AGENDA

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 Regular Meeting of January 16, 2012

Review of minutes from January 16, 2012

5. Petitions, Communications, Remonstrance and Memorials

Appeal No. 2012-03 Use Variance to allow parking for automotive body work and repair shop and a sign variance to allow 3'x12' sign 1802 W 6th St

Appeal No. 2012-04 Conditional Use Variance to allow for a composite Distribution Ctr 1460 E. 12th St.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2012-01 Additional Funds - Local Major Moves - $3,614,335.96

8. Resolutions

9. Ordinances on Second Reading

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment

14. Minutes of Previous Meeting

15. Communications

16. Agenda items

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

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
January 16, 2012

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday January 16, 2012 at 7:00 p.m. The meeting was called to order by President John Roggeman, and all were asked to stand for the Pledge of Allegiance.

City Clerk Debbie Block's roll call showed the following:
Dale "Woody" Emmons 1st District Councilman – Present
Mike Bellovich 2nd District Councilman – Present
John Reisdorf 3rd District Councilman – Present
Marsha McClure 4th District Councilman – Present
Michael Compton 5th District Councilman – Present
Ronald Banicki 6th District Councilman – Present
John Roggeman Councilman At Large – Present
Matt Mammolenti, Councilman At Large – Present
Dan Bilancio, Councilman at Large – Present
A quorum was obtained.

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

The minutes from the January 3, 2012 meeting were approved as received from the Clerk's Office.

Clerk Block read a letter from the Board of Zoning Appeals Recommendations from their January 10, 2012 public hearing.

APPEAL NO 2012-01 An appeal submitted by Menard, Inc. requesting a Use Variance at 365 West University Drive, to permit outside sale of trailers in the S-2 Planned Unit Development.
RECOMMENDED APPROVAL

Clerk Block read **RESOLUTION NO. R2012-02** opening it for public hearing.

RESOLUTION NO. 2012-02

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARDOF ZONING APPEALS FOR THE PROPERTY LOCATED AT:
365 West University Drive Menard
(Use Variance to allow outside sales of trailers)

Mike Simmons said he was speaking on behalf of Menard Incorporated 5101 Menard Drive, Eau Claire Wisconsin in their request for this Use Variance. He said the new Indiana law requires they be licensed with the State to sell trailers and during that process they were also notified they needed a Use Variance by the City Of Mishawaka.

Mr. Banicki asked what type of trailers they would be selling. Mr. Simmons said small garden trailers pulled by a vehicle. He said they would be located just outside of the garden center not interfering with traffic or guest parking. Mr. Banicki asked if they have been selling the trailers previously. Mr. Simmons stated yes for three or four years and again they did not realize they needed a variance at the time. Mr. Banicki asked if they have had any complaints. Mr. Simmons said they have not. Mr. Banicki said he hadn't either.

Mr. Compton asked how many trailers they anticipate having on the lot at one time. Mr. Simmons said currently two; some stores have three or four. Mr. Compton asked if it mainly for display. Mr. Simmons said that was correct but they also can be sold if someone wanted to purchase one at the time.

Mr. Mammolenti asked the length of these trailers. Mr. Simmons said they do not exceed the length of the parking stalls 18 to 20 feet.

Mr. Bellovich said these trailers have no side walls, they are basically flat with small side walls, Mr. Simmons said that was correct.

Mr. Emmons said he has no problem with this variance but he wants it noted that he was a stickler regarding to people adhering to the variance. Mr. Simmons stated they would adhere to the variance.

Question was called for at **7:**07 pm on **RESOLUTION NO. 2012-02 Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9).
Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure.

PRIVILEGE OF THE FLOOR

James Elliot, President of Mishawaka Fire Fighters Local 360, said he wanted to up date the Council on what was taking place, unfortunately in a matter of two or three days the City would be taking a step backwards of about 2 years. He said they would be moving the ambulances back to one station and would be only running two ambulances instead of three, which they have done for most of the year. Mr. Elliot said this bothers him a great deal, paramedics are overworked, they get calls everyday that are going to outside agencies, therefore, the citizens of Mishawaka are not being provided with the services they are requesting. He said there was only one way to fix this and that would be with staffing, they are understaffed and have been for many years. Mr. Elliott said in 1990 they made 1,000 calls and in 2011 they made over 6,000 calls with the same amount of staff. He said ambulance transports brought in 1.1 million dollars of new revenue in 2011, this money needs to be put back into the Fire Department so they can use it to staff the third ambulance. Mr. Elliott said having outside agencies coming in to cover for our city was unacceptable and should be to everyone else. He said it was his feeling Mishawaka has the best trained personnel in the area and he would rather have our people serving the citizens of Mishawaka then anyone else. Mr. Elliott went on to say they were in hopes of putting a fourth ambulance in the new Fire Station Four but now they need to concentrate on just getting the third ambo back in service.

Mr. Roggeman said he spoke with the Mayor who contacted him about a meeting with the fire personnel leaders and union leaders, and they hope to work on it in a quick manner. Mr. Elliott said he appreciated that and they were willing to be a part of that to get this moving forward while continuing the services they are currently providing but they no longer can rob from peter to pay paul to do this because it would not be the right thing to do.

Mr. Emmons asked per contract if the city has the proper number in suppression on the ambulance side right now. Mr. Elliott said no, they were 8 people short. Mr. Emmons asked what the reason for that was. Mr. Elliott said part of it was it carried over from the previous year and where the budget allowed for two additional Fire Fighters that did not get hired because the hiring pool ran out and now two more have been added to the budget for 2012. He said they were in the process of going through the hiring pool now with the first physical agility testing. Mr. Elliott said he was of the understanding that Human Resources were in the process of scheduling interviews trying to get this on the fast track to get people hired.

Mr. Emmons said of the 8 were those open slots or were those due to disability. Mr. Elliott said he was not counting anyone out due to illness or injury. He said the 8 people short were due to retirements and counting the two that should have been hired in 2011 and now 2 more to be hired in 2012. Mr. Elliott said if they had 8 more Fire Fighters on board they could be running the third ambulance a lot more. He said they met with the Chiefs and they are as unified as they have ever been, they have a pretty good plan together. He said they just can not hire someone off the street, it was a lengthy process so all they can do is staff it with an overtime person. Mr. Emmons said he hopes the pool would be sufficient enough that they do not have to wait a year or year and a half to replace someone, 2011 was wasted because the pool was gone, to him that was unacceptable. Mr. Elliott stated somewhere the ball was dropped but they are beyond pointing fingers now they need to find solutions. Mt. Roggeman stated that was the purpose of their meeting so they can start moving forward

Mr. Mammolenti asked of the 1.1 million dollars in revenue how many ambulances were used to obtain that figure. Mr. Elliott said that was running three ambulances from March 14, 2011 to December 31, 2011, prior to March 14th it was just the two ambulances, that figure was for the entire year of 2011. Mr. Mammolenti asked how much money the city missed out on having other agencies come in. Mr. Elliott said from 2010 he believed it was 230 times, roughly, an outside agency came in., even running three ambulances there were times when an outside agency had to come in., that was the true definition of definition of mutual aide. He went on to say Mishawaka is presently running the two ambulances and outside agencies are coming in 3 to 4 times daily now it has become mooching on our part, we can not continue to rely on them to leave their city to come staff ours.

Mr. Roggeman stated it was an issue they would continue to look at.

NEW BUSINESS

Clerk Block stated there was the business of the Conflict of interest forms for Marsha McClure, Michael Compton, Dan Bilancio and an amended form for John Roggeman.

President Roggeman asked for a motion to accept these forms, with a motion from Mr. Banicki, and a second by Mr. Compton the motion carried.

Clerk Block said she would be mailing those forms to the State Board of Accounts and to the Clerk of the Circuit Court of St. Joseph County.

Mr. Emmons said there would be a neighborhood watch meetings on Thursday January 19, 2011 at St. Bavo School the speaker would be Dr. Terry Barker, Superintendent of Mishawaka Schools.

Mr. Reisdorf said he attended the meeting of the MACOG Policy Board, Dick Moore Mayor of Elkhart was chosen Chairman, and Mishawaka Mayor Dave Wood was Chosen, First Vice Chairman.

Mr. Banicki stated Wednesday January 25, 2011 at 7:00 he and Mr. Compton would be having a joint meeting with the 5th and 6th Districts regarding personal production and gun safety.

President Roggeman said today January 16, was a holiday "Martin Luther King Day" and he felt it would be appropriate to reflect on Dr. King and his message of government, he was always for government and justice, and to think about how that works in our own community. He said at the Martin Luther King Breakfast reception there were three awards given to people from Mishawaka. He said those awards are called Drum Major Awards for community service, one of those awards went to Bob and Herta Johnston who have logged over 2600 hours of volunteer time at St. Joseph Hospital in Mishawaka, also celebrating their 63rd wedding anniversary today. President Roggeman said also awarded was Michael Pool, a teacher and Athletic Director at Montessori Schools in Mishawaka. He said as Mr. Pool grew up he was looking to leave the South Bend, Mishawaka area and was asked to interview at the Montessori School so he did it as a favor and he is still there. Mr. Roggeman said the point he was making was it was important to instill in our youth there are a lot of good things going on right here in Mishawaka. He said the third winner was Mishawaka City Clerk Debbie Ladyga Block and in all that Debbie does for the community he wanted to show off the prize that she won and wanted to congratulate her winning this award it was quite an honor and Debbie has done a fine job representing our city as always.

Clerk Block said she was very humbled and very honored to receive this award and she thanks the Martin Luther King Foundation, and the South Bend Heritage Foundation. She said was very pleased and proud that her husband and her have had their careers be in public service and she wants to continue doing that and she loves working for the people of Mishawaka.

There being no further business to come before the Council, President Roggeman adjourned the meeting at 7:23 p.m.

Deborah S. Block, ________________/s/	John J. Roggeman /s/
Deborah S. Block, IAMC, MMC	John J. Roggeman
City Clerk	Presiding Officer

January 23, 2012

JAN 25 2012

AP 12-03

To: Board of Zoning Appeals
City of Mishawaka, Indiana

JP's Complete Auto Care, Inc. is the owner of the following described real estate located within the City of Mishawaka, Penn Township, St Joseph County, State of Indiana, to wit;

> Lot Numbers 66, 67 & 30' East Side Vacated Reddick St West & Adjacent; Lot 68 & 30' West Side Vacated Reddick St East & Adjacent; Lots 69 and 70 Milburn Place, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.
> **Common Address: 1802 West Sixth Street**

The above-described real estate presently has a zoning classification of I-1 Light Industrial District under the Zoning Ordinance of the City of Mishawaka.

Appellant presently occupies the above-described property in the following matter: automotive body work shop and automotive repair shop per Resolution No. 2010-21.

Appellant desires to include Lot 68 and vacated Reddick Street lot, which were left off the original variance request to allow automotive body work and repair shop. Appellant desires to install one wall sign measuring 3 feet by 12 feet to advertise their business; Appellant also desires to park customer vehicles in the existing parking lot.

Without the use of the parking lot our customers are forced to park on the street overnight. We have vehicles towed in at night and can't use the lot because of one of the Resolution conditions prohibit outside storage of vehicles. All vehicles are moveable and are being worked on, we do not part out, salvage or sell vehicles.

We have a sign we would like to use that we purchased prior to buying the building. The wall sign has an area of 36 SF which exceeding the 10 square foot condition of the Resolution. A sign company will secure the proper permits if our request is approved.

We will be painting and landscaping per city requirements. The need for drain traps are unnecessary because there are no floor drains.

1. Approval will not be injurious to the public health, safety, morals or general welfare of the community because all work is done inside the building. We meet all State of Indiana EPA requirements and all city requirements.

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 we plan to keep the property maintained to or better than city standards.

3. The need for the variance arises from some condition peculiar to the property involved? Yes, the use of the parking lot sits on three lots and can't be used overnight.

4. Strict application of the terms of the Resolution constitute an unnecessary hardship if applied to the property for which the variance is sought because we need a sign to identify our business and it is necessary to be allowed to park customer vehicles on our parking lot overnight to avoid having to park on the street in the neighborhood.

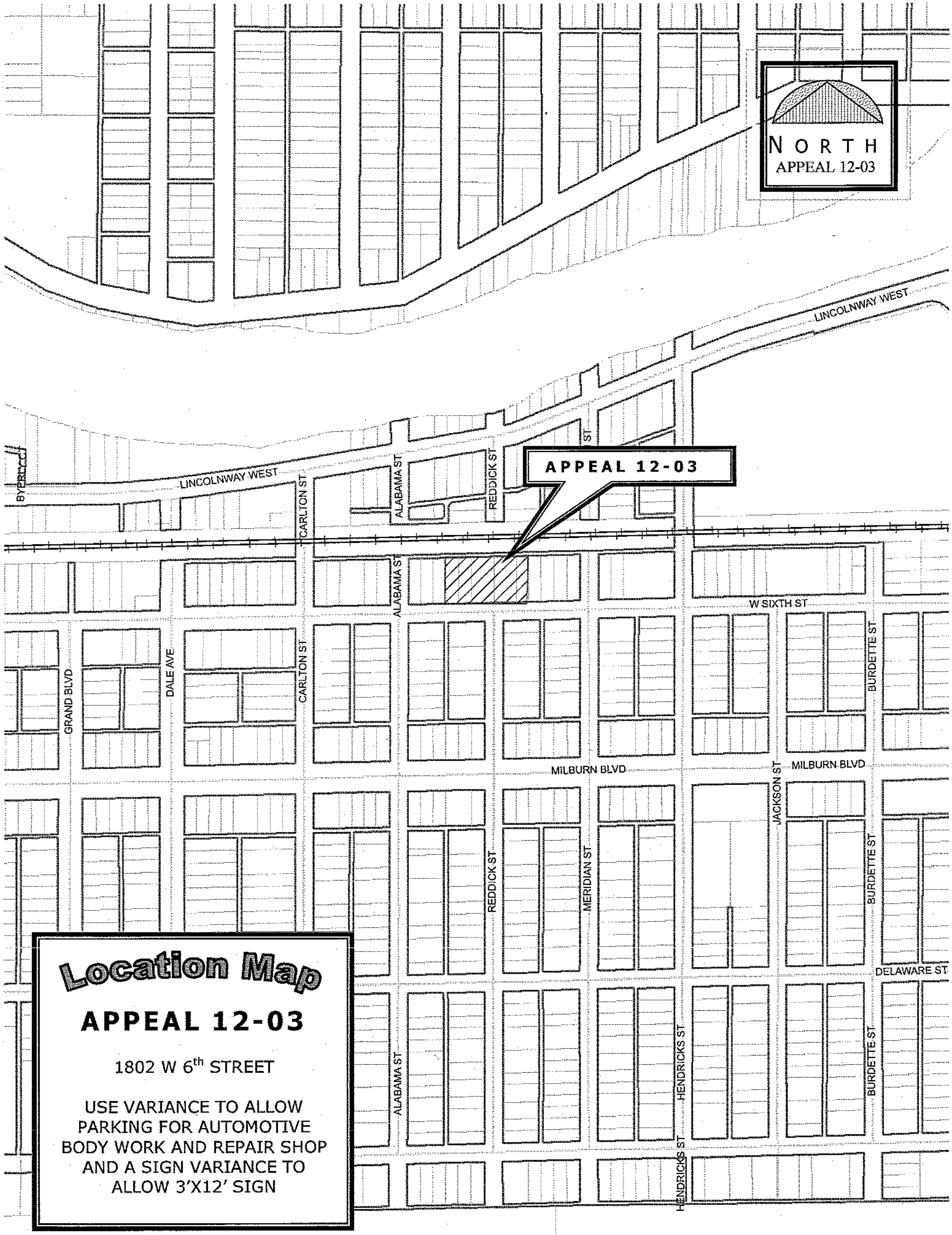
5. Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? No, commercial and industrial surround the site.

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

Jennifer Pieper

Jennifer Pieper, Property Owner
JP's Complete Auto Care Inc

Jonathan Pieper, Property Owner
JP's Complete Auto Care Inc



Location Map

APPEAL 12-03

1802 W 6th STREET

USE VARIANCE TO ALLOW PARKING FOR AUTOMOTIVE BODY WORK AND REPAIR SHOP AND A SIGN VARIANCE TO ALLOW 3'X12' SIGN

Date: January 25, 2012

Board of Zoning Appeals **City of Mishawaka, Indiana**	**Re: Application for a Conditional Use Permit**

The undersigned applicant (the "Petitioner") does hereby respectfully show the following to the Board of Zoning Appeals for the City of Mishawaka, Indiana (the "Board"):

1. **Property.** This application is for the real estate that is located in the City of Mishawaka, St. Joseph County, State of Indiana, described in the Property Description which is attached hereto as Appendix A and made a part hereof (the "Property").

2. **Zoning.** This Property presently has a zoning classification of I-2 Heavy Industrial District in the Zoning Ordinance of the City of Mishawaka (the "Mishawaka Zoning Ordinance").

3. **Occupancy.** Petitioner proposes to occupy the Property in accordance with the provisions of this application to the Board.

4. **Use.** Petitioner desires to use the Property as a distribution center for resin, fiberglass, and related products to the composites industry.

5. **CUP Requirement.** Section 137-609(b)(7) of the Mishawaka Zoning Ordinance states that "chemical bulk storage and warehouse distributing" may be conditionally approved by the board of zoning appeals for property already zoned Heavy Industrial I-2 District.

6. **Explanation.** In the attached Appendix B, the provisions of which are incorporated herein and made a part hereof, Petitioner explains:
   a. Why the approval will not be injurious to the public health, safety, morals and general welfare of the community;
   b. Why the use and value of the area adjacent to the property included in the conditional use permit will not be affected in a substantially adverse manner;
   c. If adequate conditions will be stipulated to mitigate any potentially adverse impact of the conditional use permit upon adjacent property;
   d. If adequate measures have been taken to provide proper utilities, drainage, paved access roads, landscape buffering, fencing, leakproof dikes, safety precautions, and to minimize traffic congestion; and
   e. Why the granting of the conditional use permit is in the best interest of the community.

Wherefore, Petitioner prays and respectfully requests a hearing on this application and that after such hearing the Board grant the requested Conditional Use Permit.

North American Composites Company

By: Ivan M. Levy

Ivan M. Levy, Vice President & General Counsel
1225 Willow Lake Boulevard
St. Paul, MN 55110-5145
Phone: 651-481-6871 [direct]
FAX: 651-481-9836
Email: ILevy@Interplastic.com

AP 12-04

Appendix A

PROPERTY DESCRIPTION

Street Address:	1460 East 12th Street Mishawaka, IN 46544-5824 (St. Joseph County)
Legal Description:	Lots Numbered Nine (9), Ten (10) and Eleven (11) as shown on the recorded Plat of Byrkit Avenue Industrial Subdivision, recorded August 9, 1989, as Document Number 8920803 in the Office of the Recorder of St. Joseph County, Indiana
Tax Parcel No.:	71-09-14-351-012.000-023
Number of Acres:	2.00 (approximate)
Building Area:	40,650 square feet (approximate)
Fee Owner:	JAMES D. WALLENFELSZ, Trustee James D. Wallenfelsz Revocable Lifetime Trust U/A dated August 29, 1988, as amended
Occupant:	North American Composites Company ("NAC")
Relationship:	JAMES D. WALLENFELSZ is the Chairman & CEO of NAC, its sole director, and votes 100% of NAC's stock.

Appendix B

EXPLANATION

(a) **Explain why the approval will not be injurious to the public health, safety, morals and general welfare of the community.**

Nothing is more important to North American Composites Company ("NAC") than health, safety, and environmental quality. NAC is making nearly $600,000 of improvements to this Property for that very reason (the "Improvements").

(b) **Explain why the use and value of the area adjacent to the property included in the conditional use permit will not be affected in a substantially adverse manner.**

NAC strives to be a good corporate citizen. The company and its affiliates have been making sales to the composites industry for over 50 years. NAC presently has more than 25 distribution facilities in the United States and Canada. In all that time, there have been no complaints from neighbors about its operations.

(c) **Explain whether adequate conditions will be stipulated to mitigate any potentially adverse impact of the conditional use permit upon adjacent property.**

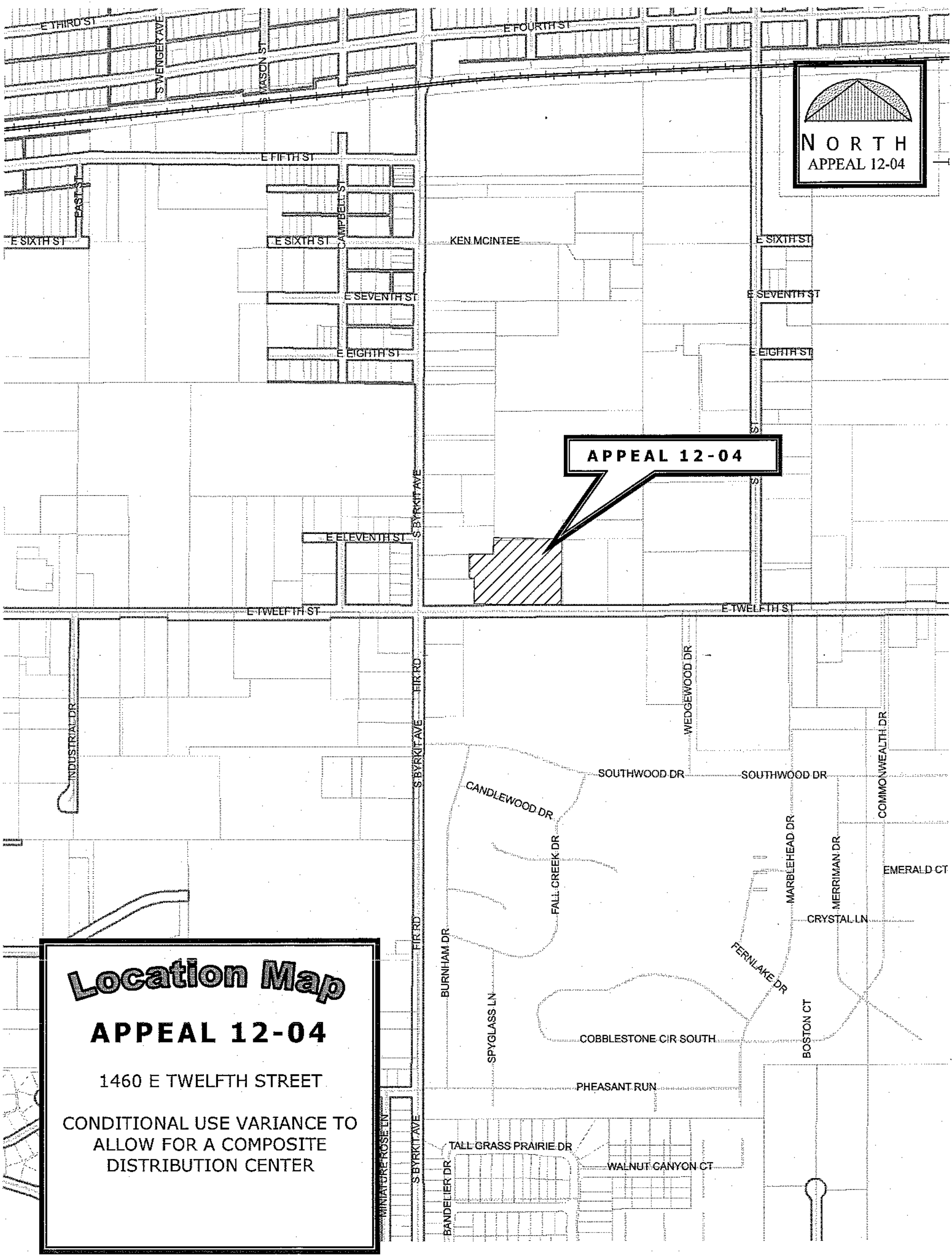
The Conditional Use Permit ("CUP") should require "compliance with any and all applicable Fire Code and environmental requirements." That will allow the CUP to adapt automatically to changes in the law. Many of the Improvements that NAC will implement are designed to meet those requirements.

(d) **Explain whether adequate measures have been taken to provide proper utilities, drainage, paved access roads, landscape buffering, fencing, leakproof dikes, safety precautions, and to minimize traffic congestion.**

There is a glut of commercial real estate on the market at the present time. One of the reasons NAC selected this Property was its excellent road access, fencing, and similar attributes.

(e) **Explain why the granting of the conditional use permit is in the best interest of the community.**

Distributors do not do manufacturing; for the most part, they simply get drums and other containers shipped in, and sell them to customers in that same way. This facility would do some tote cleaning and pouring. Most municipalities consider composites distribution to be a "clean business." Furthermore, NAC provides good jobs in the community and offers an excellent benefit package.



NORTH
APPEAL 12-04
E THIRD ST
E FOURTH ST
S WENGER AVE
MASON ST
E FIFTH ST
EAST ST
CAMPBELL ST
E SIXTH ST
E SIXTH ST
E SIXTH ST
KEN MCINTEE
E SEVENTH ST
E SEVENTH ST
E EIGHTH ST
E EIGHTH ST
APPEAL 12-04
E ELEVENTH ST
S BYRKIT AVE
E TWELFTH ST
E TWELFTH ST
WEDGEWOOD DR
INDUSTRIAL DR
FIR RD
S BYRKIT AVE
SOUTHWOOD DR
SOUTHWOOD DR
COMMONWEALTH DR
CANDLEWOOD DR
FALL CREEK DR
MARBLEHEAD DR
MERRIMAN DR
EMERALD CT
CRYSTAL LN
FERNLAKE DR
BURNHAM DR
SPYGLASS LN
COBBLESTONE CIR SOUTH
BOSTON CT
PHEASANT RUN
TALL GRASS PRAIRIE DR
WALNUT CANYON CT
BANDELIER DR
MINIATURE ROSE LN
S BYRKIT AVE
Location Map
APPEAL 12-04
1460 E TWELFTH STREET
CONDITIONAL USE VARIANCE TO
ALLOW FOR A COMPOSITE
DISTRIBUTION CENTER

PROPOSED ORDINANCE NO. 2012-01

ORDINANCE NO.____________

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2012

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, 2012, in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the Local Major Moves Fund of the City of Mishawaka the sum of $3,614,335.96 for assignment as follows:

Local Major Moves Fund

Capital Outlay

403-50-460-06	Bennington Drive / Twelfth Street Improvements	$3,614,335.96

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 ________________,2012 at _____________ o'clock, ______.M.

____
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 ___________________, 2012 at________

o’clock, ______M.

____

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this ________day of ____________________, 2012 at

_____________o'clock, _____.M.

____

David A. Wood, Mayor

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF ENGINEERING

GARY E. WEST
Director of Engineering
CHRISTINE M. JAMROSE, P.E.
Assistant Director of Engineering
TERRY R. HOGMAN
Construction Manager
DEBORAH L. WHEELER
Project Manager
R. TODD SCHEETS
Traffic Manager
MELISSA A. McGUIRE
MS4 Coordinator

February 2, 2012

Mishawaka Common Council
600 East Third Street
Mishawaka, IN 46544

Re: Appropriation of Additional Funds
Proposed Ordinance No. 2012-01
Bennington Dr. /Twelfth Street Improvements

Honorable Council Members:

Proposed Ordinance 2012-01 is for the Appropriation of $3,614,335.96 in additional funds from the Local Major Moves Fund which is the balance in the fund. These funds will establish a new project account to be utilized for engineering and construction of two major road projects.

- Bennington Drive and Utility Extension North of Harrison Road, Total $1,150,000
  Consultants have estimated the breakdown of costs as follows:
  1. Design $113,000
  2. Right of Way incl. title work, parcel engineering, appraisals and purchase $60,000
  3. Construction Costs for Bennington Dr. and Utility Extension $977,000

- Twelfth Street Improvements, Lexington extending east to Blackberry Road, Total $2,460,000
  Consultants have estimated the breakdown of costs as follows:
  1. Right of Way incl. title work, parcel engineering, appraisals and purchase $942,000
  2. City Share of Construction Costs (20%) $1,320,000
  3. Construction Engineering (15% of Constr. Cost x 20%) $198,000

Early in 2010 I appropriated funds from the Major Moves Fund to begin the design of Twelfth Street, complete soil borings and update the environmental report. With this funding in place it will allow us to proceed with the construction of the extension of Bennington Drive to serve the new fire station, later this summer. It will also provide funding to begin the land acquisition phase of the widening of Twelfth Street and will set aside funds for the local share of the construction of Twelfth Street which could begin in the spring of 2013.

If you have questions regarding this matter please contact my office.

Very truly yours

Gary E. West
Director of Engineering

Cc: Mayor Wood
Yvonne Milligan