AGENDA

Monday, May 15, 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**

   May 1, 2017

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

   A letter from the Board of Zoning Appeals regarding recommendations from their May 9, 2017 meeting.

   Presentation of Historic Awards

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

   P.O. NO. 2017-18 Reduction of Funds - Park and Recreation - $350,000.00

   P.O. NO. 2017-19 Additional Funds - Rainy Day Fund $350,000.00

   P.O. NO. 2017-20 Transfer Funds - LOIT Special Distribution Fund - $40,000.00

8. **Resolutions**

   R2017-09 Confirming Resolution - River Walk Development Group LLC - Multi-Family Residential (Petitioner Requesting Postponement)

   R2017-10 Use Variance for a Telecommunications Tower S-2 PUD S. of 1415 University Dr. Ct. J&J Investments LLC

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

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

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

May 01, 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 May 1, 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. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.
Absent: Mr. Compton.

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

The minutes from the April 17, 2017 meeting were approved as received from the City Clerk's Office.

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

APPEAL NO. 2017-15 Use Variance for Telecommunication Tower S-2 PUD S. of 1415 University Dr. Court J&J Investments LLC

Clerk Block read the following Resolution by title.

RESOLUION NO. 2017-07

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA HONORING 100TH ANNIVERSARY OF THE KNIGHT OF COLUMBUS

Adam Gerstbauer 220 E. 9th Street, a Grand Knight for the Knight of Columbus Council 1878. He said it was an honor for him as his grandfather was the first Grand Knight of Local Council 1878. Mr. Gerstbauer expressed in the many years between his Great Grandfather and himself, thousands of men donated time and money in support of the community and to charities. Mr. Gerstbauer stated their Columbus Club hall was a long served as a downtown multi-purpose venue that hosted community events for Mishawaka High School, PHM and Relay for Life, and more including events for local political parties. Mr. Gerstbauer thanked the Council for the honor.

Council Attorney Mike Trippel and a long-time member of Council 1878 thanked the City Council for the Resolution. He said 100 years was a long time and the Council had a significant history with the city having the club moved twice by the Redevelopment Department to make way for other developments in the city. Mr. Trippel continued to say it was a win win for the city and the Council of 1878 at their current location; it was wonderful location, great esthetics, and worked well with Beutter Park and other improvements in the downtown area. He thanked the Council, Mayor, and Clerk.

Mayor Wood congratulated the Knights on their Anniversary. He said the Knights go above and beyond; they invested when no one else would invest in downtown when businesses were going out. Mayor Wood continued to say the Knight were present for decades and the city appreciates them in downtown as an anchor. He said in many areas in the city where the Knights contributed such as the City Cemetery, Fair View and St. Joe Catholic Cemetery, the Knights would go out on the regular bases doing volunteer work cleaning cemeteries. Mayor Wood expressed there was no better way to honor of the past, fallen city, and residence. He appreciated the continued partnership with the Knights of Columbus.

Mr. Banicki mentioned he was a proud member of the Knights of Columbus 1878. He stated it was a great organization, one to look into. Mr. Banicki went on to say they did great work. He thanked the past, present and future members.

Mrs. Voelker expressed to Mr. Gerstbauer how nice it was to have a family legacy for his children.

Question was called for at 7:10 for **RESOLUTION NO. 2017-07** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.**

RESOLUTION NO. 2017-08

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA DECLARING CERTAIN AREAS WITHIN THE CITY OF MISHAWAKA, INDIANA COMMONLY KNOWN AS VACANT LAND AT 100 BLOCK OF EAST MISHAWAKA AVENUE EAST OF SARAH STREET TO BE AN ECONOMIC REVITALIZATION AREA AND ECONOMIC DEVELOPMENT TARGET AREA FOR PURPOSES OF REAL PROPERTY TAX ABATEMENT FOR RIVER WALK DEVELOPMENT GROUP, L.L.C AND/OR ITS ASSIGNS

Ken Prince, City Planner spoke on behalf of the Redevelopment Commission and the Administration. He stated the site was the old roller rink site. Mr. Prince said the site would be quite challenging, the site sits behinds the alley off Mishawaka Avenue. He explained working through the development process with Mr. Sivan, one of the things discovered was the need to build vertical rather than horizontal due to the layout of the site. Mr. Prince also mentioned to get the density on the property it would need to be steel frame structure. He said the proposal was for 50 to 60 units, the estimated investment would be between $12.5 and $13.5 million and the abatement requested was identical to the Barack Condominium Project received from the Council. Mr. Prince made the Council aware this was the first step of a twostep process. He said they were respectfully requesting favorable vote on the Declaratory Resolution so the confirming resolution could be heard at the next council meeting.

Scott Sivan 123 West Mishawaka Ave, Managing Partner of River Walk Development Group LLC said the abatement they were seeking was similar to the abatement the received for River Rock, which was vital. Mr. Sivan continued to say the abatement for River Rock was substantial to develop the property. He said as like River Rock, they intend to bring a high quality community asset to Mishawaka. Mr. Sivan stated River Rock was nearly full, they met the commitment they made a few years ago and they intended to do the same for this project. He said proving the value of living in downtown Mishawaka after having many doubters; he hoped to say they have proved those doubters wrong. Mr. Sivan believed their new project would be another jewel in the crown of Princess City Mishawaka. He went on to say he believed the complementary project would fulfill the long-term vision of Mishawaka. Mr. Sivan thanked the Mayor, City Planner Ken Prince, the Redevelopment Commission, and Council members for helping them realize the cities vision, and considering further support to extend that vision. He addressed a point that was raised by some of the Council Members that River Rock was posted for sale. Mr. Sivan explained they were a small group of general partners and were funding the money with their own private capital, they would like to take their capital from River Rock, if their successful and put it into River Walk and future projects in Mishawaka. He stated they were not in an anxious position to sell. Mr. Sivan said the two fundamental requirements besides finding the right price was finding the right buyer. He mentioned he moved to Mishawaka, their office was in the building. Mr. Sivan said they met all their compliance regulations and surpassed them in terms of their existing abatement. He went on to say they would continue to commit every year to pay property taxes; they have payed $25,000 into the property tax and would be another $8,000 0r $9,000 this year. Mr. Sivan mentioned over the next 20 years as the abatement declines and finally reaches its conclusion after five years, over $3,000,000 would be paid in taxes on the River Rock site. He thanked the council for taking a risk and believing.

Mr. Tanner appreciated that Mr. Sivan was a new resident of Mishawaka.

Mr. Mammolenti noticed there was a proposal for mixed use of owner occupied and rental, he asked would that continue to be an option. Mr. Sivan said they did not think they would proceed to have with owner occupied units; they did not seem too viable in the community.

Question was called for at 7:19 P.M. for **RESOLUTION NO.2017-08** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.**

The following Ordinance were on second reading and opened for public hearing.

Clerk Block read **PROPOSED ORDINANCE NO 2017-16** by title

PROPOSED ORDINANCE NO. 2017-16

AN ORDINANCE TO ESTABLISH NORMAIN HEIGHTS AS A CONSERVATION DISTRICT WITHIN THE CITY OF MISHAWAKA, INDIANA
(Establishing Normain Heights Conservation District)
(Assigned to Land Use Planning Committee)

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

Clerk Block read a letter from petitioner requesting amendment to the guidelines for **PROPOSED ORDINANCE NO. 2017-16**.

Mrs. Voelker made a motion to accept the amendment as presented by the Clerk, second by Mr. Banicki motion carried.

Doug Merritt 2319 Lincolnway East Mishawaka, Chairman of Mishawaka Historic Preservation Commission introduced Associate/Advisory member Alan Grzeskowiak. Mr. Merritt spoke about the neighbors and the energy from the Normain neighborhood. He went on to say how they felt a responsibility when it came forward to them, as the neighborhood had great history with in it. Mr. Merritt mentioned every meeting that was held there was always a great outcome from the neighborhood. He said as they dived into the neighborhood and looked at the homeownership and rate of occupancy, they found that majority of the neighborhood were owner occupied. Mr. Merritt went on to say over the years all of the individuals were champions, going to numerus meeting about what goes on and near their neighborhood. He stated the neighborhood took every opportunity for communication and neighborhood input. Mr. Merritt said with that it brought them to the point where they were the first Conservation District of the Northern Indiana Landmarks. He expressed it this was an honor. Mr. Merritt thanked Todd Zeiger from Indiana Landmarks for that honor. He asked for Mr. Grzeskowai to read nominations for the 2002 National Register of Historic Places specific to the Normain Neighborhood. Mr. Merritt expressed Planning Secretary Christa Hill and City Planner Ken Prince were great to work with and were always available to the neighborhood.

Todd Zeiger 801 W. Washington South Bend said it was a joy to work with a group of homeowners. Mr. Zeiger stated his association with neighborhood started before the commission got involved. He said it was a long conversation to get where they were. Mr. Zeiger urged the Councils approval. He went on to discuss how wonderful the neighborhood was. Mr. Zeiger stated this was a great honor and hoped to it would build on strength to the neighborhood.

Mrs. Voelker said it was an honor to serve on the Mishawaka Historic Preservation Commission. She said working on the project, over the last year she got to meet nice people. Mrs. Voelker stated the neighborhood was beautiful and it needed to be preserved. She thanked everyone for their hard work and support. Mrs. Voelker expressed her excitement for Normain Heights and the possibilities of brining other conservation districts to other parts of Mishawaka. She strongly believed there were more beautiful neighborhoods that needed to be preserved.

Mr. Tanner said this was good for Mishawaka. He went on to say it was a unique area.

Mr. Canarecci spoke about the neighbors coming together at meetings fighting for the safety of their neighborhood. He recalled the council meeting when the neighborhood came together to address the speed limit on Main street in front of Normain Heights, he said it shows how much they care about their neighborhood. He went on to say making it through the many changes, highlighted how exceptional and dynamic the neighborhood was. Mr. Canarecci said knowing the owner occupancy rate was also a testament to how exceptional the neighborhood was. He thanked all that were involved, and to Normain for setting a great example for other neighborhoods in Mishawaka.

Question was called for at 7:31 P.M. for **PROPOSED ORDINANCE NO. 2017-16** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).Yes: Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.** Thus it becomes **ORDINANCE NO. 5574**

Clerk Block read **PROPOSED ORDINANCE NO 2017-17** by title

<u>PROPOSED ORDINANCE NO. 2017-17</u>

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $11,250,000 OF CITY OF MISHAWAKA, INDIANA TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2017 (THE MILL AT IRONWORKS PROJECT); DESIGNATING THE BONDS AS LIMITED OBLIGATIONS OF THE CITY; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATED TO THE ISSUANCE AND SALE OF THE BONDS; AND AUTHORIZING PROPER OFFICERS TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION THEREWITH AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO.

(EDC Bond for the Mill at Ironworks Project)
(Assigned to the Budget and Finance Committee)

Mr. Canarecci reported the Budget and Finance Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Banicki motion carried.

Mayor Wood briefly discussed the Normain Heights neighborhood that was built by and for veterans that gave promise to future generations of Mishawakacans. He said they had downtown development that would not have been there without some of the great industries that occurred in Mishawaka by people who helped build the community. Mayor Wood went on to speak about Mishawaka going forward. He said this project had been a long time coming, the site was the first site, and it brought thousands of people from out east to live to in Mishawaka. Mayor Wood discussed the history of the site; it took a turn for the worst in 1990's when Uniroyal went out of business. He said the site had been empty for over 20 years. Mayor Wood expressed how proud he was to present the final step before construction, a great new project of Mishawaka going forward. He described the site would be a mixed-use development that would be architecturally significant and pedestrian friendly. He said it would be a 469,000-square foot building on two city blocks, a kind of development that downtowns across the country would love.   Mayor Wood explained the project represents more development in terms of dollars that had not occurred in decades in the downtown area.   He stated this project was more in development and construction than all other projects combined.   Mayor Wood said it would represent a transformation for downtown; it would be the cities first parking garage, with over apartment 230 units, a place where excitement would happen, and where a lot investment would generate. He expressed his excitement for it would be a regional city project that the state reviewed and blessed the city with $5.2 mill. Mayor Wood went to say he couldn't be happier to work with great developers. He stated they researched the developer extensively and visited several of their sites to make sure they had the right developers for the right project for the heart of downtown. Mayor Wood expressed his confidence in Flaherty and Collins. He said Flaherty and Collins had a track record of doing transformational projects. Mayor Wood hoped for the Councils support, as this project was support of Mishawaka's future. He stated it would be a great partnership and would exemplify the ease in doing business in Mishawaka. Mayor Wood said he was confident it would be the first regional city project to begin construction. He introduced the partners from Flaherty and Collins.

Bryan Prince, Developer for Flaherty Collins Properties stated they were reliable private partners. He said they were the experts in the private partnership, 90% of their deals were public/private partnerships. Mr. B. Prince explained their deals were a process and could take longer before constructing. He said working with cities they try to understand what their want and needs were, so they could help accomplish their goals. Mr. B. Prince continued to say the project did not go as fast as they intended, they wanted to break ground two years ago. He expressed everyone was amazing to work with; they were all on the same page in revitalizing the community. Mr. B. Prince went on to discuss the background of the company. He said they won a number of awards, they were the most active mixed-use multi-family developer in the Mid-West and rated number 43 in total development in the country. Mr. Prince stated they build, manage, and hold their properties. He said they did not typically sale, they were long term property owners. Mr. B. Prince discussed the project, he said there would be 232 units, approximately 13,000 square feet of commercial space, 400 space parking garage with an additional 133 public parking spaces. He continued to say the economic impact of the project was large. Mr. B. Prince said they estimated property taxes would be $580,000 a year.   He believed this project would bring in new bodies and new income to the community, based off of data they researched from their other properties, 70% of the residents came from outside of the area.   Mr. B. Prince said their emphasis was to hire locally. He projected 65 to 85 jobs to be associated with the retail and restaurant. Mr. B. Prince stated the approximate overall budget for the project would be $45 million. He introduced Brandon Bogan, Flaherty and Collins Director of Design and Preconstruction to give brief over view of the design. Mr. Bogan said the apartments would be a combination of one and two bedrooms with a couple of three bedrooms, there would also be open ground area where the pool and other active outdooring living would take place. He expressed the city gave them the opportunity to have the setting of overlooking the riverfront. He continued to say they were taking advantage by embracing the riverfront from the development. He believed they assembled a great team to make sure they develop and deliver a project that was fitting for Mishawaka.

Mr. Mammolenti expressed his excitement to support the project. He stated the ripple effect the project would have on the city by bringing new bodies, new business, and new money. Mr. Mammolenti said it would open a lot of opportunities for the city.

Mr. Tanner asked with citizen in mind, how the project would benefit the city. Mr. B. Prince said this project would be benefiting the city by providing jobs and new money.

Mr. Emmons asked what the size of the units and prices were; he also questioned the leasing for retail. Mr. B. Prince described the Studio/one bedroom would average 750 square feet for $850 to $900, a two-bedroom average between 1150 to 1200 square feet for $1550 to $1600. He explained they did not do pre-leasing, once the property was built they would begien looking for retail. Mr. B. Prince said they were also looking to have two anchor restaurants on the corners of the property. He expressed they want to make sure they find the right fit.

Mr. Banicki appreciated they would be hiring locally. He asked when they anticipated breaking ground. Mr. B. Prince said they anticipated it would take 22 months; their goal was after July 4th.

Mr. Canarecci asked what would the worst-case scenario be and had they ever defaulted. Mr. B. Prince said they had a project of condos in 2008 that did not do as well as their apartments, they never built condos again. He explained from the market study they seen in the area, they were confident the demand was there and people would come. Mr. B. Prince said they did not foresee any issue coming.

Mr. Voelker expressed her excitement of the project happening in the 4th District.

Mr. Tanner asked did they plan to make future investments in Mishawaka. Mr. B. Prince said absolutely, any community they go into, they liked to be long term partners.

Mr. Deal said he had the opportunity to visit a few of properties in Indianapolis and Fisher Indiana; he was impressed with the product and the people he got to meet. He expressed his excitement to see the project moving forward.

Phil Faccenda, Barnes and Thornburg was there as Bond Council to speak on the Economic Development Revenue Bonds that the Council would be voting on. He went into details of the Ordinance. Mr. Faccenda said there would be 50 to 70 new jobs and over $2million in additional annual payroll into the area. He continued to say the Bond Resolution was to approve a loan by the city to Flaherty and Collins for the proceeds of the bond. He explained the bond was not to exceed $11,250,000. Mr. Faccenda said they saw some difference in what the city would be contributing and the size of the bond. He explained because they were pure TIF Bonds, there was no pledge by the city of any of its taxing authority or general power tax, it was completely backed by the TIF Revenue that was generated by the TIF area. He continued to say they had to protect bond holders; they want to see dollars set aside for security. Mr. Faccenda also mentioned there was a $1,000,000 Debt Service Reserve Fund that was contemplated as a part of this financing. He continued to say they use the proceeds of the bond to fund the Debt Service Reserve Fund. Mr. Faccenda said they also anticipated they would not issue $11,250,000; it would be something south of that. He explained the Council was being asked to adopt a maximum principal amount for the bonds. Mr. Faccenda pointed out the bonds would not exceed 4%. He said they were approving bonds and the underlined bond documents. Mr. Faccenda went on to say the Redevelopment Commission met and pledged TIF Revenues for the repayment as an obligation under the loan, which was how the Bond Holders would be paid on their bonds. He mentioned there would be an Independent Trustee, and a third-party bank would hold the funds. Mr. Faccenda assured the Council there would be a checks and balance in the document structure. He mentioned there was a $580,000 guarantee by the developer of annual property tax revenue that would be generated from the project. Mr. Faccenda added, on the numbers that Umbaugh generated, the uses of TIF including prior pledges; the outstanding 2015 TIF Bond, a Sewer Bond and a Pledge TIF Revenues to the Sewage Works, the lowest coverage became just over 300%, which was outstanding. Mr. Faccenda stated there should be no concerns in regards to the marketing ability of the bonds.

Mr. Mammolenti commented the density of downtown was growing and landscaping was changing. He said it was a good opportunity to increase their police and fire presents.

Question was called for at 8:38 P.M. for **PROPOSED ORDINANCE NO. 2017-17, Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.** Thus it becomes **ORDINANCE NO. 5575.**

PRIVILAGE OF THE FLOOR

Mayor Wood invited the Council and Public to the Community Gardens First Planting Ceremony at 11:30AM at 315 LWW next to the Food Pantry.

Alvin Smith stated he was very pleased with the renovations of the Battell Center auditorium. He invited the council to attend the National Day of Prayer on May 4th at 12:00PM that would be held in the auditorium.

NEW BUSINESS

Mr. Tanner announced The Oaks Neighborhood Meeting would be May 10th at Albright United Methodist Church at 6:00PM. Speaker was to be announced.

Mr. Emmons announced the First District Neighborhood Meeting would be May 18th at Berkley Circle at 6:00PM. He said the speakers would be Mayor Wood and a spokesperson from WellPet.

ADJOURNMENT 8:43 P.M.

Deborah S. Block ________________ /s/	Ross Deal ________________ s/
Deborah S. Block, IAMC, MMC, City Clerk	Ross Deal, President

City of Mishawaka

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

May 11, 2017

RECEIVED
DEBORAH S. BLOCK, MMC
MAY 11 2017
CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
May 9, 2017, Public Hearing

Honorable Members:

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

APPEAL #17-15 An appeal submitted by J & J Investments, LLC, and Charles S. Hayes Inc., dba Hayes Towers (as lessee) requesting a Use Variance to permit a 200' monopole communications tower at **1415 University Drive Court.**

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

1. The monopole tower shall not exceed more than 200 ft. in height (does not include height of attached antenna apparatus and lighting rod).
2. A fence of no higher that 7-foot will be allowed around the base of the tower and equipment building. Barbed wire is not permitted.
3. An Administrative Site Plan shall be submitted for the property. The site plan shall be consistent with the schematic site plan submitted.
4. The proposed access drive between the existing asphalt parking area and the access gate into the compound shall be paved.
5. A storm water drainage plan shall be submitted to retain stormwater management volumes and include an adequate system and means to capture all runoff from the new impervious surface areas per Engineering comments.
6. A row of evergreen trees shall be planted 10' on center along the western 60' of the fence enclosure. The evergreen trees shall be 8-10' in height at the time of planting.

Respectfully,

Kari Myers

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Anne Hayes

STAFF REPORT

Location: behind 1415 University Drive Court

Date: May 9, 2017

Appeal: 17-15

Prepared By: CH

GENERAL INFORMATION

Applicant:	J & J Investments LLC/Hayes Towers
Status:	Property Owner / Leesee
Request:	Use variance to allow a telecommunications facility consisting of a 200 foot monopole tower, various equipment shelters, equipment platforms, generators and related equipment.
Zoning Classification:	S-2 Planned Unit Development (Cass Road/East University Drive PUD)
Lot Size:	70' x 70' (4,900 sq. ft.) area to be leased within the 2.7 acre lot
Applicable Regulations:	Section 137-42 / Board of Zoning Appeals (4) Variance of Use

SPECIAL INFORMATION

Area Development Pattern:	North:	S-2 Planned Unit Development (City Plaza South)
	South:	S-2 Planned Unit Development (Reserve at Watermark Apartments)
	East:	S-2 Planned Unit Development (Soccer Zone)
	West:	S-2 Planned Unit Development (Red Roof Inn)

Thoroughfare:	University Drive
School District:	Penn-Harris-Madison
Public Utilities:	All utilities are available and/or will be extended to the site at the owner's/developer's expense
Comprehensive Plan:	No designation on the Comprehensive Plan.

ANALYSIS

The Applicant, Hayes Towers, with authorization from J & J Investments LLC, is requesting a use variance to allow a telecommunications facility consisting of a 200 foot monopole tower, various equipment shelters, equipment platforms, generators and related equipment, to be located on property behind 1415 University Drive Court. The Office Interiors business currently operates at the site.

The 70' x 70' compound area will be constructed at the base of the proposed tower at the southwest corner of the site. A 60' x 60' area will be enclosed with a 6' high chain link fence and will include a 1,400 sq. ft. equipment building and generator. The site plan shows five evergreen trees between the fenced area and the property line to the west. *Staff is requesting that a solid row of 8-10' in height evergreen trees be planted 10' on center which may result in a couple of additional evergreen trees.*

The location of the tower, as proposed, sits between the building and the retention pond, within 90' of the Toll Road. The area along University Drive and University Drive Court is an area of primarily commercial uses, with some industrial (mini warehousing) and residential (Summer Place apartments) properties. The nearest residential property from the proposed base of the tower is the Reserve at Watermark Apartments. The project, which is currently under construction, sits on the south side of the Toll Road, over 400' from the compound area.

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

For reference, the Zoning Ordinance of the City of Mishawaka requires "communication broadcasting towers" to be constructed as a conditional use in the I-2 Heavy Industrial Zoning District. Due to the unique requirements for locating such facilities, and in consideration of the tower height and equipment pads needed, requests to erect towers and construct the accompanying equipment need to be evaluated on an individual basis. The Conditional Use Permit process allows the City to do just that. Because the property on which the proposed tower is to be constructed is zoned S-2 Planned Unit Development, not I-2 Heavy Industrial, a conditional use cannot be obtained. Therefore, the Petitioner is requesting a use variance to vary from the permitted uses identified within the S-2 Planned Unit Development to allow a telecommunications facility consisting of a 200 foot monopole tower, various equipment shelters, equipment platforms, generators and related equipment.

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

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

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

1. The Electric Department requests a utility easement for electric service along the western boundary.
2. The Engineering Department had concerns about the retention basin and stormwater management: The coinciding of the existing stormwater management basin with the footprint of the proposed cell tower without basin adjustments for volume presents a problem for the site to continue to comply with City requirements for stormwater management. The additional development of the site will require addressing increased stormwater generation from the development and accounting for the basin encroachment. To keep the proposed location, at a minimum the basin should be reshaped to protect the required volume managed by basin for the existing development; show details of reshape on plan. Then please show the associated stormwater calculations for proposed development and associated changes to the stormwater management system accommodating the additional volume, i.e. drywell or expanding/reshaping basin again. I caution you that making the basin deeper may not satisfy requirements as groundwater has come up in recent years.
3. The Fire Department requests the fire hydrant in the front yard be raised.

RECOMMENDATION

The staff recommends in favor Appeal 17-15 to allow a telecommunications facility consisting of a 200 foot monopole tower, various equipment shelters, equipment platforms, generators and related equipment. subject to the following conditions:

1) The monopole tower shall not exceed more than 200 ft. in height (does not include height of attached antenna apparatus and lighting rod).

2) A fence of no higher that 7-foot will be allowed around the base of the tower and equipment building. Barbed wire is not permitted.

3) An Administrative Site Plan shall be submitted for the property. The site plan shall be consistent with the schematic site plan submitted.

4) The proposed access drive between the existing asphalt parking area and the access gate into the compound shall be paved.

5) A storm water drainage plan shall be submitted to retain stormwater management volumes and include an adequate system and means to capture all runoff from the new impervious surface areas per Engineering comments.

6) A row of evergreen trees shall be planted 10' on center along the western 60' of the fence enclosure. The evergreen trees shall be 8-10' in height at the time of planting.

This recommendation is based upon the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the property on which the tower is to be located is adjacent to commercial uses to the north, east, and west and there is significant distance, including the Toll Road buffering the residential development to the south. The telecommunication facility and tower will be constructed and managed according to all regulatory codes.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the area is primarily surrounded by commercial development; and adequate screening/buffering is present between the tower and the closest property to the west.

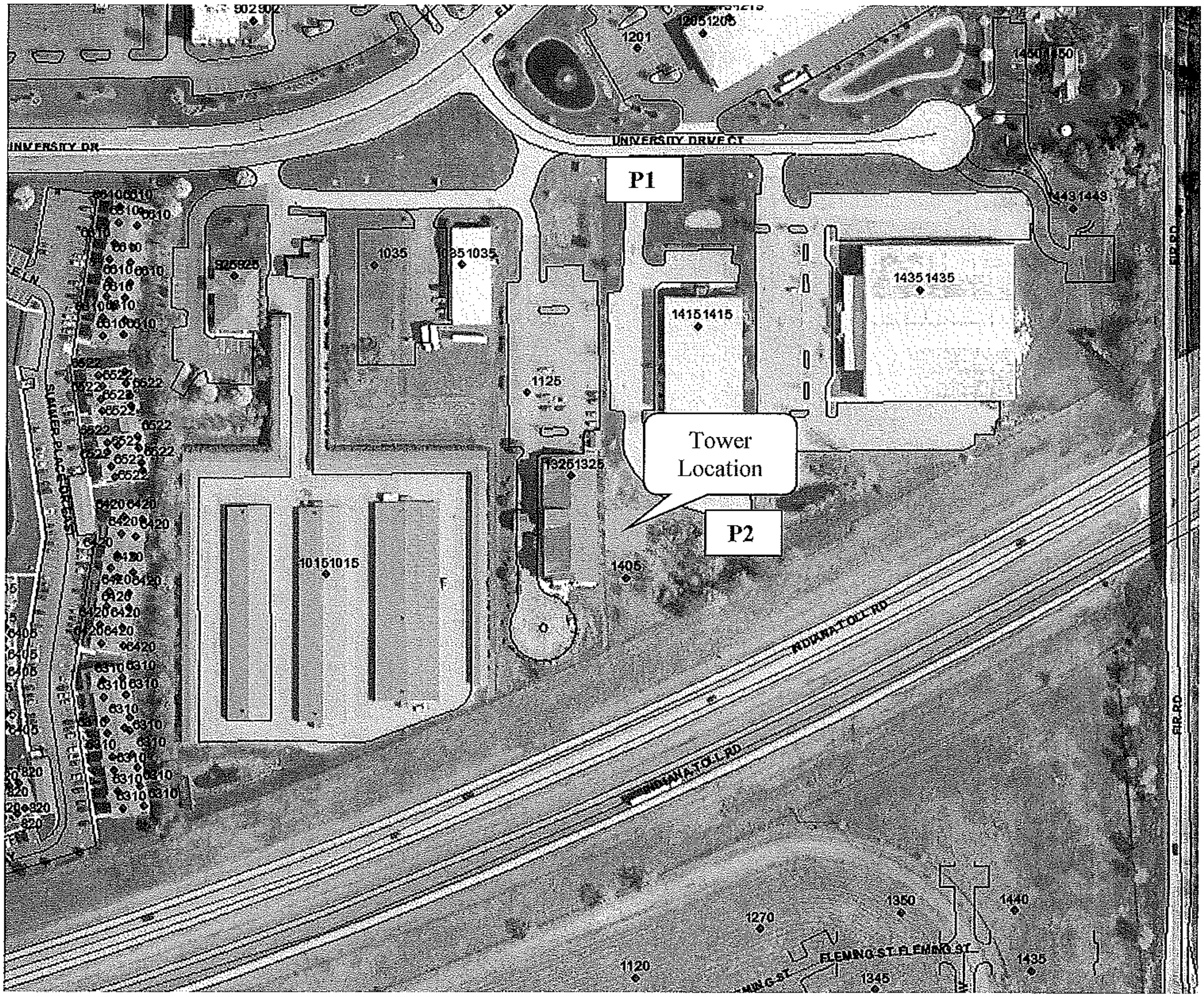
3. The need for the variance arises because the Zoning Ordinance for the City of Mishawaka restricts the installation of all telecommunications towers from all zoning districts other than the I-2 Heavy Industrial District. With the increase usage of cell phones, the number of properly zoned properties in areas needed to provide adequate call coverage and becoming less available. However, each site needs to be evaluated on an individual basis.

4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because cell towers are only allowed in industrial zoned properties. The use of cellular phones and technology are continually increasing creating a higher demand for better cellular coverage for users. The location of properties zoned heavy industrial within the City requires that sites be evaluated on a case by case basis relative to the context of a specific location.

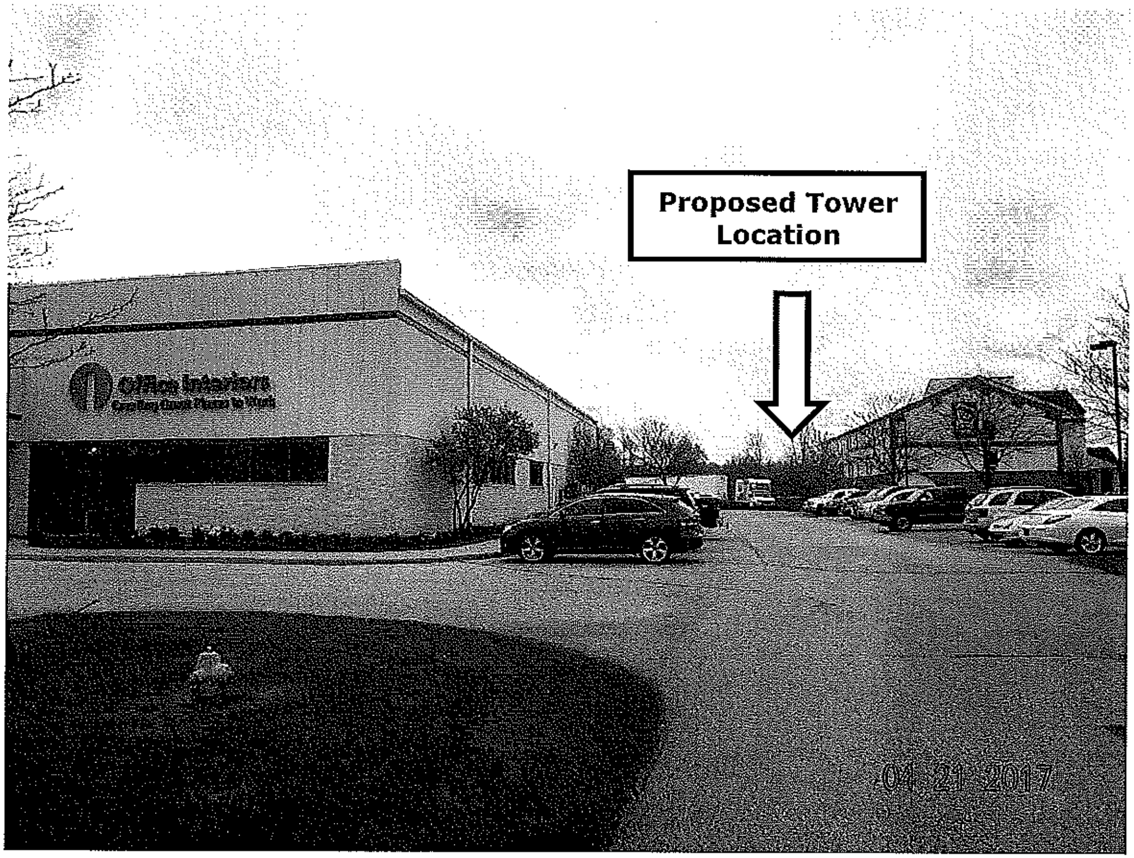
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan. Although the Comprehensive Plan does not include this property, the use is compatible with the previously developed uses along this stretch of University Drive.

ATTACHMENTS

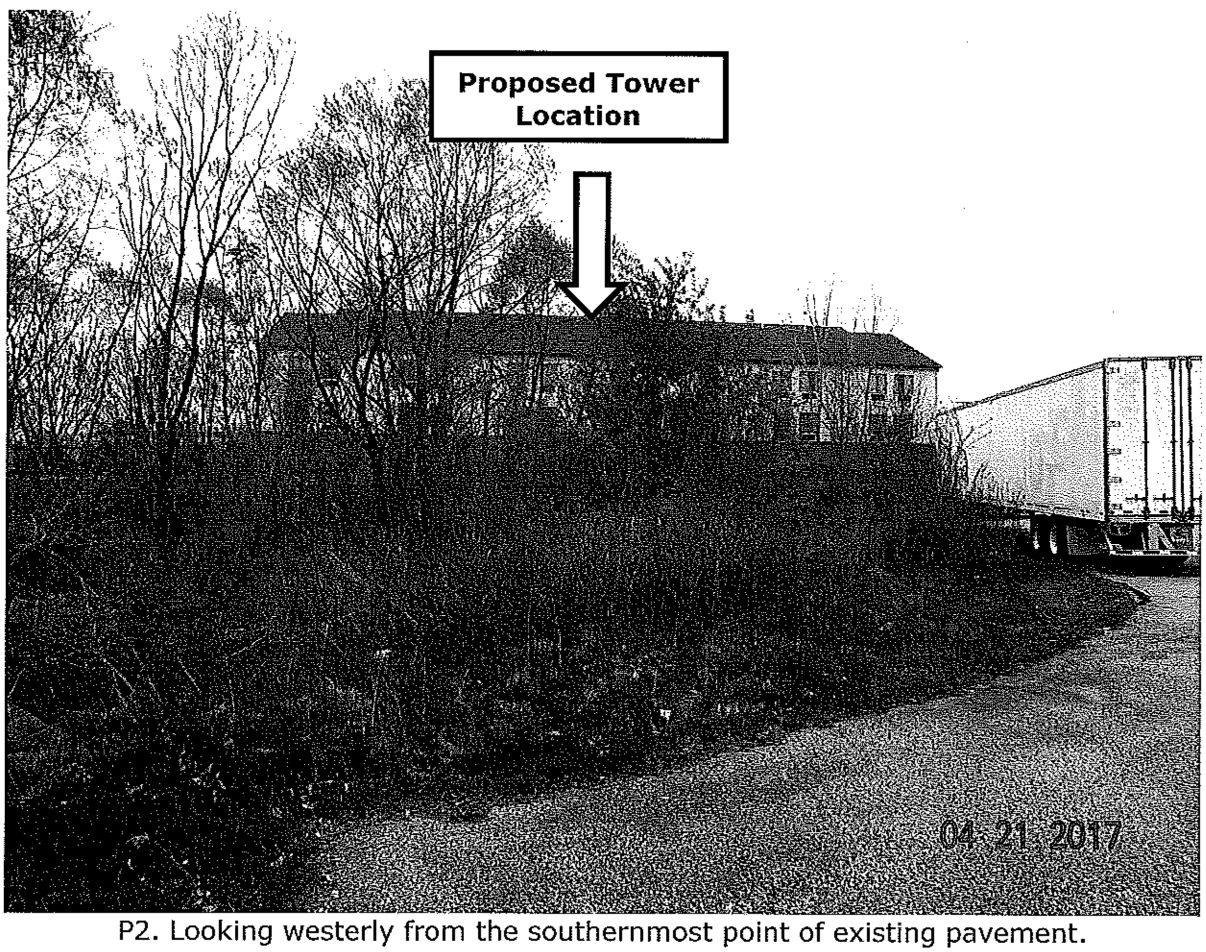
Aerial, Photograph(s), Appeal, Site Plan(s), Location Map



UNIVERSITY DR
UNIVERSITY DRIVE CT
P1
Tower
Location
P2
1201
1035
1125
1405
1270
1350
1440
1120
1345
1435



P1. Looking south from entrance to Office Interiors site from University Drive Court



P2. Looking westerly from the southernmost point of existing pavement.

1st Reading 5-15-17
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC
MAY 10 2017
CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2017-18

ORDINANCE NO.____________

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE REDUCTION OF 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 reduction of funds for the fiscal year ending December 31, 2017 as set out in detail in the published budget.

Section 3. There is hereby reduced from the Park and Recreation Fund of the City of Mishawaka the sum of $350,000.00 for assignment as follows:

Park and Recreation Fund

Reduction:

Other Services and Charges

204-50-435-01	Utilities – MU	$350,000.00

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, 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

RECEIVED
DEBORAH S. BLOCK MMC
MAY 10 2017
CITY CLERK
MISHAWAKA, IN

Date: May 10, 2017

To: Honorable Members of the Common Council

From: Rebecca Miller

Re: Additional Appropriation Rainy Day Fund and Reduction Park and Recreation Fund

I am requesting approval of a reduction of $350,000 of park utility expenses from the park budget and appropriating them in the Rainy Day fund. This amount will offset the loss caused by the circuit breaker and leave a small surplus. Park is sitting in a better position than it was last year and with more revenue budgeted this year we are hoping to see better results by year-end.

Please contact me with any questions.

c: Phil Blasko, Park Superintendent
David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 10 2017

CITY CLERK
MISHAWAKA, IN

1st Reading 5-15-17
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2017-19

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 Rainy Day Fund of the City of Mishawaka the sum of $350,000.00 for assignment as follows:

		Rainy Day
Other Services and Charges		
245-50-435-01	Utilities – MU	$350,000.00

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

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

On this ___________day of _______________, 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

1st Reading 5-15-17
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK MMC

MAY 10 2017

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2017-20

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 Engineering Department in the LOIT Special Distribution budget adopted for the fiscal year ending December 31, 2017.

Section 2. There is hereby transferred and reappropriated the sum of $40,000.00 as follows:

LOIT Special Distribution Fund

From:	Capital Outlays 257-50-445-02	Highway Equipment	$40,000.00
To:	Other Services and Charges 257-50-431-06	Consulting	$40,000.00

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.

3

____
Ross Deal, 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 FINANCE
Rebecca S. Miller, Controller
Misti D. Horvath, Deputy Controller

RECEIVED
DEBORAH S. BLOCK, MMC
MAY 10 2017
CITY CLERK
MISHAWAKA, IN

Date: May 5, 2017

To: Honorable Members of the Common Council

From: Rebecca Miller

Re: Transfer – LOIT Special Distribution Fund

I am requesting a transfer from Highway Equipment to the Consulting line. Last year the Engineering Department estimated that they would need $200,000 for engineering design and construction services for the $1,535,000 Community Crossing Grant project. Now that construction is beginning, it is necessary to increase the engineering budget by $40,000. We have added night pavement of Grape Road which adjusted the engineering construction services portion. Improvements are planned for three locations: Grape Road, Dragoon Trail, and McKinley Avenue.

These funds will be transferred from the $70,000 appropriated for a park department truck, which was instead purchased with CEDIT funds.

Please contact me or Chris Jamrose with any questions.

c: David A. Wood, Mayor
Christine Jamrose, Dir. of Engineering/City Engineering

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR **BUILDING - COMMUNITY DEVELOPMENT - PLANNING**

May 15, 2017

RECEIVED
DEBORAH S. BLOCK, MMC
MAY 11 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 Mamolenti, At-Large City Council
Mr. Bryan Tanner, At-Large City Council
Mrs. Deborah Block, City Clerk

Re: Confirming Resolutions 2017-09
Tax Abatement- River Walk Development Group LLC
Proposed River Walk Multi-Family Residential Development

Dear Council Members and Clerk:

Please find attached the Confirming Resolution 2017-09 for a tax abatement request that has been filed for consideration at your Monday, May 15th meeting. As was previously referenced when the Council considered and approved the declaratory resolution, the developer is proposing to construct a multi-family residential project on an approximate 2 acre city-owned area. The site is generally located north of the Riverwalk, east of N. Main Street, south of an east-west alley south of Mishawaka Avenue, and adjacent to Sarah Street if extended to the St. Joseph River. The $12.5-$13.5 million project includes an approximate 120,000 sq. ft. building with 50-60 apartment (rental) units. The developer indicated that construction is expected to start in May 2018 and be complete by August 2019.

Scott Sivan, the developer of the recently completed River Rock apartments on Mishawaka Avenue, is the Managing Partner of the River Walk Development Group LLC. Identical to the River Rock apartments, the request is for a five (5) year abatement on the proposed apartment building. A copy of the submitted application and relevant materials is once again attached for your review and information with the applicant's Counsel prepared resolution. This is the same information previously distributed with the Declaratory Resolution.

The Declaratory Resolution was approved at the Council's May 1st meeting which allowed the Clerk's office to proceed with the special advertising requirements, including notification to other taxing units that would potentially be impacted by abatement. The advertising has occurred and staff is not aware of any remonstrance or comments that have been received regarding the proposed abatement. Please note that in the last 13 years, the City has not received any remonstrance from other taxing units on any proposed abatement. We believe the lack of remonstrance is in part due to the fact that abatements are always considered concurrent with new growth and development, and that the proposals always represent added value, with or without a tax phase-in. Another factor to consider is that the immediate future financial impact to other taxing units will be minimal with or without an abatement due the property's location within the City's Consolidated TIF district.

As previously referenced, the City of Mishawaka Redevelopment Commission, on behalf of the City of Mishawaka and Department of Redevelopment, being the owners of the properties, have entered into a Development Agreement with the River Walk Development Group LLC. As part of that agreement the Commission agreed to support abatement for these projects. Specifically, the agreement indicated that "Based on what is being proposed, the Commission shall draft a letter of support for the abatement. The recommendation will include language on the number of years for the abatement, based on the schedule and investment proposed by the Developer." Relative to the specifics of the request, the Developer is requesting an aggressive 5 year abatement schedule, that would abate 100%, 95%, 90%, 85%, 80% of the new taxes associated with real property over the life of the abatement. For ease of reference, Resolution 2017-04, which was approved by the Redevelopment Commission on February 27, 2017, serves as the letter of support and is attached for your review and consideration. Although this is identical to what was submitted for the River Rock apartment project, as you may recall, the percentages that were ultimately approved for River Rock were amended on the floor by the Council to 100%, 90%, 85%, 75%, 70% for years one through five respectively.

To summarize the reasons for the abatement:

- First, the proposed development serves as a significant investment in the downtown area continuing to build on the momentum of other nearby multi-family residential development, such as the recently completed River Rock apartments and the planned mixed-use/residential and retail Mill at Ironworks Plaza. *The proposed type of multi-family residential development is a major component of the redevelopment initiatives in the downtown area which began with the Rivercenter Master Plan completed in 1999.*

- The City currently owns and maintains the property. Excluding a portion of River Walk located adjacent to the St. Joseph River, sidewalks connecting to Central Park and Sarah Street, and a pedestrian access point along Main Street, the properties currently serve no real purpose other than being land banked for development. The properties are generating no taxes or income for the City. Although a minor expense, the City is responsible for the current property maintenance.

- Current market conditions dictate the need for an abatement. The Barak River Rock project, located on Mishawaka Avenue north of the river, and the Townes at Kamm Island Park, an owner-occupied townhouse development located south of the river and west of Buetter Park, were the first for profit buildings constructed in the downtown area in the last 10 years. Older projects constructed sat vacant for years. The Ironworks building constructed by Prime Development in 2008 was not fully leased until 2015.

- This project is being marketed to professionals and others that have a higher average income when compared with much of the older housing/population in the vicinity of the project. The prospective residents will not only help sustain existing businesses, but also create demand for additional development over time. Based on staff's general estimates and projections for 55 apartment units with average household incomes of $50,000, if only 5% of the income of these new residents is spent in the downtown, this project alone will provide in excess of $137,500 a year toward supporting local businesses.

- Our historic downtown is not part of the commercial and medical regional hub on the north side of the City that remains in high demand and continues to command some of the highest property values of all of St. Joseph County. In contrast, the downtown has commercial values that are considerably lower with a more intermittent developer interest.

Staff also felt that the following questions which were referenced in the previous non-industrial/manufacturing abatements should be addressed.

1) *Would this project happen with or without tax abatement?*
Given the applicant's statements and through our conversations on this proposed development and the previously developed River Rock apartments, we believe the developer will not pursue the project without the abatement.

2) *Will the proposed employees receive greater wages or benefits, when compared to what market forces would dictate, as a result of the abatement?*
No, the proposed jobs created will be market rate. As indicated in the abatement request, two new non-construction jobs will be created.

3) *Will the project bring a higher grade of construction than the City could typically expect in this area, or higher than what the market would dictate?*
Yes. In order to capitalize on the site's location adjacent to the river, the developer is proposing a unique building design with a terraced balconies on the upper floors. These balconies will enhance and maximize views for the apartment's tenants while providing a higher-level and more aesthetically pleasing design for the general public. The proposed first-floor covered parking, upper-level private courtyard, elevators, and vertical building design will result in a higher construction costs per square foot. Although this potentially creates a gap between the construction costs and the leasing rates that the market will bear, it will also increase the project density, and the corresponding assessed valuation. In summary, the style of the proposed development is architecturally significant and is consistent with the desire to build density in our historic downtown.

4) *Is the area currently having trouble developing? Is it a brownfield area?*
Excluding River Rock apartments and the soon to be developed The Mill at Ironworks, which would not be possible without both public and private funding, private investment in the area has been minimal. The city's investment in public spaces and the River Walk have created a sense of place and increased usage of the riverfront, but has not resulted in an increase of private investment as anticipated. The lack of growth and investment can largely be attributed to the lower incomes and aging population in the older parts of the city including downtown.

5) *Is the City asking for some kind of improvement out of the ordinary where the developer is undertaking a cost that is normally borne by the City, such as significantly extending infrastructure or widening a road that will promote additional development?*
No. Per the development agreement entered into between the developer and Redevelopment Commission, the City is paying for the improvement costs associated with the expanded right-of-way of the east-west alley on the north side of the site. Improvements shall include the widening of the street and building sidewalks, and landscaping within the widened public right-of-way.

6) *The regional economy has improved, why should we incentivize construction right now when many of the trades are working at close to capacity and Notre Dame has significant construction happening?*
The economy has considerably improved from the earlier part of the decade when unemployment rates were higher. However, a significant part of the working population left our region due to the great recession. When that segment of population was reduced, it negatively impacted our population statistics resulting the remaining population being older and less affluent. Having a vibrant construction industry is needed for the vitality of the region. This project is significant and will contribute to the on-going health of our local construction trades. From an economic development standpoint, an estimated 10 to 15

construction jobs are created for every million dollars of construction cost. With an estimated construction cost exceeding $13 million, we are reasonably confident that this project represents more than 130 construction jobs over the duration of construction.

7) *Will the services at this facility be better as a result of the tax abatement, will it be cheaper?*
Yes. If the tax abatement is approved, the developer will be able to offer the units at a lower rent that will allow the units to be leased. If the tax abatement were not approved, higher rents would prevent the building from being leased.

Accurately predicting values and tax impacts for any abatement request is always a challenge given the numerous variables and estimates involved. As in other recent abatement analyses', we used the following DLGF website to project tax revenue:

https://gateway.ifionline.org/CalculatorsDLGF/TaxCalculator.aspx.

This website includes a calculator where you input the location, assessed valuation, and class of property and it outputs the maximum tax for the property. This calculator was used for the below tax projections. The current 2017 tax rate was used, and future years did not estimate any increase or decrease over the abatement period. Although we know the tax rate will increase and that there will be an impact based on the full implementation of the tax caps in 2019, we felt that omitting estimates for these changes still provided a reasonable value estimate without being more complicated.

Using the calculator, based on the 2017 tax rate, and a $10,400,000 assessed valuation, the project will have an estimated annual tax bill of $318,217. Like other recent tax abatement analysis, the assessed valuation for multiple-family residential project is projected at 80% of the construction cost, which in this case is $13,000,000.

The below table shows the anticipated annual and total amount of tax revenue abated and paid after the completion of the project expected to be in August 2019:

Proposed 5 Year Abatement – Residential Rental Apartment Units

Tax Year	*Percentage*	*Total Tax*	*Taxes Paid*	*Taxes Abated*
2019 Pay 2020	100%	$318,217	$0	$318,217
2020 Pay 2021	95%	$318,217	$15,911	$302,306
2021 Pay 2022	90%	$318,217	$31,821	$286,396
2022 Pay 2023	85%	$318,217	$47,733	$270,484
2023 Pay 2024	80%	$318,217	$63,643	$254,574
Total		***$1,591,085***	***$159,108***	***$1,431,977***

Tax abatement analysis and discussions typically revolve around finances and often only consider the short-term fiscal impact. However, it is just as important to develop the downtown area with a vibrant mix of uses paving the way for future investment.

As always, please do not hesitate to contact our department if you have any questions, or require any additional information. We thank you for your consideration.

Sincerely,

Derek J. Spier, AICP
Senior Planner & Economic Development Specialist

cc: David A. Wood, Mayor
City of Mishawaka Redevelopment Commission (via e-mail only)

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 11 2017

CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. 2017-09

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, MAKING A FINAL DETERMINATION AND CONFIRMING THE DESIGNATION OF AREAS WITHIN THE CITY OF MISHAWAKA, INDIANA, COMMONLY KNOWN AS

VACANT LAND AT 100 BLOCK OF EAST MISHAWAKA AVENUE EAST OF SARAH STREET

AS AN ECONOMIC REVITALIZATION AREA AND ECONOMIC DEVELOPMENT TARGET AREA FOR PURPOSES OF REAL PROPERTY TAX ABATEMENT FOR

RIVER WALK DEVELOPMENT GROUP, L.L.C. AND/OR ITS ASSIGNS

WHEREAS, the Common Council of the City of Mishawaka, Indiana, adopted a Declaratory Resolution which designated eighteen (18) vacant unaddressed parcels located north of the St. Joseph River, east of North Main Street, south of an east-west alley south of Mishawaka Avenue, and adjacent to Sarah Street, being more specifically Parcel Numbers 71-09-16-226-001.000- 023, 71-09-16-226-002.000-023, 71-09-09-488-013.000-023, 71-09-09-488-014.000-023, 71-09-09-488-015.000-023, 71-09-09-488-016.000-023, 71-09-09-488-017.000-023, 71-09-09-488-018.000-023, 71-09-09-488-019.000-023, 71-09-09-488-020.000-023, 71-09-09-488-021.000-023, 71-09-09-488-022.000-023, 71-09-09-489-004.000-023, 71-09-09-489-005.000-023, 71-09-16-226-003.000-023, 71-09-16-226-004.000-023, 71-09-16-226-005.000-023, and 71-09-16-226-006.000-023 as shown on the attached Exhibit A, as an Economic Revitalization Area and an Economic Development Target Area.

WHEREAS, notice of the adoption of a Declaratory Resolution and the public hearing before the Council has been published pursuant to Indiana Code 6-1.1-12.1-2.5; and

WHEREAS, the Council held a public hearing for the purposes of hearing all remonstrances and objections from interested persons; and

WHEREAS, the Council has determined that the qualifications for an economic revitalization area and economic development target area have been met.

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

1. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area and Economic

Development Target Area for the purposes of tax abatement. Such designations are for real property tax abatement only and is limited to five (5) calendar years.

2. The Common Council hereby determines that the property owner is qualified for and is granted a real property tax deduction; provided the same shall be limited to a period of five (5) years for real property only in the following applicable deduction percentages:

Year 1:	100%
Year 2	95%
Year 3	90%
Year 4	85%
Year 5	80%

3. That the petition for tax abatement, the Development Agreement by and between the Petitioner and the City of Mishawaka Redevelopment Commission, and the Statement of Benefits submitted by River Walk Development Group, L.L.C. for it and its successors and assigns, comply with Indiana Code 6-1.1-12.1-1 et seq. and are hereby approved.

4. That this determination is final except that an appeal may be taken and heard as provided under Indiana Code 6-1.1-12.1-2-5 and subjections (d) and (e) of the Act.

The Common Council of the City of Mishawaka, Indiana hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area and Economic Development Target Area for the purposes of tax abatement.

ADOPTED by the Common Council of the City of Mishawaka, Indiana, St. Joseph County, Indiana, this ___ day of June, 2017.

____

Ross J. Deal, President

ATTEST:

____

Deborah S. Block, City Clerk

PRESENTED by me to the Mayor of the City of Mishawaka, Indiana, on this _____ day of ______________________, 2017.

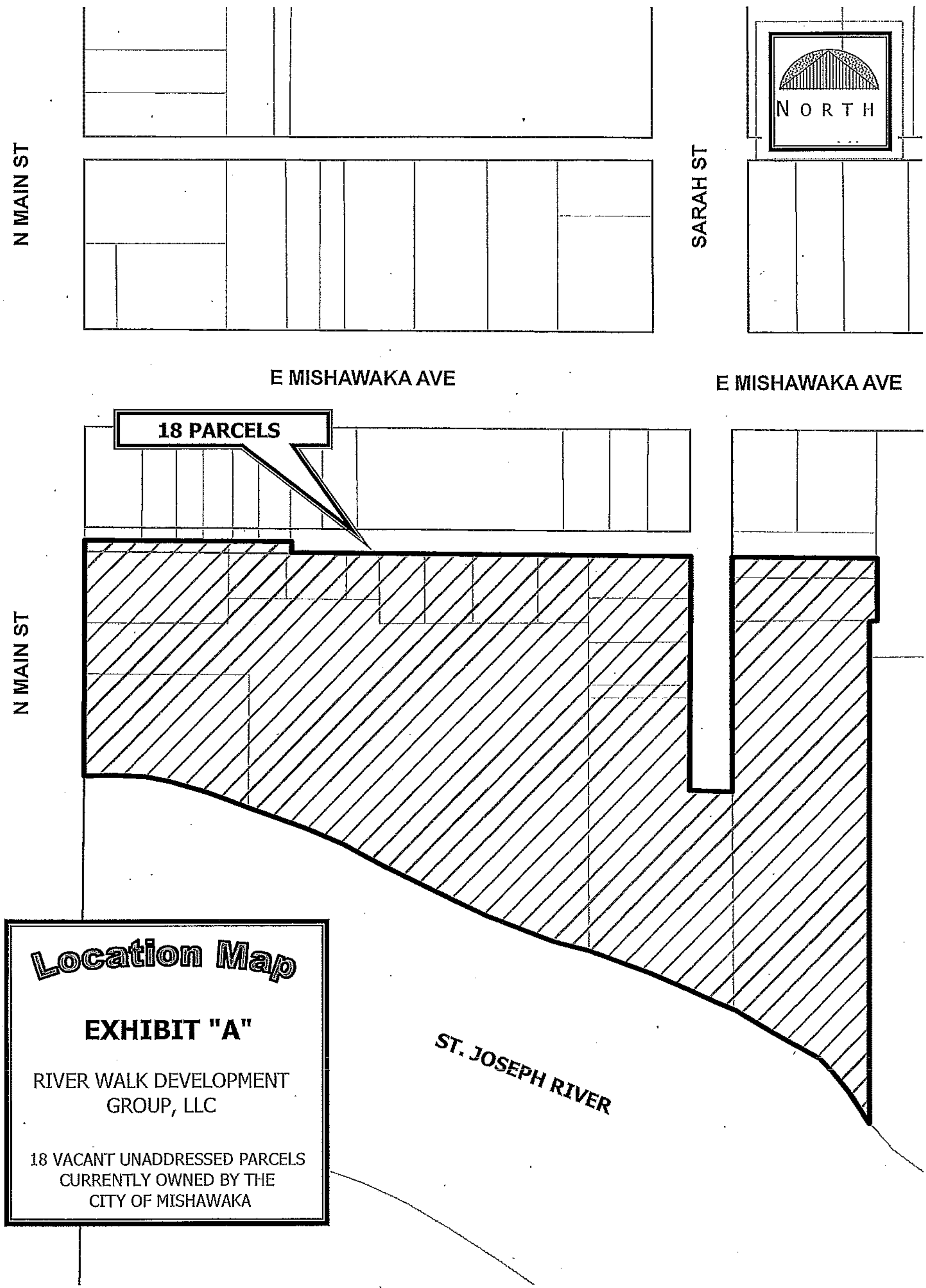
____

Deborah S. Block, City Clerk

APPROVED AND SIGNED by me this _____ day of ______________________, 2017, at _____ o'clock ____.M.

____

David A. Wood, Mayor


NORTH
N MAIN ST
SARAH ST
E MISHAWAKA AVE
E MISHAWAKA AVE
18 PARCELS
N MAIN ST
ST. JOSEPH RIVER
Location Map
EXHIBIT "A"
RIVER WALK DEVELOPMENT GROUP, LLC
18 VACANT UNADDRESSED PARCELS CURRENTLY OWNED BY THE CITY OF MISHAWAKA

RESOLUTION NO. 2017-04

CITY OF MISHAWAKA REDEVELOPMENT COMMISSION RESOLUTION APPROVING THE DESIGNATION OF CERTAIN PROPERTY AS AN ECONOMIC REVITALIZATION AREA AND ECONOMIC DEVELOPMENT TARGET AREA

WHEREAS, the City of Mishawaka, Indiana (the "City") has authority under Ind. Code § 6-1.1-12.1-1 et seq., to allow a deduction from the assessed value of various types of redeveloped or rehabilitated property (i.e., tax abatement) located within an Economic Revitalization Area ("ERA");

WHEREAS, the City has authority to allow a deduction from the assessed value of redeveloped or rehabilitated real property to be used for residential purposes which is (a) located within an ERA, and (b) also designated as an Economic Development Target Area under IND. CODE § 6-1.1-12.1-7;

WHEREAS, River Walk Development, LLC ("Petitioner") is a party to a certain Development Agreement entered into with the City of Mishawaka Redevelopment Commission ("Commission") dated May 23, 2016 (the "Development Agreement") regarding the proposed redevelopment of certain property owned by the Commission (as defined in the Development Agreement, the "Property"), including Petitioner's purchase and development of the Property;

WHEREAS, Petitioner has submitted a Form SB-1 Statement of Benefits and Application for a five (5) year Real Property Tax Abatement (together, the "Application") with the Common Council of the City of Mishawaka ("Council"), including a request that the Council designate the Property as an ERA and Economic Development Target Area for purposes of such abatement;

WHEREAS, the Petitioner plans to construct, as described in the Statement of Benefits attached hereto as Exhibit A, a multi-family housing project on the Property (the "Project");

WHEREAS, the Petitioner has requested the Commission and the City Economic Development Commission to consider, and recommend to the Common Council of the City that it approve, the designation of the Property as an ERA and Economic Development Target Area;

WHEREAS, the characteristics of property that may be designated an Economic Development Target Area include the same characteristics as property designated as an ERA, such as the property that has become undesirable for normal development and occupancy;

WHEREAS, the Commission has heard evidence regarding the necessity of targeting the Property for residential development in order to promote a more desirable and normal development of the area in furtherance of the City Master Plan;

NOW, THEREFORE, BE IT RESOLVED by the Commission as follows:

1. The Commission acknowledges that the requirements for designating property as an ERA and an Economic Development Target Area are the same for purposes of Indiana law.

2. The Commission acknowledges that the development of the Property for residential use is necessary to promote a more desirable and normal development of the Property and surrounding areas.

3. After considering the evidence, the Commission hereby approves the designation of the Property as an ERA and Economic Development Target Area and recommends that the Common Council of the City also approve such designation, all in full support for approving Applicant's request for tax abatement and encouraging significant growth and redevelopment of the Property.

4. Based on the information in the Application, including the Statement of Benefits, describing the proposed Project and the Commission's consideration of other evidence, the Commission hereby finds that the allowance of property tax deductions for the Project to be located in both the ERA and Economic Development Target Area is of public utility and benefit and is consistent with the findings made and actions taken in the Resolution.

5. This Resolution shall be in full force and effect after its adoption by the Commission.

ADOPTED and APPROVED at a meeting of the City of Mishawaka Redevelopment Commission held on the ___ day of February, 2017.

CITY OF MISHAWAKA
REDEVELOPMENT COMMISSION

____
President

ATTEST:

____
Secretary

BARNES & THORNBURG LLP

700 1st Source Bank Center
100 North Michigan
South Bend, IN 46601-1632 U.S.A.
(574) 233-1171
Fax (574) 237-1125

www.btlaw.com

February 22, 2017

VIA HAND DELIVERY

Mr. Kenneth Prince
Redevelopment Commission
City of Mishawaka
600 East 3rd Street
Mishawaka, Indiana 46544

RE: River Walk Development Group, L.L.C.
Application for Real Property Tax Abatement

Dear Ken:

Thank you for meeting with Scott Sivan and talking to me to discuss and review the proposed filing of River Walk Development Group's Application for Real Property Tax Abatement consideration. We are pleased to enclose an original and three (3) copies of each of the following documents for filing with your office (together with a check payable to the City of Mishawaka in the amount of $300):

1. Application for Real Property Tax Abatement;
2. Form SB-1 - Statement of Benefits;
3. Proposed form of Resolution for the Redevelopment Commission; and
4. Proposed forms of both a Declaratory and Confirming Resolution for consideration by the Common Council of the City of Mishawaka.

We greatly appreciate your guidance and support for this project. As always, please feel welcome to let Scott or me know if we can provide any additional information in anticipation of the Redevelopment Commission meeting. We would also appreciate your (a) returning a file-stamped copy of these documents to me (using the self-addressed, stamped envelope enclosed for your convenience) and (b) confirming the date for presentation to the Commission. Thank you again for your professional assistance.

Very truly yours,

BARNES & THORNBURG LLP

Richard J. Deahl

RECEIVED
FEB 22 2017
BUILDING, PLANNING
COMMUNITY DEVELOPMENT

RJD:slr
Enclosure
cc: Mr. Scott Sivan
Andrew G. Helfrich, Esq.

DMS 1296629v1

RECEIVED
FEB 22 2017
BUILDING, PLANNING
COMMUNITY DEVELOPMENT

City of Mishawaka
Building – Community Development - Planning

APPLICATION FOR DESIGNATION AS AN ECONOMIC REVITALIZATION AREA

REAL PROPERTY TAX ABATEMENT

1. Name of the company for which Economic Revitalization Area (ERA) designation is being requested:

   RIVER WALK DEVELOPMENT GROUP, L.L.C. (and its successors/assigns)

2. State the name, title, address and telephone number of a company representative who may be contacted concerning this application:

Name and Title: **Mr. Scott Sivan, Managing Partner**

Address: **300 S. St. Louis Boulevard, Suite 103, South Bend, Indiana 46617**

Telephone: **(574) 302-7236**

3. State the name, title, address and telephone number of a company representative who may be sent annual compliance surveys. Please note that the **annual survey will determine if your company is compliant with the terms of the abatement agreement and whether the abatement will continue or be terminated,** so the contact should be made aware of the survey's importance.

Name and Title: **(Same as above)**

Address: ______

Telephone: ______

4. Location of property for which ERA designation (real property tax abatement) is being sought (this information is available through the Township Assessor's Office):

   a) Street Address: **Vacant Land located West of Sarah Street and South of Lots on the Southeast corner of Main Street and Mishawaka Avenue; Mishawaka, Indiana.**

   b) Township: **Penn Township (Mishawaka)**

   c) Taxing District Number: **71-023**

   d) Council District Number: **4th District, City of Mishawaka**

e) Tax Parcel Number(s):

Parcel Nos.: **71-09-16-226-001.000- 023**
71-09-16-226-002.000-023
71-09-09-488-013.000-023
71-09-09-488-014.000-023
71-09-09-488-015.000-023
71-09-09-488-016.000-023
71-09-09-488-017.000-023
71-09-09-488-018.000-023
71-09-09-488-019.000-023
71-09-09-488-020.000-023
71-09-09-488-021.000-023
71-09-09-488-022.000-023
71-09-09-489-004.000-023
71-09-09-489-005.000-023
71-09-16-226-003.000-023
71-09-16-226-004.000-023
71-09-16-226-005.000-023
71-09-16-226-006.000-023

(and any combinations/future parcel numbers assigned to these parcels/lots)

f) Current Zoning of the Property: **C-3 City Center Commercial Zoning District**

g) Case/approval number of any variance, rezoning, or approval petition(s) which is/are required or have been obtained for this project: ______________________

5. What is the amount of the most recent assessment attributable to (this information is available from the most recent property tax form):

Land: **$Exempt (Owned by City of Mishawaka Redevelopment Commission)**

Improvements: **$None/Exempt (Owned by City of Mishawaka Redevelopment Commission)**

Inventory: **$0.00 (N/A)**

Equipment: **$0.00 (N/A)**

6. Has this project/tax abatement request been discussed with City of Mishawaka Staff and has a site visit been conducted? __X__ Yes ______ No

7. Does your company currently conduct manufacturing operations at this location? If so, how long has your company been at this location? **N/A**

a) Please provide your firm's North American Industry Classification System (NAICS) Code Classification. **N/A**

b) Please list any special certifications/designations. **N/A**

8. Does your firm have other operations in the US? In Indiana? If so, please list the location of other operations. Also please indicate the location of your firm's headquarters if not located in Mishawaka.

Please see Description of Applicant and Project attached as Exhibit A

An affiliate of applicant has one project at 116 W. Mishawaka Ave, Mishawaka, IN 46545

What is the size of the real estate that will be developed? (in acres) **A portion of ~2.92 Acres**

9. What is the estimated construction or rehabilitation cost? **~$ 12.5 – 13.5 MM**

10. Have building permits been obtained? *(Please note that state statute requires petitioner to file abatement application **before** obtaining permits) ____ Yes __X__ No

11. What is the anticipated date for construction to begin? **February, 2018**

12. What is the anticipated date for project completion? **August, 2019**

13. Profile of Company that will occupy the property for which tax abatement is being requested:

Please see Description of Applicant and Project attached as Exhibit A

a) Are your employees represented by a union? If so, by whom? **No.**

b) Number of current full time permanent hourly employees by skill level (include average hourly wage rate excluding benefits and overtime)

Skilled	____	Average hourly wage rate for skilled positions	____
Semi-skilled	____	Average hourly wage rate for unskilled positions	____
Clerical	____	Average hourly wage rate for clerical positions	____
Salaried	____	Average salary (per hour) for salaried positions	$20

TOTAL NUMBER OF EXISTING EMPLOYEES (permanent and full-time) 2

c) What benefits are offered to your company's employees? (i.e. sick time, vacation, health insurance, 401(k), other retirement benefits, profit sharing, etc.).

Sick and vacation time.

d) Approximate value of benefits for existing and new employees on a per hour basis (e.g. benefits are valued at an additional $3.00 per hour, etc.) N/A

e) What is the total dollar amount spent on retained salaries? N/A

f) Number of created full-time permanent hourly employees by skill level (include average hourly wage rate **excluding benefits and overtime**)

Skilled	____	Average hourly wage rate for skilled positions	____
Semi-skilled	~	Average hourly wage rate for unskilled positions	~15.00
Clerical	~	Average hourly wage rate for clerical positions	~13.00
Salaried	~	Average salary (per hour) for salaried positions	~45,000

TOTAL NUMBER OF NEW EMPLOYEES (permanent and full-time) ~2

g) What is the total dollar amount to be spent on new salaries? ~ $75,000

h) What is the blended hourly wage rate (the blended rate of hourly and salaried employees), excluding benefits and overtime, for: **N/A.**

Current hourly employees	__________
Retained hourly employees	__________
New hourly employees	__________

i) (if applicable)What is the usual market for goods or services produced by the company? List the percentage of the company's product or service that reaches: **N/A.**

Inside St. Joseph County:	__________%
Outside St. Joseph County, but inside Indiana:	__________%
Outside Indiana, but within 500 miles	__________%
Outside of 500 miles	__________%
Outside of the United States:	__________%

j) (if applicable)List the name and location (City and State) of your five largest vendors or suppliers: **N/A.**

15. Describe the project for which tax abatement is being requested. Include the types of improvements that will be made, and indicate whether improvement is freestanding or an expansion to existing facility. In addition, indicate whether your company will utilize the entire project space or lease a portion of it to an outside company.

Please see Description of Petitioner and Project attached as Exhibit A

16. Briefly describe the product or service of the company/business which will occupy the property for which tax abatement is being requested.

Please see Description of Petitioner and Project attached as Exhibit A

17. What evidence can be provided to show the positive impact the abatement will have on the project property and surrounding area?

Please see Description of Petitioner and Project attached as Exhibit A

18. Please give a detailed description of what the impact on your business will be if the proposed project is not undertaken (e.g. loss of jobs, contract cancellations, loss of production, change in location, etc.).

Please see Description of Petitioner and Project attached as Exhibit A

19. Will you require any additional assistance from the City of Mishawaka?

Petitioner has sought the support and assistance from the City of Mishawaka with respect to parcel assembly, alley vacation, zoning and similar matters regarding the proposed development, all in accordance with the Development Agreement entered into between the Petitioner and the City of Mishawka Redevelopment Commission.

20. Have you applied for any assistance from the State of Indiana?

Petitioner has not applied for assistance from the State of Indiana regarding the proposed development project.

21. Miscellaneous Attachments Required:

- Attach the legal description of the property where the project will take place, marked Exhibit B, and hereby incorporated herein. **To be completed.**
- Attach a map and/or a plan of the property where the project will take place, marked Exhibit C, and is hereby incorporated herein.

I hereby certify that the information and representations on this application for Real Property Tax Abatement are true and complete.

I understand that if this request for property tax abatement is granted that I will be required to participate in a mandatory annual compliance process. The survey will measure compliance with the project description, job creation and retention figures (and associated salaries), investment, and other information contained in the final resolution authorizing the property tax abatement. I also acknowledge that failure to respond to the mandatory annual compliance or failure to achieve investment, job creation, retention, and salary levels contained in the final resolution may result in a loss of tax abatement deductions, and may result in the repayment of tax abatement savings received.

RIVER WALK DEVELOPMENT GROUP, L.L.C.
(and its Successors and Assigns)

____
Signature of Owner or Authorized Representative

Printed: Scott Sivan
Title: Managing Partner

February 21, 2017
Date

EXHIBIT A
DESCRIPTION OF PETITIONER AND PROJECT

River Walk Development Group, L.L.C., a Delaware limited liability company (the "Petitioner" or "Developer") is a party to a certain Development Agreement with the City of Mishawaka Redevelopment Commission dated May 23, 2016 for the proposed development of certain vacant property generally located immediately north of the St. Joseph River between Main Street and Sarah Avenue, Mishawaka, Indiana (the "Development Agreement"). As more particularly set forth in the Development Agreement, the proposed project includes new investment to construct a multi-family building containing approximately 120,000 square feet. This building will contain approximately 50-60 residential units for occupancy as condominiums and/or apartments. The Developer projects the completion of the building on or before August 2019. The Developer anticipates, at this time, that construction of the entire development will proceed in a single phase at an investment of between $12,500,000 and 13,500,000. As noted above, the proposed project involves a significant investment in the construction of a multi-family project to spur continued residency and growth in downtown Mishawaka. This project, as generally depicted on Exhibit C, is designed with unique architectural features and enhancements to support and promote the advancement of the Mishawaka River Center Master Plan. In particular, the design of the proposed project includes pedestrian friendly features, architectural aspects and positioning to enhance the aesthetic views from and connectivity of residential areas with the Mishawaka City Center.

The Developer's proposed project is intended to provide significant benefits to the City of Mishawaka, including (among others) the following:

- The Developer anticipates investing approximately $12,500,000 - 13,500,000in the construction of the building improvements;

- The Developer anticipates relying on local service providers and suppliers when reasonably possible for construction services and materials for completion of the project;

- The overall design of the project includes an emphasis on architectural features and pedestrian friendly attributes to support the Mishawaka's River Center Master Plan and to create an inviting and vibrant community within and stemming from the project;

- The Developer anticipates that, upon completion, the Developer will employ certain management and maintenance personnel, thereby creating at least 2 to 4 new jobs with an estimated payroll of amounts in excess of $80,000 – 150,000;

- The overall design and Developer's plan to complete construction of the entire project in a single phase, will result in great density and an influx of 100 to 120 new high quality residents to support and frequent existing local retail and service businesses and other establishments, which should provide more local revenues and employment as those businesses expand and new ones open for operation;

- The proposed development is also intended to serve as a catalyst for further projects with residential density and to support contributions for increasing traffic, patronage, and vibrancy of the downtown Mishawaka area.

As noted above, the Developer anticipates investing between $12,500,000 and $13,500,000 to successfully complete the construction of the proposed project. The success of the project and benefits provided to the City can be bolstered by efforts to manage the real property tax liabilities during construction and the marketing period to lease-up and/or sell individual units comprising the project. The Developer kindly requests the Mishawaka City Council's support of a five (5) year real property tax abatement, with the following deduction schedule:

Number of Years	Applicable Deduction %
1	100%
2	95%
3	90%
4	85%
5	80%

A five (5) year abatement corresponds with the Developer's commitment for total project completion and will span periods of construction and the initial marketing lease-up phase of the project. Importantly, the tax abatement will assist the petitioner with managing property tax expenses to spur initial growth and occupancy for the mutual benefit of the City and the stability of the project through rapid occupancy. Any property tax savings realized during the period of construction (through the five-year abatement) will certainly be recovered by the City over time based on the anticipated assessment of the property for many years to come.

EXHIBIT B

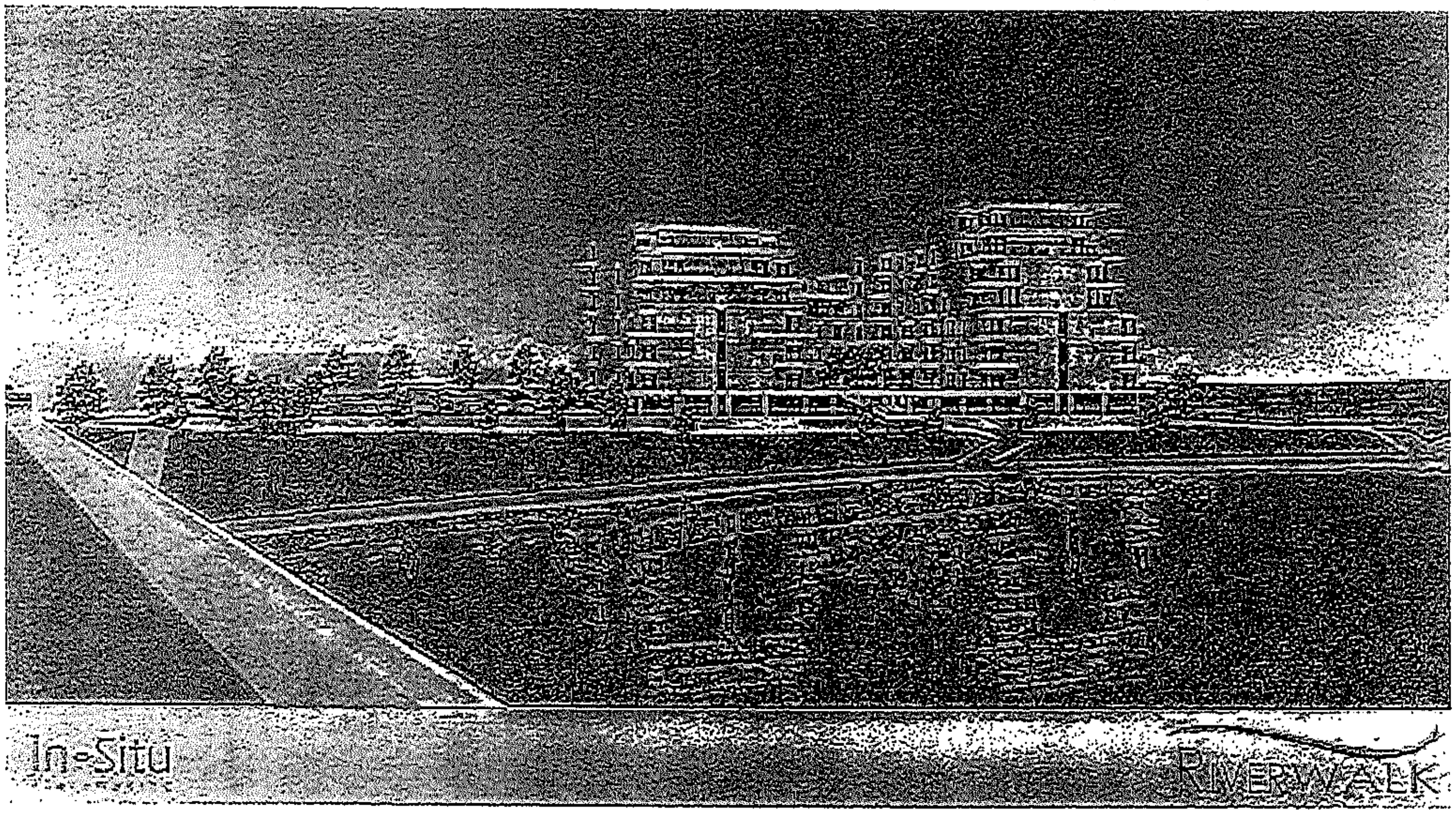
LEGAL DESCRIPTION

To be completed.

EXHBIIT C
PRELIMINARY DEVELOPMENT PLAN

[PLEASE SEE ATTACHED]

River Walk Development



STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS

State Form 51767 (R6 / 10-14)
Prescribed by the Department of Local Government Finance

20 19 PAY 20 20

FORM SB-1 / Real Property

PRIVACY NOTICE
Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

This statement is being completed for real property that qualifies under the following Indiana Code (*check one box*):
☑ Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)
☐ Residentially distressed area (IC 6-1.1-12.1-4.1)

INSTRUCTIONS:

1. *This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise, this statement must be submitted to the designating body* ***BEFORE*** *the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction.*
2. *The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction.*
3. *To obtain a 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 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. A property owner who failed to file a deduction application within the prescribed deadline may file an application between March 1 and May 10 of a subsequent year.*
4. *A property owner who files for the deduction must provide the County Auditor and designating body with a Form CF-1/Real Property. The Form CF-1/Real Property should be attached to the Form 322/RE when the deduction is first claimed and then updated annually for each year the deduction is applicable. IC 6-1.1-12.1-5.1(b)*
5. *For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/Real Property that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. IC 6-1.1-12.1-17*

SECTION 1 — TAXPAYER INFORMATION

Name of taxpayer: River Walk Development Group, L.L.C.

Address of taxpayer (*number and street, city, state, and ZIP code*): 300 S. St. Louis Boulevard, Suite 103; South Bend, Indiana 46617

Name of contact person	Telephone number	E-mail address
Scott Sivan, Managing Partner	(574) 302-7236	sivan@barakriverrock.com

SECTION 2 — LOCATION AND DESCRIPTION OF PROPOSED PROJECT

Name of designating body		Resolution number
Common Council of the City of Mishawaka		
Location of property	**County**	**DLGF taxing district number**
Please see Exhibit A	St. Joseph	71-023

Description of real property improvements, redevelopment, or rehabilitation (*use additional sheets if necessary*):
Investment of at least $12,500,000 - $13,500,000 in the development and construction of a multi-family housing project containing approximately 120,000 square feet

Estimated start date (*month, day, year*): May 2018
Estimated completion date (*month, day, year*): August 2019

SECTION 3 — ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT

Current number	Salaries	Number retained	Salaries	Number additional	Salaries
0	0	N/A	N/A	2+	~$75,000

SECTION 4 — ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT

	REAL ESTATE IMPROVEMENTS	
	COST	ASSESSED VALUE
Current values	$0	Exempt
Plus estimated values of proposed project	$12.5MM – $13.5MM	Reg. 17
Less values of any property being replaced	N/A	N/A
Net estimated values upon completion of project	$12.5MM – $13.5MM	Reg. 17

SECTION 5 — WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER

Estimated solid waste converted (*pounds*) ______
Estimated hazardous waste converted (*pounds*) ______

Other benefits

SECTION 6 — TAXPAYER CERTIFICATION

I hereby certify that the representations in this statement are true.

Signature of authorized representative	Date signed (*month, day, year*)
[signature]	February 22 2017
Printed name of authorized representative	**Title**
Scott Sivan	Managing Partner

FOR USE OF THE DESIGNATING BODY

We find that the applicant meets the general standards in the resolution adopted or to be adopted by this body. Said resolution, passed or to be passed under IC 6-1.1-12.1, provides for the following limitations:

A. The designated area has been limited to a period of time not to exceed five (5) calendar years* *(see below)*. The date this designation expires is ______________.

B. The type of deduction that is allowed in the designated area is limited to:
1. Redevelopment or rehabilitation of real estate improvements ☑ Yes ☐ No
2. Residentially distressed areas ☑ Yes ☐ No

C. The amount of the deduction applicable is limited to $ ______________.

D. Other limitations or conditions *(specify)* N/A

E. Number of years allowed: ☐ Year 1 ☐ Year 2 ☐ Year 3 ☐ Year 4 ☑ Year 5 (* see below) ☐ Year 6 ☐ Year 7 ☐ Year 8 ☐ Year 9 ☐ Year 10

F. For a statement of benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17?
☑ Yes ☐ No
If yes, attach a copy of the abatement schedule to this form.
If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

We have also reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved *(signature and title of authorized member of designating body)*	Telephone number	Date signed *(month, day, year)*
[signature]	(574) 302 7236	2.22.17
Printed name of authorized member of designating body: Scott Sivan	Name of designating body:	
Attested by *(signature and title of attester)*	Printed name of attester	

* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

A. For residentially distressed areas where the Form SB-1/Real Property was approved prior to July 1, 2013, the deductions established in IC 6-1.1-12.1-4.1 remain in effect. The deduction period may not exceed five (5) years. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. The deduction period may not exceed ten (10) years. (See IC 6-1.1-12.1-17 below.)

B. For the redevelopment or rehabilitation of real property where the Form SB-1/Real Property was approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. (See IC 6-1.1-12.1-17 below.)

IC 6-1.1-12.1-17
Abatement schedules
Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:
(1) The total amount of the taxpayer's investment in real and personal property.
(2) The number of new full-time equivalent jobs created.
(3) The average wage of the new employees compared to the state minimum wage.
(4) The infrastructure requirements for the taxpayer's investment.
(b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.
(c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.

EXHIBIT A
PROPERTY AND TERM/ABATEMENT SCHEDULE

1. **Property.**

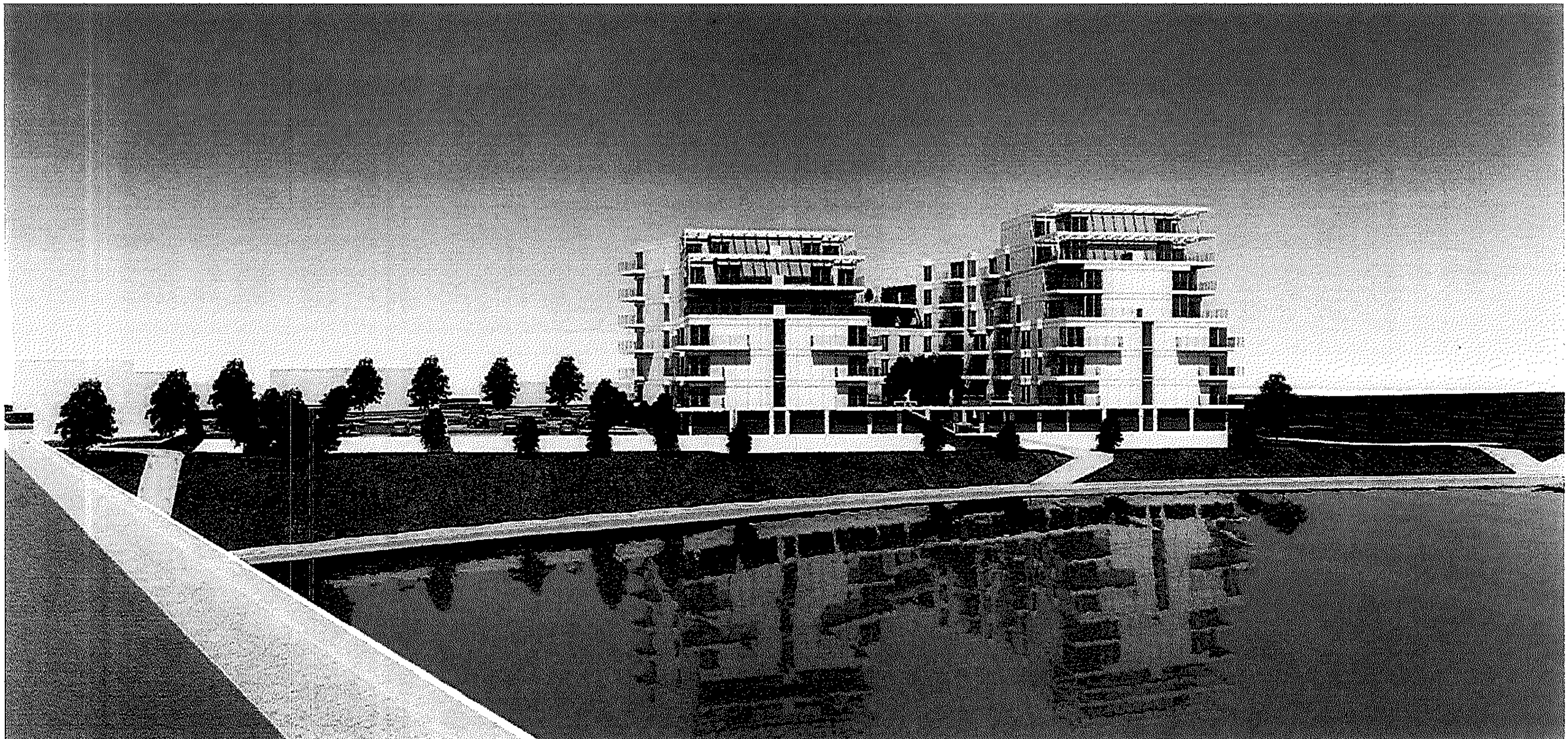
Vacant Land located West of Sarah Street and South of Lots on the Southeast corner of Main Street and Mishawaka Avenue; Mishawaka, Indiana, including the following parcel Key Nos. (as the same may be replatted for project):

71-09-16-226-001.000- 023
71-09-16-226-002.000-023
71-09-09-488-013.000-023
71-09-09-488-014.000-023
71-09-09-488-015.000-023
71-09-09-488-016.000-023
71-09-09-488-017.000-023
71-09-09-488-018.000-023
71-09-09-488-019.000-023
71-09-09-488-020.000-023
71-09-09-488-021.000-023
71-09-09-488-022.000-023
71-09-09-489-004.000-023
71-09-09-489-005.000-023
71-09-16-226-003.000-023
71-09-16-226-004.000-023
71-09-16-226-005.000-023
71-09-16-226-006.000-023

2. **Abatement Schedule.** Five (5) year abatement as follows:

Years	Applicable Deduction %
1	100%
2	95%
3	90%
4	85%
5	80%

River Walk Development



In-Situ Placemaking

RIVERWALK

Project Information
subtext

- River Walk will be a new Residential community composed of 60-70 units on the north bank of the St. Joseph River east of Main Street complementing the new River Rock community set to open in June this year.

- River Rock located just west of Main Street on Mishawaka Avenue, which has already transformed the skyline of downtown Mishawaka, is attracting young professionals to empty nesters from nearby Granger, South Bend, and of course Mishawaka, students from the various academic institutions in the area, as well as tenants from all over the U.S. who are relocating to this wonderful and welcoming place for professional and personal reasons.

- River Walk will be another modern architectural project with well planned, carefully designed and detailed, spacious one, two, and three bedroom units with extensive views of the St. Jo River and cascades.

- Like River Rock it will be walking and biking distance from downtown Mishawka and the River Walk parks area, just a short drive to the Grape Road Corridor, the second largest retail area in Indiana, Notre Dame, IUB, and the other academic facilities that are part this multi-faceted community.

- River Walk like River Rock will have covered parking and a raised private landscaped courtyard for the tenants. Every detail for the tenants comfort, ease, living pleasure and security has been considered. River Walk combined with River Rock will anchor the north edge of downtown Mishawaka while acting as the gate to the downtown on either side of the Main Street Bridge.

Welcome to River Walk

Area Map
Project location

In•Situ Placemaking

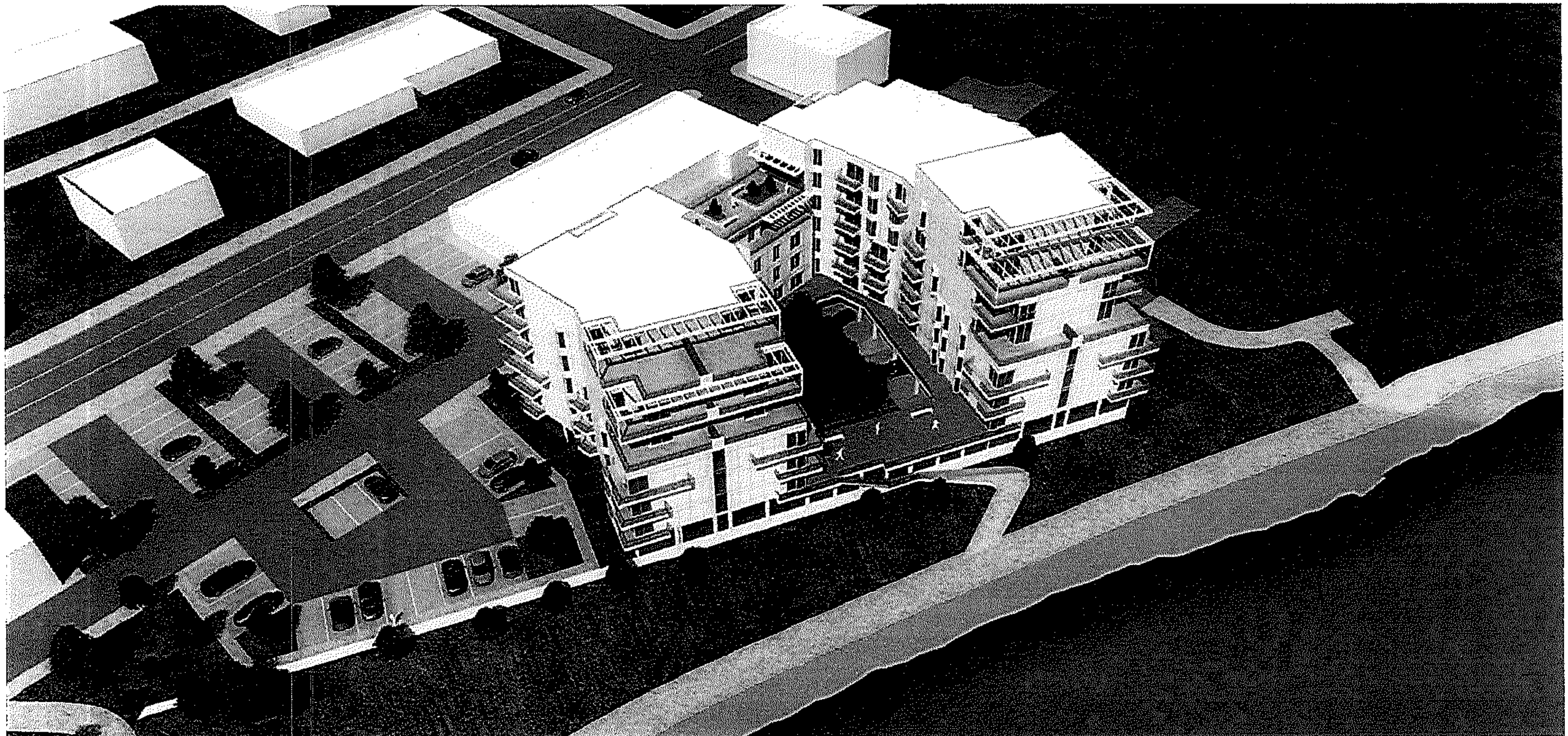
RIVERWALK

Design Renders
View from river's south bank

In•Situ Placemaking

RIVERWALK

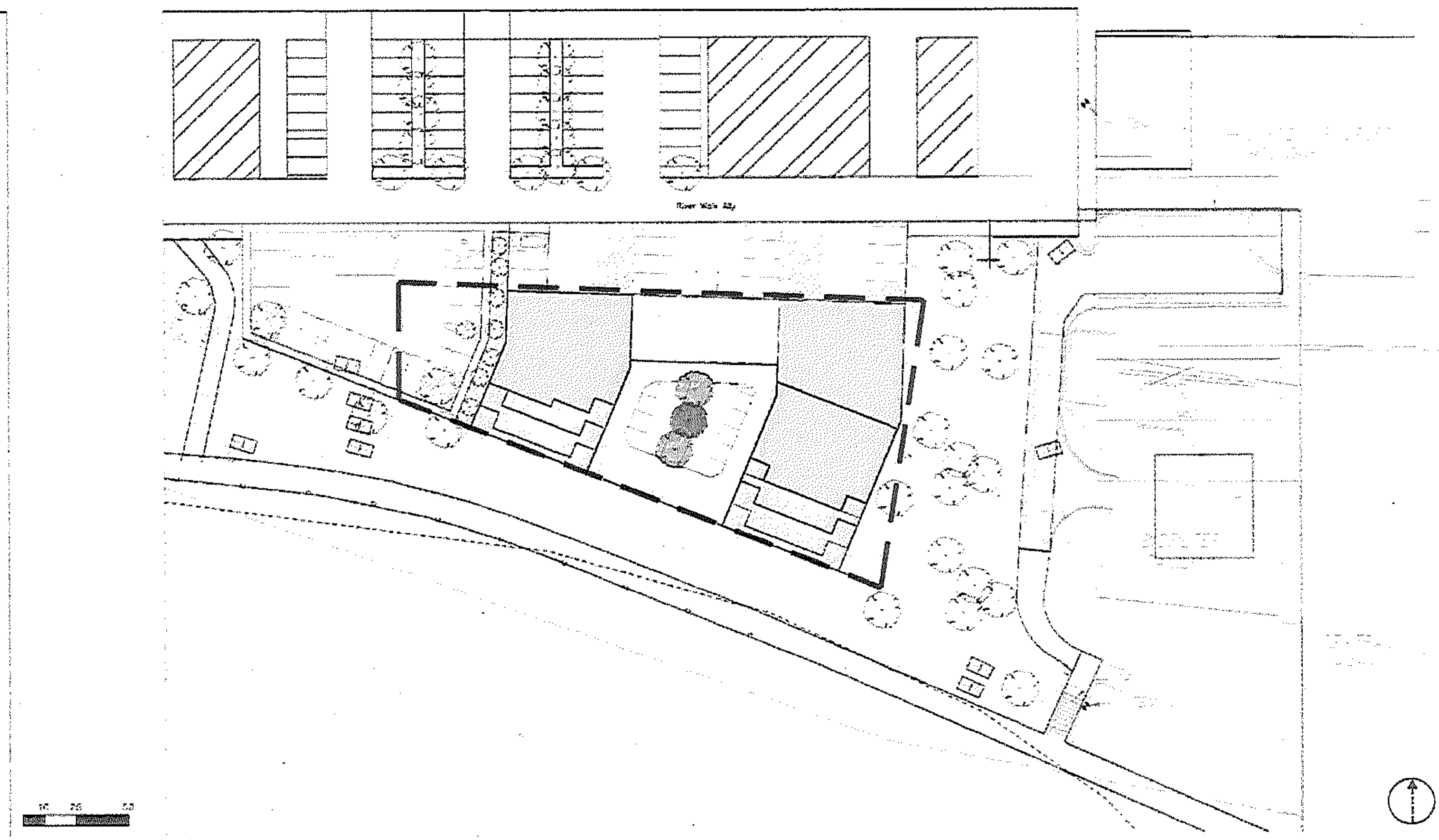
Design Renders
Aerial View from the south



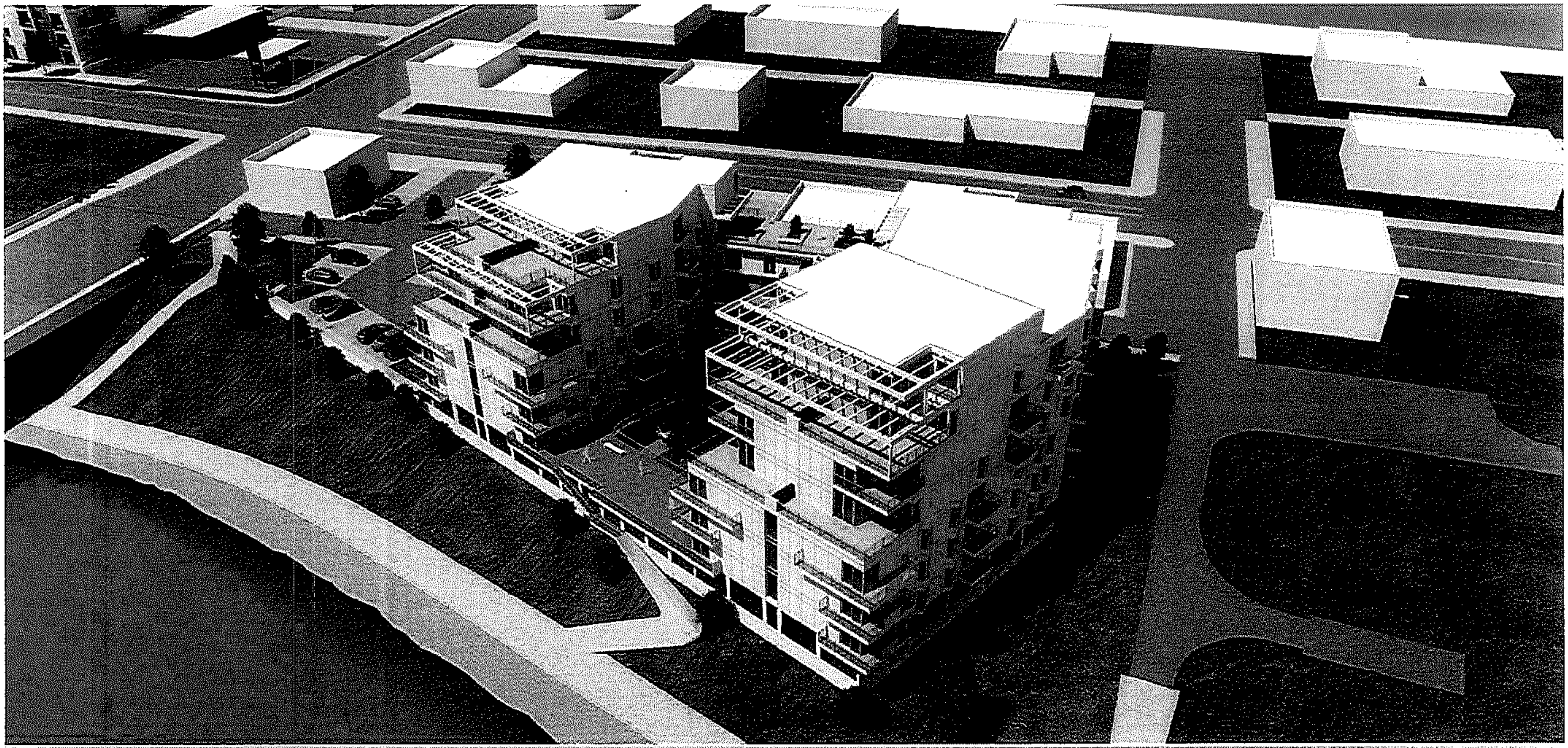
In-Situ Placemaking

RIVERWALK

Design Plans
Site Plan



Design Renders
Aerial View from the south



Data Sheet

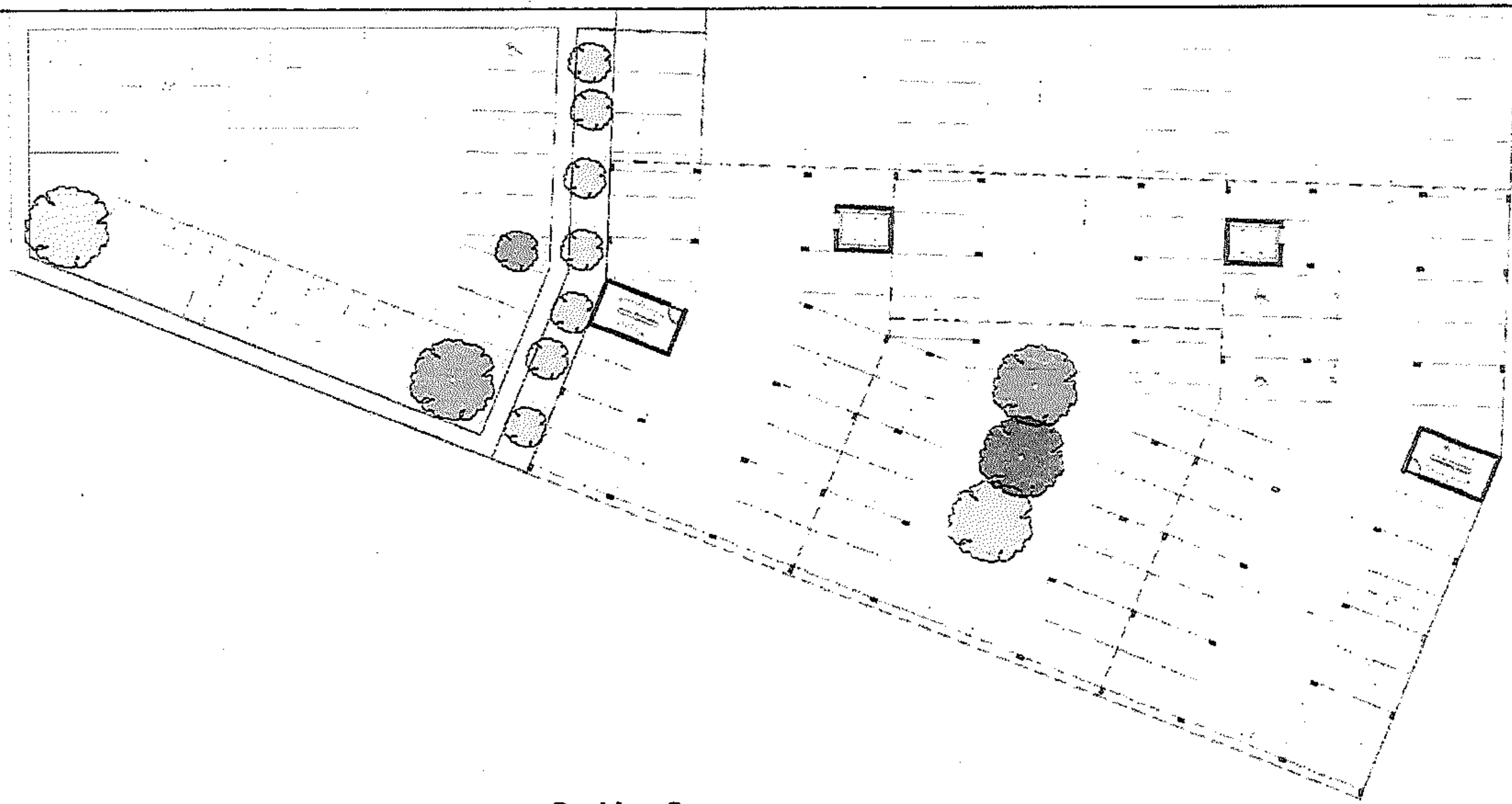
Public Spaces and passages

Parking Spaces								
Internal	54							
External	13+21							
total parking	88							
	ground floor	2nd floor	3rd floor	4th floor	5th floor	6th floor	7th floor	8th floor
passages, corridors, lifts and stairs	900	2440	2440	2440	2400	2350	2300	0
roofed parking	12000							
courtyard		3500						

Private Spaces

	1 Bedroom	2 Bedroom	3 Bedroom	duplex
avg. sqf.	780	1145-1250	1350-1600	2180
2nd Floor	8	5		
3rd Floor	8	5		
4th Floor	8	5		
5th Floor	7	3	1	
6th Floor	4	2	2	
7th Floor	4		1	
8th Floor				2
Total units per floor	39	20	4	2
Total units per Project	**65**			
Total Space per Units	30420	24000	5800	4360
Total Unit space	**64580**			

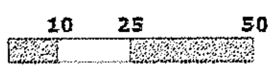
Design Plans
Ground Floor parking



Parking Spaces

Internal Spaces - 54
Facade Spaces - 13
Exterior Lot space - 21

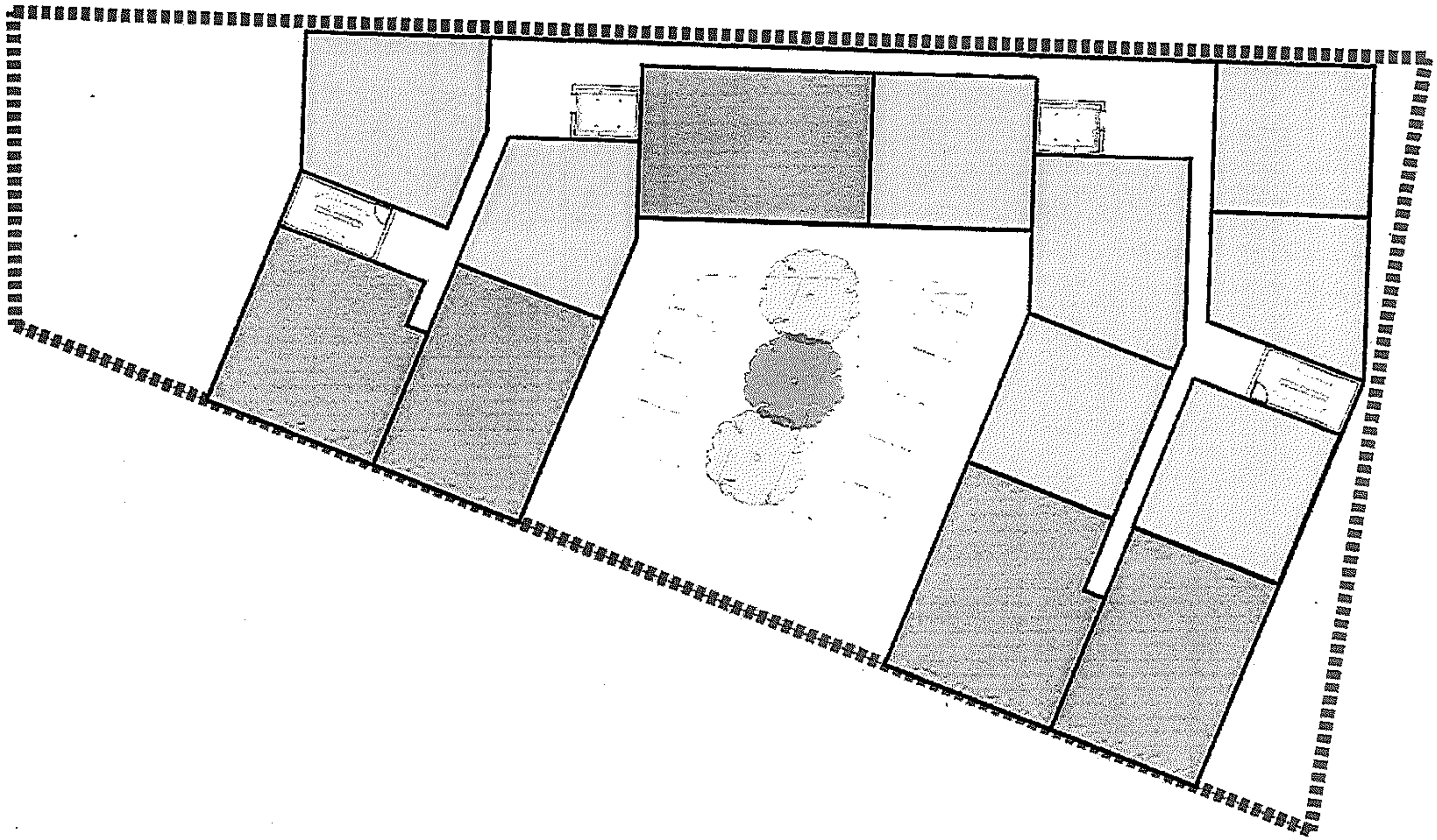
Total Parking Spaces - 88



Design Plans

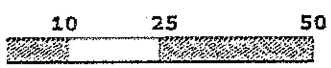
Typical Floor Plan

2nd 3rd & 4th floors

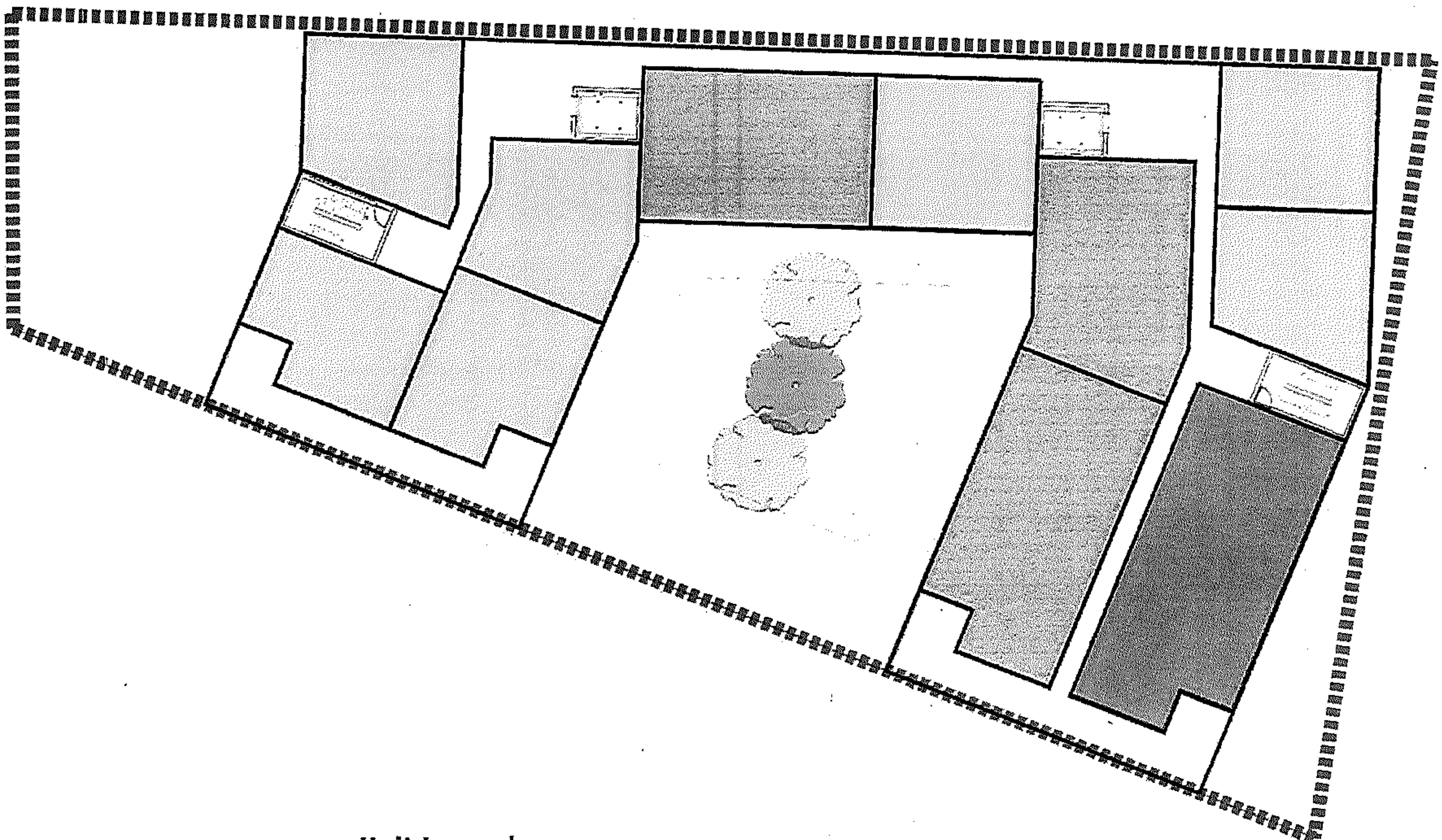


Unit Legend

- 1 Bedroom apartment - 8 Units
- 2 Bedroom apartment - 5 Units



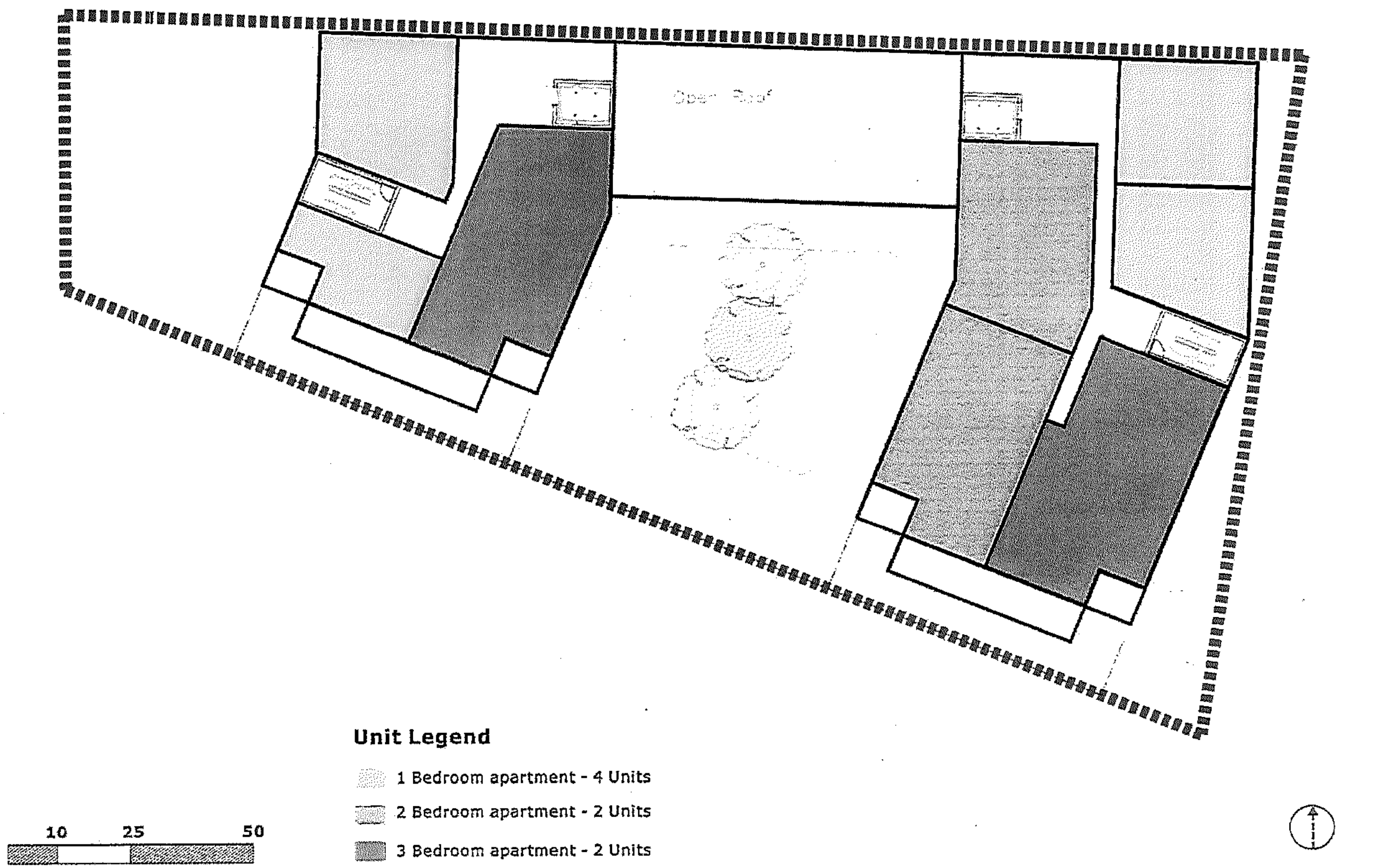
Design Plans
5th floor plan



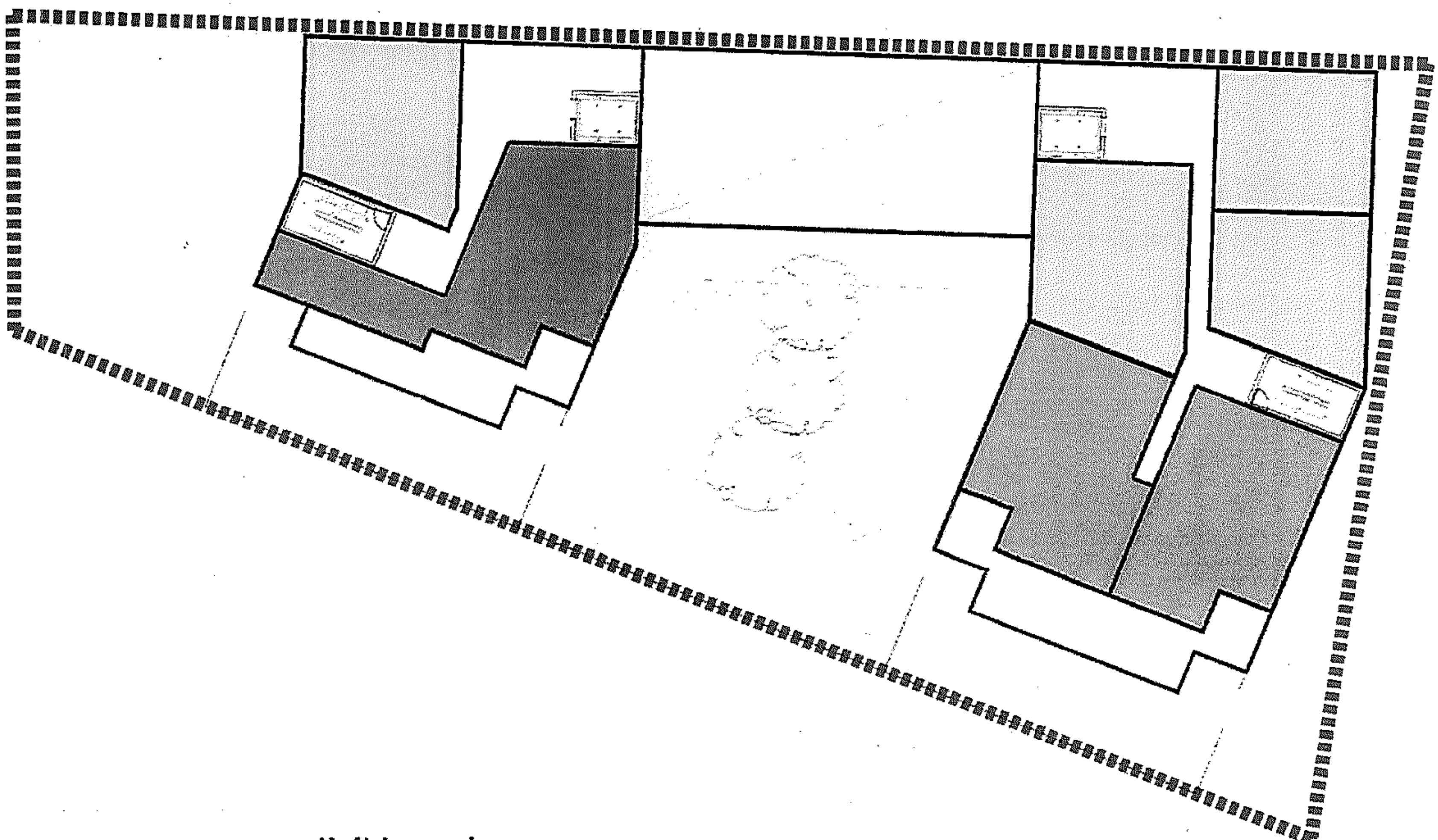
Unit Legend

- 1 Bedroom apartment - 7 Units
- 2 Bedroom apartment - 3 Units
- 3 Bedroom apartment - 1 Unit

Design Plans
6th floor plan



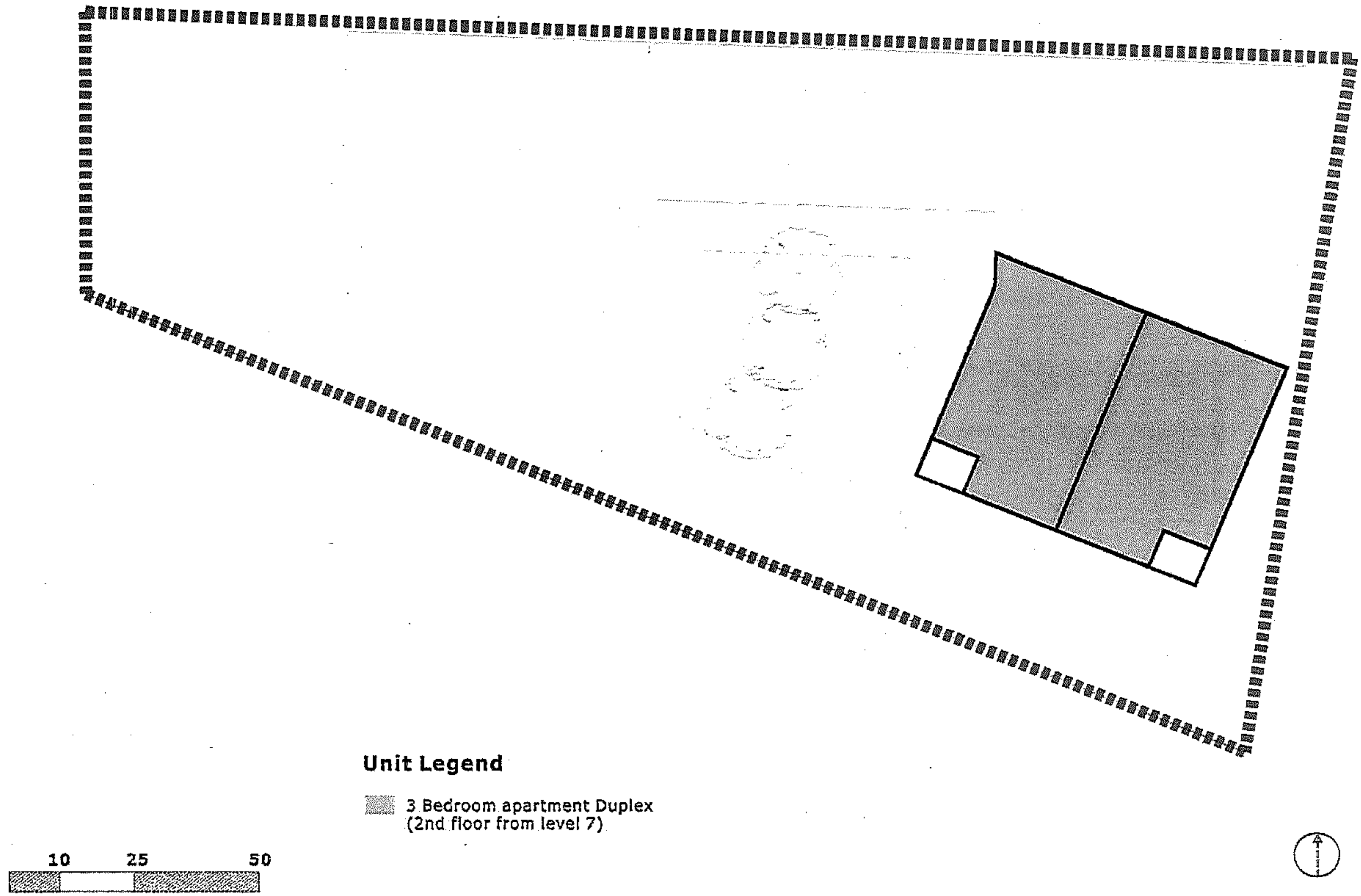
Design Plans
7th floor plan



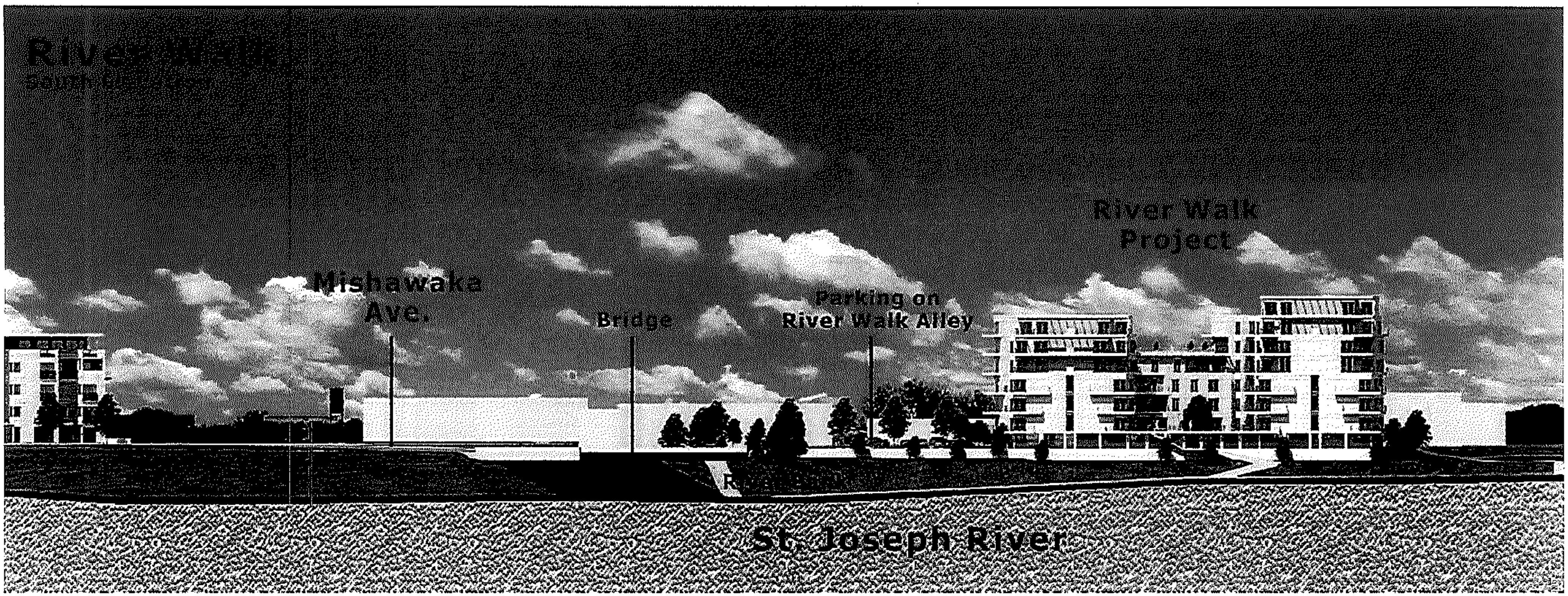
Unit Legend

- 1 Bedroom apartment - 4 Units
- 3 Bedroom apartment - 1 Unit
- 3 Bedroom apartment Duplex - 2 Units

Design Plans
8th floor plan

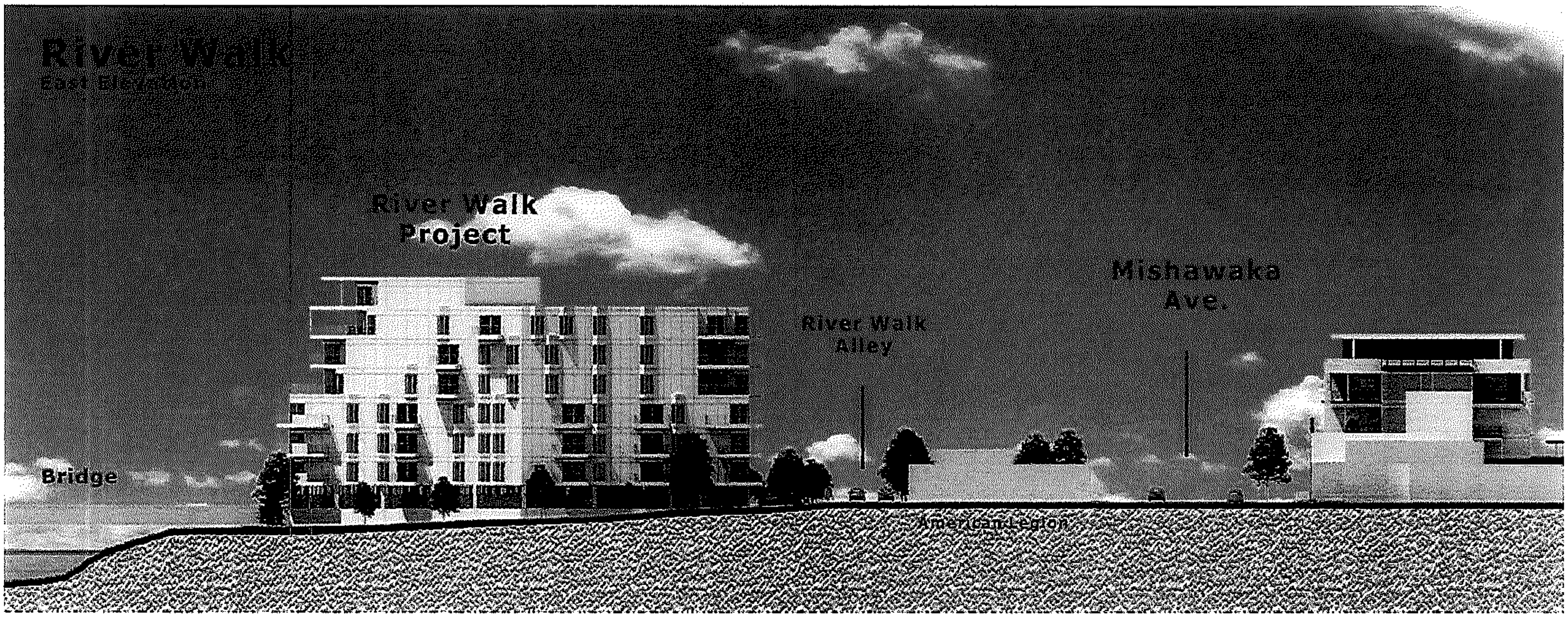


Elevations
South



Elevations
West

Elevations
East



Elevations

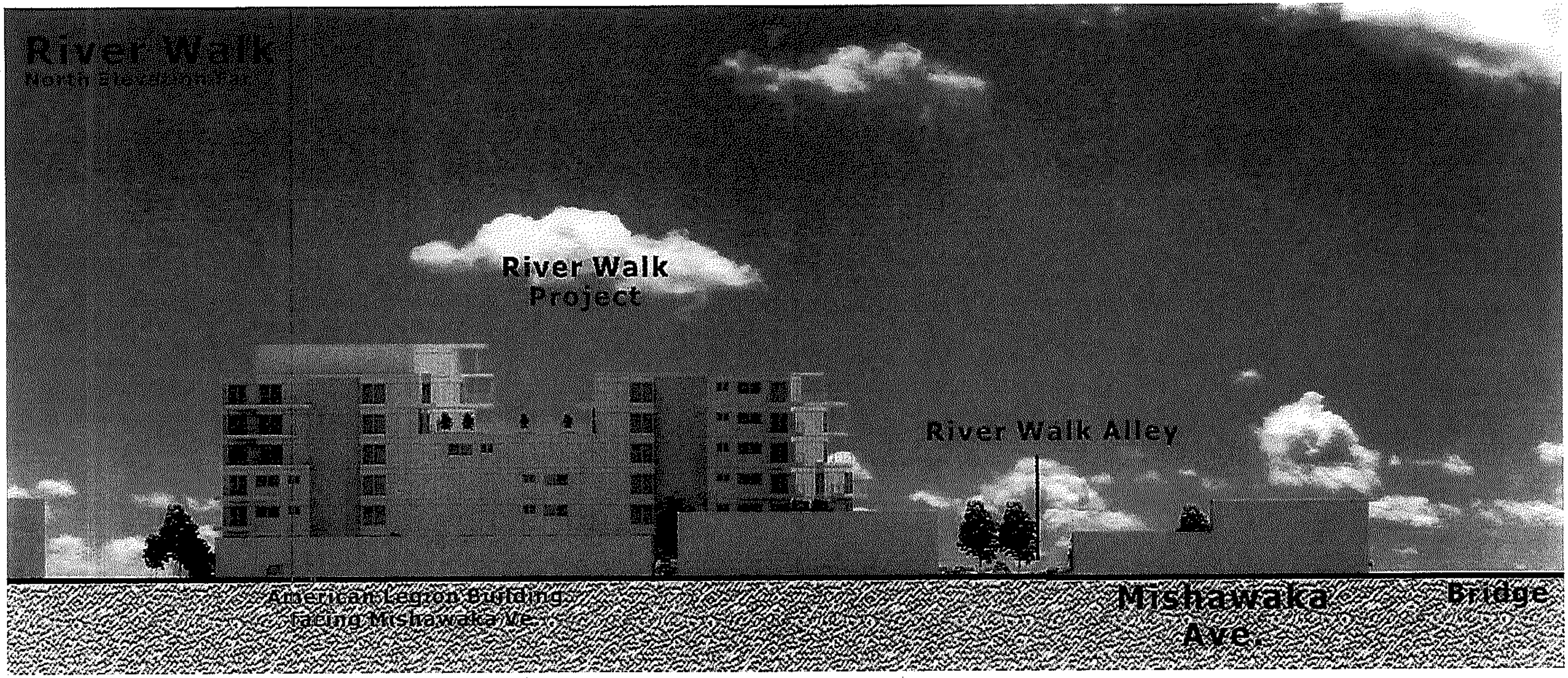
North

From River Walk Alley

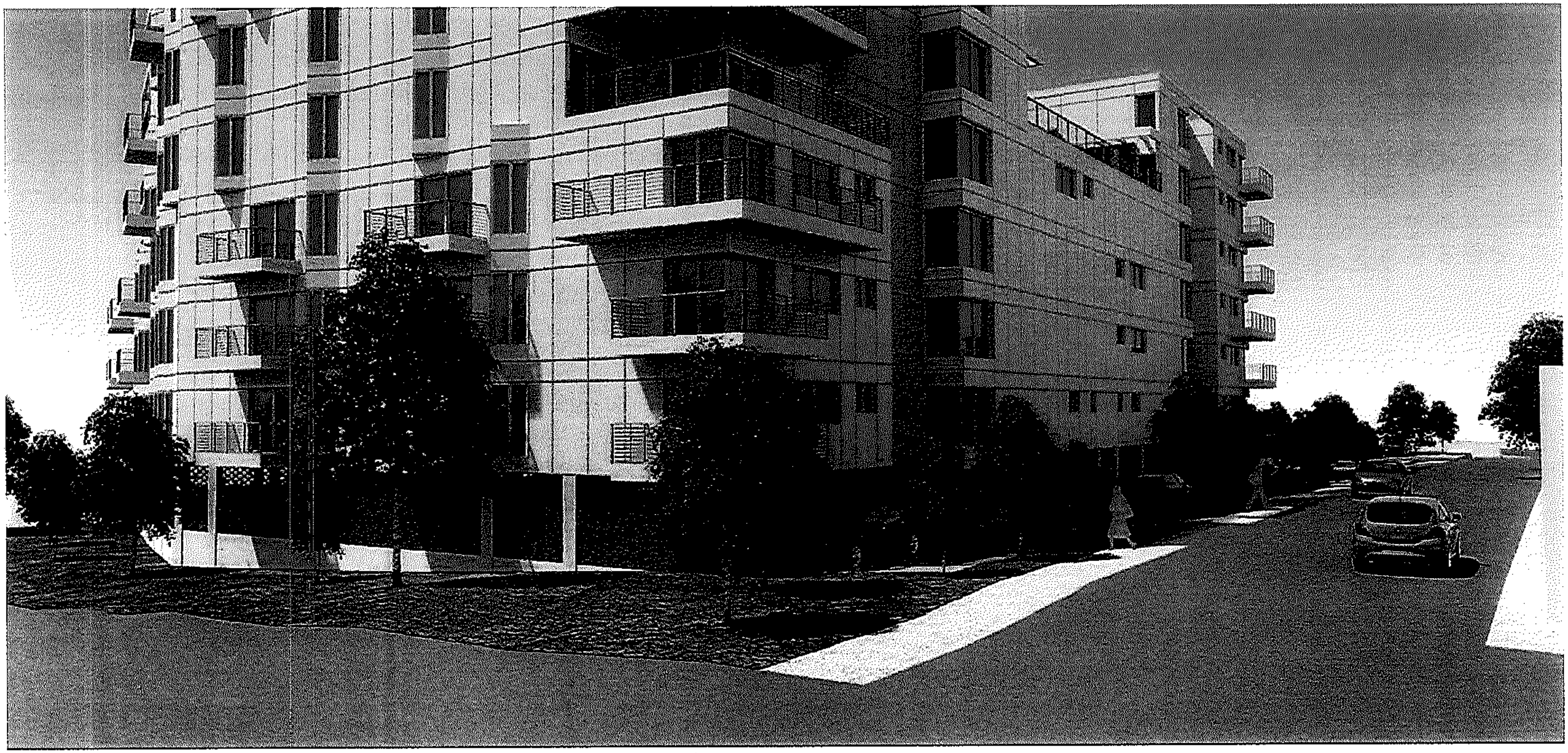
Elevations

North

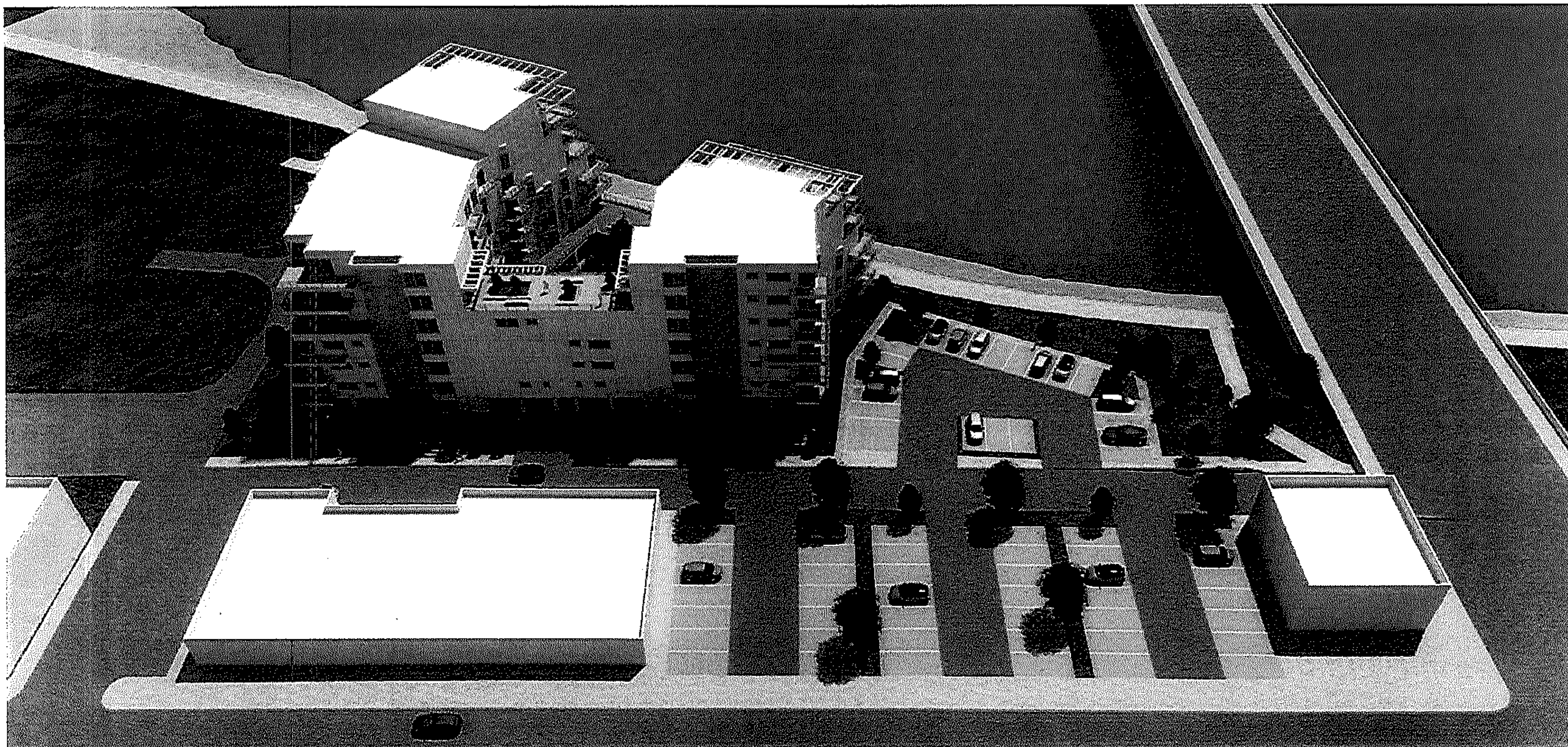
From Mishawaka Ave.



Design Renders
North road entrance



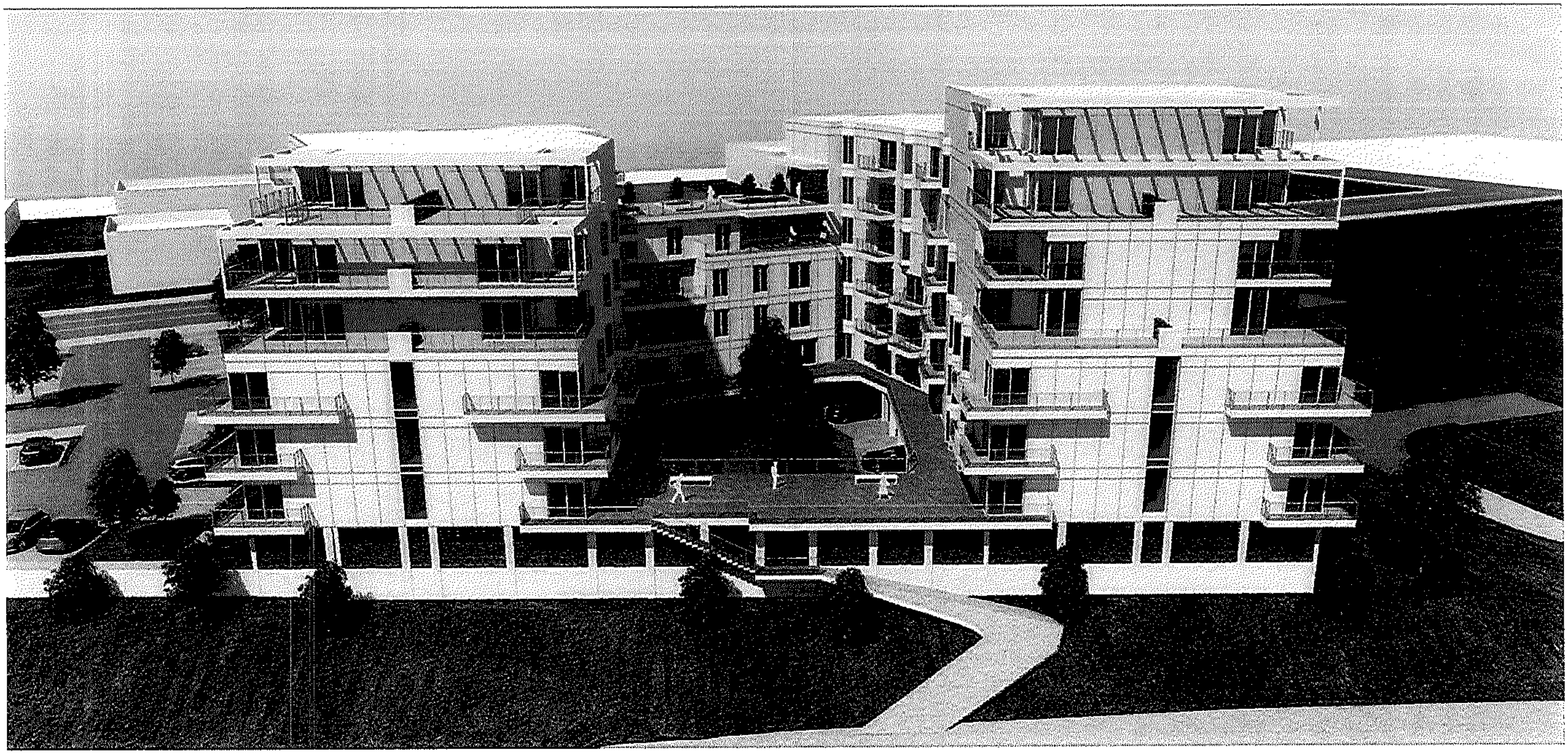
Design Renders
Aerial North View



In-Situ
Placemaking

RIVERWALK

Design Renders
Aerial project south view



RECEIVED
DEBORAH S. BLOCK, MMC
MAY 11 2017
CITY CLERK
MISHAWAKA, IN

APPEAL #17-15

RESOLUTION NO. 2017-10

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

1415 University Drive Court, Mishawaka, Indiana

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

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

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

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

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **1415 University Drive Court, Mishawaka, Indiana**, more particularly known and described as follows:

A PART OF LOT 2 OF CASS ROAD PLAZA MINOR SUBDIVISION WHICH IS RECORDED AS INSTRUMENT NO. 9719943 IN THE OFFICE OF THE RECORDER OF SAINT JOSEPH COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89°20′05″ EAST, ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 40.0 FEET TO THE "POINT OF BEGINNING" OF SAID PARCEL OF LAND HEREIN DESCRIBED; THENCE NORTH 89°20′05″ EAST, ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 200.00 FEET TO THE NORTHEAST CORNER OF LOT 2; THENCE SOUTH 00°33′18″ EAST, A DISTANCE OF 535.83 FEET TO THE SOUTHEAST CORNER OF LOT 2 ON THE NORTHERLY LINE OF THE INDIANA EAST-WEST TOLL ROAD; THENCE ALONG SAID NORTHERLY LINE, AND A CURVE, CONCAVE NORTHERLY WHOSE ELEMENTS ARE CENTRAL ANGLE OF 01°41″01″ RADIUS OF 7480.44 FEET ARC LENGTH OF 220.09 FEET AND A CHORD THAT BEARS SOUTH 64°48′50″ WEST, 220.08 FEET; THENCE NORTH 00°33′18″ WEST, A DISTANCE OF 627.28 FEET TO THE "POINT OF BEGINNING".

The Use Variance, if approved, will permit a communications facility consisting of a 200' monopole tower, various equipment shelters, equipment platforms, generators, and related equipment subject to the following conditions of approval:

1. The monopole tower shall not exceed more than 200 ft. in height (does not include height of attached antenna apparatus and lighting rod).

2. A fence of no higher that 7-foot will be allowed around the base of the tower and equipment building. Barbed wire is not permitted.

3. An Administrative Site Plan shall be submitted for the property. The site plan shall be consistent with the schematic site plan submitted.

4. The proposed access drive between the existing asphalt parking area and the access gate into the compound shall be paved.

5. A storm water drainage plan shall be submitted to retain stormwater management volumes and include an adequate system and means to capture all runoff from the new impervious surface areas per Engineering comments.

6. A row of evergreen trees shall be planted 10' on center along the western 60' of the fence enclosure. The evergreen trees shall be 8-10' in height at the time of planting.

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

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

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the property on which the tower is to be located is adjacent to commercial uses to the north, east, and west and there is significant distance, including the Toll Road buffering the residential development to the south. The telecommunication facility and tower will be constructed and managed according to all regulatory codes.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the area is primarily surrounded by commercial development; and adequate screening/buffering is present between the tower and the closest property to the west.

3. The need for the variance arises because the Zoning Ordinance for the City of Mishawaka restricts the installation of all telecommunications towers from all

zoning districts other than the I-2 Heavy Industrial District. With the increase usage of cell phones, the number of properly zoned properties in areas needed to provide adequate call coverage and becoming less available. However, each site needs to be evaluated on an individual basis.

4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because cell towers are only allowed in industrial zoned properties. The use of cellular phones and technology are continually increasing creating a higher demand for better cellular coverage for users. The location of properties zoned heavy industrial within the City requires that sites be evaluated on a case by case basis relative to the context of a specific location.

5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan. Although the Comprehensive Plan does not include this property, the use is compatible with the previously developed uses along this stretch of University Drive.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of_________________, 2017, at ______o'clock _____ .m.

____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this ________day of ____________________2017, at _______ o'clock ___m.

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

APPROVED by me this _______ day of______________________, 2017, at _______o'clock ______.m.

____
David A. Wood, Mayor

www.telecompark.com

HAYES TOWERS

RECEIVED
DEBORAH S. BLOCK, MMC

APR 25 2017

CITY CLERK
MISHAWAKA, IN

03/22/2017

Board of Zoning Appeals
600 E. Third Street
City of Mishawaka, Indiana 46544

The undersigned appellant respectfully shows the Board:

1. Charles S. Hayes Inc. dba Hayes Towers is the lessee, of the following described real estate located in Granger, IN, Mishawaka-Harris Township, St. Joseph County, State of Indiana, to-wit:

   A parcel located in the Northeast Quarter of Section 27, Township 38 North, Range 3 East, City of Mishawaka, Harris Township, St. Joseph County, Indiana, and being a Part of Lot 2 of the Recorded Plat of "Cass Road Plaza Minor Subdivision" which is recorded as Instrument No. 9719943 In the Office of The Recorder of Saint Joseph County, Indiana, being more particularly described as commencing at the Northwest Corner of Lot 2; thence North 88°33'37" East along the North line of said Lot 2 and the South Right-Of-Way University Drive East, 40.00 Feet; thence South 00°50'25" East, 424.25 Feet to the point of beginning. thence North 89°09'35" East, 70.00 Feet, thence South 00°50'25" East, 70.00 Feet; thence South 89°09'35" West, 70.00 Feet; thence North 00°50'25" West, 70.00 Feet to the point of beginning.

   Containing 4900.00 Square Feet

   Subject To All Legal Right-Of-Ways, Easement, and Restrictions of Record.

2. The above-described real estate presently is part of the Cass Road PUD under the Zoning Ordinance of the City of Mishawaka.

3. Appellant proposes to occupy the above-described property in the following manner:

AP 17-15

Hayes Towers proposes to occupy above-described property with a 195' high (200' overall) monopole type telecommunication tower, various equipment shelters, equipment platforms, generators and related equipment.

4. Appellant desires to obtain a use variance to build a telecommunication tower in an area that is part of a Planned Unit Development.

5. The Zoning Ordinance of the City of Mishawaka requires a use variance in order to build a telecommunication tower.
   According to Mishawaka Ordinance Section 137-586 telecommunication towers are only permitted as a conditional use in areas zoned I2.

6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship.
   Without the use variance, no telecommunication towers could be built in this area.

(1) Will approval be injurious to the public health, safety, morals or general welfare of the community?

No. The proposed use will not be injurious to the public health, safety, morals or general welfare because the compound will be securely fenced and no dangerous materials will be used at the site.

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

No. The proposed project will be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area. In preparing this petition, Hayes Towers consulted with the Mishawaka City Planner's Office.

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

The property is uniquely qualified for a telecommunication tower because it is located off a main thoroughfare and near many cell phone users.

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

The area surrounding University Drive Ct. in Granger is in need of an enhanced cellular network. The enhanced network is only possible if a Use Variance is granted and a telecommunication tower is built.

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

No. The proposed use will not interfere with the Mishawaka 2000 Comprehensive Plan because it will not place demands on public services and facilities in excess of current capacity. No sewer or water or other public services are required at the site, no additional traffic will be generated, and adequate electric service is available. The telecommunication tower is necessary to fill gaps in coverage in the area surrounding the proposed tower.

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

Anne Hayes

CONTACT PERSON:
Anne Hayes
814 Marietta St
South Bend, IN 46601
574-233-1296

ahayes@telecompark.com

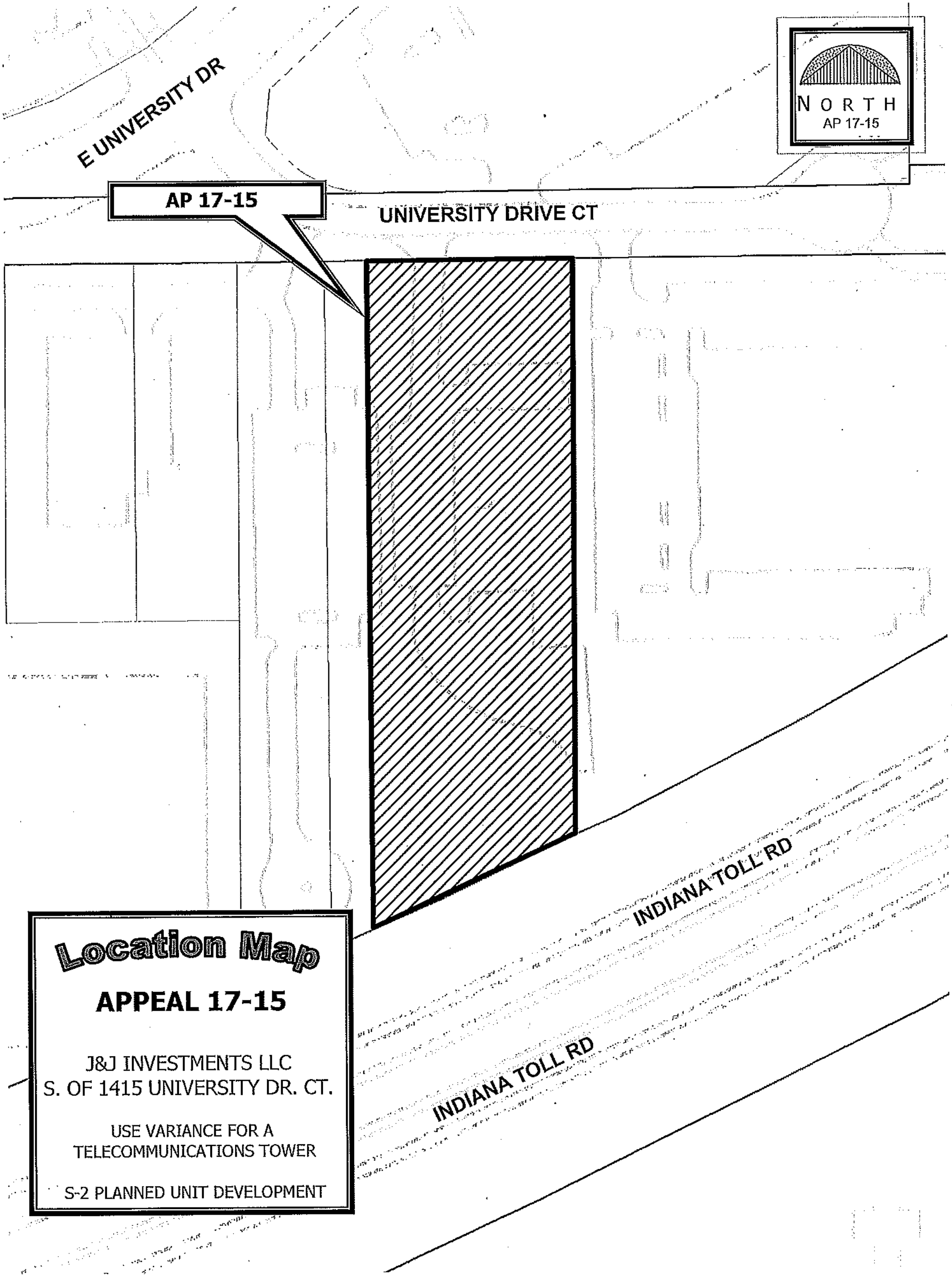
Board of Zoning Appeals
City of Mishawaka, Indiana
600 E Third Street
Mishawaka, IN 46544

Re: Petition for Use Variance – For the construction of a monopole type communications tower.

To: The Honorable Board,

Please be advised that Charles S. Hayes Inc. dba Hayes Towers, has been directed to represent my interest at the public hearing of the Board of Zoning Appeals of Mishawaka, Indiana at which this petition is to be considered.

Maria Slager, Manager
J&J Investments LLC – Maria Slager


E UNIVERSITY DR
AP 17-15
UNIVERSITY DRIVE CT
NORTH
AP 17-15
INDIANA TOLL RD
INDIANA TOLL RD
Location Map
APPEAL 17-15
J&J INVESTMENTS LLC
S. OF 1415 UNIVERSITY DR. CT.
USE VARIANCE FOR A
TELECOMMUNICATIONS TOWER
S-2 PLANNED UNIT DEVELOPMENT