

AGENDA

March 5, 2012

**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**

Minutes from February 20, 2012

5. Petitions, Communications, Remonstrance and Memorials

Appeal No. 2012-05 - Use Variance to allow off-site car sells events – 6501 Grape Rd UP Mall - Gates Automotive Group

Appeal No. 2012-06 - Use Variance to allow Bakery and Residential Unit in a C-1 Zoning District - 429 W 8th Street

Petition No. 2012-04 - Rezone from R-1 to C-6 for a Commercial Office Building – SE corner of Jefferson Blvd and Main St.

Petition No. 2012-05 - Vacate Right of Way's in the area of E Jefferson and N Main St. The first east/west alley south of Jefferson Blvd and a portion of Stanley Street.

Petition No. 2012-06 - Rezone from C-1 Commercial to R-1 Residential 2321 N Main Street.

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

P.O. NO. 2012-02 - Mishawaka ADA Self Evaluation and Transition Plan American with Disabilities Act

8. Resolutions

R2012-06 - Confirming Resolution - North American Composites Company (NAC) - 1460 E. Twelfth St.

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

R2012-03 - Use Variance to allow parking for automotive body work and repair shop and a sign variance to allow 3'x12' sign. 1802 W 6th Street. **(Amendment Requested)**

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

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

February 20, 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 February 20, 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 February 6, 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 February 14, 2012 public hearing.

APPEAL NO. 2012-03

An appeal submitted by JP's Complete Auto Care, Inc. requesting a Use Variance for 1802 West Sixth Street to allow parking for automotive body work and repair shop, and a Sign Variance to permit a 13 foot X 12 foot sign on I-1 Light Industrial zoned property.

RECOMMENDED APPROVAL

with the following conditions

1. Use Variance shall be limited to automotive body repair and automotive maintenance is limited to indoors. No outside storage of materials and/or vehicle parts will be permitted.
2. The previously submitted landscape plan plantings shall be executed in spring 2012.
3. Freestanding Signage on the site is limited to one non-illuminated monument style sign with a display area of no greater than four (4) feet high by eight (8) feet wide, 32 square feet, and with a total sign height not to exceed five (5) feet and with permits secured from Building and Planning Departments;

4. Temporary signage is prohibited.

APPEAL NO. 2012-04

An appeal submitted by James D. Wallenfels Revocable Lifetime Trust requesting a Conditional Use Permit for 1460 East Twelfth Street to permit a distribution center for resin, fiberglass, and related products to the composites industry in I-2 heavy Industrial zoned property.

RECOMMENED APPROVAL

Clerk Block read **RESOLUTION NO. 2012-03** opening it for public hearing

RESOLUTION NO. 2012-03

**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:**

1802 West Sixth Street, Mishawaka

(Use Variance to allow parking for automotive body work and repair shop and a sign variance to allow a 3 foot x 12 foot sign 1802 West 6th Street)

Clerk Block read a letter from the petitioner Jennifer Pieper requesting to postpone **RESOLUTION NO. 2012-03** to the next regular Council Meeting.

Mr. Emmons made a motion to postpone **RESOLUTION NO. 2012-03**, per the petitioner's request, to the March 5, 2012 meeting, with a second by Mr. Banicki the motion carried.

Clerk Block read **RESOLUTION NO. 2012-04** opening it for public hearing.

RESOLUTION NO. 2012-04

**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 AT: 1460 East Twelfth Street**

(Conditional Use Variance to allow for a Composite Distribution Center 1460 East Twelfth Street)

Ivan Levy, Vice President and General Council of North American Composites Company said they would like to make their presence felt here in Mishawaka for the first time. He said they have a plant in South Bend and they have family here and this was the place they want to expand to. Mr. Levy said their company was founded in 1959 as seven manufacturing plants and 28 distribution centers around the United States. He said they were here for distribution not manufacturing. Mr. Levy explained the distribution business was composites manufacturing which was a combination of fiberglass and resin, they come in as drums, they stay as drums and they go out as drums. He said it represents approximately 250 suppliers and 2,000 products

He said the reason they were here in this neighborhood was because they have a presence just about everywhere in the United States and the second largest composites market in the United States was

in Indiana, the largest was Texas, which was only 49% per capita, Indiana was the largest market and they have a whole here and they want to fill that. Mr. Levy said they have two requests one being the Conditional Use Permit and the Statement of Benefits request. He said regarding the Conditional Use Permit and at the Board of Zoning meeting there was no contention or disputes he was asking for the Council's approval. Mr. Levy went on to say as far as the financial report was concerned they have committed to this neighborhood 1.25 million dollars done and spent as of right now, they have committed to do this properly and in doing so the property needs 650,000 dollars in improvements to make it safe and operate the way they like to do business and conform with Fire Code requirements. He further explained they also have a request of 600,000 more dollars of personal property relating to the business, but what he wants to talk about specifically was the next step of the process and that was expansion, they have never closed a manufacturing or distribution facility they owned, until the great recession they never had an employee lay-off and those that were laid off have been called back to work.

Mr. Levy said they bought the facility in Mishawaka, which was a little bigger facility then they have anywhere else because it was suitable for expansion on the east side of the building and also there were two floors of office space, it would be an ideal regional distribution center. He said they would be good corporate citizens not only with their present plans but also for expansion of a regional distribution center. Mr. Levy said their average salary was 75,000 dollars plus full benefits, and the city of Mishawaka would get a significant increase in the tax revenue from their company and because they have never closed a facility Mishawaka would never have to face a situation where their property would be a vacant facility.

Question was called for at 7:14 p.m. **RESOLUTION NO. R 2012-04** **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.

Clerk Block read **RESOLUTION NO. 2012-05** opening it for public hearing.

RESOLUTION NO. R2012-05

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, DECLARING A CERTAIN AREA IN THE CITY OF MISHAWAKA, INDIANA, TO BE AN ECONOMIC REVITALIZATION AREA

NORTH AMERICAN COMPOSITES COMPANY (NAC) DECLARATORY RESOLUTION 1460 East Twelfth Street

Mr. Levy said from what he understands from the Planning Department and Mr. Prince was of the 600,000 dollars of personal property and 650,000 of real property improvements, he believes some of the elements of those improvements qualify or potentially qualify for what was in his mind a Tax Incremental Finance sort of an arrangement.

Mr. Prince, City Planner said the request before the Council was a three year Tax Phase In - Tax Abatement for the million and a quarter of improvements planned by NAC. He said they are looking to take a now vacant building and bring a new business to this area with 10 well paying jobs, which was critical to our area. Mr. Prince said his department whole heartedly supports this request three years was consistent with the number of jobs being brought in based on historical past practices along with the investment and jobs.

Question was called for at 7:16 p.m. on **RESOLUTION NO. R2012-05** **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.

President Roggeman thanked Mr. Levy for coming to Mishawaka and he appreciated the fact that NAC would be turning an empty building into a useable facility as well as bringing in good paying jobs plus the possibility of expansion.

Clerk block read **PROPOSED ORDINANCE NO. 2012-01** opening it for public hearing.

PROPOSED ORDINANCE NO. 2012-01

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2012 (Additional Funds – Local Major Moves Fund \$3.614, 335.96)

Mr. Mammolenti 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, the motion carried.

Gary West Director of Engineering said this proposal was to appropriate the balance of the funds remaining in the Major Moves account to dedicate them to two projects on the East side of town. He said the first one being the Bennington Drive Extension, north of Harrison Road that actually includes the extension of water and sanitary sewer to service the new fire station, the second one being about 800 feet of roadway that would be extended and terminated in a cul-de-sac serving as a drive to allow fire trucks to return to the station from the rear and drive through into the apparatus bay. Mr. West said this cul-de-sac would also allow for parking in the rear and would serve as a primary entrance for any non fire people that would be attending classrooms in that building.

Mr. West said there were three major items those funds would be allocated to; A) the design. B) Corner cut of a parcel has to be acquired from School City of Mishawaka. C) The Balance of the funds would be for the extension of utilities and the construction of the road along with a new traffic signal for the intersection of Bennington Drive and Harrison Road. He said he estimated those funds with help from their consultant to be a little over One point One million dollars, the balance 2.4 million dollars would be their funding for 12th Street construction of improvements that extends from Lexington, which was where INDOT would be finishing their work, and the city's part would start, to construct three lanes with curb, storm sewer, sidewalk, streetlights all the way to the

Blackberry Road intersection, approximately one mile. He said the project was estimated by the consultants to be about 6 million dollars and of that the City of Mishawaka's share would be 20% of the construction, the design they were already underway with, the title work, partial engineering and actual purchase of those properties about 942 thousand dollars, the city's construction share was estimated at 1.32 million dollars and construction engineering about 198 thousand dollars

President Roggeman asked Mr. West since this was the last of the Major Moves Fund was it held specifically for this project. Mr. West said their commitment was to use the Major Moves Funds for projects not capital improvements but the readers digest version would be they originally received 5.5 million dollars in 2006 and committed 500 thousand to the Borley/ Maplehurst project, another 725 thousand to the Lynn Street Project, the four projects they are doing with the signal at Dragoon Trail and some other safety improvements 350 thousand was allocated, and the original design of the 12th Street project was 875 thousand, which included some soil and environmental investigations. He said in addition to the five point five million dollars between the years of 2006 and 2012 they were able to accrue 512 thousand dollars of interest through the careful management of the Mishawaka City Controller.

Question was called for at 7:25 on **PROPOSED ORDINANCE NO. 2012-01**

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.

President Roggeman called for a five minute break AT 7:26 P.M. before state of city.

President Roggeman reconvened the meeting at 7:31 p.m.

NEW BUSINESS

Mr. Emmons announced his next Neighborhood Watch Meeting would be at St. Bavo's at 7:00 p.m. on March 8th which was a change from his 3rd Thursday of the month meeting. He said Mayor Wood would be his guest speaker.

President Roggeman stated it was a highlight of the year to have Mayor Wood present to the Council and the Public the State of the City. He said it was a good historical record as well as a look to the future.

Mayor Wood thanked Mr. Roggeman and said he was correct in stating this was a historic document and he takes it very seriously, in looking into the future this maybe some valuable information, so it was his pleasure to present it to them. He said he wanted to thank the team that helped put this document together.

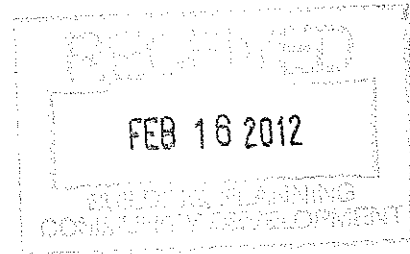
STATE OF THE CITY.

President Roggeman thanked Mayor Wood for the report and all department heads for their substantial input. He thanked the audience for coming and showing their interest in the city.

There being no further business to come before the Council, President Roggeman adjourned the meeting at 8:48 p.m.

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

☐ ☐ John J. Roggeman _____/s/
John J. Roggeman
Presiding Officer



AP 12-05

Date: 2/15/2012

To: Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant, Gates Automotive Group, Clint Emberton GSM, respectfully shows the Board:

1. I, Clint Emberton, (appellant) on behalf of University Park Mall, (owner) am petitioner of the following described real estate located within the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana, to wit:

University Park Mall
6501 Grape Road
Legal Description

Commencing at an Indiana Toll Road right-of-way monument at the intersection of the North right-of-way line of said Toll Road with the proposed West right-of-way line of Grape Road, said point also being the Principal Point and Place of Beginning and lying in and on the South line and 80.00 feet West of the East line of said Northwest Quarter of Section 28;

thence South $89^{\circ}37'13''$ West on and along the North right-of-way of the Indiana State Toll Road (said line also being the South line of the Northwest Quarter of Section 28), a distance of 723.71 feet to a point;

thence North $35^{\circ} 00' 00''$ West a distance of 382.67 feet to a point;

thence North $55^{\circ} 00' 00''$ East a distance of 41.50 feet to a point;

thence North $35^{\circ} 00' 00''$ West a distance of 459.50 feet to a point;

thence North $60^{\circ} 00' 00''$ West a distance of 430.30 feet to a point on the Easterly right-of-way line of Indiana State Route 23;

thence on and along the said Easterly right-of-way line a distance of 64.24 feet along an arc to the right having a radius of 2821.79 feet and a chord of 64.24 feet bearing North $35^{\circ} 22'43.5''$ East to a point;

thence South $50^{\circ} 00' 00''$ East a distance of 385.71 feet to a point;

thence North 30° 00' 00" East a distance of 31.50 feet to a point;

thence South 60° 00' 00" East a distance of 83.08 feet to a point;

thence North 55° 00' 00" East a distance of 169.78 feet to a point;

thence North 30° 00' 00" East a distance of 101.13 feet to a point;

thence South 60° 00' 00" East a distance of 50.00 feet to a point;

thence North 30° 00' 00" East a distance of 55.00 feet to a point;

thence South 60° 00' 00" East a distance of 79.17 feet to a point;

thence North 30° 00' 00" East a distance of 198.00 feet to a point;

thence North 60° 00' 00" West a distance of 114.17 feet to a point;

thence North 30° 00' 00" East a distance of 75.07 feet to a point;

thence North 05° 00' 00" East a distance of 225.09 feet to a point;

thence North 60° 00' 00" West a distance of 358.49 feet to a point on the said Easterly right-of-way line of Indiana State Route 23;

thence North 37° 08' 02" East on and along the said Easterly right-of-way line a distance of 70.52 feet to a point;

thence 452.832 feet along an arc to the left having a radius of 1807.446 feet and a chord of 451.649 feet bearing North 29° 57' 23" East to a point;

thence North 22° 46' 45" East a distance of 319.93 feet to a point;

thence North 89° 49' 12" East a distance of 312.39 feet to a point;

thence South 86° 33' 43.1" East a distance of 320.02 feet to a point on the proposed West right-of-way line of Grape Road;

thence South 01° 01' 41" East on and along the said West right-of-way line of Grape Road a distance of 370.02 feet to a point;

thence South 00° 24' 32" East a distance of 1484.91 feet to a point;

thence South 10° 04' 57" West a distance of 186.59 feet to a point;

thence South 00° 24' 32" East a distance of 320.00 feet to the Principal Point and Place of Beginning.

2. The above described real estate presently has a zoning classification of C-2, Shopping Center Commercial District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant, on behalf of University Park Mall, presently occupies or proposes to occupy the North parking lot portion, Directly North of JC Penny retail store, and East to the SR 23 boundary of University park Mall and West to the University Park mall boundary at Grape Road of the above-described property in the following manner:
4. The Gates Automotive Group desires to occupy the property on three separate occasions, 1.) A specific 10 day period in May to be named, 2.) a specific 10 day period in June to be named and 3.) a specific 10 day period to be named in August for an offsite Used Car Sale. The hours of operation shall be from 10 am until dusk. The property shall be used as-is with no permanent changes made. Additionally, Gates Automotive Group, within the current Zoning Constraints of the City of Mishawaka, would request permission for temporary signage, one but not more than two inflated cold air balloons anchored to the ground for public information and a festive atmosphere. Three portable tents to provide shelter for staff and customers not to exceed 20' X 40'. One 12 x 60 mobile office facility for business transactions and securing of valuables. Adequate restroom facilities will also be provided including handicap accessible facilities and hand washing stations. A minimum of eight trash receptacles emptied twice daily will be provided at the site. Additionally, appropriate measures will be taken using safety cones, barricades, and safety banners to control traffic patterns and parking.
5. The Zoning Ordinance of the City of Mishawaka requires (1) per section 157.14 Prohibit Signage in all Zoning Districts states it shall be unlawful to erect or maintain Temporary signs, except as permitted under 157.16 Temporary Freestanding Sign Permits. (2) The parking area of the University Park mall in question is Zoned C-2, Shopping Center Commercial.
6. Strict adherence to the Ordinance requirements enforced would prohibit us from (1) selling used vehicles from that location, and (2) Using banners, cold air balloons, and tents and other miscellaneous materials to promote our Used Car Event.
- 7-1. Approval of this request will not be injurious to the public health, safety, morals or general welfare of the community as, Gates Automotive Group, having been a local family owned business for 83 years, involved and committed to the well being of the City of Mishawaka and the fine citizens who reside there. The use and value of the area adjacent properties included in the variance will not adversely be affected, quite to the contrary, this event will stimulate revenues for the local community, tax revenues, local media outlets, employees of surrounding businesses, subcontractors and vendors involved in staging this event.

- 7-2. The need for the variance arises due to the fact that the property is located in the City of Mishawaka and is currently not being used for the same purpose as the request is being made. The property is also located in a very high visibility area with easy access, adequate customer and employee parking.
- 7-3. Strict application to the terms of this chapter constitutes an unnecessary hardship if applied to this property due to the fact that Gates Used Car Sales are successful in part because of the safe and festive atmosphere created by our marketing and implemented by our employees. The previous approval granted by The Board of Zoning Appeals in 2010 and 2011 was very beneficial not only for Gates, but for University Park Mall and the community as a whole. The events were organized in an effective, safe and non-offensive manner to the community. Last year in a two week time frame the State of Indiana enjoyed a sales tax revenue windfall from these events in excess of \$300,000 dollars. Additionally, the payroll and invoices generated by Gates, hired vendors, media outlets, etc. exceeded \$250,000 dollars. The University Park Mall enjoyed the fruits of our media efforts as well, as Gates drove over 2000 consumers to the UP Mall Campus during our events. License and title revenues, payroll, taxes, vendors and their employees generated significant additional tax revenues for the local government as well. We believe that approval of the above requested events will in no manner fall short of the previous year's success and benefit to the community at large. We would strongly encourage the approval of our request as we believe it would continue to fan the flame of economic momentum. Limiting use of this property also limits the ability for Gates' to stimulate the local market and promote an event that the surrounding communities have come to expect.
8. Approval will in no manner interfere with the Mishawaka 2000 Comprehensive Plan as the property is already defined as commercial.

Wherefore the Gates Automotive Group prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grants the requested variance.

Property Owner Signature: See Attached Authorization

Print Property Owners Name: University Park Mall

Contact Person:

Clint A. Emberton
GSM, Gates Automotive Group
636 W. McKinley Avenue
Mishawaka, IN 46545
Phone: 574-340-0395
Fax: 574-291-6088
Email: cemberton@gatestoyota.com

UNIVERSITY PARK MALL

February 13, 2012

City of Mishawaka
600 East Third Street
Mishawaka, IN 46545

To Whom It May Concern:

This letter will serve as University Park Mall's authorization for Gates to utilize a designated portion of our parking lot to promote its line of vehicles during requested dates in 2012. The attached plot map details the placement of vehicles and tents in our north parking lot near JC Penney.

We have a good working relationship with Gates Automotive and the shows last year were well organized and professional. University Park Mall and its merchants benefit from these types of promotions by means of traffic and sales.

Please do not hesitate to contact me for clarification or if further information is needed.

Sincerely,

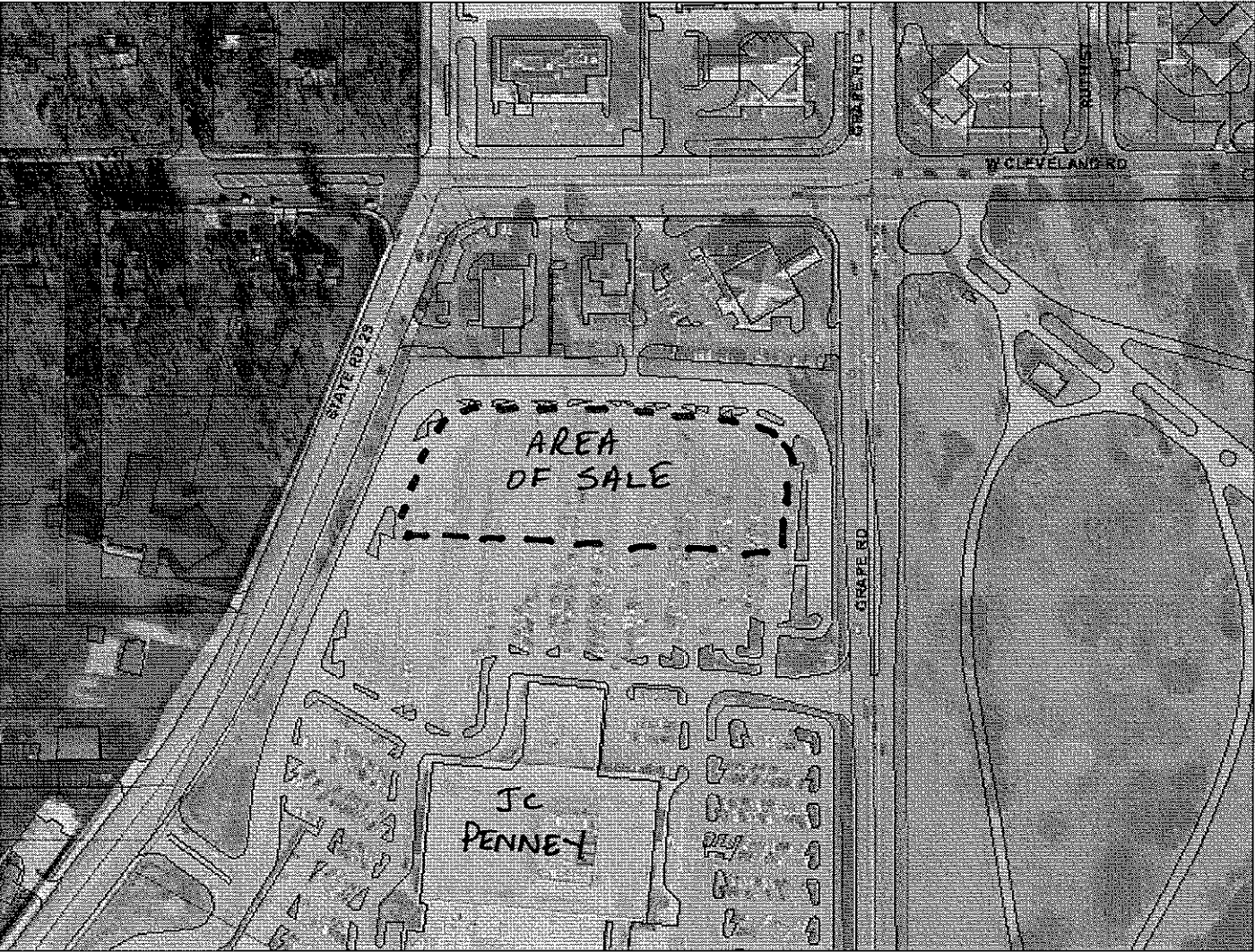


Steven Kempe
General Manager
University Park Mall

cc: Irene McKiernan

smw/enclosure

6501 Grape Rd.

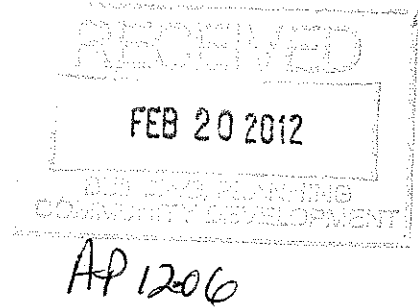


— — — — AREA OF SALE

February 15, 2012

Board of Zoning Appeals

City of Mishawaka, Indiana



The undersigned appellants respectfully show the Board:

1. We, CCC Real Estate Holdings Co LLC, owner, and Barbara Van Damme, contingent purchaser, of the following real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

429 8th St W Lot 100 McInerny's 2nd Addition

2. The above-described real estate presently has a zoning classification of C-1 General Commercial District under the Zoning Ordinance of the City of Mishawaka.
3. Contingent Purchaser presently proposes to occupy the above described-property as a mixed-use commercial and residential rental property with the main floor of the building to be used for a cake catering and cake web sales business and the second floor to be used as a two bedroom rental unit.
4. The Zoning Ordinance of the City of Mishawaka requires that a C-1 retail business have four parking spaces per 1000 square feet of retail use. C-1 zoning does not allow residential use. The residential zoning requirement for parking is two off-street parking places per unit.
5. Contingent Purchaser desires to establish a cake catering and web sales business by installing a licensed kitchen on the main floor of the building. While this would be a retail operation, it does not require a commercial store front as sales would predominately be generated through off-site marketing; orders would primarily be taken by phone or through a website; and cakes would then be delivered or sent to the customer. It is unlikely that this business would require more than three or four on-street parking places for owners/employees and customers at any given time. There are 75 feet of on-street parking adjacent to the building on West St. and 25 feet of on-street parking adjacent to the front of the building on 8th St. (see attached aerial view of property and streets)

Contingent Purchaser also requests permission to use the upstairs of the building as a two-bedroom rental apartment. There is a two-car garage on the property which would be designated for the use of the apartment tenants, thus providing two off-street parking spaces as required by code.

kitchen. The appellant resides in Mishawaka, has family ties to the West End, and has been searching for a suitable property in the area to establish and operate a cake catering/web sales business. The cost to install a licensed kitchen and start a business is considerable. Start-ups often fail because they do not generate enough income in the first two to three years of operation to continue. The appellant wishes to relieve some of the financial burden and risk of the fledgling business by purchasing a suitable building at a reasonable cost that could also provide rental income to offset building expenses. The property located at 429 8th St W is currently in foreclosure and has been offered at a reasonable price. It is zoned for commercial use, but possible uses are quite limited due to parking constraints; the proposed use as a cake catering business can operate within those constraints. The building is large enough to allow for limited expansion should the business experience growth through its website sales. The building also has upstairs space that has been used in the past as an apartment and could generate rental income if the Board would allow a use variance. It is highly unlikely that the appellant will be able to find another building that offers the ideal combination of desired location, reasonable purchase cost, optimal building structure, and potential for rental income that this particular property present. Therefore it is unlikely that the appellant would be able to take on the financial cost or risk of starting a business without the Board's approval of this use variance.

7. Approval of this use variance will not be injurious to the public health, safety, morals or general welfare of the community. The appellant will comply with all Dept. of Health codes and inspections concerning a retail food facility and will operate a clean and quiet business. The appellant will provide a rental apartment that complies with city codes and inspections, and will rent to tenants who do not pose a threat to public health, safety, morals or general welfare.

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The proposed uses of the property may in fact be beneficial to the value of adjacent area because an unobtrusive and well-maintained business is better for the area than a vacant and deteriorating property.

The need for the variance arises from the fact that the property is currently zoned for commercial use only, and the appellant desires to use it for a business that will not significantly impact traffic or parking in the area and for an upstairs rental unit that includes off-street parking in a double garage.

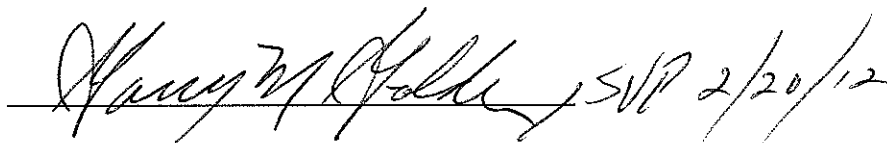
Strict application of the Ordinance would make it highly unlikely that the appellant would purchase the building or be able to start a cake catering business.

Approval of this use variance would be in compliance with the Mishawaka 2000 Comprehensive Plan. The property is currently zoned for commercial use and is located adjacent to properties that are zoned for residential use. The proposed variance is for mixed use as commercial and residential and will allow for a legal and appropriate use of the property which has been vacant and deteriorating for more than two years.

Strict application of the Ordinance would make it highly unlikely that the appellant would purchase the building or be able to start a cake catering business in this area.

Approval of this use variance would be in compliance with the Mishawaka 2000 Comprehensive Plan. The property is currently zoned for commercial use and is located adjacent to properties that are zoned for residential use. The proposed variance is for mixed use as commercial and residential and will allow for a legal and appropriate use of the property which has been vacant and in decline for more than two years.

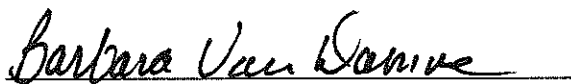
Wherefore, Appellants pray and respectfully request a hearing on this appeal and that after such hearing, the Board grant the requested variance.


_____ SVP 2/20/12

CCC Real Estate Holdings Co. LLC

1440 Broadway 17th Floor

New York, NY 10018



Barbara Van Damme (574-259-9468)

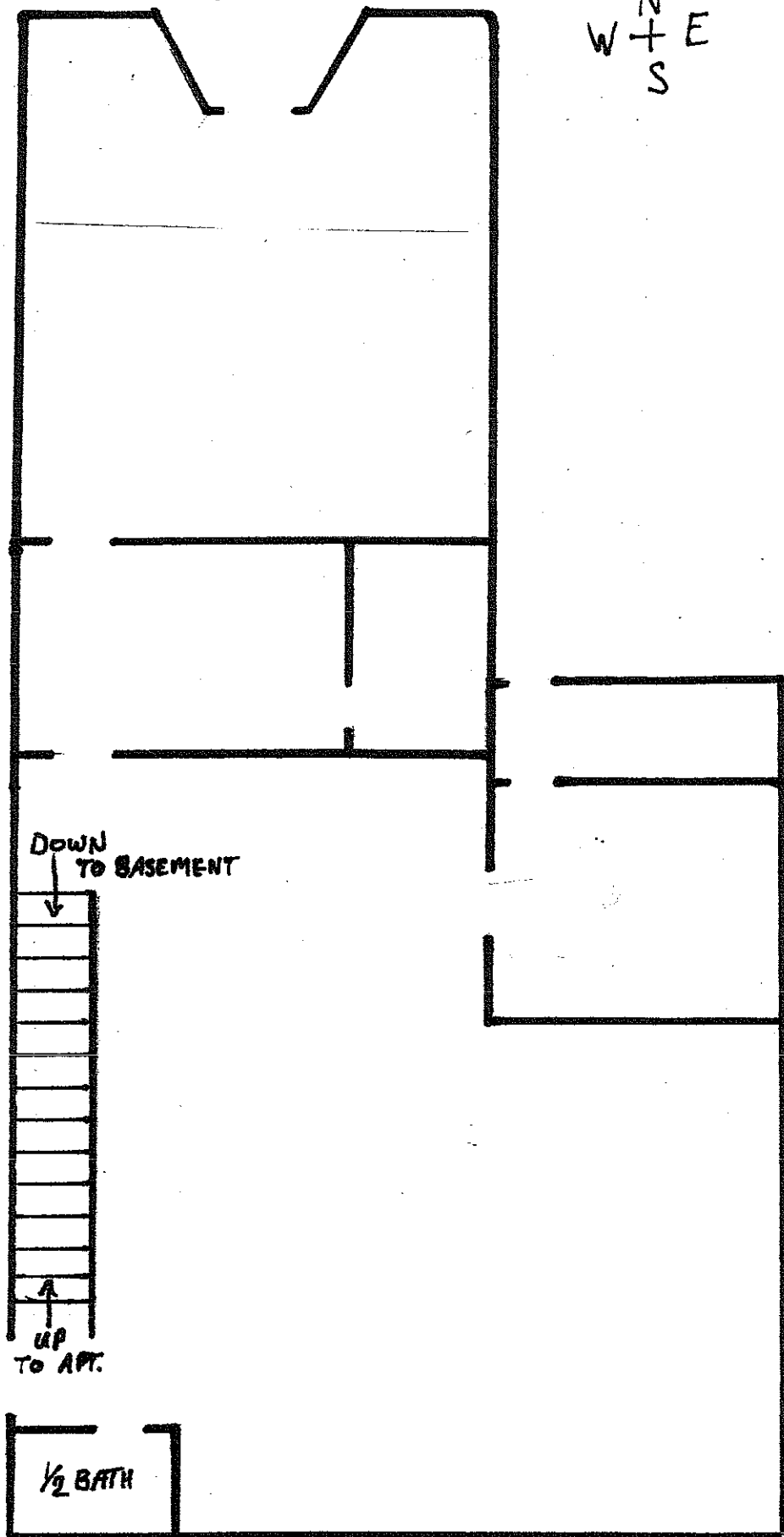
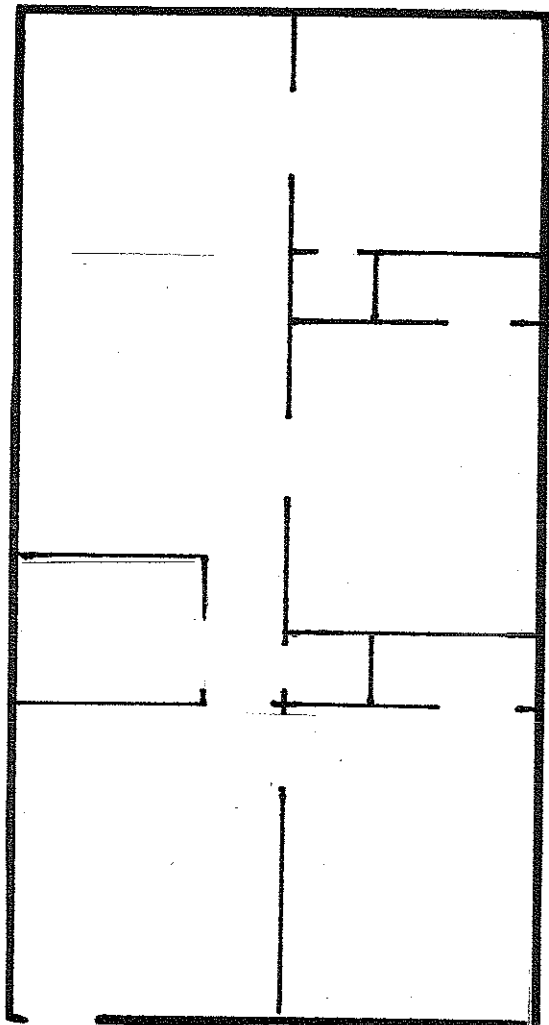
829 E. 3rd St.

Mishawaka, IN 46544

UPPER LEVEL

MAIN FLOOR

W N E
S

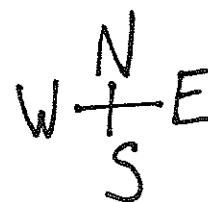


DOWN
TO BASEMENT



UP
TO APT.

1/2 BATH



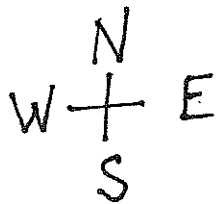
MAIN FLOOR
FRONT OF BLDG.
22' x 37'

BAKERY KITCHEN
26' x 22'

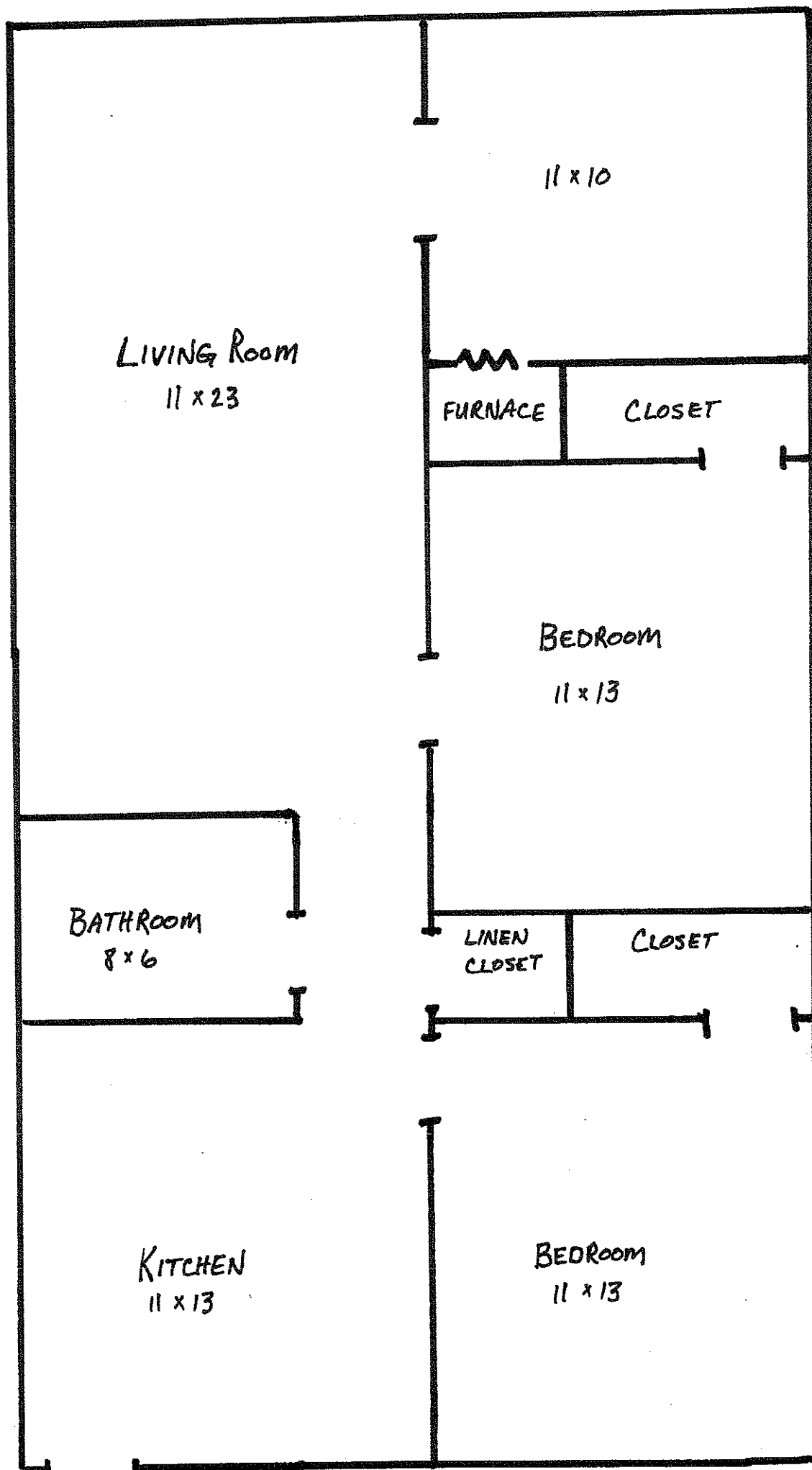
11' x 17'

1/2 BATH
6' x 6'

UTILITY
5' x 6'



UPSTAIRS APT.
22' x 42'



Tentative Business Plan for Cakes of Good Cheer

Executive Statement

The purpose of this business plan is to provide a more complete description to the Zoning Board of the City of Mishawaka of the proposed cake catering/web sales business to be located at 429 W 8th St. Mishawaka, IN. The business entity has not yet been legally formed or named but will be referenced within this Business Plan as "Cakes of Good Cheer".

Mission Statement

The mission of Cakes of Good Cheer is to provide our customers with the finest, high-quality cakes and desserts while conducting our business in an eco-friendly manner. Our use of natural ingredients obtained from local producers and distributors ensures quality and freshness while contributing to the strength of the local economy. Additionally Cakes of Good Cheer strives to bring joy to some of those who are in difficult situations by providing birthday cakes to institutionalized children in our community.

Customer Profile

Cakes of Good Cheer's average customer will be an individual whose various social connections throughout their community cause them to plan or participate in events that typically include enjoying desserts. Such family-connected events might include holiday dinners, birthday parties, anniversary parties, and other celebratory dinners. Events relating to professional or community connections might include company holiday parties, promotion or retirement celebrations, business conferences, school open houses, and high school/club team dinners.

The average customer is anticipated to: be married with children; have household income exceeding \$60,000; have obtained post-secondary education (primary earner); be involved in their children's school; attend one or more social gatherings per month.

Local Market Analysis

The Mishawaka/South Bend area currently has several bakeries including the West End Bakery, Aunt Sue's Sweet Creations, Baker's Dozen Bakeshop, Sweet Indulgence, and the Victorian Pantry. In addition to these small businesses, local grocery stores such as Kroger and Martins also produce baked goods. These establishments are representative of the baking industry in the area and offer a standard line of products including breads, basic white and chocolate cakes, sugar cookies, donuts, pastries and pies.

Cakes of Good Cheer will be competing with these local bakeries and grocery stores, although not directly. While these establishments offer a wide range of products, Cakes of Good Cheer will have a very focused product line consisting of European-style cakes and alcohol-infused fine cakes, neither of which are found at competing bakeries. Also, most of the bakeries in the area are retail operations that also offer a restaurant area where customers can order off of breakfast and lunch menus. Cakes of Good Cheer plans to operate a retail cake shop that delivers products directly to local customers. Delivery of our products will be limited to the Mishawaka/South Bend area while our eco-friendly packaging and over-night shipping will allow us to serve Indiana, the Midwest, and beyond.

Products and Services

Cakes of Good Cheer intends to provide an array of European style cakes and desserts to its target market. The business hopes to acquire a facility that will house the baking kitchen and web sales operation. Delivery services will be provided to individuals, parties and businesses in the area. Two product lines are being developed. One will be exclusive i.e., for local delivery only, and will feature products that reflect the diverse heritage of the community. A second line of products will be offered both locally and through

web sales; this line will feature alcohol-infused molded cakes. Services will include baking custom cakes, delivery and shipping of products. Below is a partial list of cakes to be offered:

- Triple Chocolate Banana Bundt Cake
- Bavarian Apple Cake - a rich butter cake flavored with lemon and topped with cinnamon-sugar sprinkled apple slices
- Chocolate & Marzipan Chess Torte - a triple-layer checkerboard cake filled and frosted with buttercream and decorated with marzipan and chocolate chess pieces
- Swirling Irish Cream Cheesecake
- Baba's Rum Torte - a six-layer sponge cake liberally sprinkled with rum, filled with whipped cream, frosted with chocolate buttercream, and sprinkled with chopped walnuts

Management Team

Cakes of Good Cheer was founded by Steve & Barbara VanDamme, and her son, Elliot Farnham. Steve is a third-generation Mishawaka resident of Belgian descent and has worked for the City of Mishawaka for 12 years. Barbara is a first-generation resident of German descent, has had culinary training and has been an avid baker for more than 30 years. Elliot graduated from the University of Notre Dame with a bachelor's degree in Finance. His professional experience includes over six years in public accounting, both at an international firm and a regional firm.

Financing & Expansion Plan

Cakes of Good Cheer will be 100% equity financed. The purchase offer for the property at 429 W 8th St is conditioned on the approval of the variance request that seeks mixed-use zoning to include residential. The building's second floor is currently set up as a single apartment unit, and the business's start-up financing plans depend on this unit's potential to generate rental revenues (unrelated business income). Upon purchase of the building, the rental unit will be renovated and rented. The unrelated business income will then cover the overhead expenses of the building/business (property taxes, utilities, etc.) while a commercial kitchen is installed. Upon completion of the kitchen, required inspections and a short period of product testing, Cakes of Good Cheer will be operational. The owners will finance all initial operating expenses. Operating expenses will vary directly with sales volume and eventually will be covered by operating revenues (cake sales).

It is the goal of Cakes of Good Cheer to be operational by July 2012. Sales over the first three months are expected to be low but will increase significantly during the holiday season. It is expected that sales will continue to increase over the next three years of operation. Currently there are no plans for expansion as it is our belief that commercial space at 429 W 8th St will be sufficient for the sales volume during this period.

Marketing Strategies

Cakes of Good Cheer intends on using a number of marketing strategies that will allow the bakery to easily reach people within the target market. These strategies include an initial campaign of delivering product samples and brochures to a select group of potential customers, traditional print advertisements, and ads placed on search engines on the Internet. Cakes of Good Cheer will also establish a website and a presence on social media sites such as Facebook and Twitter.



APPEAL 12-06

Location Map

APPEAL 12-06

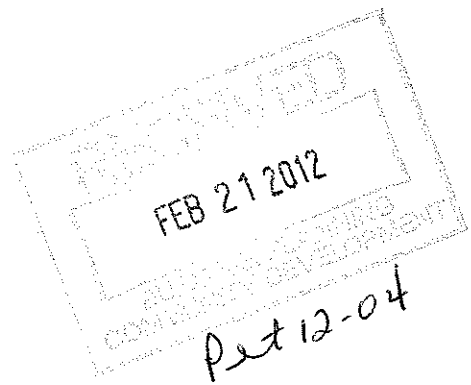
429 W 8TH STREET

USE VARIANCE TO ALLOW
BAKERY AND RESIDENTIAL UNIT
IN A C-1 ZONING DISTRICT

Date: February 8, 2012

To the: Honorable Members of the Common Council of the
City of Mishawaka, Indiana:

RE: Mishawaka Redevelopment Commission
Petition for Rezoning:



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

LEGAL DESCRIPTION

THAT PART OF THE SOUTHEAST QUARTER OF SECTION

Also commonly known as the southeast corner of Jefferson Blvd. & Main Street, Mishawaka, Indiana 46544.

The above described parcel of land is presently Zoned: "R-1" Single Family Residential District.

Petitioners' desire said real estate to be Rezoned to the "C-6" Commercial District Classification. The purpose of the Rezoning is to allow for a commercial office building to be developed for the site.

Wherefore, the Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate Ordinance be enacted Rezoning the above described parcel of real estate located in the City of Mishawaka.

Ken Prince
City Planner
Mishawaka, Indiana 46545
(574) 258-1625

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

PETITIONERS:

MISHAWAKA COMMUNITY DEVELOPMENT
600 EAST THIRD STREET
MISHAWAKA, INDIANA 46544

LAND SURVEYOR:

DANCH, HARNER & ASSOCIATES, INC.
1643 COMMERCE DRIVE
SOUTH BEND, INDIANA 46628
(574) 234-4003.

REZONING REQUEST:

THE PURPOSE OF THE REZONING IS TO REZONE THE PROPERTY FROM THE "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT CLASSIFICATION TO THE "C-6" COMMERCIAL DISTRICT CLASSIFICATION. THIS REZONING WILL ALLOW FOR A COMMERCIAL OFFICE BUILDING TO BE DEVELOPED FOR THE SITE.

LEGAL DESCRIPTION

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE CENTERLINE INTERSECTION OF MAIN STREET & JEFFERSON BLVD.; THENCE EAST ALONG THE CENTERLINE OF JEFFERSON BLVD. A DISTANCE OF 76.55 FEET MORE OR LESS; THENCE S. 00°-00'-34" E. A DISTANCE OF 41.58 FEET MORE OR LESS TO THE POINT OF BEGINNING; THENCE S. 44°-45'-20" W. A DISTANCE OF 23.89 FEET MORE OR LESS; THENCE S. 00°- 01'-34" E. A DISTANCE OF 269.00 FEET MORE OR LESS; THENCE EAST A DISTANCE OF 55.17 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 26.02 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 4.35 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 103.00 FEET MORE OR LESS; THENCE N. 08°-52'-10" E. A DISTANCE OF 56.52 FEET MORE OR LESS; THENCE N. 06°-22'-54" E. A DISTANCE OF 45.15 FEET MORE OR LESS; THENCE NORTH 44.18 FEET MORE OR LESS; THENCE N. 46°-51'-36" W. A DISTANCE OF 17.63 FEET MORE OR LESS; THENCE WEST 34.99 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 0.37 ACRES MORE OR LESS.

ALSO COMMONLY KNOWN AS THE SOUTHEAST CORNER OF JEFFERSON BLVD. & MAIN STREET,
MISHAWAKA, INDIANA 46544.

TABULATED SITE DATA

1). ACREAGE OF SITE: .37 AC.

2). PROPOSED LAND USE:

A. 2,715 SQUARE FOOT OFFICE BUILDING

3). PARKING RATIO REQUIRED BY ORDINANCE FOR "C-6" COMMERCIAL

A. 4 SPACES PER 1,000 SQ. FT. OF GROSS FLOOR AREA

PARKING SPACES REQUIRED FOR A 2,715 SQ. FT. OFFICE BUILDING = 11

PARKING SPACES PROVIDED.....= 16

4). PROPOSED LAND COVERAGE:

	<u>SQUARE FOOTAGE</u>	<u>% OF SITE</u>
A. BUILDINGS.....	2,715.00	17.00
B. PARKING, SIDEWALK, AND DRIVES.....	7,582.88	48.00
C. OPEN SPACE.....	5,665.52	35.00
	15,963.40	100.00

5). SURFACE RUN-OFF AND DRAINAGE TO BE HANDLED THROUGH THE USE OF
A COMBINATION OF DRYWELLS AND FRENCH DRAIN SYSTEM LOCATED ON SITE.

6). OFFICE BUILDING IS 1 (ONE) STORY.

7). OFFICE BUILDING WILL BE CONNECTED TO MISHAWAKA UTILITIES.

8). DRAINAGE CAPACITY WILL BE BASED ON AMOUNT REQUIRED TO BE HELD ON-SITE BY THE CITY
OF MISHAWAKA ENGINEERING DEPARTMENT.

9). ALL PARKING SPACES ARE TO BE 9'x 20', EXCEPT HANDICAP WHICH WILL MEET THE LATEST
A.D.A. STANDARDS. BUILDING ENTRANCES WILL HAVE A RAMPED SIDEWALK FROM PARKING
AREA FOR HANDICAP ACCESSIBILITY.

10). DRIVEWAY OPENINGS SHALL BE REQUIRED TO MEET THE LATEST CITY OF MISHAWAKA
STANDARDS.

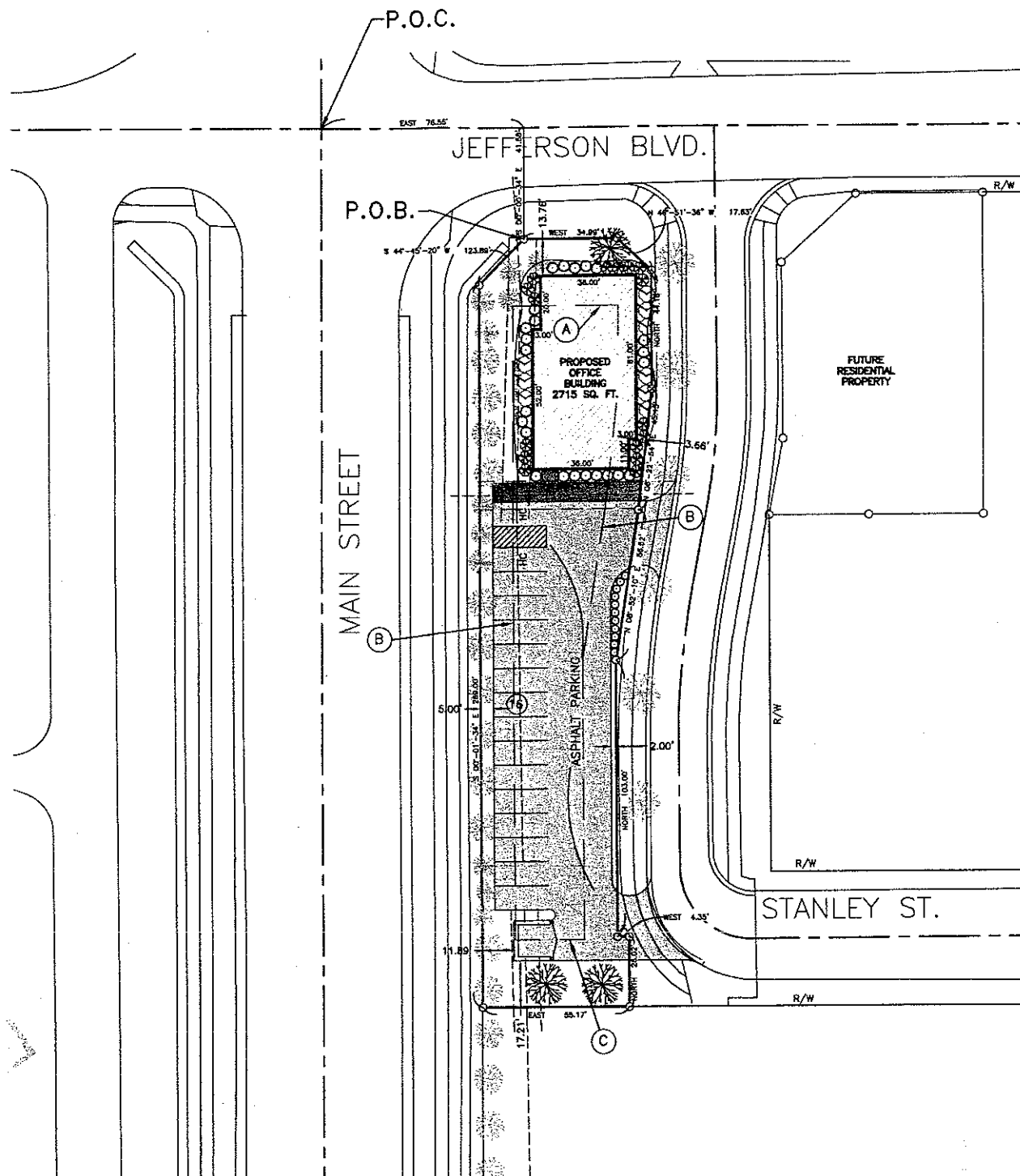
11). ALL SIGNS SHALL CONFORM TO THE LATEST CITY OF MISHAWAKA ZONING STANDARDS.

12). ALL EXTERIOR LIGHTING SHALL MEET THE LATEST CITY OF MISHAWAKA STANDARDS.

PRELIMINARY SITE PLAN

PART OF THE SOUTHEAST QUARTER OF SECTION 9, T. 37 N., R. 3 E.
CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.

Pet 12-04



LEGEND:

- (A) 25' FRONT-YARD SETBACK
- (B) 12.50' EXTERIOR SIDE-YARD SETBACK
- (C) 25' REAR-YARD SETBACK



EXISTING LANDSCAPE MATERIAL



PETITIONERS:

MISHAWAKA COMMUNITY DEVELOPMENT
800 EAST THIRD STREET
MISHAWAKA, INDIANA 46544

LAND SURVEYOR:

DANCH, WARNER & ASSOCIATES, INC.
1843 COMMERCE DRIVE
SOUTH BEND, INDIANA 46628
(574) 234-4003

REZONING REQUEST:

THE PURPOSE OF THE REZONING IS TO REZONE THE PROPERTY FROM THE "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT CLASSIFICATION TO THE "C-6" COMMERCIAL DISTRICT CLASSIFICATION. THIS REZONING WILL ALLOW FOR THE CONSTRUCTION OF A 2,715 SQ. FT. SINGLE STORY OFFICE BUILDING.



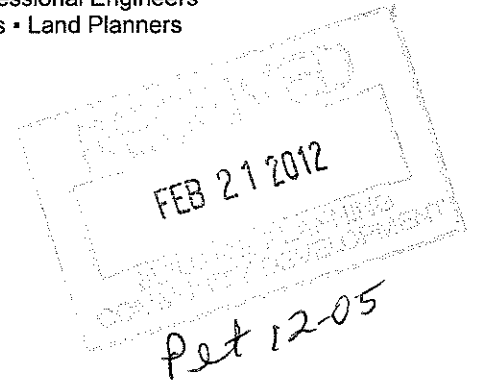
Danch, Harner & Associates, Inc.

Michael J. Danch, L.A.
Ron Harner, P.S.

Land Surveyors • Professional Engineers
Landscape Architects • Land Planners

February 6, 2012

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



Re: Petition for Vacation of Public Right-of-Ways

The undersigned City of Mishawaka Redevelopment Commission respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right-of-ways located in the City of Mishawaka, St. Joseph County, Indiana:

Alley Vacation:

The first east/west alley south of Jefferson Blvd., measuring approximately 60 feet deep by 14 feet wide; adjacent to Lot 4, and a portion of lot 5 on the north; Lot 11 and a portion of lot 10 on the south, all in the Original Plat of E.A. Smith's Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

Street Vacation:

That portion of Stanley Street, measuring approximately 55 feet deep by 50 feet wide, adjacent to Lot 11, and a portion of Lot 10 in the Original Plat of E.A. Smith's Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana; and adjacent to a portion of Farm Lot 10 in the Original Plat of Mishawaka Farm Lots, Plat Book 1, Page 70, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

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

Where-for, the Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted vacating the above described right-of-way located in the City of Mishawaka.

Ken Prince
Community Development

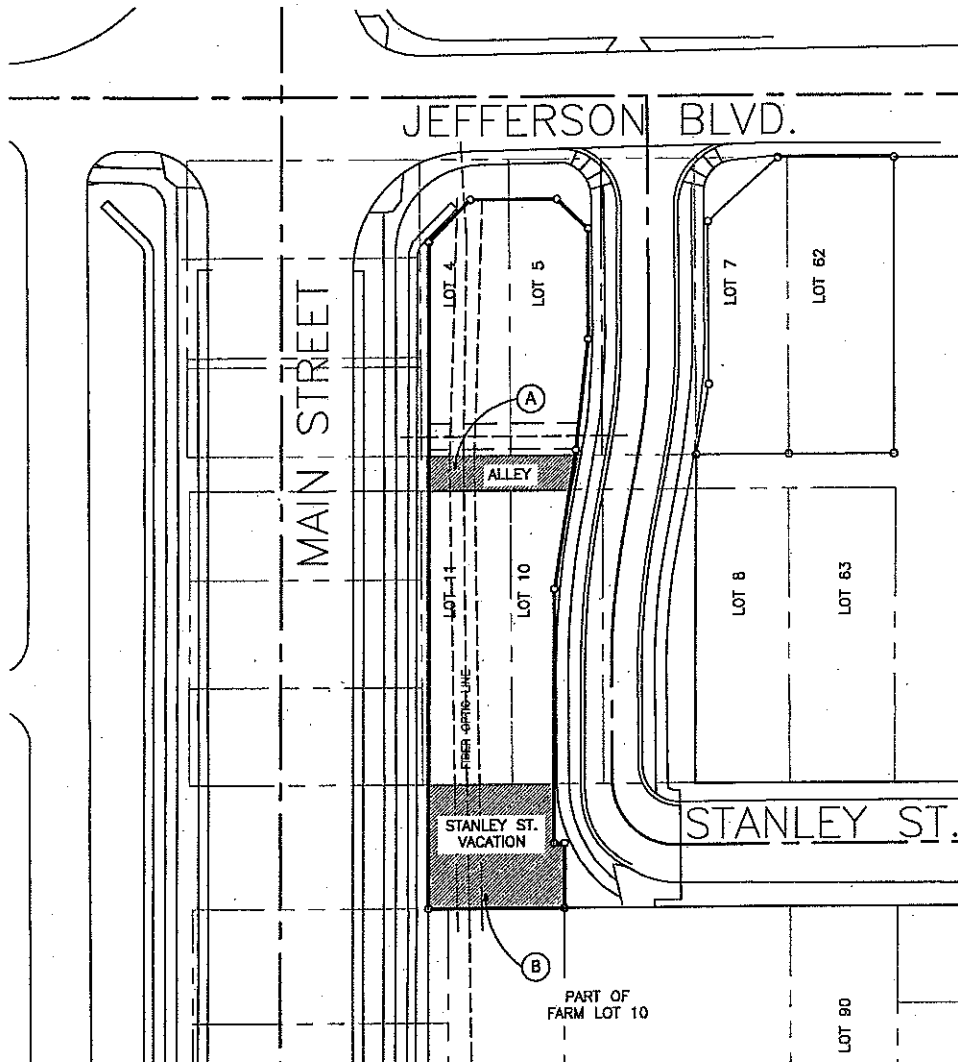
Contact Person:

Jeffrey T. Ballard
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, IN 46628
Office: 574-234-4003
Fax: 574-234-4119

FEB 21 2012

Pet 12-05

STREET & ALLEY RIGHT-OF-WAY VACATION EXHIBIT



(A) ALLEY VACATION:
THE FIRST EAST/WEST ALLEY SOUTH OF JEFFERSON BLVD., MEASURING APPROXIMATELY 60 FEET DEEP BY 14 FEET WIDE; ADJACENT TO LOT 4, AND A PORTION OF LOT 5 ON THE NORTH; LOT 11 AND A PORTION OF LOT 10 ON THE SOUTH, ALL IN THE ORIGINAL PLAT OF E.A. SMITH'S ADDITION, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, STATE OF INDIANA.

(B) STREET VACATION:
THAT PORTION OF STANLEY STREET, MEASURING APPROXIMATELY 55 FEET DEEP BY 50 FEET WIDE, ADJACENT TO LOT 11, AND A PORTION OF LOT 10 ON THE NORTH, ALL IN THE ORIGINAL PLAT OF E.A. SMITH'S ADDITION, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, STATE OF INDIANA; AND ADJACENT TO A PORTION OF FARM LOT 10 ON THE SOUTH, ALL IN THE ORIGINAL PLAT OF MISHAWAKA FARM LOTS, PLAT BOOK 1, PAGE 70, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, STATE OF INDIANA.

LEGEND:



HATCHED AREA TO BE VACATED



SCALE 1" = 50'



Danch, Harner & Associates, Inc.

DHA

Land Surveyors • Professional Engineers
Landscape Architects • Land Planners

Office: (574)234-4003 / (800)594-4003 • Fax: (574)234-4119
1643 COMMERCE DRIVE • South Bend, IN 46828

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1
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1

DATE: FEBRUARY 21, 2012

TO THE: HONORABLE MEMBERS OF THE
COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA

RE: CITY OF MISHAWAKA PETITION FOR REZONING:

THE UNDERSIGNED, RESPECTFULLY SHOW THAT THEY ARE THE OWNERS OF THE FOLLOWING DESCRIBED REAL ESTATE LOCATED IN THE CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA:

A PART OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING DESCRIBED AS: THE NORTH 40 FT. OF LOT "D" OF AS SHOWN ON THE RECORDED PLAT OF "NORMAIN HEIGHTS" SUBDIVISION AS RECORDED IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE. CONTAINING 0.11 ACRES MORE OR LESS.
SUBJECT TO ALL LEGAL RIGHT-OF-WAYS AND EASEMENTS OF RECORD.

ALSO COMMONLY KNOWN AS 2321 NORTH MAIN STREET, MISHAWAKA, INDIANA 46545.

THE ABOVE DESCRIBED PARCEL OF LAND IS PRESENTLY ZONED "C-1" COMMERCIAL DISTRICT.

PETITIONERS DESIRE SAID REAL ESTATE, TO BE REZONED TO THE "R-1" RESIDENTIAL DISTRICT CLASSIFICATION. THE PURPOSE FOR THE REZONING IS TO ALLOW FOR THE REAL ESTATE TO BE PURCHASED BY AN ADJACENT OWNER TO INCREASE THE SIZE OF THEIR YARD AREA.

WHEREFORE, THE PETITIONERS PRAY AND RESPECTFULLY REQUEST THAT THE COMMON COUNCIL OF THE CITY OF MISHAWAKA REFER THIS MATTER TO THE MISHAWAKA CITY PLAN COMMISSION AND THAT AFTER HEARING, AN APPROPRIATE ORDINANCE BE ENACTED REZONING THE ABOVE DESCRIBED PARCEL OF REAL ESTATE LOCATED IN THE CITY OF MISHAWAKA.



KEN PRINCE FOR THE CITY OF MISHAWAKA,
600 EAST THIRD STREET
MISHAWAKA, INDIANA 46545
(574) 258-1625

CONTACT PERSON:
DANCH, HARNER & ASSOCIATES, INC.
1643 COMMERCE DRIVE
SOUTH BEND, INDIANA 46628
(574) 234-4003.

Pet 12-06

LEGAL DESCRIPTION

A PART OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING DESCRIBED AS: THE NORTH 40 FT. OF LOT "D" OF AS SHOWN ON THE RECORDED PLAT OF "NORMAIN HEIGHTS" SUBDIVISION AS RECORDED IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE. CONTAINING 0.11 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS AND EASEMENTS OF RECORD.

RESOLUTION NO. R 2012- 6

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA MAKING FINAL DETERMINATION AND CONFIRMING A CERTAIN AREA IN THE CITY OF MISHAWAKA, INDIANA AS AN ECONOMIC REVITALIZATION AREA

North American Composites Company (NAC)

CONFIRMING RESOLUTION

WHEREAS, the Common Council of the City of Mishawaka, Indiana, did pursuant to the “Deduction for Rehabilitation or Redevelopment of Real Property in Economic Development Revitalization Areas Act” (Indiana Code 6-1.1-12.1-1 et. seq.) as amended and hereinafter referred to as the “Act”, declare that the following described area in the City of Mishawaka, County of St. Joseph, State of Indiana, is an “Economic Revitalization Area”:

A lot or parcels of land described as follows:

Tax Key #16-1117-464817; also legally described as a 4.33 acre tract of land Lots 9 10 & 11 Byrkit Ave Industrial Sub

More commonly known as 1460 East Twelfth Street

All of the above described property being located within the municipal corporate limits of the City of Mishawaka, Indiana, and

WHEREAS, this declaration was effected by Resolution No. R 2012-5 adopted by the Common Council of the City of Mishawaka on the 20th day of February 2012; and

WHEREAS, under the provisions of said “Act” a copy of said Resolution No. R 2012-5 was filed for public inspection at the office of the St. Joseph County Assessor’s Office; and

WHEREAS, pursuant to Indiana Code (I.C. 5-3-1), public notice of the adoption and substance of Resolution No. R 2012-5 was given; as well as setting forth that a public hearing would be held on February 20, 2012 to receive and hear all remonstrance and objections from interested persons; and

WHEREAS, pursuant to said “Act”, a copy of said public notice along with a copy of the applicant’s “Statement of Benefits” was filed with each taxing unit in whose jurisdiction the property described in the above legal description is located.

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

1. That upon conclusion of said public hearing and consideration of evidence presented, it is now determined that the area described meets the qualifications for an Economic Revitalization Area; and
2. That Resolution No. R 2012- 5 is hereby modified and confirmed as follows:
 - a) That the above described area shall be designated as an Economic Revitalization Area for a period of one (1) year beginning with the date of this resolution; and
 - b) That the property tax deduction to which the property owner is entitled shall apply to real property pursuant to Indiana Code (I.C. 6-1.1-12.1-3); and personal property pursuant to Indiana Code (I.C. 6-1.1-12.1-4.5); and
 - c) That these deductions applicable for real property and personal property tax abatement and are limited to three (3) years; and
 - d) That the estimate of the value of the redevelopment is reasonable for projects of this nature; and
 - e) That the description of the proposed redevelopment meets applicable standards for such development; and
 - f) That the other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment; and
 - g) That the deduction will not be allowed unless the facility is constructed or rehabilitated to meet local code standards; and
 - h) That the totality of benefits is sufficient to justify the granting of this requested deduction.
3. That the “Statement of Benefits” submitted by North American Composites, is hereby approved, and the President of the Mishawaka Common Council is hereby authorized to execute said “Statement” on behalf of the Common Council; and
4. That this determination is final except that an appeal may be taken and heard as provided under Indiana Code (I.C. 6-1.1-12.1-2-5, subsections (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 for the purposes of tax abatement. Such designation is for real property and personal property tax abatement only and is limited to three (3) calendar years from the date of the adoption of this Confirming Resolution by the Common Council.

Adopted by the Common Council of the City of Mishawaka, Indiana, St. Joseph County, Indiana
this _____ day of _____, 2012.

John Roggeman, President

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.

Deborah S. Block, IAMC,MMC, City Clerk

APPROVED AND SIGNED by me this _____ day of _____, 2012 at _____ o'clock
_____.m.

David A. Wood, Mayor

APPEAL #12-03

RESOLUTION NO. 2012-03

AS AMENDED

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:

1802 West Sixth Street, Mishawaka, Indiana

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

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

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

WHEREAS, the Mishawaka Board of Zoning Appeals has made 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 **1802 West Sixth Street, Mishawaka, Indiana**, more particularly known and described as follows:

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

The Use Variance will allow a commercial automotive body repair/maintenance shop within I-1 Light Industrial District subject to the following conditions:

1. Use Variance shall be limited to automotive body repair and automotive maintenance is limited to indoors. No outside storage of materials and/or vehicle parts will be permitted;
2. The previously submitted landscape plan plantings shall be installed and the building shall be painted in 2012;
3. Exterior lighting shall be provided within the gated parking area. If lighting is not a cut-off type fixture, direct lighting away from residential properties.

4. All employees shall park within the fenced area on the property, and not on adjacent streets.
5. No car repairs shall be permitted outside of the enclosed building. Streets and sidewalks shall not be used for the staging or repair of vehicles.
6. Overnight parking in the fenced lot shall be limited to the temporary staging of cars being worked on. This lot shall not be used for the long term storage of vehicles.
7. Hours of operation for repair work that creates noise that can be heard outside the building shall be limited to between the hours of 7:30am and 8:00pm.
8. Freestanding Signage on the site is limited to one non-internally illuminated monument style sign (up lighting is permitted) with a display area of no greater than four (4) feet high by eight (8) feet wide/ 32 square feet, and with a total sign height not to exceed five (6) feet and with permits secured from Building and Planning Departments;
9. Temporary signage is prohibited.

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

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

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed uses will have no impact on the surrounding commercial and residential uses that currently exist. The proposed use is consistent with the existing industrial properties within the area;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because of the mixed commercial/industrial/residential nature of the area along the railroad tracks. The recommended conditions will also ensure that the business will not negatively affect the residential neighborhood to the south and north. Additionally, the Appellants own the adjacent properties to the east and west;
3. The need for a variance arises from the nature of the area, where property owners are very protective of the intensive zonings of their properties. By right Resolution #2010-21 allows the existing automobile, commercial use

while still protecting the industrial zoning for future use and also protecting the residential users to the north and south;

4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because Resolution #2010-21 denies the Appellants' customers the safety of parking their disabled vehicles off the street in a secure, fenced area; and
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies the site as Industrial surrounding areas as Commercial. The approval is consistent with the goals and objectives of the Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2012, at _____ o'clock ____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor 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