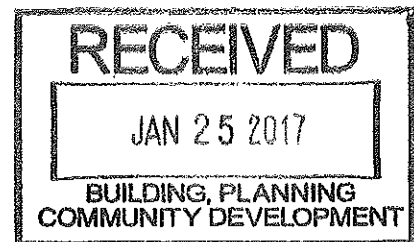
Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

FEB 01 2017



Pet 17-07

DATE: January 24, 2017 **CITY CLERK**
 MISHAWAKA, IN

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

RE: PETITION FOR PUD AMENDMENT
 Gateway Plaza PUD
 NW Corner of Bremen Highway and US 20 Bypass

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

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

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

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

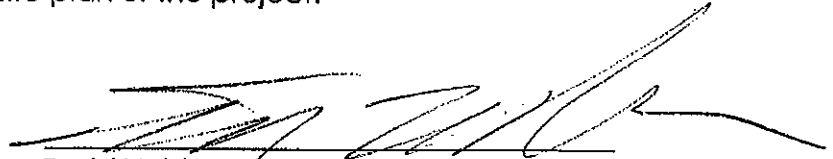
Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 PUD and allows for a Light Industrial use.

Petitioner desires said real estate to be amended as follows:

1. Final site plans of the storage facility may be submitted to the City and construction may occur separately from any other development on properties contained within the Gateway Plaza PUD.
2. Temporary access to the storage facility shall be from Elmwood Avenue only until a future internal Gateway Plaza drive is constructed by Others to the storage facility's property line or to the existing private drive.
3. Developer agrees to construct temporary improvements to the existing private drive (i.e., widen same from 18' to 20' and resurface the pavement), and to create a left-in/right-out approach at Elmwood Avenue to help promote traffic towards Bremen Highway.
4. Once a future internal Gateway Plaza drive is provided by Others (pursuant to Item #2 above), the Developer agrees to connect to the new internal development drive and agrees to block off public traffic from using the private drive approach at Elmwood Avenue.
5. Architectural building standards/materials for the storage facility shall only apply to the easternmost building façade facing Bremen Highway. All other storage buildings shall not be required to comply with the minimum block or glass requirements identified in the City's Design Review Ordinance, and may consist of metal siding.
6. The Developer shall enter into an Agreement with the City, establishing that:
 - a. City shall pursue the State of Indiana to obtain the parcel containing the existing private drive that currently provides access to the subject property. To initiate this process, City agrees to compose a letter to the State requesting to take over their parcel and the Developer agrees to help with the process;
 - b. City shall annex the parcel obtained from the State of Indiana and the adjacent Elmwood Avenue right-of-way;
 - c. City agrees to deed over the parcel obtained from the State of Indiana after the annexation process is completed; and
 - d. Developer agrees to contribute to the City of Mishawaka for realigning Elmwood Road in the future to intersect Meijer Drive, including Developer to provide right-of-way for same

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

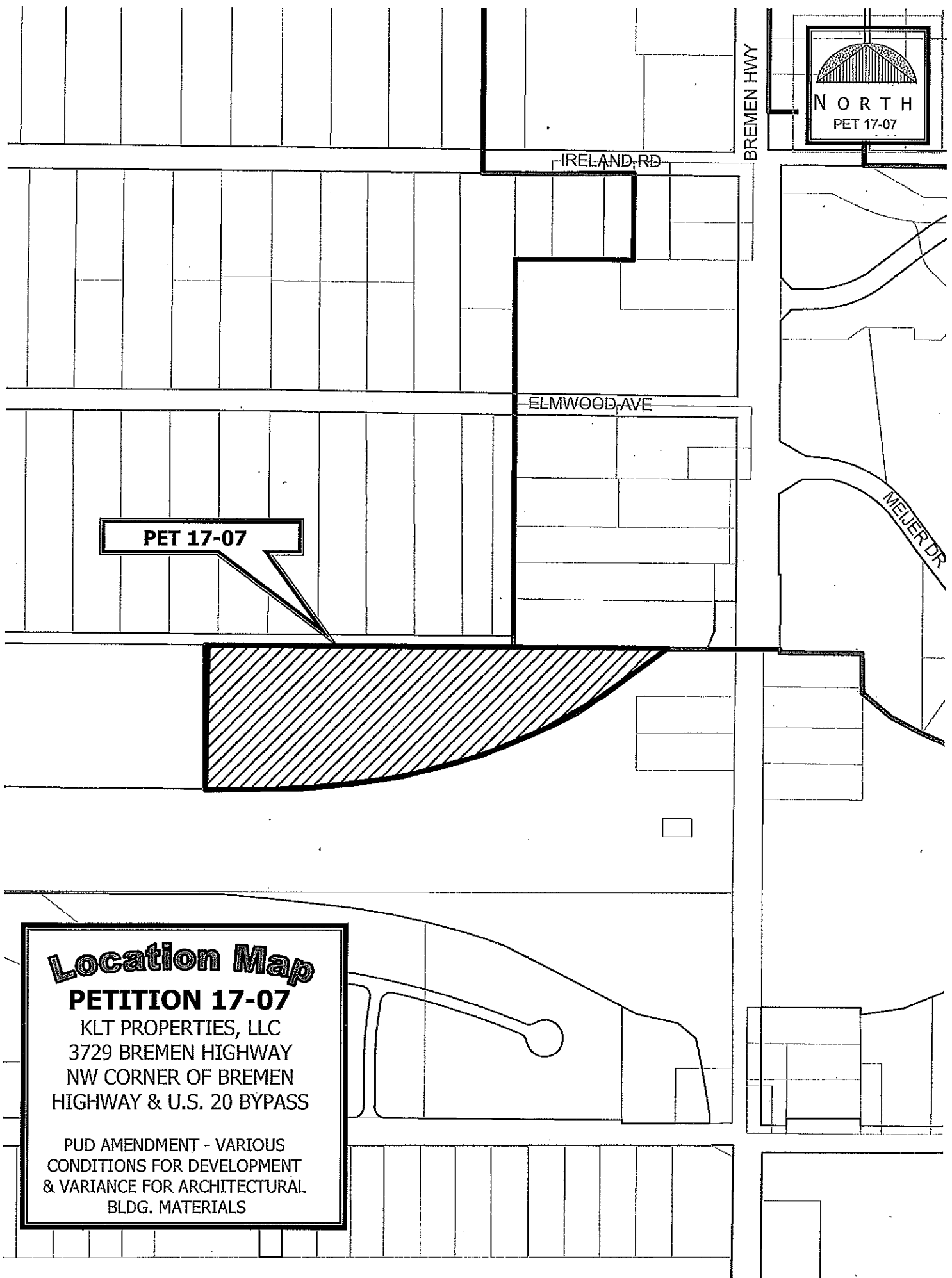
Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate and preliminary site plan of the project.

A handwritten signature in black ink, appearing to read 'Todd Veldman', is written over a horizontal line.

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

CONTACT PERSON:

Brian McMorrow, PE
Abonmarche Consultants, Inc.
750 Lincoln Way East
South Bend, Indiana 46601
(574) 232-8700
bmcmmorrow@abonmarche.com



Location Map

PETITION 17-07

KLT PROPERTIES, LLC
3729 BREMEN HIGHWAY
NW CORNER OF BREMEN
HIGHWAY & U.S. 20 BYPASS

PUD AMENDMENT - VARIOUS
CONDITIONS FOR DEVELOPMENT
& VARIANCE FOR ARCHITECTURAL
BLDG. MATERIALS

FEB 16 2017

CITY CLERK
MISHAWAKA, IN

1st Reading 2-20-17
2nd Reading
Passed
Failed
Continued To

PETITION 17-08

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2017-10

ORDINANCE NO. _____

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

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

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

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

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

Lots Numbered Nine (9) and Ten (10) in Beiger Farms Addition to the City of Mishawaka as per plat thereof recorded June 21, 1904 in the Office of the Recorder of St. Joseph County, Indiana.

COMMON ADDRESS: Two (2) vacant lots adjacent and east of 1612 Lincolnway East

which real estate is now classified as C-1 General Commercial 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 commercial zonings to the east of this property, but the neighborhood surrounding the property is primarily residential in nature, and its proposed use as two single family dwellings 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 commercial project, staff feels that the most desirable use for this property is single-family use;

Proposed Ordinance No: 14-10

Ordinance No: _____

3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of potential commercial 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,
5. The City's Comprehensive Plan calls for low density residential which is compatible and consistent with the historic residential uses in the area.

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

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



Habitat for Humanity®

of St. Joseph County



DATE: January 25, 2017

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

RE: **PETITION FOR ZONING CLASSIFICATION**
Part of 1612 Lincoln Way East (Vacant Lots 9&10 Beiger Farms Addition)

The undersigned, Habitat for Humanity of St. Joseph County, 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:

Lots Numbered Nine (9) and Ten (10) in Beiger Farms Addition to the City of Mishawaka as per plat thereof recorded June 21, 1904 in the Office of the Recorder of Saint Joseph County, Indiana.

Parcel Number #016-1065-269301
Two (2) vacant lots adjacent and East of 1612 Lincoln Way East,
Mishawaka, IN
(Addresses to be determined)

Petitioner owns One Hundred (100%) percent of the above described parcel of land, which carries a "C-1" Commercial District zoning classification. Said property is currently vacant land.

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

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

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka with a "R-1" Residential District zoning classification.

RECEIVED
DEBORAH S. BLOCK, MMC

FEB 07 2017

CITY CLERK
MISHAWAKA, IN



Habitat for Humanity®

of St. Joseph County

Jim Williams, Executive Director
Habitat for Humanity of St. Joseph County
402 E. South Street
South Bend, IN 46601
Phone: 574-288-6967

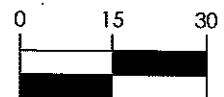
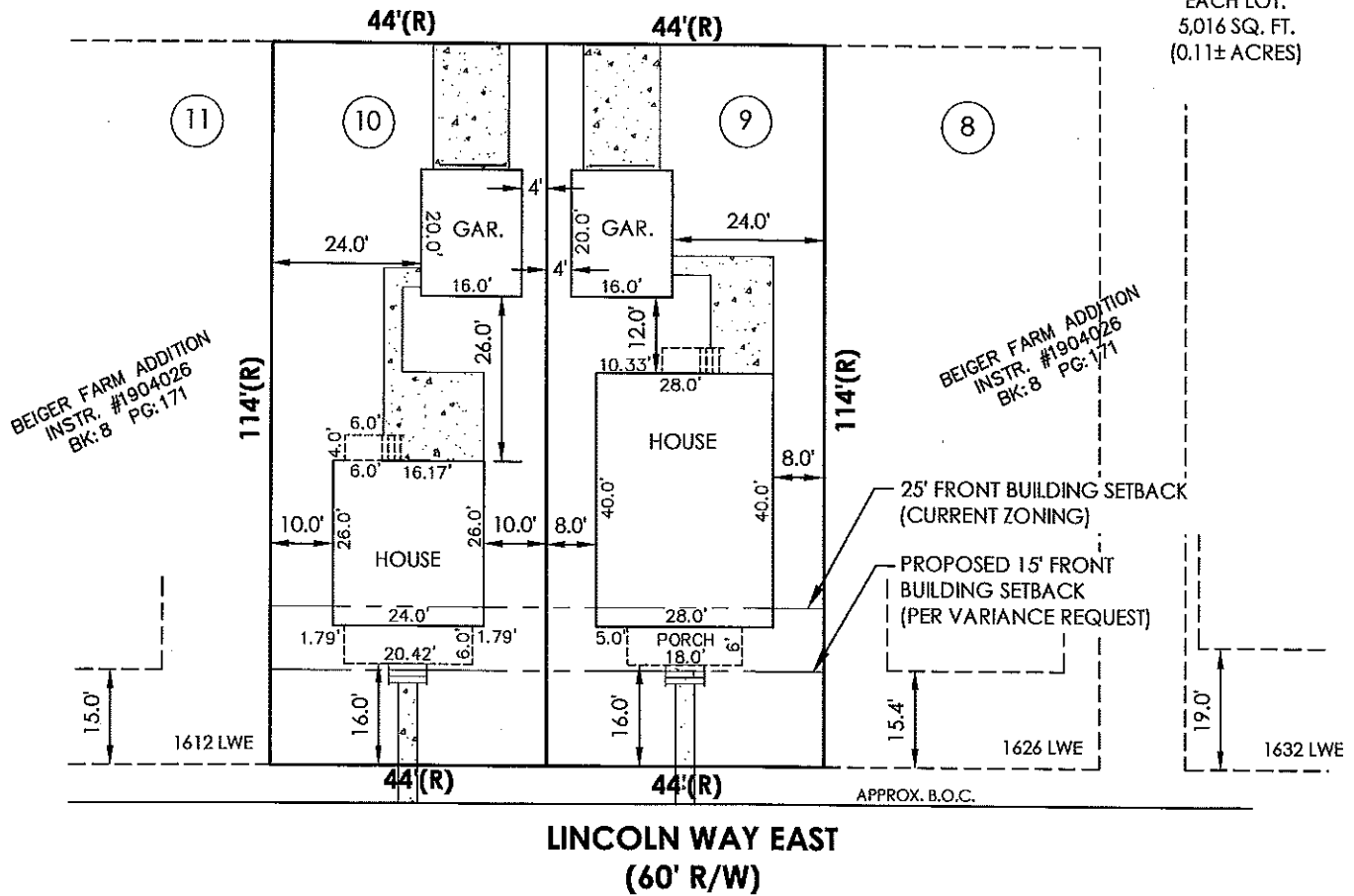
CONTACT PERSON:

Michael J. Rozycki, LS
Abonmarche Consultants, Inc.
750 Lincoln Way East
South Bend, Indiana 46601
(574) 232-8700
mrozycki@abonmarche.com

EXHIBIT A
LOTS 9 & 10, BEIGER FARM ADDITION
PART OF SECTION 14, TOWNSHIP 37 NORTH, RANGE 3 EAST,
CITY OF MISHAWAKA,
PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA
ADDRESS: PART OF 1612 LWE, MISHAWAKA, IN 46544
 (ADDRESSES TO BE DETERMINED)



EACH LOT:
5,016 SQ. FT.
(0.11± ACRES)



SCALE: 1"=30'
BAR SCALE IN FEET

LEGEND

B.O.C. BACK OF CURB

NOTES:

- FRONT & SIDE YARD SETBACK DIMENSIONS SHOWN ARE MEASURED TO HOUSE FOUNDATION.
- THIS DRAWING DEPICTS THE APPROXIMATE LAYOUT OF THE LOT. FOR ACTUAL DIMENSIONS, SEE THE RECORDED FINAL PLAT.

ABONMARCHÉ

750 Lincoln Way East
South Bend, IN. 46601
T 574.232.8700
F 574.251.4440
abonmarche.com

Battle Creek
Benton Harbor
Manistee
South Haven
Goshen
Hobart
Lafayette
South Bend
Valparaiso

Engineering • Architecture • Land Surveying

PREPARED FOR:
HABITAT FOR HUMANITY
PROPERTY ADDRESS:
PART OF 1612 LWE
MISHAWAKA, INDIANA

COPYRIGHT 2017 ABONMARCHÉ CONSULTANTS, INC.

SCALE: 1"=30'

JOB #: 17-0003-05

SHEET 1 OF 1



HOMEWOOD AVE

PET 17-08

N VIRGIL ST

LINCOLNWAY EAST

BEIGER
ELEMENTARY
SCHOOL

Location Map

PETITION 17-08

HABITAT FOR HUMANITY
OF ST. JOSEPH COUNTY
2 VACANT LOTS E. OF 1612
LINCOLN WAY EAST

REZONING FROM C-1 GENERAL COMM.
TO R-1 SF RESIDENTIAL FOR TWO
NEW INFILL SINGLE-FAMILY HOUSES

E THIRD ST

MELVILLE ST

S VIR

FEB 03 2017

1st Reading 2-6-17
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2017-04

CITY CLERK
MISHAWAKA, IN

ORDINANCE NO. _____

AN ORDINANCE AMENDING PART I, CHAPTER 62, OF
THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA,
INDIANA, AS FROM TIME TO TIME AMENDED.

WHEREAS, the City of Mishawaka, Indiana, has heretofore constructed and has in operation a sewage works for the purpose of collecting sewage and waste and conveying the same away from the premises where produced and disposing of the same in a sanitary manner; and

WHEREAS, the Common Council believes that it is necessary to amend the schedule of rates and charges in three phases so as to produce sufficient revenue to pay expenses of maintenance and operation, to provide funds for necessary replacements and improvements to the sewage works, to provide adequate money for working capital, and to pay the principal and interest on the outstanding and proposed revenue bonds in accordance with the applicable bond ordinances; and

WHEREAS, Indiana Code 36-9-23-1 et seq., requires that the rates and charges to be collected for the use of and the service rendered by such sewage works be fixed by Ordinance, finally adopted after due notice and public hearing; and

WHEREAS, the Common Council held a public hearing after due notice at which users of the sewage works, owners of property served or to be served by the works, and other interested persons were heard concerning the proposed fees set forth below;

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

Section 1. Section 62-147 WASTEWATER DISCHARGE LIMITATIONS, Section 62-183 RATES BASED ON WATER USAGE, STRENGTH OF DISCHARGE, Section 62-184 SCHEDULE OF RATES: MISHAWAKA WASTEWATER UTILITY and Section 62-362 TIF CREDIT shall be amended as follows:

62-147 WASTEWATER DISCHARGE LIMITATIONS

Any waters or wastes containing metallic ions, or other toxic ions as determined and established from time to time by the board of public works and safety. Chemical constituents shall not exceed the following concentrations for grab or composite samples:

Mercury	0.0003 mg/l
---------	-------------

62-183 RATES BASED ON WATER USAGE, STRENGTH OF DISCHARGE.

The surcharges to be charged for the treatment of extra strength sewage shall be determined by the following table. The surcharge shall become effective should the concentration of Carbonaceous BOD5 (Biochemical Oxygen Demand), TSS (Total Suspend Solids), P (Phosphorus) or N-NH₃ (Ammonia Nitrogen) exceed the concentrations listed in 62-147 (8). The surcharge shall be charged for each pound of the particular pollutant in excess of these concentrations –

Phase One effective upon passage of the amending rate ordinance; Phase Two effective January 1, 2018; Phase Three effective January 1, 2019; Phase Four effective January 1, 2020; Phase Five effective January 1, 2021 in the amounts as follows:

<u>Pollutant</u>	<u>Phase One</u>	<u>Phase Two</u>	<u>Phase Three</u>	<u>Phase Four</u>	<u>Phase Five</u>
cBOD5	\$0.430	\$0.443	\$0.492	\$0.536	\$0.539
TSS	0.370	0.381	0.423	0.461	0.463
P	10.352	10.662	11.834	12.899	12.963
N-NH ₃	1.253	1.290	1.432	1.561	1.569

62-184 SCHEDULE OF RATES

- (A) Every person whose premises are served by the Wastewater Utility shall be charged for the service provided. Notwithstanding the provisions of 62-181, the sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use plus a customer charge, and plus a base charge based on the size of water meter installed as adjusted by the Meter Equivalency Factor, except as herein otherwise provided. For the purpose of billing and collecting the charges for sewage service, the water meters shall be read monthly and the users shall be billed each month (or period equaling a month). If for any reason the monthly meter reading is not available, a bill will be prepared, based on the estimated usage, and a correction will be made when meter readings are available. The water usage schedule on which the amount of said rates and charges shall be determined is as follows:

- (1) Flow charges – Phase One effective upon passage of the amending rate ordinance; Phase Two effective January 1, 2018; Phase Three effective January 1, 2019; Phase Four effective January 1, 2020; Phase Five effective January 1, 2021 in the amounts as follows:

<u>Flow rate per month</u>	<u>Phase One</u>	<u>Phase Two</u>	<u>Phase Three</u>	<u>Phase Four</u>	<u>Phase Five</u>
Rate per 100 cubic feet	\$1.72	\$1.77	\$1.96	\$2.14	\$2.15

- (2) Customer charges – Phase One effective upon passage of the amending rate ordinance; Phase Two effective January 1, 2018; Phase Three effective January 1, 2019; Phase Four effective January 1, 2020; Phase Five effective January 1, 2021 in the amounts as follows:

<u>Customer Charge</u>	<u>Phase One</u>	<u>Phase Two</u>	<u>Phase Three</u>	<u>Phase Four</u>	<u>Phase Five</u>
Per month	\$1.93	\$1.99	\$2.21	\$2.41	\$2.42

- (3) Base charges – Phase One effective upon passage of the amending rate ordinance; Phase Two effective January 1, 2018; Phase Three effective January 1, 2019; Phase Four effective January 1, 2020; Phase Five effective January 1, 2021 in the amounts as follows:

Meter Size	Equivalency Factors	Phase One	Phase Two	Phase Three	Phase Four	Phase Five
Residential	1.0	\$44.59	\$45.93	\$50.98	\$55.57	\$55.85
5/8"	1.0	44.59	45.93	50.98	55.57	55.85
1"	2.5	111.48	114.82	127.45	138.92	139.61
1 1/4"	4.0	178.36	183.71	203.92	222.27	223.38
1 1/2"	5.8	258.62	266.38	295.68	322.29	323.90
2"	10.0	445.90	459.28	509.80	555.68	558.46
3"	23.0	1,025.56	1,056.33	1,172.53	1,278.06	1,284.45
4"	41.0	1,828.21	1,883.06	2,090.20	2,278.32	2,289.71
6"	92.0	4,102.32	4,225.39	4,690.18	5,112.30	5,137.86
8"	164.0	7,312.83	7,532.21	8,360.75	9,113.22	9,158.79
10"	256.0	11,415.14	11,757.59	13,050.92	14,225.50	14,296.63

- (4) Single family residential properties served by a water meter smaller than 1 1/4" shall be billed based on a Meter Equivalency Factor of 1.
- (5) The Base Charge shall be based on a meter size of not more than one size smaller than the service line in which the meter is installed.
- (6) The monthly sewer bill for any service where the user is not a metered water customer shall be estimated and determined by means and methods satisfactory to the Authority.

62-362 TIF CREDIT

- (A) Wastewater Utility customers whose premises are served by the utility and are located within the City limits shall receive a credit applied towards their monthly sewer bill in recognition of the portion of the principal and interest on Wastewater Utility bonds paid by the City from TIF revenues.

- (B) The monthly credit shall be as follows:
- (1) Flow Rate Credit - \$.232 per 100 cubic feet
 - (2) Base Rate Credit

<u>Meter Size</u>	<u>Equivalency Factors</u>	<u>Monthly Credit</u>
Residential	1.0	\$10.00
5/8"	1.0	10.00
1"	2.5	25.00
1 1/4"	4.0	40.00
1 1/2"	5.8	58.00
2"	10.0	100.00
3"	23.0	230.00
4"	41.0	410.00
6"	92.0	920.00
8"	164.0	1,640.00
10"	256.0	2,560.00

- (C) Single family residential properties serviced by a water meter smaller than 1 1/4" shall receive a Base Charge TIF Credit based on a Meter Equivalency Factor of 1.
- (D) The TIF Credit shall be in effect upon passage of the amending rate ordinance.

Section 2. This ordinance shall be in full force and effect from and after its passage, signing by the Mayor, and legal publication as provided by law.

PASSED and adopted by the Common Council of the City of Mishawaka on the _____ day of _____, 2017, at _____ o'clock __.m.

Presiding Officer

ATTEST:

Deborah S. Block, City Clerk

PRESENTED by me to the Mayor of the City of Mishawaka on the _____ day of _____, 2017, at _____ o'clock __.m.

Deborah S. Block, City Clerk

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

David A. Wood, Mayor

FEB 03 2017

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2017-05

ORDINANCE NO. _____

1st Reading 2-6-17
2nd Reading
Passed
Failed
Continued To

**AN ORDINANCE ADOPTING REVISED RATES AND CHARGES FOR
WATER SERVICES FURNISHED BY THE CITY OF MISHAWAKA'S
MUNICIPAL WATER UTILITY**

WHEREAS, the City of Mishawaka, Indiana, operates a municipal water utility through its agency Mishawaka Utilities (the "Utility") for the purpose of acquiring and distributing water to aid City and surrounding areas; and,

WHEREAS, the existing rates and charges for water services provided by the Utility were placed into effect following approval by the Common Council in Ordinance 5381 on March 4, 2013; and,

WHEREAS, the Utility engaged H.J. Umbaugh & Associates to study the Utility's revenue requirements for water service under IC 8-1.5-3.8 and IC 8-1.5-2-28, and develop, in addition to other information, annual pro forma revenues and expenses for the test year ended November 30, 2015; and,

WHEREAS, H.J. Umbaugh & Associates has studied the Utility's annual revenue requirements and determined that the Utility's annual pro forma operating revenues from water service do not produce an adequate net operating income, and such revenues need to be increased to provide income for the revenue requirements set forth in IC 8-1.5-3-8 and IC 8-1.5-2-28; and,

WHEREAS, the Utility Board of the City of Mishawaka has recommended to the Common Council that it approve by Ordinance the revised rates and charges for water service developed by H.J. Umbaugh & Associates, which rates and charges are set forth as part of Exhibits "A" and "B" attached hereto; and,

WHEREAS, the Common Council of the City of Mishawaka, Indiana now finds that (i) the Utility's annual revenues from rates and charges for water service should be increased with the Utility's annual revenues from water service increasing by \$1,874,600 in Phase One and \$2,105,300 in Phase Two; and (ii) the rates and charges for water service attached hereto as part of Exhibits "A" and "B" have been set to recover the necessary increases in the Utility's annual revenues from water service and so that they are non-discriminatory, "reasonable and just charges" for services within the meaning of IC 8-1.5-3-8;

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

Section 1. The rates and charges for water service attached hereto as part of Exhibits "A" and "B" are hereby adopted as and for the rates and charges to be utilized by the Utility when charging customers for water service, effective as set forth below.

Section 2. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed; provided, however, that the existing rates and charges for water service shall remain in full force and effect until the rates and charges fixed by this Ordinance shall be approved by the Commission, and until such time as the Order of said Commission approving said new rates and charges shall direct.

Section 3. This Ordinance shall be in full force and effect from and after its passage; provided, however, that the rates and charges for water service shall not become effective unless and until approved by the Indiana Utility Regulatory Commission in Cause No. _____, or until such time as said Commission shall direct.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, ON THIS ____ DAY OF _____, 2017

Common Council
City of Mishawaka, Indiana

Ross Deal, President

ATTEST:

Deborah S. Block, City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana, to the Mayor of the City of Mishawaka, Indiana, for approval on the ____ day of _____, 2017 at _____ o'clock __.m.

Deborah S. Block, City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of the City of Mishawaka, Indiana, this ____ day of _____, 2017.

Dave Wood, Mayor
City of Mishawaka, Indiana

EXHIBIT A

SCHEDULE OF RATES AND CHARGES

MISHAWAKA UTILITY - INSIDE CITY

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY

(Cont'd)

For the use of and the service rendered by the Water Utility of the City of Mishawaka, Indiana, the following rates and charges based upon the amount of water supplied by said Water Utility.

Residential and Multi-Unit:

- (a) Metered rates - Phase One effective January 1, 2018 and Phase Two effective January 1, 2021 in the amounts as follows:

<u>Metered Rates per Month</u>	<u>Phase One</u>	<u>Phase Two</u>
Rate per 100 Cubic Feet	\$2.08	\$2.52

- (b) Customer base charge - Phase One effective January 1, 2018 and Phase Two effective January 1, 2021 in the amounts as follows:

<u>Size of Meter *</u>	<u>Phase One</u>	<u>Phase Two</u>
5/8" to 3/4"	\$6.83	\$8.26
1"	\$6.83	\$8.26

7

*Meters over 1 inch are reclassified to commercial and industrial rates

- (c) Fire Protection charge - Phase One effective January 1, 2018 and Phase Two effective January 1, 2021 in the amounts as follows:

<u>Customer Charge</u>	<u>Phase One</u>	<u>Phase Two</u>
Per month	\$5.03	\$6.09

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY

(Cont'd)

Small Non-Residential

(a) <u>Metered Rates Per Month</u>	Phase	Phase
	<u>One</u>	<u>Two</u>
All consumption per 100 cubic feet	\$2.12	\$2.57

(b) **Customer Base Charge**

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	Phase	Phase
	<u>One</u>	<u>Two</u>
5/8" - 3/4"	\$6.83	\$8.26
1"	13.78	16.67
1 1/2"	25.34	30.66
2"	39.18	47.41
3"	71.52	86.54

(c) **Fire Protection Charge**

<u>Size of Meter</u>	Phase	Phase
	<u>One</u>	<u>Two</u>
5/8" - 3/4"	\$5.03	\$6.09
1"	12.58	15.22
1 1/2"	25.15	30.43
2"	40.25	48.70
3"	75.46	91.31

SCHEDULE OF RATES AND CHARGES - INSIDE CITY

Large Non-Residential

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

(c) **Fire Protection Charge**

Hydrant Rental

<u>Hydrant Rental</u>	Phase <u>One</u>	Phase <u>Two</u>
Private hydrants - per annum	\$648.11	\$784.21

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY

(Cont'd)

Private Fire Protection Service

Sprinkler connection - per annum

	Phase <u>One</u>	Phase <u>Two</u>
1"	\$18.01	\$21.79
1 1/2"	40.59	49.11
2"	72.03	87.16
3"	162.06	196.09
4"	288.12	348.63
6"	648.11	784.21
8"	1,152.17	1,394.13
10"	1,800.28	2,178.34
12"	2,592.45	3,136.86

Non-Recurring Charges

Refer to Appendix "B".

Current rate effective March 5, 2013.

EXHIBIT B

SCHEDULE OF RATES AND CHARGES

MISHAWAKA UTILITY - OUTSIDE RATES

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

(Cont'd)

For the use of and the service rendered by the Water Utility of the City of Mishawaka, Indiana, the following rates and charges based upon the amount of water supplied by said Water Utility.

Residential & Multi-Unit:

- (a) Metered rates - Phase One effective January 1, 2018 and Phase Two effective January 1, 2021 in the amounts as follows:

<u>Metered Rates per Month</u>	<u>Phase One</u>	<u>Phase Two</u>
Rate per 100 Cubic Feet	\$2.41	\$2.92

- (b) Customer base charge - Phase One effective January 1, 2018 and Phase Two effective January 1, 2021 in the amounts as follows:

<u>Size of Meter *</u>	<u>Phase One</u>	<u>Phase Two</u>
5/8" to 3/4"	\$8.06	\$9.75
1"	\$8.06	\$9.75

*Meters over 1 inch are reclassified to commercial and industrial rates

- (c) Fire Protection charge - Phase One effective January 1, 2018 and Phase Two effective January 1, 2021 in the amounts as follows:

<u>Customer Charge</u>	<u>Phase One</u>	<u>Phase Two</u>
Per month	\$5.03	\$6.09

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

(Cont'd)

Small Non-Residential

	Phase <u>One</u>	Phase <u>Two</u>
(a) <u>Metered Rates Per Month</u>		
All Consumption	\$2.42	\$2.93

(b) **Customer Base Charge**

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	Phase <u>One</u>	Phase <u>Two</u>
5/8" - 3/4"	\$8.06	\$9.75
1"	16.85	20.39
1-1/2"	31.49	38.10
2"	49.08	59.39
3"	90.10	109.02

(c) **Fire Protection Charge**

<u>Size of Meter</u>	Phase <u>One</u>	Phase <u>Two</u>
5/8" - 3/4"	\$5.03	\$6.09
1"	12.58	15.22
1 1/2"	25.15	30.43
2"	40.25	48.70
3"	75.46	91.31

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

(Cont'd)

Large non-Residential

	Phase <u>One</u>	Phase <u>Two</u>
(a) <u>Metered Rates Per Month</u>		
First 7,750 cubic feet	\$2.07	\$2.50
Over 7,750 cubic feet	1.60	1.94

(b) Customer Base Charge

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	Phase <u>One</u>	Phase <u>Two</u>
4"	\$148.71	\$179.94
6"	295.20	357.19
8"	470.97	569.87
10"	676.07	818.04

(c) Fire Protection Charge

<u>Size of Meter</u>	Phase <u>One</u>	Phase <u>Two</u>
4"	\$125.74	\$152.15
6"	251.54	304.36
8"	402.46	486.98
10"	578.53	700.02

Hydrant Rental

	Phase <u>One</u>	Phase <u>Two</u>
Private hydrants - per annum	\$648.11	\$784.21

Private Fire Protection Service

	Phase <u>One</u>	Phase <u>Two</u>
Sprinkler connection - per annum		
1"	\$18.01	\$21.79
1 1/2"	40.59	49.11
2"	72.03	87.16
3"	162.06	196.09
4"	288.12	348.63
6"	648.11	784.21
8"	1,152.17	1,394.13
10"	1,800.28	2,178.34
12"	2,592.45	3,136.86

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

(Cont'd)

Non-Recurring Charges

Refer to Appendix "B".

Current rate effective March 5, 2013.

APPENDIX B

NON-RECURRING CHARGES

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

- A. Water Account Service Charge - \$20.00
- B. Sprinkling Meters Turn-on Charge \$20.00
- C. Service Deposits- Service deposits are set by the Utility and can be up to one-sixth of normal annual bill per service location
- D. Failure to Meet Appointment Scheduled Charge - \$15.00
- E. Dishonored Negotiable Instrument Charge - \$20.00
- F. Processing/Disconnect Charge
 - Disconnect During Office Hours—\$25.00
 - Additional Reconnect charges after hours—\$70.00
 - Additional Reconnect charges on Sundays & Holidays— \$90.00
- G. After Hours Service Charge
 - After hours & Saturdays - \$70.00 minimum 1st 2 hours
 - After 2 hours call out time an additional \$35.00 per hour per man
 - Sundays and Holidays - \$90.00 minimum 1st 2 hours
 - After 2 hours call out time an additional \$45.00 per hour per man
- H. Turn Water Services Off/On (For Repair or To Test Plumbing). No charge during office hours 8-5
 - For after hour charges, refer to item G
- I. Late Penalty – 10% of the first \$3.00 plus 3% of the balance
- J. Meter Tampering Charge
 - First Offense – Actual cost of parts, labor, equipment and overhead plus cost of service estimated to have been used, based on prior history - \$75.00 + damages and a police report filed with police.
 - Second Offense – Same as above, plus \$250.00 + damages.
 - Subsequent Offenses – Same as second offense, plus disconnection of service

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

K. Violation of Fire Service Agreement – Illegal use of fire hydrant

First Offense - \$500.00

Subsequent Offense - \$1,000.00 and subject to criminal charges

L. Construction Permit Fees

150 day Residential – \$65.00

240 day Commercial – \$135.00 Per Building or \$5.00 per unit (whichever is larger)

320 day Industrial – \$600.00 Per Building

M. New Service Address Meter Charges –

Contact Water Department for current cost – 574-258-1652

Meter Size	Charge
5/8" — 3/4" (touch pad)	Actual Current Cost
1"	Actual Current Cost
1 1/2"	Actual Current Cost
2"	Actual Current Cost
3" & Larger	Actual Current Cost

Damage to Existing System Actual cost of repair

N. Meter Test at Customer Request

(No charge for first & second meter testing if second test has been requested after twelve months of the first testing)

Meter Size	Test Fee
5/8" — 1"	\$25.00
1 1/2" - 2"	\$48.00
3" & larger	Actual Cost

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

O. Hydrant Use Agreement

Hydrant Permit Charge – \$35.00

Deposit \$750.00

Damages to hydrant - repair cost to be deducted from deposit before refund, plus cost of water used, or per month (whichever is larger) \$ 50.00 minimum.

Township Hydrant Use (Fire Department Use Only) \$ 25.00 plus cost of water.

P. Tapping Permit

Existing taps never used and no fee paid at time of installation

Residential	
3/4"	\$1,198.00
1"	\$1,203.00
1 1/2"	\$1,564.00
2"	\$1,738.00
Commercial	
3/4"	Actual Current Cost
1"	Actual Current Cost
1 1/2"	Actual Current Cost
2"	Actual Current Cost
Commercial/Industrial	
4"	Actual Current Cost
6"	Actual Current Cost
8"	Actual Current Cost
10"	Actual Current Cost
12"	Actual Current Cost

All New Taps – Actual Current Cost

Contact Water Department for current pricing – 574-258-1652

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

Q. Lead Service Line Replacement Tap Costs

(Does Not Include Meter)

Size	Cost
5/8" — 3/4"	\$1,198.00
1"	\$1,203.00
1 1/2"	\$1,564.00
2"	\$1,738.00

R. Land Improvement Charges

Non-Residential	
Water Main	Charge / Linear Foot
6"	\$12.00
8"	\$16.00
10"	\$20.00
12"	\$24.00
14"	\$28.00
16"	\$32.00
20"	\$40.00
24"	\$48.00
Residential	
1/2 of the current cost of a 6" water main (100 feet maximum)	

Revised on 03/05/2012