

AGENDA

March 19, 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 March 5, 2012 (Page 3)

5. Petitions, Communications, Remonstrance and Memorials

A letter from the Board of Zoning Appeals regarding recommendations from their March 13, 2012 meeting. (Page 7)

A letter from the City Planning Commission regarding recommendations from their March 13, 2012 meeting. (Page 9)

A public hearing on Vacation 2012-01 as required by State Statute on behalf of the City of Mishawaka Redevelopment Commission 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. (Page 14)

6. Report of Special Committee

7. Ordinances on First Reading

P. O. No. 2012-03 - Rezone from R-1 to C-6 for a Commercial Office Building – SE corner of Jefferson Blvd. and Main St. (P.O. - Page 15, Letter - Page 18, Report - Page 22)

P. O. No. 2012-04 - Vacate Right of Ways 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. (P.O. - Page 25, Letter - Page 28, Report - Page 30)

P. O. No. 2012-05 - Rezone from C-1 Commercial to R-1 Residential - 2321 N Main Street (P.O. - Page 32, Letter - Page 34, Report - Page 37)

P. O. No. 2012-06 - Annex and Zone PUD - North side of Douglas Rd., East of Fir Rd. - Annexation #1 (Page 39)

P. O. No. 2012-07 - Annex and Zone PUD - North side of Douglas Rd., East of Fir Rd. - Annexation #2 (Page 49)

P. O. No. 2012-08 - Annex and Zone PUD - North side of Douglas Rd., East of Fir Rd. - Annexation #3 (Page 59)

8. Resolutions

Resolution No. 2012-07 - Use Variance to allow off-site car sells events – 6501 Grape Rd. - UP Mall - Gates Automotive Group (Resolution - Page 70, Letter - Page 75, Report - Page 81)

Resolution No. 2012-08 - Use Variance to allow Bakery and Residential
Unit in a C-1 Zoning District - 429 W 8th Street (Resolution - Page 85, Letter - Page 88, Report - Page 97)

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

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
March 5, 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 March 5, 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 – Absent

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 20, 2012 meeting were approved as received from the Clerk's Office.

President Roggeman stated the city was in the process of going paperless by using electronic tablets for their packets this would be the last meeting the Council would get paper packets, therefore saving the city a lot of money on paper.

Clerk Block presented the following Appeals to the Council, who referred them to the Board of Zoning Appeals and Plan Commission for their recommendation

APPEAL NO. 2012-05 Use Variance to allow off-site car sells events –
6501 Grape Road UP Mall Gates Automotive Group

APPEAL NO. 2012-06 Use Variance to allow Bakery and Residential Unit
in a C-1 Zoning District 429 West 8th Street

PETITION NO. 2012-04 Rezone from R-1 to C-6 for a Commercial Office Building
South East corner of Jefferson Boulevard and Main Street

PETITION NO. 2012-05 Vacate Right of Way's in the area of E. Jefferson
Boulevard and Main Street. The first east/west alley
south of Jefferson Boulevard and a portion of Stanley Street

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

The following proposed ordinance was given first reading, assigned to committee, and set for public hearing at the next regular meeting.

PROPOSED ORDINANCE NO. 2012-02

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
ADOPTING THE AMERICANS WITH
DISABILITIES ACT SELF-EVALUATION AND TRANSITION PLAN**

(Mishawaka ADA Self Evaluation and Transition Plan American with Disabilities Act)

Assigned to Public Health and Safety Committee

Clerk Block read **RESOLUTION NO. R2012-06** opening it for public hearing.

RESOLUTION NO. 2012-06

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

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

Ivan Levy, Vice President, and General Council of North American Composites Company (NAC) said he was asking for approval of the abatements they have submitted for real property, and personal property improvements for 1460 East Twelfth Street.

Mr. Compton asked if the 10 new jobs brought in by this company would be relocated jobs or actually new jobs for our area. Mr. Levy said they definitely would be new jobs. Mr. Compton said he would like to see construction workers on this project be hired from St. Joseph County. Mr. Levy stated he did not know who they would be using but they would be soliciting three bids on each project seeking to hire the General Contractor and consul with him as to whom he would like to use. He said his company likes to use General Contractors that have steady contractors they can call on a regular basis because they tend to have work on a continual basis, at their site. Mr. Levy went on to say does that guarantee they would use local contractors, No, does it make it more likely, Yes, because of the set up cost and the commuting cost making local contractors more competitive, other then that he could not make any promises.

Question was called for at 7:10 p.m. on **RESOLUTINO 2012-06**

Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).

Yes: Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure.

UNFINISHED BUISNESS

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, Indiana

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

Clerk Block stated an amendment was requested so a new Resolution has been drafted, she suggested the Council amend it by deleting the old one in its entirety and replacing it with the new one.

President Roggeman asked for a motion to that effect. Mr. Emmons moved to delete the old Resolution and replace it with the new one received from the Clerk's Office, with a second by Mr. Compton the motion carried.

President Roggeman said he would open the public hearing on **Amended Resolution No. 2012-03**

John Pieper 1802 West 6th Street said he was the owner of this body shop and was requesting this lot for additional parking for cars waiting to be worked or had been worked on. Mr. Emmons said he has met with Mr. & Mrs. Pieper along with the neighbors and the Council has come to an agreement which have been listed in the amended resolution. He said he wanted to thank them for their commitment on working for a solution, they have been good neighbors, and he appreciates what they have done and continue to do.

Mr. Reisdorf said he wanted to thank the Piepers for reinvesting in Mishawaka by taking this unused building and making it a viable business.

John Magrames, owner of Magrames Motor Sale said he has been in business for 50 years, twenty-five of which has been on Lincolnway West. He said he was familiar with the neighborhood and find that most of 6th Street from Ironwood to Logan was commercial, and to see this abandon building become a business again and back on the tax records, with 11 people working there he wanted to support that as it improves Mishawaka.

Question was called for at 7:17 p.m. on **RESOLUTION NO 2012-03AA**

Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).

Yes: Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure.

Mr. Roggeman thanked Mr. Emmons who spearheaded the meeting with the residence and the Piepers, taking a couple of extra weeks to come to a conclusion but a good example of government in action where getting people together and talking was the best way to go.

NEW BUSINESS

Mr. Mammolenti announced the Public Health and Safety Committee would be holding a public meeting in the Council Chambers on March 27, 2012 at 6:00 p.m. to discuss **PROPOSED ORDINANCE 2012-02**.

Mr. Emmons said his monthly meeting would be held on March 15, 2012 St. Bavo School at 7:00 p.m. the speaker would be Mayor Dave Wood.

Mr. Compton stated his and Mr. Banicki's neighborhood watch meeting would be at John Young Middle School at 7:00 p.m. March 21, 2012.

Mr. Mammolenti announced his neighborhood watch meeting would be at Twin Branch School at 7:00 p.m. on March 21, 2012.

There being no further business to come before the Council, President Roggeman adjourned the meeting at 7:22 p.m.

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

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



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

March 14, 2012

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
March 13, 2012, Public Hearing

Honorable Members:

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

APPEAL #12-05 An appeal submitted by Gates Automotive Group on behalf of University Park Mall LLC requesting a Use Variance for **6501 Grape Road**, to permit three (3) separate off-site Used Car Sales as follows: ten (10) days in May, ten (10) days in June, and ten (10) days in August with temporary signage including banners and cold air balloons, and a mobile office facility for business transactions and securing of valuables.

The Board, with a vote of 3-0, recommended approval subject to the following conditions:

USES:

- The event shall be limited to the display and sales of automobiles and light trucks for ten (10) days in May, June, and August of 2012 as presented.

SITE PLAN:

- A site plan/layout shall be submitted identifying the location of display areas, visitor parking, tents portable toilets, temporary lighting, and other related temporary improvements subject to staff review and approval. Written approval of the site plan/layout shall be required from University Park Mall, LLC.

ACCESS/TRAFFIC CONTROL REQUIREMENTS:

- Access to the event use shall be through existing mall entrances. Additional restrictions may be requested by the City of Mishawaka the Director of Engineering as deemed appropriate as part of the review of a site plan/layout. The City of Mishawaka Police Department may also request any modifications to layout, parking, access, or attention devices during the event if it is deemed problematic to through traffic, or any safety issue is identified.

SETBACKS:

- All tents, display/parking areas, portable toilets and large inflatable balloons shall be setback a minimum of 25 feet from any road right-of-way and 10 feet from any internal access drive.

SIGNAGE/ATTENTION DEVICES:

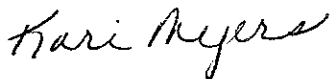
- A plan identifying the location and type of all signage/attention devices shall be submitted subject to staff review and approval. A maximum of two (2) temporary signs no larger than 4' X 8' shall be permitted on Grape Road. A maximum of two temporary signs shall be permitted along State Road 23. **No inflatable air balloons shall be permitted.** All signs and attention getting devices shall not flash or be animated where they are overtly distracting to the motoring public. Internal directional signs shall also be permitted as necessary provided they are not visible from surrounding major roadways.

APPEAL #12-06 An appeal submitted by CCC Real Estate Holdings Co. LLC and Barbara Van Damme, contingent purchaser, requesting a Use Variance for **429 West Eighth Street** to permit a bakery and residential unit in a C-1 General Commercial District.

The Board, with a vote of 3-0, recommended approval subject to the following conditions:

1. Temporary signs and banners are prohibited from being displayed on the outside. Interior window signage shall be limited to one sign, taking up no more than 25% of the window pane, per street-side façade.
2. Occupants of the upstairs apartment shall park in the two stall garage.
3. Closing hour for the bakery shall be 5:00 p.m.
4. Any change of use in the future for this site would require approval of a Use Variance.

Respectfully,



Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Clint Emberton
Barbara Van Damme



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

March 14, 2012

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
March 13, 2012, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

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

PETITION #11-28 A petition submitted by Larry J. and Becky L. Penn requesting to annex and zone 16.23 acres on the north side of Douglas Road, east of Fir Road to S-2 Planned Unit Development to allow for the construction of a mixed use commercial development including uses identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-7 Restaurant Oriented Commercial, and C-8 High Density Suburban Commercial districts.

The Commission, with a vote of 7-0, recommended approval.

PETITION #11-29 A petition submitted by Larry J. and Becky L. Penn requesting to annex and zone 77.11 acres on the north side of Douglas Road, east of Fir Road to S-2 Planned Unit Development to allow for the construction of a mixed use commercial development including uses identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-7 Restaurant Oriented, C-8 High Density Suburban Commercial, and C-6 Linear Office Commercial districts.

The Commission, with a vote of 7-0, recommended approval.

PETITION #11-30 A petition submitted by Larry J. and Becky L. Penn requesting to annex and zone 156.28 acres on the north side of Douglas Road, east of Fir Road to S-2 Planned Unit Development to allow for the construction of a mixed use commercial and residential development including uses identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-6 Linear Office Commercial, and R-1 Single Family Residential districts.

The Commission, with a vote of 7-0, recommended approval. Petition #11-28, Petition #11-29, and Petition #11-30 were subject to the following conditions of approval:

Uses:

1. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
2. Off-premise signs/billboards shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties as conceptually depicted on the planned unit development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between property. The exact location of these connection points shall be subject to review and approval by the City and shall generally be based on the information received from the required traffic impact study.
2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected accordingly. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Douglas Road. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.
4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 250 acre site) and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. The applicant shall coordinate with the other undeveloped properties so that the entire area contains development signage on Douglas Road. If agreed to in writing by all affected landowners, development signage shall be allowed as follows. Two development signs per entry with a maximum sign display area shall be limited to 150 square feet per sign. Each sign may not exceed 15' in height and shall include a masonry base. Animated/Electronic Reader boards shall be prohibited for these signs.
 - b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.

3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed commercial buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest.
2. For all commercial development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any commercial building within the development shall be 60'

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A 3-foot high earth mounding shall be provided along public road right-of-way and internal collector drives. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.
5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

PETITION #12-04 A petition submitted by the City of Mishawaka Redevelopment Commission requesting to rezone the **southeast corner of Jefferson Boulevard and Main Street** from R-1 Single Family Residential to C-6 Linear Office Commercial District.

The Commission, with a vote of 7-0, recommended approval.

PETITION #12-05 A petition submitted by the City of Mishawaka Redevelopment Commission requesting to vacate the first east/west alley south of Jefferson Boulevard and a 55' deep by 50' wide portion of Stanley Street.

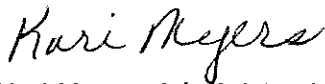
The Commission, with a vote of 7-0, recommended approval.

PETITION #12-06 A petition submitted by the City of Mishawaka Redevelopment Commission requesting to rezone **2321 North Main Street** from C-1 General Commercial District to R-1 Single Family Residential District.

The Commission, with a vote of 7-0, recommended approval.

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

Respectfully,



Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Jeff Ballard
Bernie Feeney



CITY OF MISHAWAKA

OFFICE OF THE CITY CLERK

DEBORAH S. BLOCK, IAMC, MMC, CITY CLERK

NOTICE OF HEARING

Petition No. V2012-01

Date of Hearing: March 19, 2012

Time of Hearing: 7:00 PM

PLEASE TAKE NOTICE:

Alley Vacation;

A petition has been filed by City of Mishawaka Redevelopment Commission The first east/west alley south of Jefferson Blvd measuring approximately 60 ft 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.

and notices sent to the petitioner and to the owners of property affected by the petition.

A hearing upon this petition will be held in the Council Chambers, Municipal Building, 600 East Third Street, Mishawaka, Indiana. At this time, you may appear either in person, present in writing, be represented by an agent or attorney, and present any reasons which you may have to the granting or denying of this petition.

You are requested to prepare your case, in detail, and present all evidence relating to this petition at the time of scheduled hearing.

Respectfully,

Deborah S. Block /s/

Deborah S. Block, IAMC, MMC, City Clerk

Mary Ellen Hazen, Chief Deputy • Linda Dotson, Chief Deputy

City Hall • 600 East Third Street • Mishawaka, Indiana 46544-2241

Telephone: (574) 258-1616 • Facsimile: (574) 258-1728 • E-Mail: dblock@Mishawaka.in.gov • Website: Mishawaka.in.gov

PETITION 12-04

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-03

ORDINANCE NO. _____

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

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

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

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

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

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 AND JEFFERSON BOULEVARD; 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.

COMMON ADDRESS: Southeast Corner of Jefferson Boulevard and Main Street

which real estate is now classified as R-1 Single Family Residential District shall hereafter be within and a part of that District known as C-6 Linear Office Commercial District and designated in "The Zoning Ordinance of 1966" as amended.

Proposed Ordinance No: _____

Ordinance No: _____

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

1. Given the property's close proximity R-1 zoned property, the C-6 zoning would be compatible with the surrounding residential properties by providing opportunity for residential development or light office uses.
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-6 Linear Office use.
3. Because the parcel is located adjacent to residential properties and along a heavily traveled corridor, the C-6 zoning classification would be compatible or desirable. The rezoning to C-6 Linear Office is a desirable use for this property;
4. C-6 Linear Office classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood by providing a sensible buffer between the heavily traveled Main Street and the residential properties to the east.
5. The proposed C-6 Linear Office Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along Main Street, and the existing residential uses located within the area.

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

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

Proposed Ordinance No: _____

Ordinance No: _____

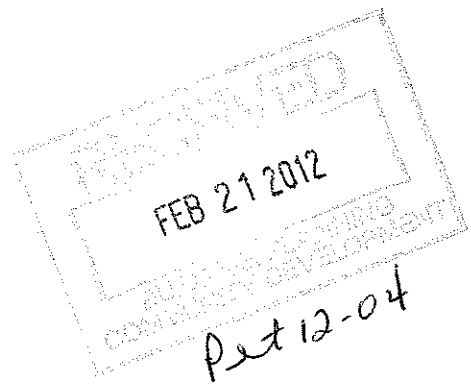
APPROVED by me this _____ day of _____, 2012, at _____
_____o'clock _____.M.

David A. Wood, Mayor

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.

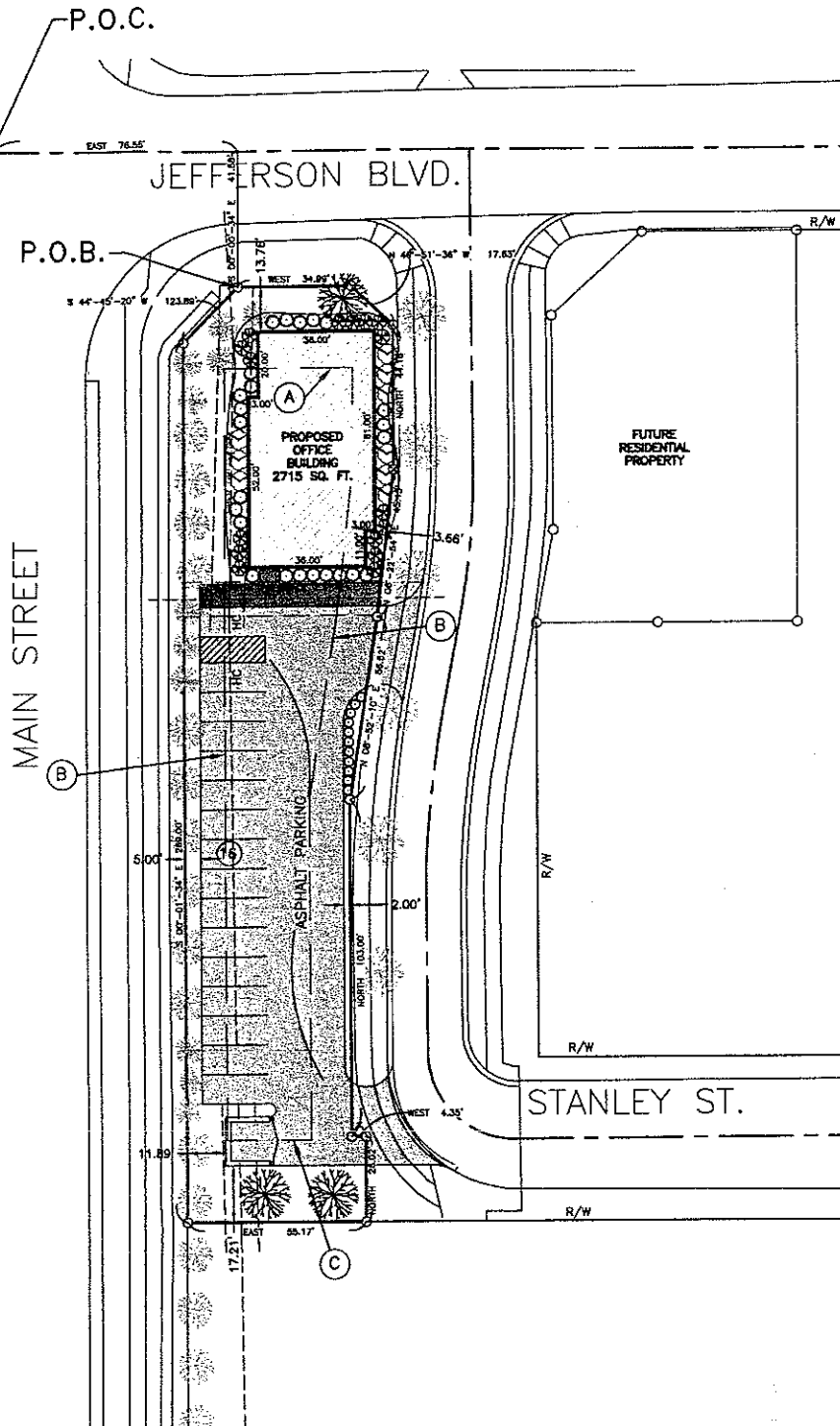
10). DRIVEWAY OPENINGS SHALL BE REQUIRED TO MEET THE LATEST CITY OF MISHAWAKA
STANDARDS.

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.

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



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

EXISTING LANDSCAPE MATERIAL

MICHAEL J.
REGISTE

STAFF REPORT

Location: Vacant land southeast corner of Jefferson Blvd and Main Street

Date: March 13, 2012

PET: 12 04

Prepared By: GGS

GENERAL INFORMATION

Applicant: City of Mishawaka Redevelopment Commission

Status: Property Owners

Request: To rezone property from R-1 Single Family Residential to C-6 Linear Office Commercial

Zoning Classification: R-1 Single Family Residential -Existing

Lot Size: Approximately 0.37 acres

Applicable Regulations: Sec. 137-40 Plan Commission
Section 137-41 Amendment to Zoning Ordinance & Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential
East: R-1 Single Family Residential
West: S-1 Open Space

Thoroughfare: N Main Street, East Jefferson Blvd, and Stanley Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: General Commercial

ANALYSIS

The petitioner, City of Mishawaka Redevelopment Commission, is requesting to rezone property from R-1 Single-Family Residential to C-6 Linear Office Commercial. The property to be rezoned is approximately 0.37 acres of vacant land located between Main Street, East Jefferson Blvd, and Stanley Street. This property was created as a result of the Main Street underpass improvements and the realignment of Stanley Street.

The property is currently owned by the City and zoned R-1 Single Family Residential. The City is requesting this property to be rezoned to C-6 Linear Office Commercial in order to market the property for potential buyers. The C-6 zoning classification would limit commercial development to only office use. The office use would create a sensible buffer between Main Street and the existing residential uses to the east. The C-6 zoning classification would also allow the property to be utilized for single-family residential development, should the City and/or a non-profit entity such as Habitat for Humanity desire to construct new homes on the property as part of established homebuyer programs.

Given the narrow width of the lot, the City has also requested several variances from the Board of Zoning Appeals to allow for the development of potential office use. Although there is no current proposal to construct an office building on the lot, the City developed a 'hypothetical' site plan to determine how an office building would be developed on the site and what developmental variances would be needed. Performing this rezoning and obtaining these variances now will allow the City the ability to market the property for future development, while saving the potential buyer/developer 3-4 months in time to make the property buildable for a non-residential development.

The requested variances are as follows:

1. A Variance from the required 25 feet front building setback along Jefferson Blvd. (north property line), to a minimum of 10 feet for a proposed building.
2. A Variance from the required 5 feet side building setback along Stanley Street (east property line), to a minimum of 2 feet for a proposed building.
3. A Variance from the required 10 feet off street parking setback along a public road right-of-way (east property line), to a minimum of 2 feet for a proposed parking lot.
4. A Variance from the required 10 feet off-street parking setback along a public road right-of-way (west property line-Main Street ROW), to a minimum of 5 feet for a proposed parking lot.
5. A Variance from the required parking lot landscape screen of a minimum height of 36 inches along an minimum of 75 percent of the linear distance of the parking area, to a parking lot landscape screen of a minimum height of 36 inches along a minimum of 26 percent of the linear distance of the parking area

RECOMMENDATION

The Planning Department recommends approval of Petition 12-4 to rezone 0.37 acres located at the southeast corner of Main Street and East Jefferson Blvd from R-1 Single Family Residential District to C-6 Linear Office Commercial. This recommendation is based upon the following findings of fact:

1. Given the property's close proximity R-1 zoned property, the C-6 zoning would be compatible with the surrounding residential properties by providing opportunity for residential development or light office uses.
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-6 Linear Office use.
3. Because the parcel is located adjacent to residential properties and along a heavily traveled corridor, the C-6 zoning classification would be compatible or desirable. The rezoning to C-6 Linear Office is a desirable use for this property;
4. C-6 Linear Office classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood by providing a sensible buffer between the heavily traveled Main Street and the residential properties to the east.
5. The proposed C-6 Linear Office Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along Main Street, and the existing residential uses located within the area.

ATTACHMENTS

Photographs, Petition, Preliminary Site Plan



Looking south onto property between Jefferson, Main Street, and Stanley

PETITION #12-05

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-04

ORDINANCE NO. _____

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

WHEREAS, City of Mishawaka Redevelopment Commission has filed a petition for vacation of the public right-of-way described in Section 1 below;

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

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

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

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

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

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

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

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

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

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

Alley Vacation: The first east/west alley south of Jefferson Boulevard, 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.

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. __

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.

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

1. The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
2. The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.
3. The public right-of-way does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
4. The proposed vacation will not hinder the use of any public way, utility or place.
5. This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. __

PRESENTED by me to the Mayor this _____ day of _____, 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



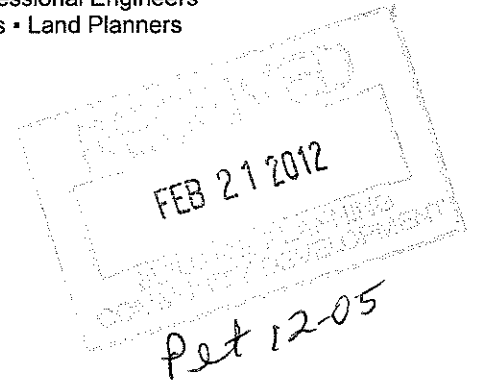
Danch, Harner & Associates, Inc.

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

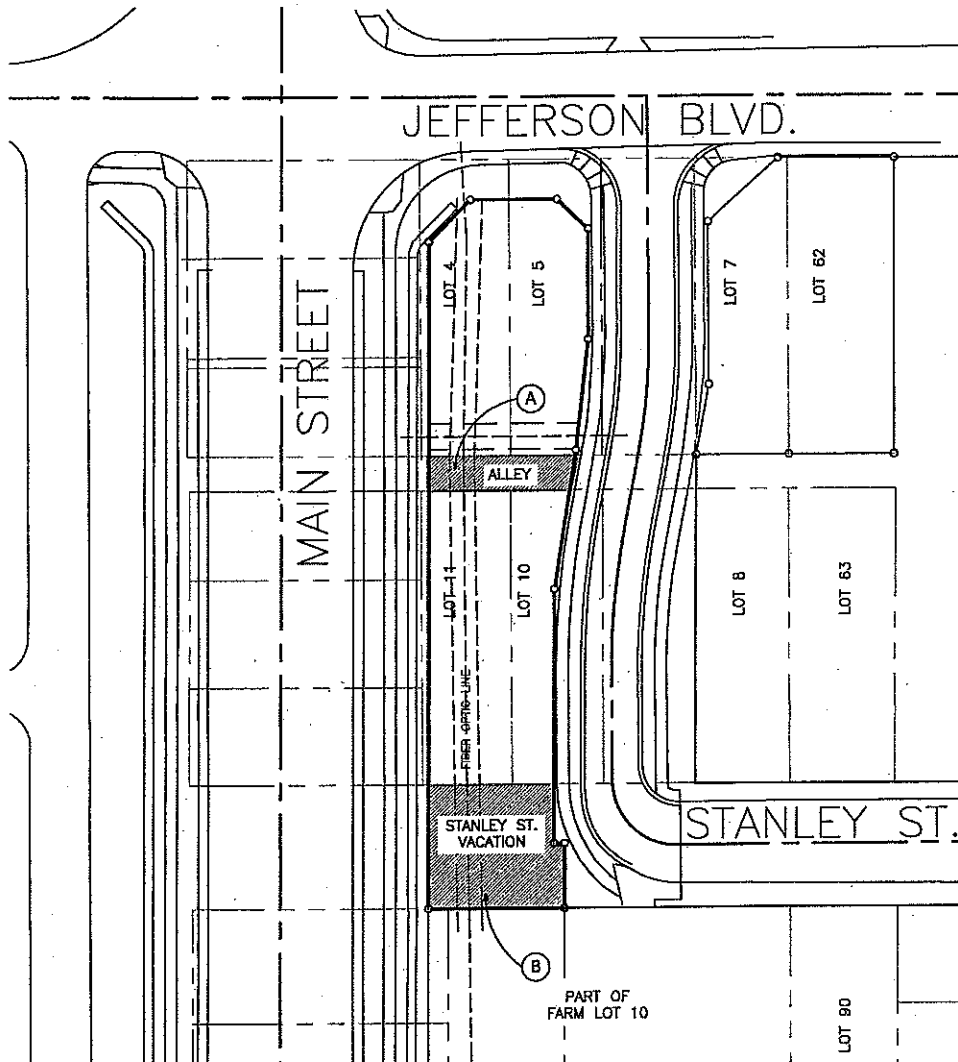
Contact Person:

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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STAFF REPORT

Location: Southeast of Main Street & Jefferson Blvd

Date: March 13, 2012

PET: 12 05

Prepared By: GGS

GENERAL INFORMATION

Applicant: City of Mishawaka Redevelopment Commission

Status: Right-of-way owner

Request: To vacate portion of public right-of-way

Zoning Classification: Public right-of-way

Lot Size: 0.08 acres

Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential
East: R-1 Single Family Residential
West: S-1 Open Space

Thoroughfare: Main Street and Stanley Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: Public right-of-way

ANALYSIS

The petitioner, City of Mishawaka Redevelopment Commission, is requesting to vacate a portion of Stanley Street and a portion of east/west alleyway located just southeast of Main Street and Jefferson Blvd. The portion of right-of-way and alley to be vacated is between Main Street and the newly realigned Stanley Street.

When the City constructed the Main Street underpass, Stanley Street was re-routed to be access off of Jefferson Street. Originally it was accessed off of Main Street. The purpose of the vacation is to vacate that portion of right-of-way and alley between Main Street and Stanley Street that has been physically removed.

RECOMMENDATION

The Staff recommends in favor of Petition 12-05 to allow for the vacation of a portion of Stanley Street and east/west alley between Main Street and Stanley Street.

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.
- 3) The public right-of-way does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Photographs, Right-of-Way Vacation Petition, Vacation Site Plan



Looking south onto property between Jefferson, Main Street, and Stanley

PETITION 12-06

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-05

ORDINANCE NO. _____

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

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

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

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

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

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.

COMMON ADDRESS: 2321 North Main Street

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

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

1. The property's proximity to R-1 Single Family Residential District zoned properties would be compatible to the area and provide a strong sense of single family residential;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the

Proposed Ordinance No: _____

Ordinance No: _____

potential of commercial development, staff feels that the most desirable use for this property is single-family use;

3. Because the parcel is located south of a residential neighborhood and consists of a small lot size that is not sufficient for commercial development, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood;
5. The 2000 Comprehensive Plan identifies the area for general commercial use. However, the property is located with residential development to the north and west. Therefore, the residential rezoning would be consistent with the existing residential uses in the area.

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

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

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.



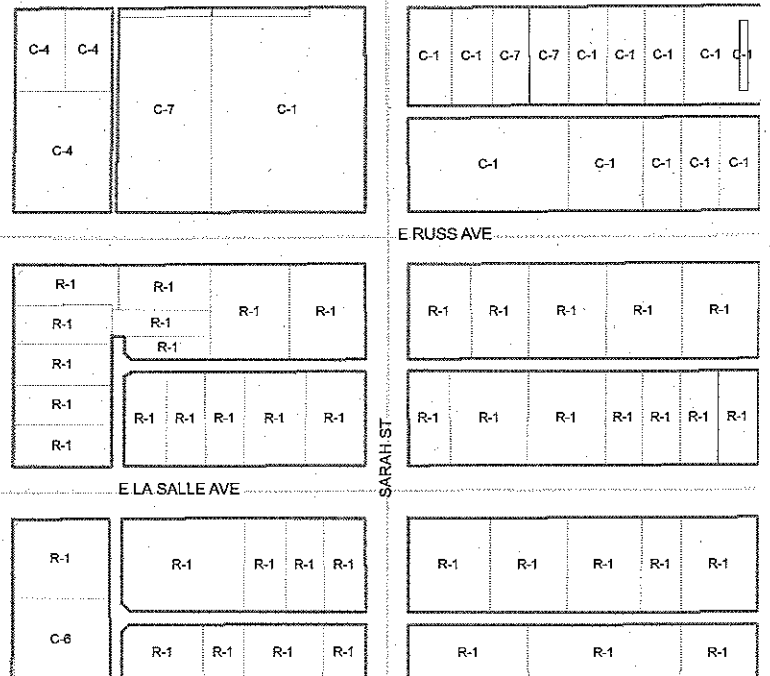
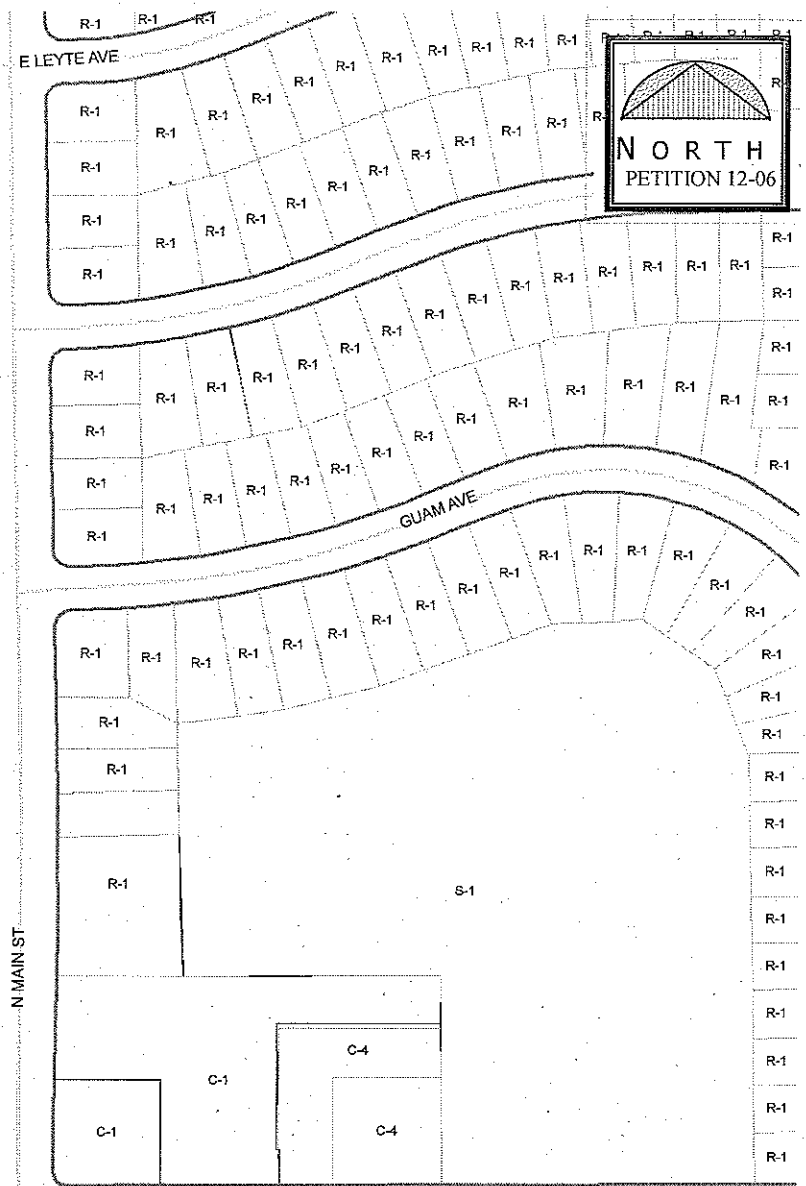
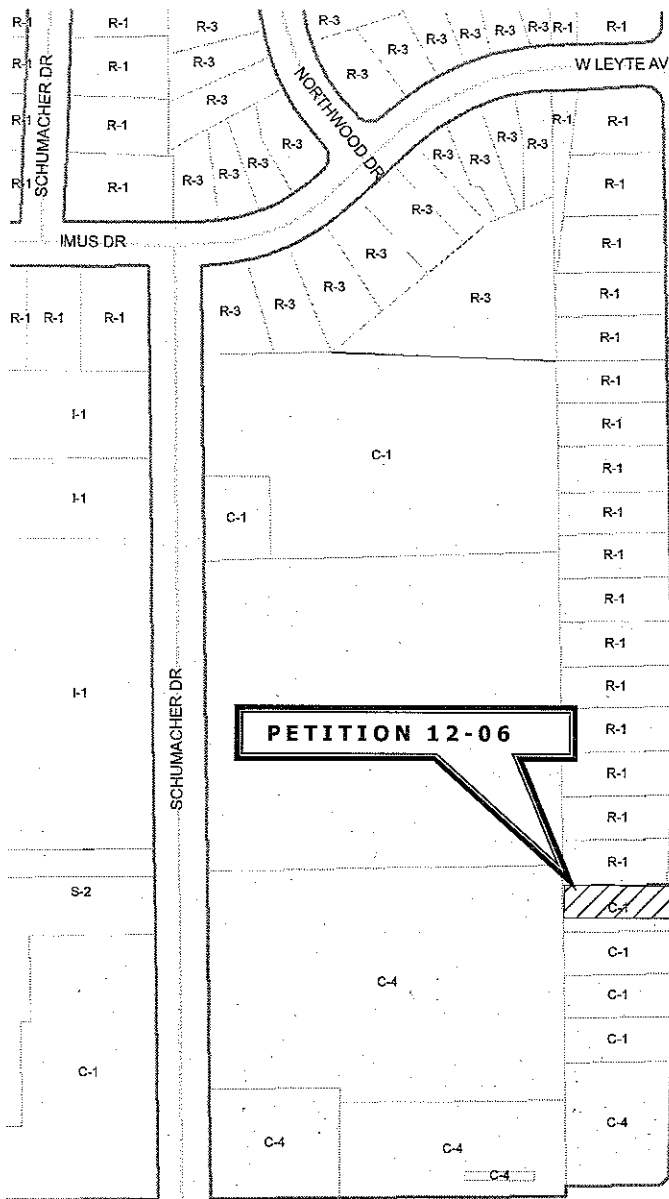
KEN PRINCE FOR THE CITY OF MISHAWAKA,
600 EAST THIRD STREET
MISHAWAKA, INDIANA 46545
(574) 258-1625

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.



STAFF REPORT

Location: Vacant land south of 2333 N Main Street

Date: March 13, 2012

PET: 12 06

Prepared By: GGS

GENERAL INFORMATION

Applicant: City of Mishawaka

Status: Property Owners

Request: To rezone property from C-1 General Commercial to R-1 single Family residential

Zoning Classification: C-1 General Commercial-Existing

Lot Size: Approximately 0.11 acres

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

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: C-1 General Commercial
East: R-1 Single Family Residential
West: C-4 Automobile Oriented Commercial

Thoroughfare: N Main Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: General Commercial

ANALYSIS

The petitioner, City of Mishawaka, is requesting to rezone property from C-1 General Commercial to R-1 Single-Family Residential. The property to be rezoned is vacant land located just south of 2333 N Main Street and was previously apart of 2321 N Main Street. This property consisted of a church building before it was removed to make way for Main Street and McKinley Avenue intersection improvements.

The current owner at 2333 N Main Street approached the City desiring to purchase a portion of the vacant land south of their property. The City and the property owner agreed on the transfer of the north 40-ft of this vacant land. The portion of property to be transferred is currently zoned C-1 General Commercial. The City is requesting this portion of land to be rezoned to R-1 Single Family Residential in order to be consistent with the proposed residential use of property expansion of 2333 N Main Street.

RECOMMENDATION

The Planning Department recommends approval of Petition 12-06 the north 40-ft of lot south of 2333 N Main Street from C-1 General Commercial to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. The property's proximity to R-1 Single Family Residential District zoned properties would be compatible to the area and provide a strong sense of single family residential;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of commercial development, staff feels that the most desirable use for this property is single-family use;
3. Because the parcel is located south of a residential neighborhood and consists of a small lot size that is not sufficient for commercial development, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood;
5. The 2000 Comprehensive Plan identifies the area for general commercial use. However, the property is located with residential development to the north and west. Therefore, the residential rezoning would be consistent with the existing residential uses in the area.

ATTACHMENTS

Photographs, Petition, Location Map



View looking onto property to be rezoned

MAR 15 2012

CITY CLERK
MISHAWAKA, IN

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION #11-28

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-06

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION
THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

A parcel of land being a part of the Southeast Quarter of Section 27 and a part of the Southwest Quarter of Section 26, all in Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the South right of way line of Douglas Road and the place of beginning for this description; thence West along said South right-of-way line, a distance of 260.19 feet more or less to a point on an East line of a parcel of land annexed into the City of Mishawaka, Indiana, by Ordinance Number 5286 adopted by said City on December 7, 2010; thence for the next four courses along said City boundary line, the first course being North 98.61 feet to a point on a North right-of-way line of Douglas Road; thence West, along said North right-of-way line, a distance of 78.96 feet; thence North a distance of 63.67 feet to a point on said North right-of-way line; thence West, along said North right-of-way line, a distance of 198.96 feet to said North right-of-way line's intersection with the centerline of Juday Creek; thence Northwesterly, along said Juday Creek centerline, a distance of 715.21 feet to an angle point; thence Northeasterly a distance of 697.43 feet to a point; thence South 1002.34 feet more or less to a point on said South right-of-way line of Douglas Road; thence West, along said South right-of-way line, a distance of 428.43 feet to the place of beginning containing 16.23 acres more or less. Subject to the legal rights of public highways.

Proposed Ordinance No. 12-06

Ordinance No. _____

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of S-2 Planned Unit Development to allow for the construction of a mixed use commercial development including uses identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-7 Restaurant Oriented Commercial, and C-8 High Density Suburban Commercial Districts, subject to the following conditions:

Uses:

1. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
2. Off-premise signs/billboards shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties as conceptually depicted on the planned unit development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between property. The exact location of these connection points shall be subject to review and approval by the City and shall generally be based on the information received from the required traffic impact study.

Proposed Ordinance No. 12-06

Ordinance No. _____

2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected accordingly. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Douglas Road. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.
4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 250 acre site) and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. The applicant shall coordinate with the other undeveloped properties so that the entire area contains development signage on Douglas Road. If agreed to in writing by all affected landowners, development signage shall be allowed as follows. Two development signs per entry with a maximum sign display area

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Ordinance No. _____

shall be limited to 150 square feet per sign. Each sign may not exceed 15' in height and shall include a masonry base. Animated/Electronic Reader boards shall be prohibited for these signs.

- b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.
3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed commercial buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest.
2. For all commercial development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any commercial building within the development shall be 60'

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A 3-foot high earth mounding shall be provided along public road right-of-way and internal collector drives. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green

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Ordinance No. _____

area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.

5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

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

1. Existing Conditions – The subject parcel is located adjacent to Capital Avenue and Douglas Road, two highly traveled corridors. Douglas Road is a major through road off of Capital Avenue to significant commercial development. Commercial projects have been approved for the area around the Fir Road and Douglas Road intersection.
2. Character of Buildings in Area – The area is predominantly undeveloped. The single family homes in the area will likely be redeveloped as commercial over time given the character and development potential of the property. The character of many of the buildings on the north side of the City are commercial.
3. The Most Desirable/Highest and Best Use – Because of the parcel's location and the significant commercial development on the north side of the City and along Douglas Road combined with the proximity of Capital Avenue makes the most desirable use for the majority of property a heavy mix of intensive commercial and professional office uses.
4. Conservation of Property Values – The proposed zoning will not be injurious to property values in the surrounding area, because the vast majority of adjacent property remains undeveloped. The extension of City infrastructure to service this development along Douglas Road will actually add value to adjacent properties.
5. Comprehensive Plan – This specific property was not a part in the City of Mishawaka Comprehensive Plan. However, the petition is reasonably consistent with the goals, objectives, and policies of the Comprehensive Plan. The continued change and expansion of the commercial areas of the City are

Proposed Ordinance No. 12-06

Ordinance No. _____

commensurate to the City's status as a regional area of commerce. The substantial residential growth that occurred in the unincorporated County (the unincorporated area of Granger) also contributes to the need/demand for services that are proposed in this development.

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

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

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 03 2011

CITY CLERK
MISHAWAKA, IN

October 26, 2011

TO THE:

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

Re: Petition for Annexation and Zoning Classification

The undersigned, Larry & Becky Penn, respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

see attached

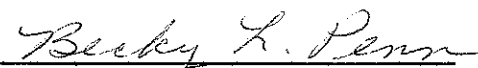
Petitioners own One Hundred (100%) percent of the above described parcel of land which is located on the North side of Douglas Road, East of Fir Road in Harris Township, St. Joseph County, City of Mishawaka, State of Indiana and that the Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a zoning classification of P. U. D. Planned Urban Development classification desired. Petitioners further state they intend to utilize said land for business/commercial and residential.

Accompanying this petition is a drawing, to scale, showing the above described vacant parcel of real estate.

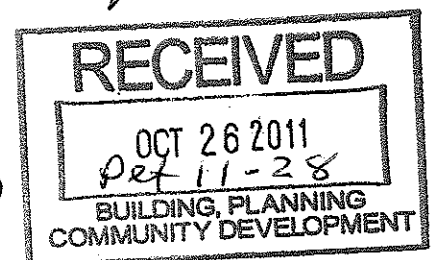
Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a zoning classification of P. U. D. Planned Urban Development.


Larry J. Penn


Becky L. Penn

Contact Person:
Lang, Feeney & Associates, Inc.
Terance D. Lang
715 South Michigan Street
South Bend, Indiana 46601
574-233-1841



Annexation No. 1

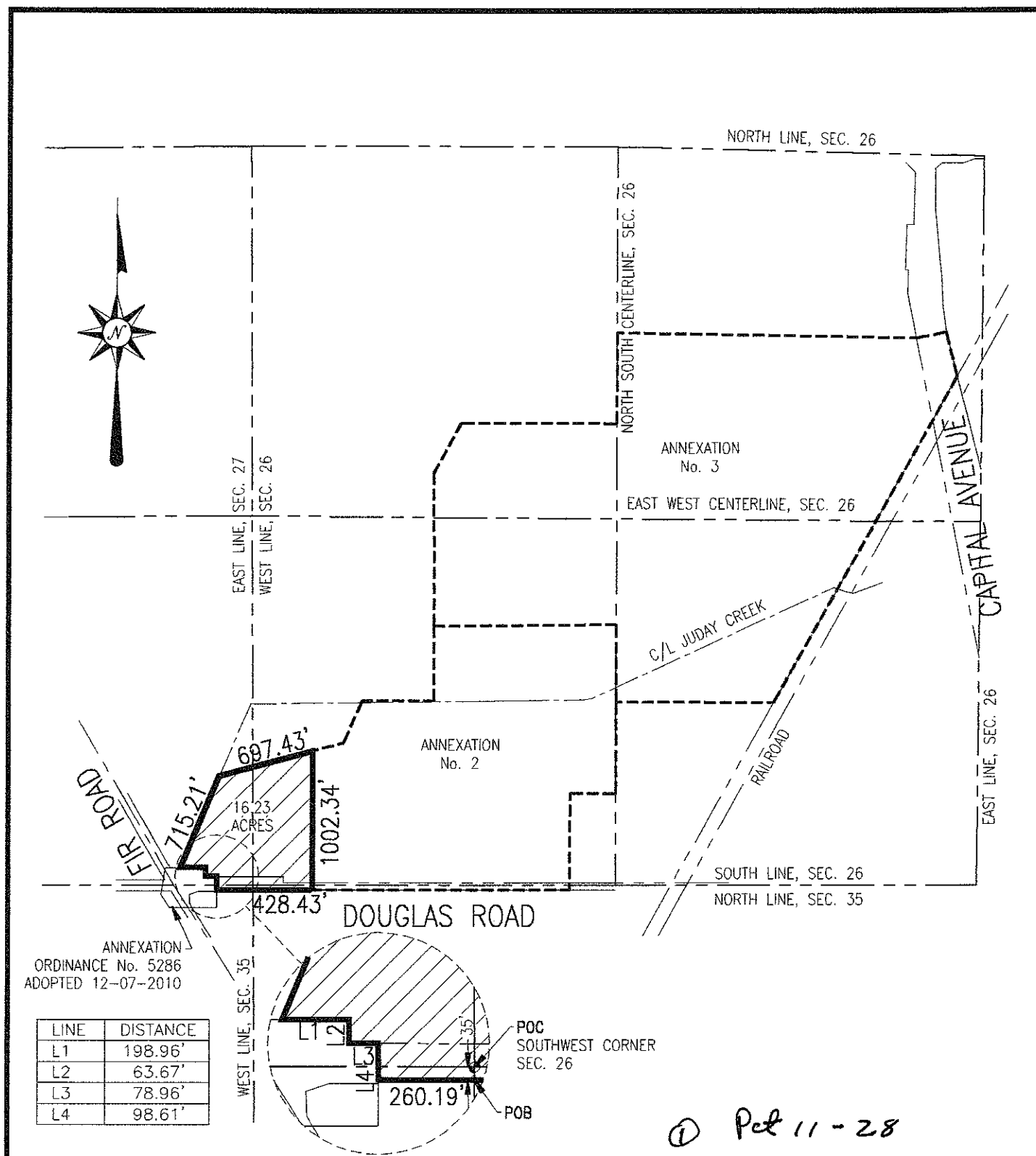
Legal Description:

A parcel of land being a part of the Southeast Quarter of Section 27 and a part of the Southwest Quarter of Section 26, all in Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the South right of way line of Douglas Road and the place of beginning for this description; thence West along said South right-of-way line, a distance of 260.19 feet more or less to a point on an East line of a parcel of land annexed into the City of Mishawaka, Indiana by Ordinance Number 5286 adopted by said City on December 7, 2010; thence for the next four courses along said City boundary line, the first course being North 98.61 feet to a point on a North right-of-way line of Douglas Road; thence West, along said North right-of-way line, a distance of 78.96 feet; thence North a distance of 63.67 feet to a point on said North right-of-way line; thence West, along said North right-of-way line, a distance of 198.96 feet to said North right-of-way line's intersection with the centerline of Juday Creek; thence Northwesterly, along said Juday Creek centerline, a distance of 715.21 feet to an angle point; thence Northeasterly a distance of 697.43 feet to a point; thence South 1002.34 feet more or less to a point on said South right-of-way line of Douglas Road; thence West, along said South right-of-way line, a distance of 428.43 feet to the place of beginning containing 16.23 acres more or less.

Subject to the legal rights of public highways.

Ret 11-28 #1



ANNEXATION
ORDINANCE No. 5286
ADOPTED 12-07-2010

LINE	DISTANCE
L1	198.96'
L2	63.67'
L3	78.96'
L4	98.61'

ANNEXATION 1

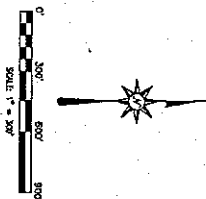
SITE PLAN FOR VOLUNTARY ANNEXATION
INTO THE CITY OF MISHAWAKA
FOR
LARRY & BECKY PENN

Lang, Feeney & Associates, Inc.

Land Surveyors, Construction Engineers & Soil Scientists
715 South Michigan Street
South Bend, Indiana 46601
Phone 574-233-1841 Fax 574-674-0374

File Name	Drawn By	Scale
PennAnnexation	BKG	1" = 1000'
Date	Rev. Date	Drawing No.
10-26-11	—	25091

FOR
LARRY & BECKY PENN



LINE	DISTANCE
L1	100.65'
L2	83.61'
L3	78.55'
L4	60.81'

LFA

Long, Feeney & Associates, Inc.
715 S. Michigan Street
Southfield, Michigan 48060
Phone (313) 235-1841

Lead Surveys • Soil Geoinformants

Scale	1" = 300'	Owner	URS
Date	11-02-11	Job Name	Frederickson
Rev.		Job No.	
Rev.			122-61

DA 11-28

MAR 15 2012

CITY CLERK
MISHAWAKA, IN

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION #11-29

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-07

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION
THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

A parcel of land being a part of the Southwest Quarter of Section 26, all in Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana and being more particularly described as follows: Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the south right of way line of Douglas Road; thence East along said South right-of-way line, a distance of 428.43 feet to the place of beginning for this description; thence North 1002.34 feet to a point; thence Northeasterly a distance of 227.13 feet to an angle point; thence Northeasterly a distance of 333.44 feet more or less to the North line of the Southwest Quarter of said Southwest Quarter of said Section 26; thence East, along said North line of said Quarter, Quarter Section, a distance of 516.47 feet to the Northeast corner of said Quarter, Quarter Section; thence North along the West line of the Northeast Quarter of said Southwest Quarter, a distance of 537.91 feet to a point; thence East, a distance of 1301.9 feet more or less to a point on the North-South centerline of said Section 26; thence South, along said North-South centerline, a distance of 555.23 feet, more or less to the Northeast corner of the Southeast Quarter of said Southwest Quarter of Section 26; thence continuing South, along said North-South centerline, a distance of 660.06 feet; thence West 330 feet; thence South 695 feet more or less to a point on said South right-of-way line of said Douglas Road; thence West, along said South right-of-way line of Douglas Road a distance of 1851.23 feet to the place of beginning containing 77.11 acres more or less. Subject to the legal rights of public highways.

Proposed Ordinance No. 2012-07

Ordinance No. _____

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of S-2 Planned Unit Development to allow for the construction of a mixed use commercial development including uses identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-7 Restaurant Oriented Commercial, and C-8 High Density Suburban Commercial Districts, and C-6 Linear Office Commercial districts, subject to the following conditions:

Uses:

1. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
2. Off-premise signs/billboards shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties as conceptually depicted on the planned unit development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between property. The exact location of these connection points shall be subject to review and approval by the City and shall generally be based on the information received from the required traffic impact study.

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Ordinance No. _____

2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected accordingly. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Douglas Road. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.
4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 250 acre site) and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. The applicant shall coordinate with the other undeveloped properties so that the entire area contains development signage on Douglas Road. If agreed to in writing by all affected landowners, development signage shall be allowed as follows. Two development signs per entry with a maximum sign display area

Proposed Ordinance No. 2012-07

Ordinance No. _____

shall be limited to 150 square feet per sign. Each sign may not exceed 15' in height and shall include a masonry base. Animated/Electronic Reader boards shall be prohibited for these signs.

- b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.
3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed commercial buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest.
2. For all commercial development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
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Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A 3-foot high earth mounding shall be provided along public road right-of-way and internal collector drives. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green

Proposed Ordinance No. 2012-07

Ordinance No. _____

area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.

5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

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

1. Existing Conditions – The subject parcel is located adjacent to Capital Avenue and Douglas Road, two highly traveled corridors. Douglas Road is a major through road off of Capital Avenue to significant commercial development. Commercial projects have been approved for the area around the Fir Road and Douglas Road intersection.
2. Character of Buildings in Area – The area is predominantly undeveloped. The single family homes in the area will likely be redeveloped as commercial over time given the character and development potential of the property. The character of many of the buildings on the north side of the City are commercial.
3. The Most Desirable/Highest and Best Use – Because of the parcel's location and the significant commercial development on the north side of the City and along Douglas Road combined with the proximity of Capital Avenue makes the most desirable use for the majority of property a heavy mix of intensive commercial and professional office uses.
4. Conservation of Property Values – The proposed zoning will not be injurious to property values in the surrounding area, because the vast majority of adjacent property remains undeveloped. The extension of City infrastructure to service this development along Douglas Road will actually add value to adjacent properties.
5. Comprehensive Plan – This specific property was not a part in the City of Mishawaka Comprehensive Plan. However, the petition is reasonably consistent with the goals, objectives, and policies of the Comprehensive Plan. The continued change and expansion of the commercial areas of the City are

Proposed Ordinance No. 2012-07

Ordinance No. _____

commensurate to the City's status as a regional area of commerce. The substantial residential growth that occurred in the unincorporated County (the unincorporated area of Granger) also contributes to the need/demand for services that are proposed in this development.

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

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

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 03 2011

CITY CLERK
MISHAWAKA, IN

October 26, 2011

TO THE:

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

Re: Petition for Annexation and Zoning Classification

The undersigned, Larry & Becky Penn, respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

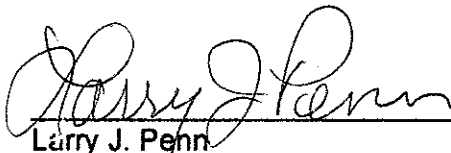
see attached

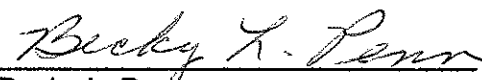
Petitioners own One Hundred (100%) percent of the above described parcel of land which is located on the North side of Douglas Road, East of Fir Road in Harris Township, St. Joseph County, City of Mishawaka, State of Indiana and that the Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a zoning classification of P. U. D. Planned Urban Development classification desired. Petitioners further state they intend to utilize said land for business/commercial and residential.

Accompanying this petition is a drawing, to scale, showing the above described vacant parcel of real estate.

Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

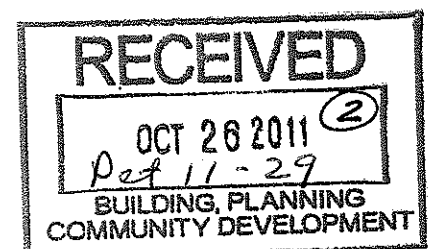
Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a zoning classification of P. U. D. Planned Urban Development.


Larry J. Penn


Becky L. Penn

Contact Person:
Lang, Feeney & Associates, Inc.
Terance D. Lang
715 South Michigan Street
South Bend, Indiana 46601
574-233-1841

postponed



Annexation No. 2

Legal Description:

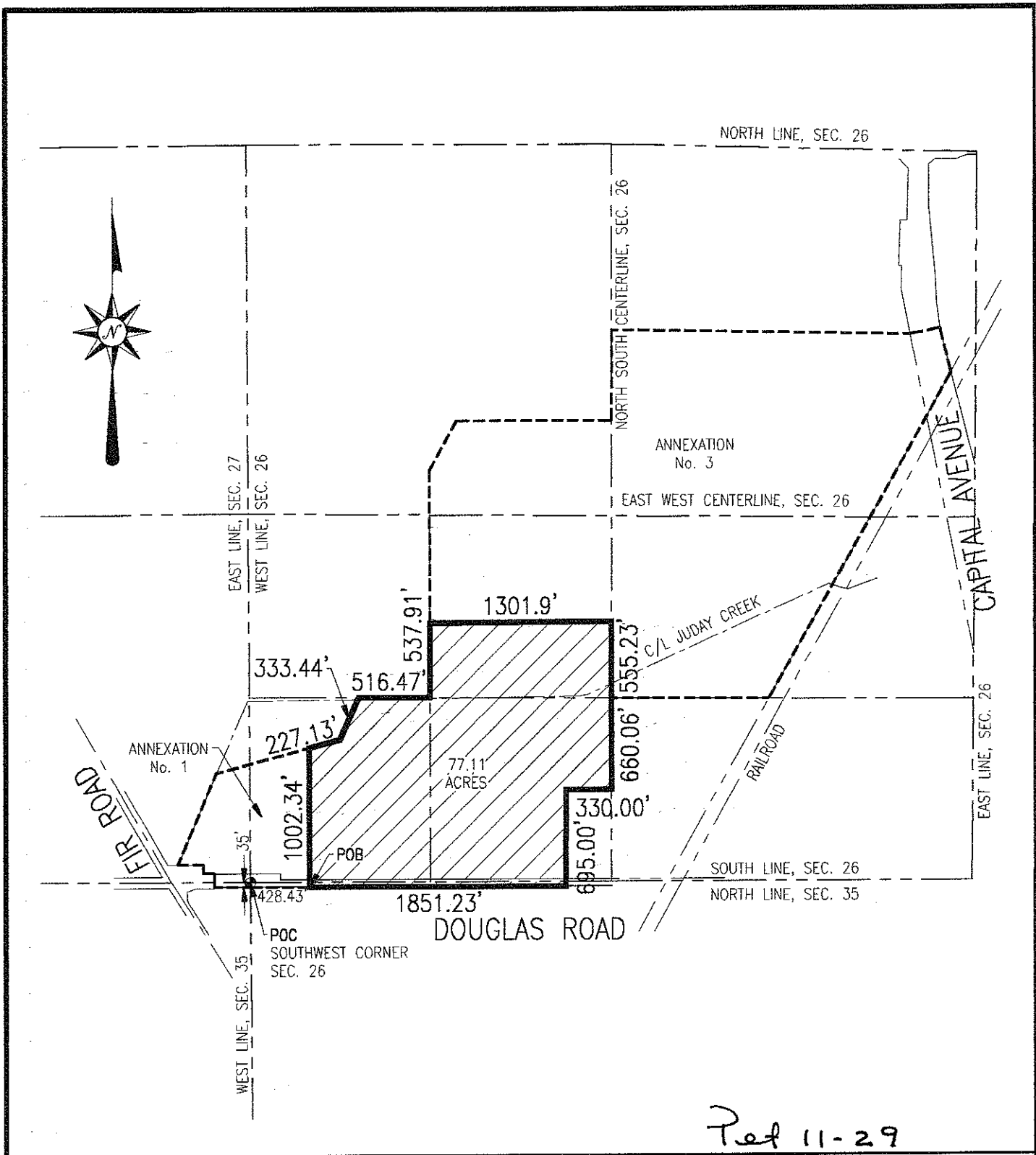
A parcel of land being a part of the Southwest Quarter of Section 26, all in Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the South right of way line of Douglas Road; thence East along said South right-of-way line, a distance of 428.43 feet to the place of beginning for this description; thence North 1002.34 feet to a point; thence Northeasterly a distance of 227.13 feet to an angle point; thence Northeasterly a distance of 333.44 feet more or less to the North line of the Southwest Quarter of said Southwest Quarter of said Section 26; thence East, along said North line of said Quarter, Quarter Section, a distance of 516.47 feet to the Northeast corner of said Quarter, Quarter Section; thence North along the West line of the Northeast Quarter of said Southwest Quarter, a distance of 537.91 feet to a point; thence East, a distance of 1301.9 feet more or less to a point on the North-South centerline of said Section 26; thence South, along said North-South centerline, a distance of 555.23 feet, more or less to the Northeast corner of the Southeast Quarter of said Southwest Quarter of Section 26; thence continuing South, along said North-South centerline, a distance of 660.06 feet; thence West 330 feet; thence South 695 feet more or less to a point on said South right-of-way line of said Douglas Road; thence West, along said South right-of-way line of Douglas Road a distance of 1851.23 feet to the place of beginning containing 77.11 acres more or less.

Subject to the legal rights of public highways.

(2)

Pet 11-29



Ref 11-29

ANNEXATION 2

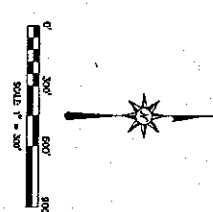
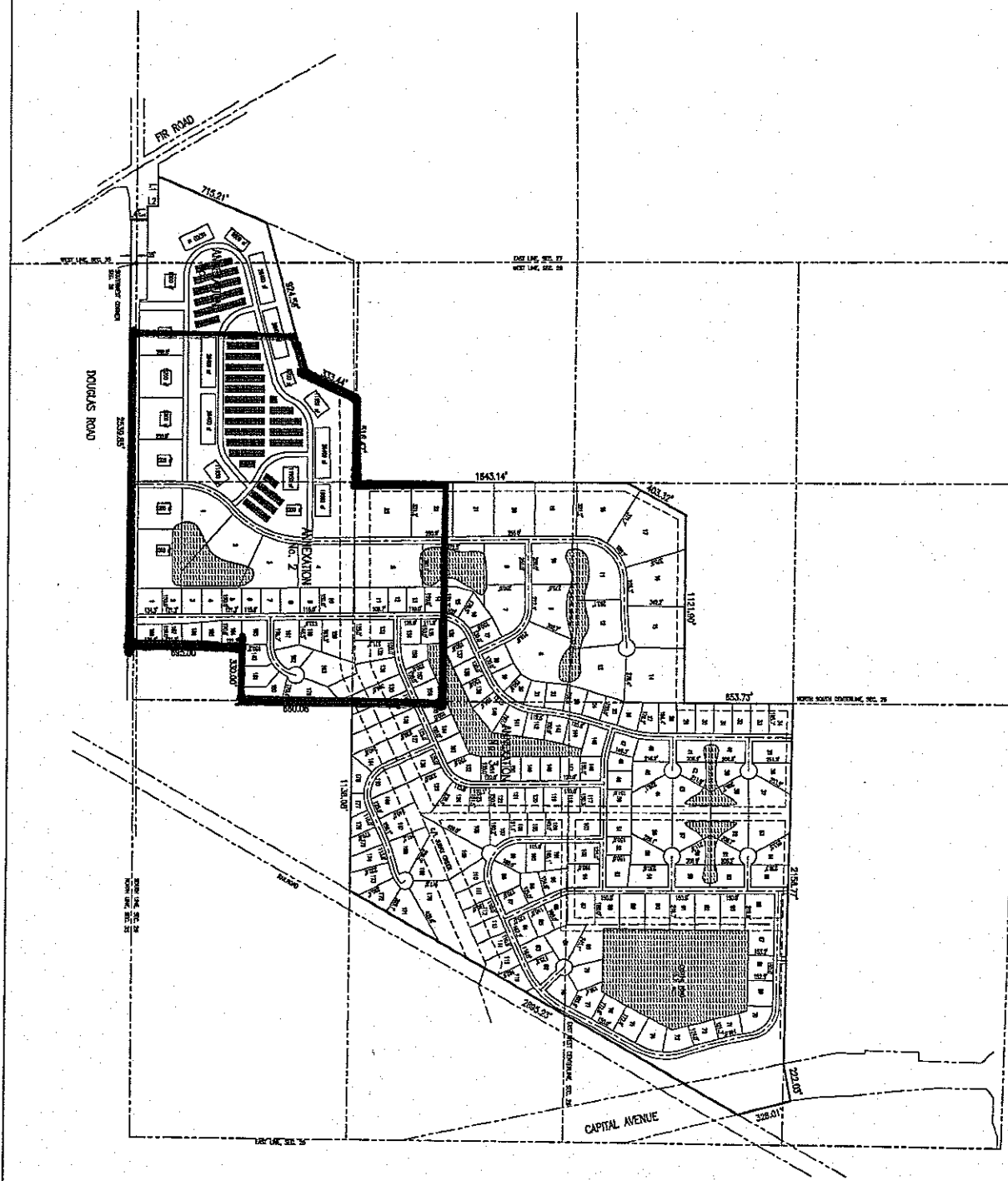
SITE PLAN FOR VOLUNTARY ANNEXATION
INTO THE CITY OF MISHAWAKA
FOR
LARRY & BECKY PENN

Lang, Feeney & Associates, Inc.

Land Surveyors, Construction Engineers & Soil Scientists
715 South Michigan Street
South Bend, Indiana 46601
Phone 574-233-1841 Fax 574-674-0374

File Name	Drawn By	Scale
PennAnnexation	BKG	1" = 1000'
Date	Rev. Date	Drawing No.
10-26-11	—	25091

SITE PLAN FOR VOLUNTARY ANNEXATION
 INTO THE CITY OF MISHAWAKA
 FOR
 LARRY & BECKY PENN



LINE	DISTANCE
L1	154.65'
L2	61.67'
L3	28.95'
L4	90.61'

LFA Land Surveyors & Associates, Inc.
 South Bend, Indiana 46601
 Phone (219) 233-1941
 Fax (219) 233-1941
 Email: info@lfa-surveyors.com
 Website: www.lfa-surveyors.com
 License No. 122-51

Plot 11-29

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION #11-30
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2012-08
ORDINANCE NO. _____

MAR 15 2012
CITY CLERK
MISHAWAKA, IN

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION
THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

A parcel of land being a part of Section 26, Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the South right of way line of Douglas Road; thence East along said South right-of-way line, a distance of 428.43 feet; thence North 1002.34 feet to a point; thence Northeasterly a distance of 227.13 feet to an angle point; thence Northeasterly a distance of 333.44 feet more or less to the North line of the Southwest Quarter of said Southwest Quarter of said Section 26; thence East, along said North line of said Quarter, Quarter Section, a distance of 516.47 feet to the Northeast corner of said Quarter, Quarter Section; thence North along the West line of the Northeast Quarter of said Southwest Quarter, a distance of 537.91 feet to the point of beginning for this description; thence continuing North along said West line and the West line of the Southwest Quarter of the Northwest Quarter of said Section 26, a distance of 1105.23 feet to an angle point; thence Northeasterly a distance of 403.32 feet; thence East 1121.90 feet more or less to a point on the North-South centerline of said Section 26; thence North along said centerline a distance of 653.73 feet more or less to the North line of the Southwest Quarter of the Northeast Quarter of said Section 26; thence East along said North line and the North line of the Southeast Quarter of said Northeast Quarter of Section 26, a distance of 2156.77 feet to a point on the Westerly right-of-way line of Capital Avenue; thence Northeasterly a distance of 222.03 feet more or

Ordinance No. _____

less to the Easterly right-of-way line of said Capital Avenue; thence Southeasterly along said Easterly right-of-way line a distance of 328.01 feet more or less to the Northwesterly right-of-way line of the Grand Trunk Railroad; thence Southwesterly along said Northwesterly right-of-way line, a distance of 2695.23 feet more or less to the South line of the Northwest Quarter of the Southeast Quarter of said Section 26; thence West along said South line a distance of 1138.08 feet more or less to said North-South centerline of said Section 26; thence North along said North-South centerline, a distance of 555.23 feet; thence West, a distance of 1301.90 feet more or less to a point on the West line of the Northeast Quarter of said Southwest Quarter that is 537.91 feet more or less North of the Southwest corner of said Northeast Quarter of the Southwest Quarter, said point being the place of beginning for this description and containing 156.28 acres more or less. Subject to the legal rights of public highways.

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of S-2 Planned Unit Development to allow for the construction of a mixed use commercial development including uses identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-6 Linear Office Commercial, and R-1 Single Family Residential districts, subject to the following conditions:

Uses:

1. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
2. Off-premise signs/billboards shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties as conceptually depicted on the planned unit

Proposed Ordinance No. 2012-08

Ordinance No. _____

development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between property. The exact location of these connection points shall be subject to review and approval by the City and shall generally be based on the information received from the required traffic impact study.

2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected accordingly. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Douglas Road. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.
4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.

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Ordinance No. _____

3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 250 acre site) and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. The applicant shall coordinate with the other undeveloped properties so that the entire area contains development signage on Douglas Road. If agreed to in writing by all affected landowners, development signage shall be allowed as follows. Two development signs per entry with a maximum sign display area shall be limited to 150 square feet per sign. Each sign may not exceed 15' in height and shall include a masonry base. Animated/Electronic Reader boards shall be prohibited for these signs.
 - b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.
3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed commercial buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest.
2. For all commercial development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any commercial building within the development shall be 60'

Proposed Ordinance No. 2012-08

Ordinance No. _____

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A 3-foot high earth mounding shall be provided along public road right-of-way and internal collector drives. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.
5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

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

1. Existing Conditions – The subject parcel is located adjacent to Capital Avenue and Douglas Road, two highly traveled corridors. Douglas Road is a major through road off of Capital Avenue to significant commercial development. Commercial projects have been approved for the area around the Fir Road and Douglas Road intersection.
2. Character of Buildings in Area – The area is predominantly undeveloped. The single family homes in the area will likely be redeveloped as commercial over time given the character and development potential of the property. The character of many of the buildings on the north side of the City are commercial.

Proposed Ordinance No. 2012-08

Ordinance No. _____

3. The Most Desirable/Highest and Best Use – Because of the parcel's location and the significant commercial development on the north side of the City and along Douglas Road combined with the proximity of Capital Avenue makes the most desirable use for the majority of property a heavy mix of intensive commercial and professional office uses.
4. Conservation of Property Values – The proposed zoning will not be injurious to property values in the surrounding area, because the vast majority of adjacent property remains undeveloped. The extension of City infrastructure to service this development along Douglas Road will actually add value to adjacent properties.
5. Comprehensive Plan – This specific property was not a part in the City of Mishawaka Comprehensive Plan. However, the petition is reasonably consistent with the goals, objectives, and policies of the Comprehensive Plan. The continued change and expansion of the commercial areas of the City are commensurate to the City's status as a regional area of commerce. The substantial residential growth that occurred in the unincorporated County (the unincorporated area of Granger) also contributes to the need/demand for services that are proposed in this development.

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

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

Proposed Ordinance No. 2012-08

Ordinance No. _____

APPROVED by me this _____ day of _____, 2012, at
_____ o'clock _____ M.

David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 03 2011

CITY CLERK
MISHAWAKA, IN

October 26, 2011

TO THE:

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

Re: Petition for Annexation and Zoning Classification

The undersigned, Larry & Becky Penn, respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

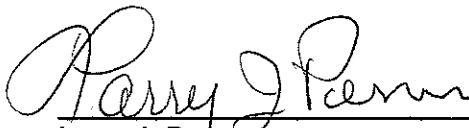
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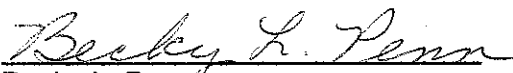
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Accompanying this petition is a drawing, to scale, showing the above described vacant parcel of real estate.

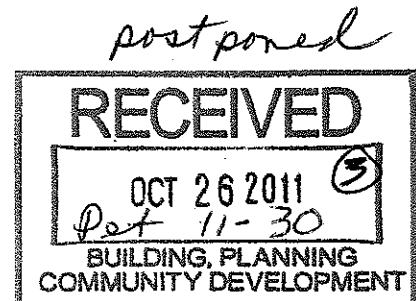
Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a zoning classification of P. U. D. Planned Urban Development.


Larry J. Penn


Becky L. Penn

Contact Person:
Lang, Feeney & Associates, Inc.
Terance D. Lang
715 South Michigan Street
South Bend, Indiana 46601
574-233-1841



Annexation No. 3

Legal Description:

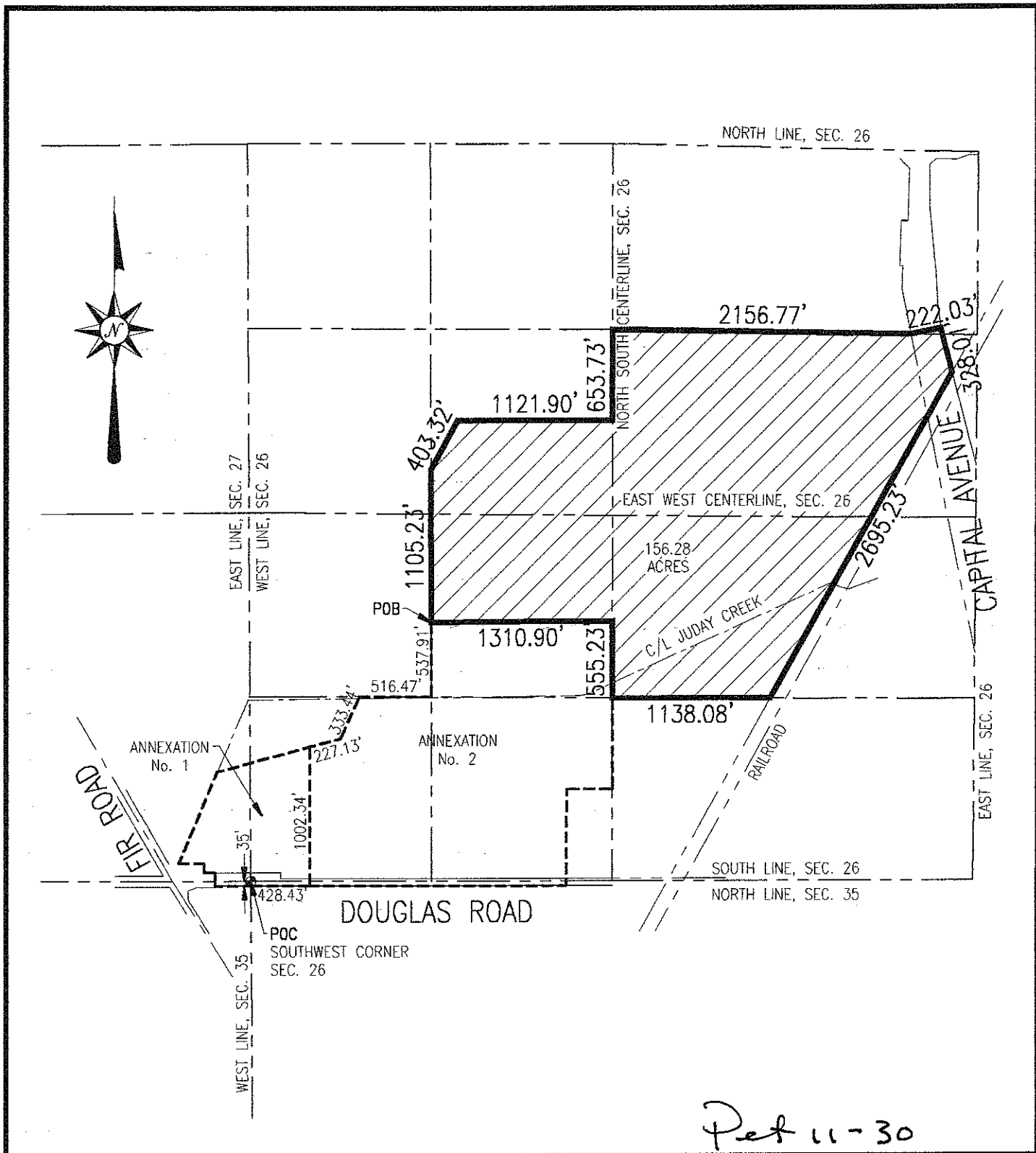
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Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the South right of way line of Douglas Road; thence East along said South right-of-way line, a distance of 428.43 feet; thence North 1002.34 feet to a point; thence Northeasterly a distance of 227.13 feet to an angle point; thence Northeasterly a distance of 333.44 feet more or less to the North line of the Southwest Quarter of said Southwest Quarter of said Section 26; thence East, along said North line of said Quarter, Quarter Section, a distance of 516.47 feet to the Northeast corner of said Quarter, Quarter Section; thence North along the West line of the Northeast Quarter of said Southwest Quarter, a distance of 537.91 feet to the point of beginning for this description; thence continuing North along said West line and the West line of the Southwest Quarter of the Northwest Quarter of said Section 26, a distance of 1105.23 feet to an angle point; thence Northeasterly a distance of 403.32 feet; thence East 1121.90 feet more or less to a point on the North-South centerline of said Section 26; thence North along said centerline a distance of 653.73 feet more or less to the North line of the Southwest Quarter of the Northeast Quarter of said Section 26; thence East along said North line and the North line of the Southeast Quarter of said Northeast Quarter of Section 26, a distance of 2156.77 feet to a point on the Westerly right-of-fway line of Capital Avenue; thence Northeasterly a distance of 222.03 feet more or less to the Easterly right-of-way line of said Capital Avenue; thence Southeasterly along said Easterly right-of-way line a distance of 328.01 feet more or less to the Northwesterly right-of-way line of the Grand Trunk Railroad; thence Southwesterly along said Northwesterly right-of-way line, a distance of 2695.23 feet more or less to the South line of the Northwest Quarter of the Southeast Quarter of said Section 26; thence West along said South line a distance of 1138.08 feet more or less to said North-South centerline of said Section 26; thence North along said North-South centerline, a distance of 555.23 feet; thence West, a distance of 1301.90 feet more or less to a point on the West line of the Northeast Quarter of said Southwest Quarter that is 537.91 feet more or less North of the Southwest corner of said Northeast Quarter of the Southwest Quarter, said point being the place of beginning for this decription and containing 156.28 acres more or less.

Subject to the legal rights of public highways.

Pet. 11-30

(3)



Pet 11-30

ANNEXATION 3

SITE PLAN FOR VOLUNTARY ANNEXATION
INTO THE CITY OF MISHAWAKA
FOR
LARRY & BECKY PENN

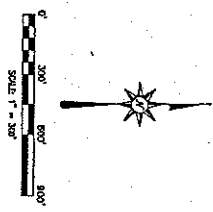
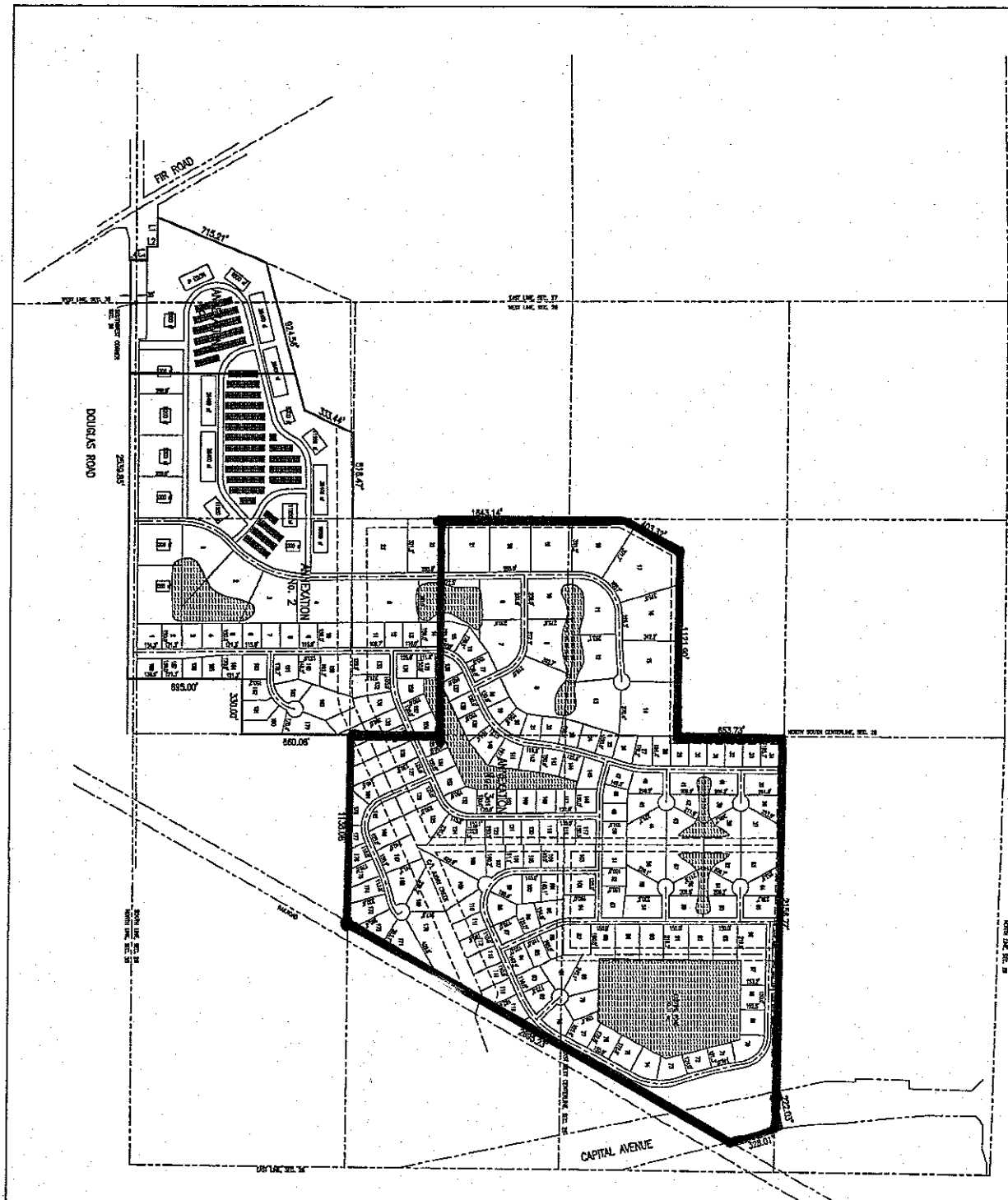
Lang, Feeney & Associates, Inc.

Land Surveyors, Construction Engineers & Soil Scientists
715 South Michigan Street
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Phone 574-233-1841 Fax 574-674-0374

File Name	Drawn By	Scale
PennAnnexation	BKG	1" = 1000'
Date	Rev. Date	Drawing No.
10-26-11	-	25091

Post 11-30

SITE PLAN FOR VOLUNTARY ANNEXATION
 INTO THE CITY OF MISHAWAKA
 FOR
 LARRY & BECKY PENN



1"	300'
1"	100'
1"	50'
1"	25'
1"	12.5'

LFA Larry Farnley & Associates, Inc.
 715 S. Madison Street
 South Bend, Indiana 46601
 Phone (317) 333-1841

Project	Voluntary Annexation
Client	Larry & Becky Penn
Drawn By	John Schmitt
Check By	John Schmitt
Date	11-28-11
Sheet No.	122-5

APPEAL #12-05

RESOLUTION NO. 2012-07

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:

6501 Grape Road, 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 **6501 Grape Road, Mishawaka, Indiana**, more particularly known and described as follows:

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°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° 00' 00" West a distance of 382.67 feet to a point;

thence North 55° 00' 00" East a distance of 41.50 feet to a point;

thence North 35° 00' 00" West a distance of 459.50 feet to a point;

thence North 60° 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° 22'43.5" East to a point;

thence South 50° 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.

The Use Variance will permit three (3) separate off-site Used Car Sales as follows: ten (10) days in May, ten (10) days in June, and ten (10) days in August with temporary signage including banners, a mobile office facility for business transactions and securing of valuables subject to the following conditions of approval:

USES:

- The event shall be limited to the display and sales of automobiles and light trucks for ten (10) days in May, June, and August of 2012 as presented.

SITE PLAN:

- A site plan/layout shall be submitted identifying the location of display areas, visitor parking, tents portable toilets, temporary lighting, and other related temporary improvements subject to staff review and approval. Written approval of the site plan/layout shall be required from University Park Mall, LLC.

ACCESS/TRAFFIC CONTROL REQUIREMENTS:

- Access to the event use shall be through existing mall entrances. Additional restrictions may be requested by the City of Mishawaka the Director of Engineering as deemed appropriate as part of the review of a site plan/layout. The City of Mishawaka Police Department may also request any modifications to layout, parking, access, or attention devices during the event if it is deemed problematic to through traffic, or any safety issue is identified.

SETBACKS:

- All tents, display/parking areas, portable toilets and large inflatable balloons shall be setback a minimum of 25 feet from any road right-of-way and 10 feet from any internal access drive.

SIGNAGE/ATTENTION DEVICES:

- A plan identifying the location and type of all signage/attention devices shall be submitted subject to staff review and approval. A maximum of two (2) temporary signs no larger than 4' X 8' shall be permitted on Grape Road. A maximum of two temporary signs shall be permitted along State Road 23. **No inflatable air balloons shall be permitted.** All signs and attention getting devices shall not flash or be animated where they are overtly distracting to the motoring public. Internal directional signs shall also be permitted as necessary provided they are not visible from surrounding major roadways.

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 development is temporary and will maintain certain minimum developmental standards as outlined herein;
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 surrounded by commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit vehicle sales, even on a very limited basis, thus requiring the Use Variance for the proposed use;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance as drafted, would not permit the Appellant to hold their regional event at this site, specifically, the University Park Mall is one of the few regional facilities that has been inherently constructed to handle this type of event by having the appropriate access, lighting, and parking;
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and the surrounding area is one of the largest consolidated retail areas in the State of Indiana.

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:

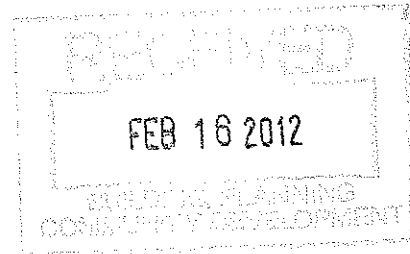
Deborah S. Block, IAMC, MMC, City Clerk

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



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;

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 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;

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 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,

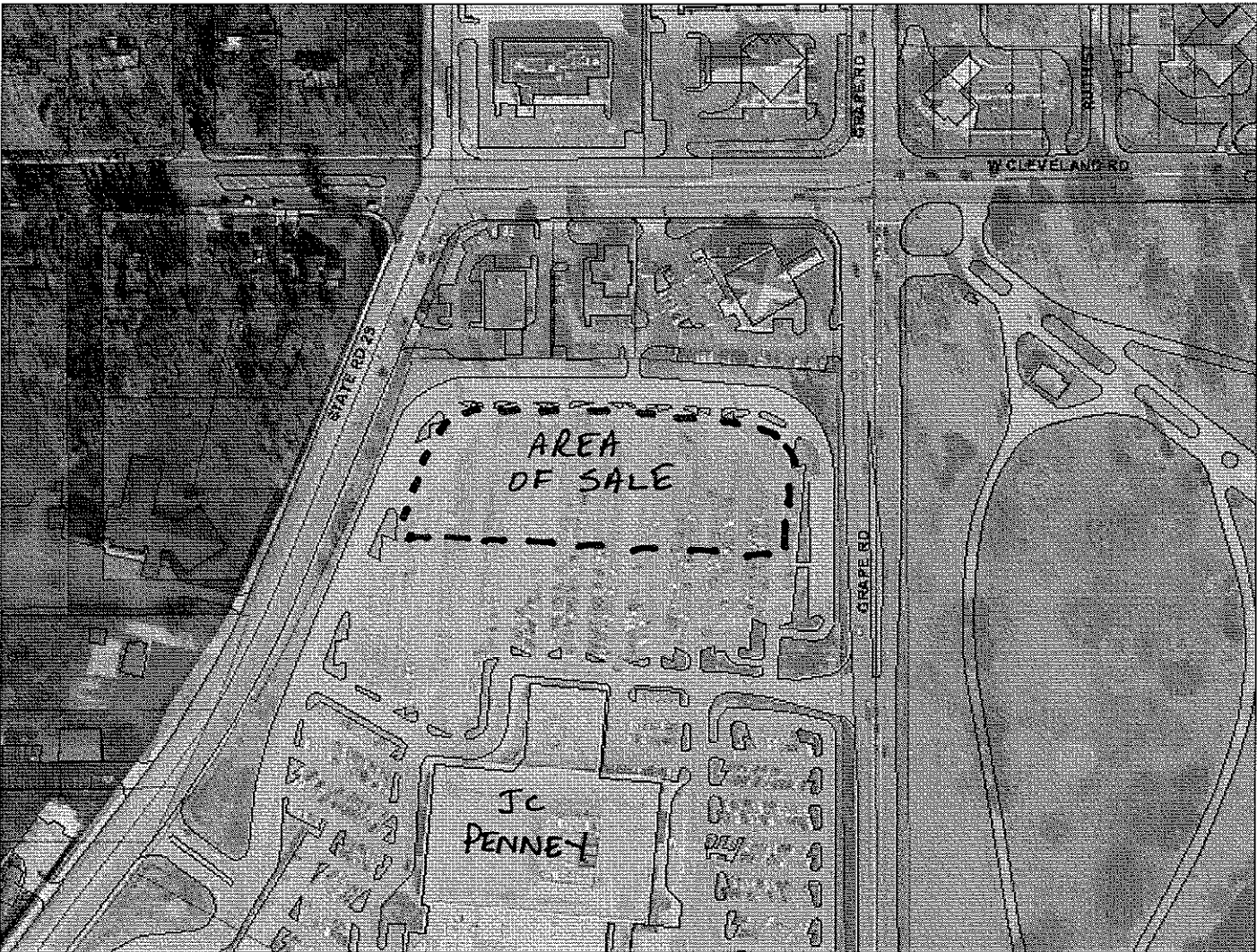


Steven Kempe
General Manager
University Park Mall

cc: Irene McKiernan

smw/enclosure

6501 Grape Rd.



— — — — AREA OF SALE

STAFF REPORT

Location: 6501 Grape Road

Date: March 13, 2012

Appeal: 12 05

Prepared By: KBP/KM

GENERAL INFORMATION

Applicant: University Park Mall, LLC/Gates Chevy World

Status: Property Owner/Applicant

Request: Use Variance to allow for the temporary use of mall parking lot for three used car sales events. The event proposes utilizing two inflated cold air balloons, two tents, temporary signage, and a mobile office facility.

Zoning Classification: C-2 Shopping Center Commercial

Lot Size: Approximately 75 acres, more or less

Applicable Regulations: 137.42 Board of Zoning Appeals (4) Variance of Use

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial
South: C-2 Shopping Center Commercial
East: S-1 Extensive Open Space and Public Use
West: St. Joseph County

Thoroughfare: Grape Road, State Road 23

School District: South Bend Community School Corporation

Public Utilities: All utilities are available or can be extended

Comprehensive Plan: General Commercial

ANALYSIS

The petitioner, Gates Chevy World, is seeking a Use Variance to allow for the temporary use of a portion of the University Park Mall parking lot for three (3) used car sales events for ten (10) days each, thirty (30) days total. One event is proposed in May, one in June, and one in August.

Prior to 2010, Gates off-site car sales event was a regular event often held at the University of Notre Dame or other regional locations outside of Mishawaka. In 2010 the City approved two sales events at this location for ten (10) days each. University Park Mall was again chosen for the site of this year's event due to its high visibility location and the availability of space. The property is located in a very high visibility area with easy access, adequate customer and employee parking.

Identical to the last two years, the Appellant states traffic would access the site from existing mall entrances and vehicles for sale, as well as parking areas, would be staged in the parking area north of J C Penney, west of Grape Road and east of State Road 23. Drive aisles will be blocked to through traffic and customer and employee parking will be clearly marked. Tents and portable toilets would be provided during the event. A mobile office facility for business transactions and securing of valuables will also be provided. The applicant is also proposing to utilize up to two inflated cold air balloons and temporary signage to promote the event.

Gates Chevy World indicates this area will easily accommodate up to 350 display cars, two portable tents up to 20' X 40' providing shelter for customers and employees, a mobile office facility, portable toilets, portable trash containers, parking for 50 employees and 100 customers at any one time. The site is also ideal for the proposed carnival like environment because it is located on a heavily traveled commercial corridor. The primary access points to the Mall occur at existing traffic signals for added safety and convenience. The site is also located a considerable distance away from residential uses.

Given that there are pros and cons to the business argument on whether or not these types of special sales events are appropriate, notice has been provided to the new car dealerships in the City regarding the Board's consideration of the request.

When the approvals were granted in 2010, Staff suggested that as a City we would evaluate the sale to determine if there were problems and then evaluate further requests based on past experiences. After the past two years' events, other than the concern of other dealers, no other problems or issues were brought to staff's attention. Specifically, no traffic, public parking, or even nuisance issues were brought to the City's attention. Staff has written into the draft conditions of approval that no cold air inflatables be allowed. Although the applicant had requested two, staff feels that this type of advertising, not currently allowed by the City for other sites, is different than other aspects of the request and should not be allowed.

The Engineering Department advises no signage in City right-of-way. Other pertinent City departments have reviewed and approved of the request.

RECOMMENDATION (S)

Staff recommends in **favor** of Appeal 12-05, Use Variance, to allow for the temporary use of a portion of the University Park Mall parking lot for an off-site car sales event. The event proposes utilizing two inflated cold air balloons, two (2) tents, mobile office facility, and temporary signage. The Use Variance is subject to the following conditions:

USES:

- The event shall be limited to the display and sales of automobiles and light trucks for ten (10) days in May, June, and August of 2012 as presented.

SITE PLAN:

- A site plan/layout shall be submitted identifying the location of display areas, visitor parking, tents portable toilets, temporary lighting, and other related temporary improvements subject to staff review and approval. Written approval of the site plan/layout shall be required from University Park Mall, LLC.

ACCESS/TRAFFIC CONTROL REQUIREMENTS:

- Access to the event use shall be through existing mall entrances. Additional restrictions may be requested by the City of Mishawaka the Director of Engineering as deemed appropriate as part of the review of a site plan/layout. The City of Mishawaka Police Department may also request any modifications to layout, parking, access, or attention devices during the event if it is deemed problematic to through traffic, or any safety issue is identified.

SETBACKS:

- All tents, display/parking areas, portable toilets and large inflatable balloons shall be setback a minimum of 25 feet from any road right-of-way and 10 feet from any internal access drive.

SIGNAGE/ATTENTION DEVICES:

- A plan identifying the location and type of all signage/attention devices shall be submitted subject to staff review and approval. A maximum of two (2) temporary signs no larger than 4' X 8' shall be permitted on Grape Road. A maximum of two temporary signs shall be permitted along State Road 23. **No inflatable air balloons shall be permitted.** All signs and attention getting devices shall not flash or be animated where they are overtly distracting to the motoring public.

Internal directional signs shall also be permitted as necessary provided they are not visible from surrounding major roadways.

This recommendation is based upon the following findings of fact:

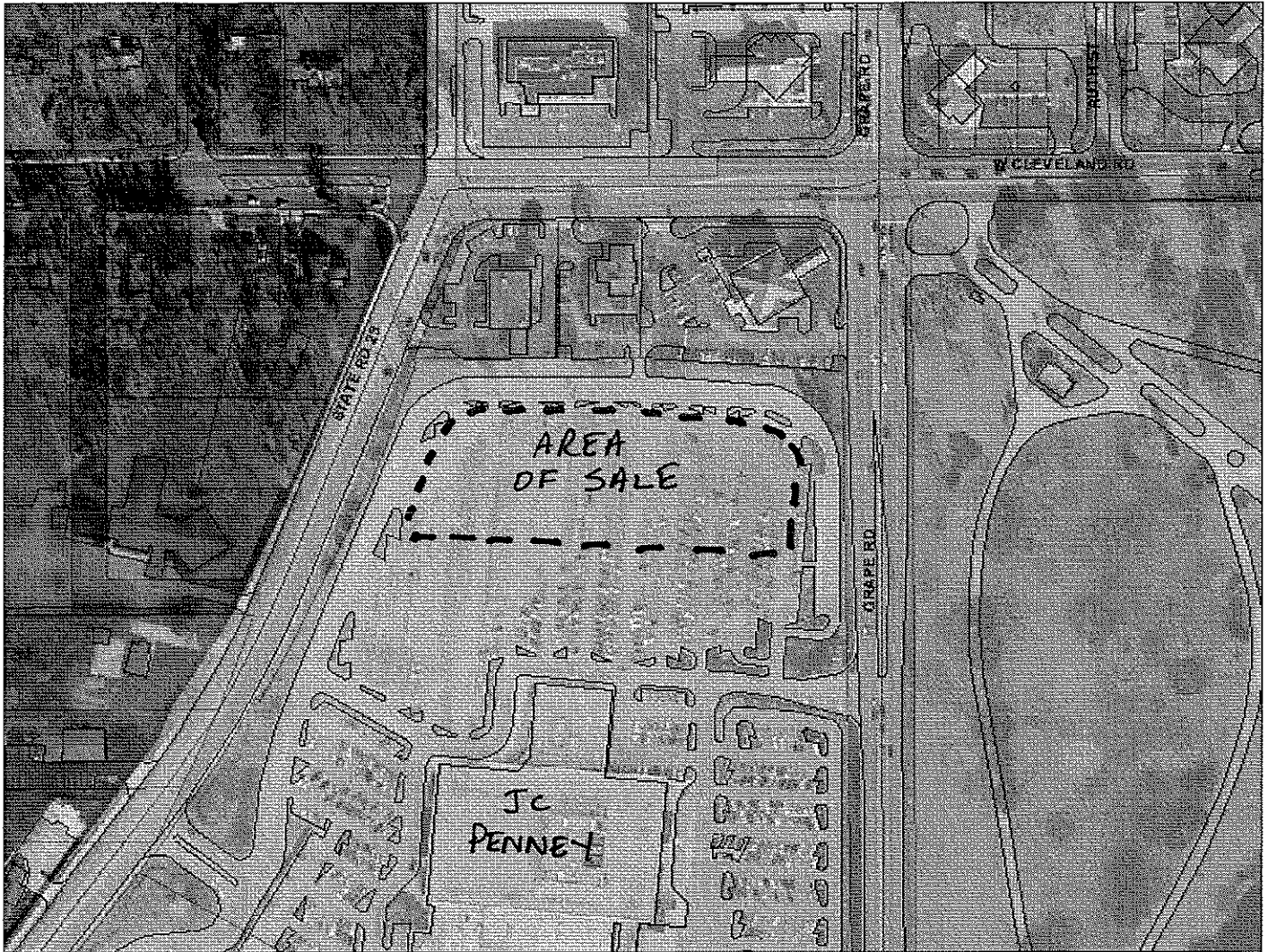
1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the development is temporary and will maintain certain minimum developmental standards as outlined herein;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the area is surrounded by commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit vehicle sales, even on a very limited basis, thus requiring the Use Variance for the proposed use;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance as drafted, would not permit the Appellant to hold their regional event at this site, specifically, the University Park Mall is one of the few regional facilities that has been inherently constructed to handle this type of event by having the appropriate access, lighting, and parking;
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and the surrounding area is one of the largest consolidated retail areas in the State of Indiana.

ATTACHMENTS

Photographs, Appeal, Site Plan, Aerial, Location Map



6501 Grape Rd.



— — — — AREA OF SALE

APPEAL #12-06

RESOLUTION NO. 2012-08

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:

429 West Eighth 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 **429 West Eighth Street, Mishawaka, Indiana**, more particularly known and described as follows:

Lot 100, McInerney's 2nd Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

The Use Variance will allow for cake sales and two bedroom rental unit within C-1 General Commercial District subject to the following conditions of approval:

1. Temporary signs and banners are prohibited from being displayed on the outside. Interior window signage shall be limited to one sign, taking up no more than 25% of the window pane, per street-side façade.
2. Occupants of the upstairs apartment shall park in the two stall garage.
3. Closing hour for the bakery shall be 5:00 p.m.
4. Any change of use in the future for this site would require approval of a Use Variance.

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 all City and Health codes and inspections will be complied with;
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 proposed use may be beneficial to the value of the adjacent area because an unobtrusive and well-maintained business is better for the neighborhood than a vacant and deteriorating property;
3. The need for the variance arises from some condition peculiar to the property involved in that the building was constructed over 80 years ago, prior to the establishment of the Zoning Ordinance, for commercial purposes without off street parking or room for expansion. Additionally, the apartment use was permitted prior to 1986. The lack of available parking and no room for expansion limits the potential uses of the structure;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because of the existing non-conforming situations that will continue to exist regardless of the use of the structure. If the property were to remain predominantly commercial on both floors, the demand for parking could be greater than a bakery on the main floor and one apartment on the second floor; and
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan identifying the area as General Commercial because the variance is for a predominate commercial use with a secondary residential use.

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

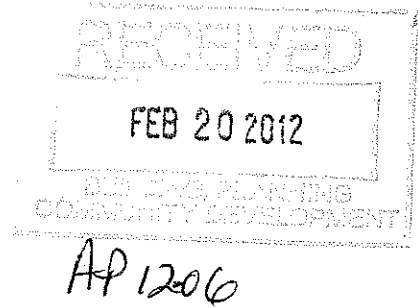
APPROVED by me this _____ day of _____, 2012, at
_____ o'clock ____m.

David A. Wood, Mayor

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.

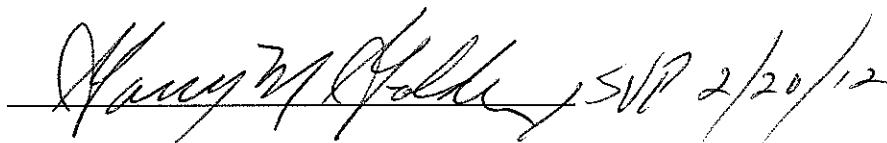
Strict application of the Ordinance would make it highly unlikely that the appellant would purchase the building or be able to start a cake catering business.

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.

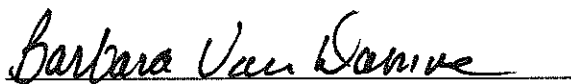
Wherefore, Appellants pray and respectfully request a hearing on this appeal and that after such hearing, the Board grant the requested variance.


Harry M. Goldstein, SVP 2/20/12

CCC Real Estate Holdings Co. LLC

1440 Broadway 17th Floor

New York, NY 10018



Barbara Van Damme (574-259-9468)

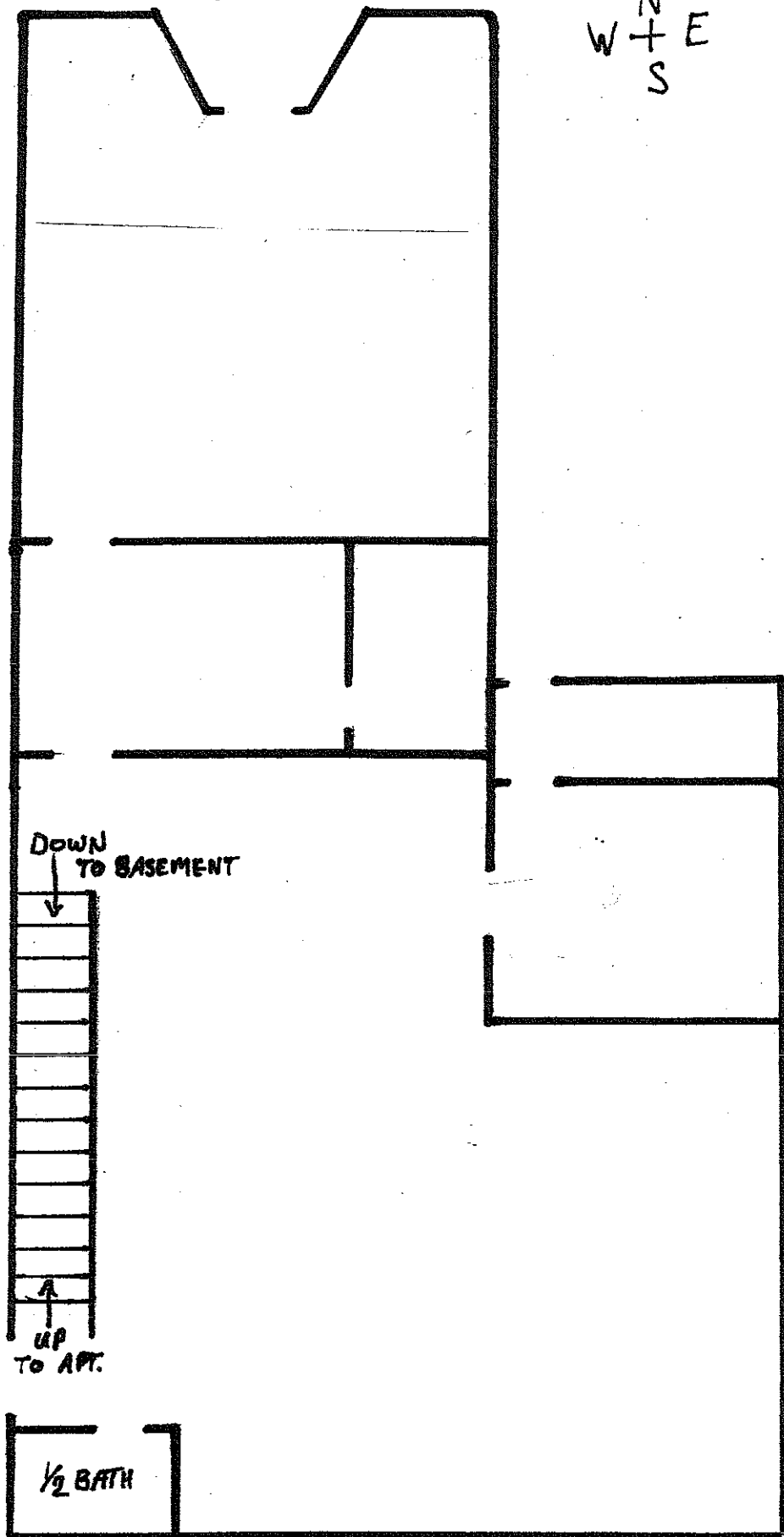
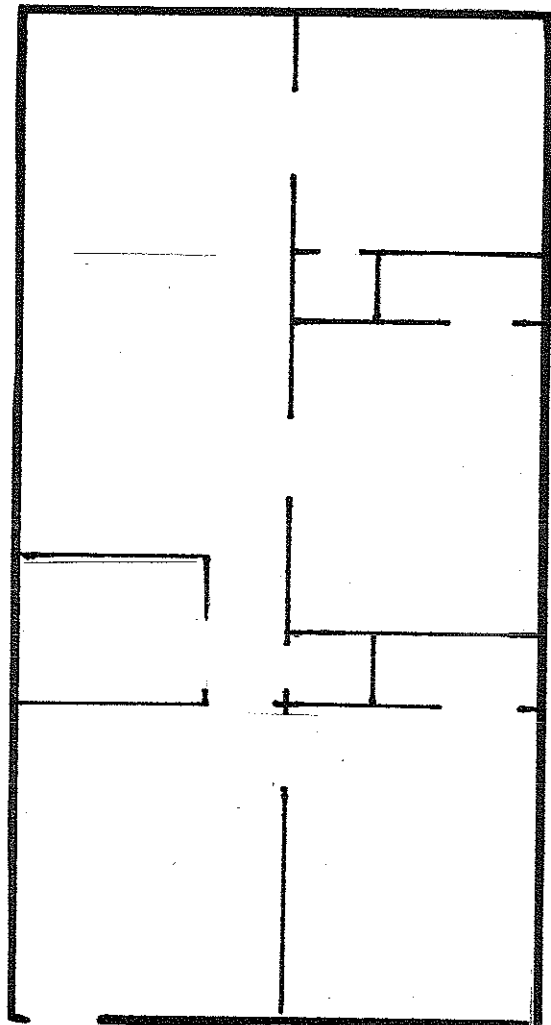
829 E. 3rd St.

Mishawaka, IN 46544

UPPER LEVEL

MAIN FLOOR

W N E
S

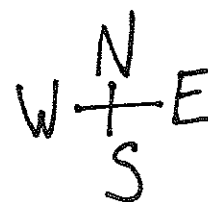


DOWN
TO BASEMENT



UP
TO APT.

1/2 BATH



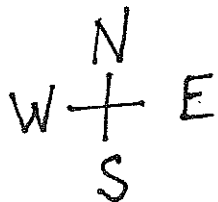
MAIN FLOOR
FRONT OF BLDG.
22' x 37'

BAKERY KITCHEN
26' x 22'

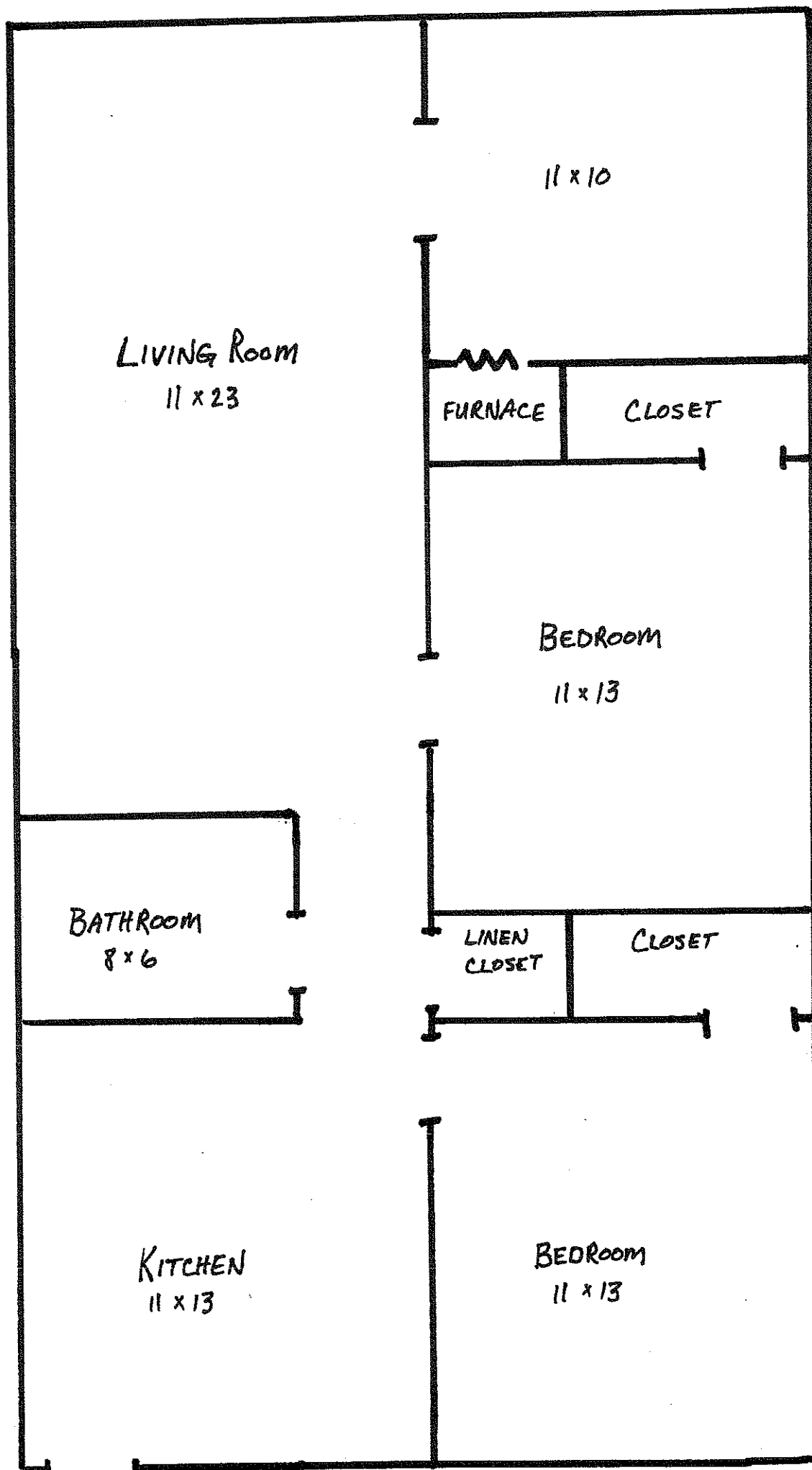
11' x 17'

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

STAFF REPORT

Location: 429 West Eighth Street

Date: March 13, 2012

Appeal: 12 06

Prepared By: PS

GENERAL INFORMATION

Applicant: CCC Real Estate Holdings Co., LLC/ Barbara Van Damme

Status: Property Owner/ Contingent Purchaser

Request: Use Variance for Cake Sales and Two Bedroom Rental Unit

Zoning Classification: C-1 General Commercial District

Lot Size: 4, 767 Square Feet

Applicable Regulations: Section 137-301 C-1 Uses; Section 137-302 Height, Area & Developmental Regs
Section 137-42 (4) & (5) Board of Zoning Appeals Use & Developmental Variances

SPECIAL INFORMATION

Area Development Pattern: North: NE C-1 General Commercial – Residences/ NW R-1 St. Bavo's
South: R-1 Single Family Residential
East: R-1 Single Family Residential
West: C-1 General Commercial – Funeral Home

Thoroughfare: West Eighth Street & South West Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: Available

Comprehensive Plan: General Commercial

ANALYSIS

This structure located at the southeast corner of So. West and West Eighth Streets was formerly the home of Case Printing & Graphics. The building has been vacant for several years; therefore, it has lost all grandfathering it may once have had.

The Contingent Purchaser desires to occupy the building as a mixed use, commercial and residential property with the main floor of the building to be used for a cake catering and cake web sales business, and also to allow the second floor to be used as a two bedroom rental unit.

Prior to 1986, residential uses were permitted in the C-1 District but no longer are allowed. Being that the structure has been vacant for more than six months; the apartment use may not be reinstated.

This is one of the older, established single lot, C-1 Commercial corners scattered in the City's west end. The lot contains 4, 767 square feet of area with 60% of that the building with its accessory structure. Staff would speculate that the inability to expand, along with the complete lack of off-street parking, make it increasingly difficult to use the second floor of this structure for commercial purposes. This property has significant non-conforming situations that are not easily remedied, including building setbacks and density.

The Contingent Purchaser in her appeal states that while this would be a retail operation, it will 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 be delivered or sent to the customer.

In general, it is appropriate for the City to accommodate reasonable requests that allow for the re-investment and continued use of significantly non-conforming properties such as this.

A new curb cut and paved drive exist on the east side of the property in front of the freestanding two stall garage. There is approximately 25 feet of on-street parking in front of the address and 74 feet of on-street parking on West Street.

Staff discussed the parking situation at length with the Purchaser. The Purchaser has every intention to provide paved parking in the future. The apartment lease will state that the renter's must park in the garage, and a garage door opener will be provided. Additionally, an onsite paved area must be provided for the business dumpster.

All pertinent City Departments reviewed and approved of the request. The following Departments offered commentary:

- Building Department notes that permits must be obtained before construction of any sort begins; and
- Mishawaka Utilities Water Division noted that a backflow protection must be installed, and to call for tap and meter quotes.

RECOMMENDATION

The Staff recommends approval of Appeal #12-06 to allow the following variances for 429 West Eighth Street:

1. A Use Variance to permit the main floor of the building to be used as a bakery for a cake catering/ cake web sales business; and,
2. to allow the second floor to be occupied as a two bedroom rental unit

Conditional upon the following:

1. Temporary signs and banners are prohibited from being displayed on the outside. Interior window signage shall be limited to one sign, taking up no more than 25% of the window pane, per street-side façade.
2. Occupants of the upstairs apartment shall park in the two stall garage.
3. Closing hour for the bakery shall be 5:00 p.m.
4. Any change of use in the future for this site would require approval of a use variance.

This recommendation is predicated 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 all City and Health codes and inspections will be complied with;
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 proposed use may be beneficial to the value of the adjacent area because an unobtrusive and well-maintained business is better for the neighborhood than a vacant and deteriorating property;
3. The need for the variance arises from some condition peculiar to the property involved in that the building was constructed over 80 years ago, prior to the establishment of the Zoning Ordinance, for commercial purposes without off street parking or room for expansion. Additionally, the apartment use was permitted prior to 1986. The lack of available parking and no room for expansion limits the potential uses of the structure;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because of the existing non-conforming situations that will continue to exist regardless of the use of the structure. If the property were to remain predominantly commercial on both floors, the demand for parking could be greater than a bakery on the main floor and one apartment on the second floor; and

5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan identifying the area as General Commercial because the variance is for a predominate commercial use with a secondary residential use.

ATTACHMENTS

PHOTOGRAPHS, APPEAL, BUILDING INTERIOR 1ST & 2ND FLOOR PLANS, BUSINESS PLAN FOR CAKES OF GOOD CHEER, PARKING PLAN, AERIAL, LOCATION MAP



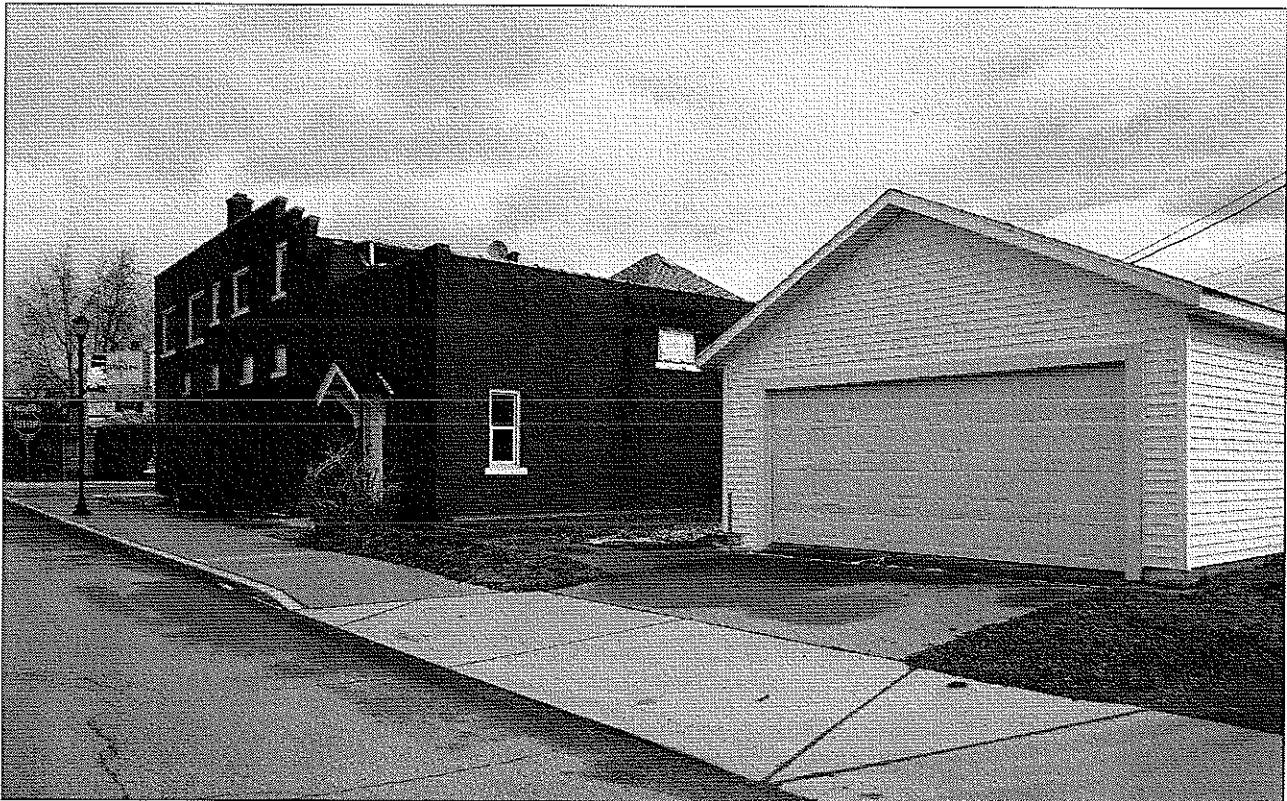
West Side of the Property Along West Street



Front of 429 West Eighth Street



East Side of Property



West Side of Property, Garage is Included