



LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

September 8, 2016

South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601


RE: 736 California And 808, 812, 824, 826, 828, 830, 832, 834, 836, 838, 906, 908, And 910  
Portage Avenue

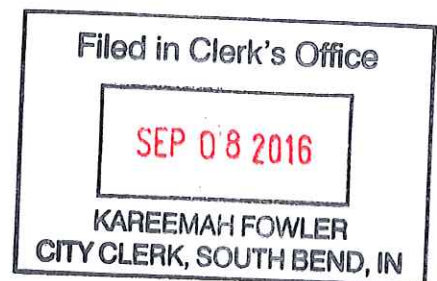
Dear Council Members:

Enclosed is an Ordinance for the proposed Zone Map Amendment at the above referenced location. Please include the attached Ordinance on the Council agenda for first reading at your September 12, 2016 Council meeting, and set it for public hearing at your October 24, 2016 Council meeting. The petition is tentatively scheduled for public hearing at the October 18, 2016 Area Plan Commission meeting. The recommendation of the Area Plan Commission will be forwarded to your office by noon on the day following the public hearing.

If you have any questions, please feel free to contact our office.

Sincerely,

  
Angela M. Smith  
Deputy Director



CC: Kathy Cekanski-Farrand

SERVING ST. JOSEPH COUNTY, SOUTH BEND, LAKEVILLE, NEW CARLISLE, NORTH LIBERTY, OSCEOLA & ROSELAND

WWW.STJOSEPHCOUNTYINDIANA.COM/AREAPLAN

# DHIA

***Danch, Harner & Associates, Inc.***

Land Surveyors ■ Professional Engineers  
Landscape Architects ■ Land Planners

Office: (574)234-4003 / (800)594-4003 ■ Fax: (574)234-4009

1643 Commerce Drive ■ South Bend, IN 46628

Honorable Members of the City of  
South Bend Common Council  
4<sup>th</sup> Floor County-City Building  
South Bend, Indiana 46601

September 5, 2016

RE: Rezoning & Special exception Petition for 736 California Avenue and  
808, 812, 824,826, 828, 830, 832, 834, 836,838, 906, 908, 910 Portage Avenue,  
South Bend, Indiana 46616.

Dear Council Members:

Our clients are requesting the approval of a Rezoning Petition for the properties located at 736 California Avenue and 808, 812, 824,826, 828, 830, 832, 834, 836,838, 906, 908, 910 , South Bend, Indiana 46616.

This requested Rezoning would allow for the approval of a multi-family residential development to be built and approval of Special Exceptions to allow for off-site parking areas as shown on the attached site plan. The proposed site improvements would include the renovation of the existing structure along with the addition of new off-site parking and the installation of new landscaping.

Our clients believe the improvements proposed for the properties would be a compatible use in the surrounding mixed use neighborhood along this portion of the Portage Avenue corridor.

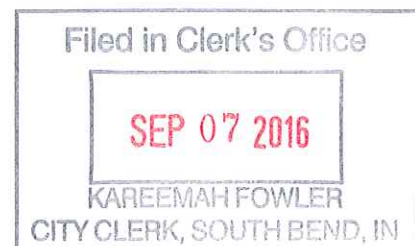
If you have any questions concerning this matter, please feel free to give me a call at 234-4003.

Sincerely,



Michael J. Danch  
President  
Danch, Harner & Associates, Inc.

File No. 160215 "C" Md



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE ZONING ORDINANCE AND REQUESTING A SPECIAL EXCEPTION FOR PROPERTIES LOCATED AT 736 CALIFORNIA AND 808, 812, 824, 826, 828, 830, 832, 834, 836, 838, 906, 908, AND 910 PORTAGE AVENUE, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

To rezone for a commercial and residential mixed used project.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of South Bend, Indiana as follows:

SECTION 1. Ordinance No. 9495-04, is amended, which ordinance is commonly known as the Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby is amended in order that the zoning classification of the following described real estate in the City of South Bend, St. Joseph County, State of Indiana:

For rezoning:

That part of the Northeast Quarter of Section 2, Township 37 North, Range 2 East, Portage Township, City of South Bend, St. Joseph County, Indiana which is described as: Lots # 113, # 114, # 115 and Lot # 112 of the Plat of "Shetterley Place 3<sup>rd</sup> Plat" now a part of the City of South Bend as recorded in Plat Book # 5, on Page # 60 in the records of the St. Joseph County, Indiana Recorder's office, excepting the East 35 feet of said Lot # 112, Lot "A", and also including Lot # 33 of the Plat of "Shetterley Place 2<sup>nd</sup> Plat" to the City of South Bend as recorded in Plat Book # 5 on Page # 44 in the records of said Recorder's office.

Containing 0.96 acres more or less.

Subject to all legal highways, easements and restrictions of record.

Also that Part of the Northeast and Southeast Quarters of Section 2, Township 37 North, Range 2 East, City of South Bend, Portage Township, St. Joseph County, Indiana, being Lots # 34-37 of the recorded Plat of "Shetterley Place 2<sup>nd</sup> Plat", to the City of South Bend, Indiana as recorded in Plat Book # 5, Page # 44 in the office of the Recorder of St. Joseph County, Indiana, also Lot # 7 of the recorded Plat of "C.E. Smith's Subdivision of Lots numbered 38, 39, 40 & 41 of Shetterley Place, 2<sup>nd</sup> Plat", to the City of South Bend, recorded May 3, 1916 in the office of the Recorder of St. Joseph County, Indiana in Plat Book # 10, Page # 10, and being more particularly described as beginning at the Northeasterly corner of said Lot # 34; thence South 43°09'35" East along the West line of a 14 foot wide Public Alley, 174.03 feet (Rec. 174.10 feet) to the Northeast corner of said Lot # 34; thence South 46°32'49" West, 35.14 feet (Rec. 35.00 feet) to the Northwest corner of said Lot # 7; thence South 43°11'52" East along the Northerly line of said Lot # 7, 32.56 feet (Rec. 32.66 feet)

to the Northeasterly corner of said Lot # 7; thence South 46°32'49" West along the Southerly line of said Lot # 7, 97.39 feet (rec. 97.00 feet) to the Northerly right-of-way of Portage Avenue; thence North 43°12'56" West along the Northerly right-of-way line of Portage Avenue, 316.67 feet (Rec. 315.46 feet); thence North 22°54'31" East, 8.91 feet to the South right-of-way line of Rex Street; thence North 89°01'58" East along said south right-of-way line, 168.27 (Rec. 168.00 feet) to the point of beginning.

Containing 0.79 acres more or less.

Subject to all legal right-of-ways, easements and restrictions of record.

For special exceptions:

That part of the Northeast Quarter of Section 2, Township 37 North, Range 2 East, Portage Township, City of South Bend, St. Joseph County, Indiana which is described as: Lots # 112 of the Plat of "Shetterley Place 3<sup>rd</sup> Plat" now a part of the City of South Bend as recorded in Plat Book # 5, on Page # 60 in the records of the St. Joseph County, Indiana Recorder's office, excepting the East 35 feet of said Lot # 112.

Containing 0.07 acres more or less.

Subject to all legal highways, easements and restrictions of record.

Also that Part of the Northeast and Southeast Quarters of Section 2, Township 37 North, Range 2 East, City of South Bend, Portage Township, St. Joseph County, Indiana, being Lots # 34-37 of the recorded Plat of "Shetterley Place 2<sup>nd</sup> Plat", to the City of South Bend, Indiana as recorded in Plat Book # 5, Page # 44 in the office of the Recorder of St. Joseph County, Indiana, also Lot # 7 of the recorded Plat of "C.E. Smith's Subdivision of Lots numbered 38, 39, 40 & 41 of Shetterley Place, 2<sup>nd</sup> Plat", to the City of South Bend, recorded May 3, 1916 in the office of the Recorder of St. Joseph County, Indiana in Plat Book # 10, Page # 10, and being more particularly described as beginning at the Northeasterly corner of said Lot # 34; thence South 43°09'35" East along the West line of a 14 foot wide Public Alley, 174.03 feet (Rec. 174.10 feet) to the Northeast corner of said Lot # 34; thence South 46°32'49" West, 35.14 feet (Rec. 35.00 feet) to the Northwest corner of said Lot # 7; thence South 43°11'52" East along the Northerly line of said Lot # 7, 32.56 feet (Rec. 32.66 feet) to the Northeasterly corner of said Lot # 7; thence South 46°32'49" West along the Southerly line of said Lot # 7, 97.39 feet (rec. 97.00 feet) to the Northerly right-of-way of Portage Avenue; thence North 43°12'56" West along the Northerly right-of-way line of Portage Avenue, 316.67 feet (Rec. 315.46 feet); thence North 22°54'31" East, 8.91 feet to the South right-of-way line of Rex Street; thence North 89°01'58" East along said south right-of-way line, 168.27 (Rec. 168.00 feet) to the point of beginning.

Containing 0.79 acres more or less.

Subject to all legal right-of-ways, easements and restrictions of record.

be and the same is hereby established as MU Mixed Use.

**SECTION II.** That a Special Exception Use for *off-site* in the *MU Mixed Use District* is hereby granted subject to a site development plan hereby attached and made a part of this Ordinance and which site plan contains and lists all conditions, if any, of approval.

SECTION III. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and legal publication.

\_\_\_\_\_  
Member of the Common Council

Attest:

\_\_\_\_\_  
City Clerk

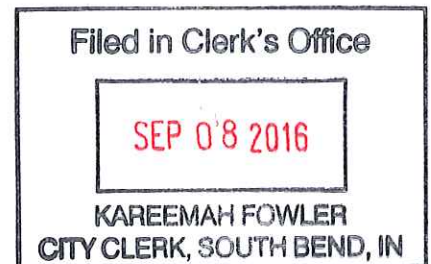
Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

\_\_\_\_\_  
City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

\_\_\_\_\_  
Mayor, City of South Bend, Indiana

1<sup>st</sup> READING  
PUBLIC HEARING  
3<sup>rd</sup> READING  
NOT APPROVED  
REFERRED  
PASSED





AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

Wednesday, October 19, 2016

The Honorable Council of the City of South Bend  
4th Floor, County-City Building  
South Bend, IN 46601

RE: A combined public hearing on a proposed ordinance of Richard & Linda Ford and Civil City of South Bend to zone from SF2 Single Family & Two Family District, PUD Planned Unit Development District and MU Mixed Use District to MU Mixed Use District and seeking a Special Use to allow for 2 off-site parking lots, property located at 736 California Avenue, 808, 812, 824, 828, 830, 832, 834, 836, 838, 906, 908 and 910 Portage Avenue, City of South Bend - APC# 2799-16.

Dear Council Members:

I hereby Certify that the above referenced ordinance of Richard & Linda Ford and Civil City of South Bend was legally advertised on October 6, 2016 and that the Area Plan Commission at its public hearing on October 18, 2016 took the following action:

Upon a motion by Gerry Phipps, being seconded by John DeLee and unanimously carried, a proposed ordinance of Richard & Linda Ford and Civil City of South Bend to zone from SF2 Single Family & Two Family District, PUD Planned Unit Development District and MU Mixed Use District to MU Mixed Use District, property located at 736 California Avenue, 808, 812, 824, 828, 830, 832, 834, 836, 838, 906, 908 and 910 Portage Avenue, City of South Bend, is sent to The Common Council with a FAVORABLE recommendation. Rezoning this site to MU Mixed Use will allow for the reuse and redevelopment of an underutilized build and vacant land. The special exception use will serve the residents and retail users of the site. The proposed development will fill a need in the neighborhood for affordable housing and local retail.

Upon a motion by Gerry Phipps, being seconded by John DeLee and carried, a Special Exception Use for for 2 off-site parking lots property located at 736 California Avenue, 808, 812, 824, 828, 830, 832, 834, 836, 838, 906, 908 and 910 Portage Avenue, City of South Bend, was sent to the Common Council with NO RECOMMENDATION.

The deliberations of the Area Plan Commission and points considered in arriving at the above decision are shown in the minutes of the public hearing, and will be forwarded to you at a later date to be made a part of this report.

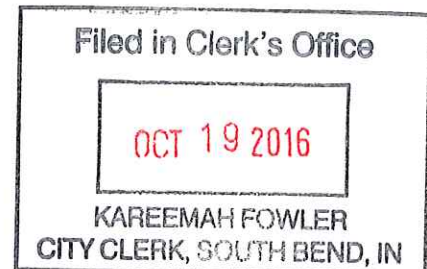
Sincerely,

Lawrence P. Magliozzi

Attachment

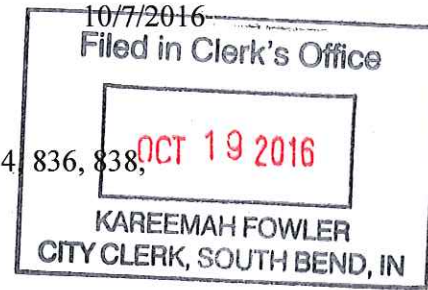
CC: Richard & Linda Ford

Civil City of South Bend, SOUTH BEND, LAKEVILLE, NEW CARLISLE, NORTH LIBERTY, OSCEOLA & ROSELAND



**Staff Report**

APC # 2799-16  
Owner: Richard & Linda Ford and Civil City of South Bend  
Location: 736 California Avenue, 808, 812, 824, 828, 830, 832, 834, 836, 838, 906, 908 and 910 Portage Avenue  
Jurisdiction: City of South Bend  
Public Hearing Date: 10/18/2016



**Requested Action:**

The petitioner is requesting a zone change from SF2 Single Family & Two Family District, PUD Planned Unit Development District and MU Mixed Use District to MU Mixed Use District; seeking a Special Exception Use to allow for two off site parking areas; and seeking thirteen variances from the development standards.

**Land Uses and Zoning:**

- On site: On site is an existing building and vacant land.
- North: To the north are single family homes and vacant land zoned SF2 Single Family and Two Family District and a parking lot zoned MU Mixed Use District.
- East: To the east are single family homes and vacant land zoned SF2 Single Family and Two Family District.
- South: To the south are single family homes and vacant land zoned SF2 Single Family and Two Family District and MU Mixed Use District.
- West: To the west are single family homes and vacant land zoned SF2 Single Family and Two Family District and MU Mixed Use District.

**District Uses and Development Standards:**

The MU Mixed Use District is established to promote the development of the a dense urban village environment. The regulations are intended to encourage all the elements of a traditional urban village, including: storefront retail; professional offices; and, dwelling units located either in townhouse developments or in the upper stories of mixed-use buildings. The development standards in this district are designed to: encourage a pedestrian oriented design throughout the district; and, maintain an appropriate pedestrian scale, massing and relationship between buildings and structures within the district.

**Site Plan Description:**

On site is a proposed 60,100 sq. ft., two story building. The proposed development includes 9,500 sq. ft. of retail with 50,600 sq. ft. of residential with 42 total units. There is a parking lot with five spaces and a dumpster to the northeast of the proposed build. In addition, there is a parking lot with 32 spaces to the south across Rex Street. There is an open space along Portage Avenue, in front of the parking lot reserved for future development.

**Zoning and Land Use History And Trends:**

Prior to 2006 these properties were zoned commercial and residential. In 2013 the northern portion of the property was rezoned to PUD to allow for a proposed housing development.

**Traffic and Transportation Considerations:**

Portage Avenue, Rex Street, and California Avenue have two lanes with on street parking.

**Utilities:**

This site will be served by municipal water and sewer.

**Agency Comments:**

The Department of Community Investment offers a favorable recommendation for the rezoning and special exception use. In regards to the variances: 1) Approval of the proposed yard and building setback variances. Seek other locations for trash dumpster; 2) Height variance - A standard 2 story building utilizing the existing structure would appear to fit in the Ordinance standards; 3) In lieu of perimeter landscaping, street trees should be placed in the tree lawn along California Avenue, Portage Avenue (both north and south of Rex), and both sides of Rex Street at approximately 44' spacing or 22' with smaller trees; and 4) Approval of the parking space size and drive aisle width variances. The City Engineer commented the following are required prior to final site plan approval: 1) Completion of the City of South Bend Utility Verification Form; 2) Approval of sidewalk, curb cut, lighting, and overall site improvement to reflect the Master Plan for the surrounding area. Of specific concern for this site are the plans for access and screening; 3) Development of the site requires City approval of a Drainage Plan, and payment of the corresponding Drainage Review Fee, that meets the City's requirement to store all runoff from developed areas on site; 4) Development of the site also requires compliance with the City's Downspout Disconnection Program; 5) Verification of required (if any) waivers; 6) Payment of Final Site Plan Review fee; and 7) Minimum of 1 parking space to be required of each dwelling unit, with retail parking being provided via on street parking.

**Commitments:**

The petitioner is not proposing any written commitments.

**Criteria to be considered in reviewing rezoning requests, per IC 36-7-4-603:**

**1. Comprehensive Plan:**

**Policy Plan:**

The petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006) H 1.3 Encourage the development of mixed use buildings.

**Land Use Plan:**

The future land use map identifies this area as Mixed Use and Commercial.

**Plan Implementation/Other Plans:**

The Portage Avenue Commercial Corridor Revitalization Action Plan (1999) objective to require site plan review would set corridor standards such as: encourage side and rear parking lots, front lot line buildings, control signage, restrict lightings impact on nearby residences, and require landscape screening.

**2. Current Conditions and Character:**

The Portage Avenue corridor is primarily residential with some businesses near the intersection of California Avenue.



**3. Most Desirable Use:**

The most desirable use is mixed use.

**4. Conservation of Property Values:**

The reuse of a vacant structure should not adversely affect surrounding property values.

**5. Responsible Development And Growth:**

It is responsible development and growth to allow the adaptive reuse of a vacant building and lots while meeting the goals of the Comprehensive Plan.

**Combined Public Hearing**

This is a combined public hearing, which includes a rezoning, a Special Exception Use, and 13 variances from the development standards. The Commission will forward the rezoning and the Special Exception Use to the Council with or without a recommendation and either approve or deny the variances.

The petitioner is seeking a Special Use to allow:

for 2 off-site parking lots

**A Special Use may only be granted upon making a written determination, based upon the evidence presented at a public hearing, that:**

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;**

The proposed development is located along a public transportation route. The proposed use will serve the adjacent development, which has limited demand for off-street parking. Granting the special exception use should not be injurious to the general welfare of the community.

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;**

With the landscaping provided, the residential properties in the area should not be adversely affected.

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;**

The proposed placement of the parking allows for potential future development along Portage Avenue, consistent with the character of the mixed use district which encourages parking to be located behind the buildings located adjacent to the street.

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan.**

The Comprehensive plan makes no specific mention of this use.

**The petitioner is seeking the following variance(s):**

- 1) from the required minimum 5 ft. front yard setback to 0 ft.
- 2) from the required minimum 20 ft. front yard setback for parking to 5 ft.
- 3) from the required minimum 15 ft. side residential bufferyard to 5 ft. for a building, trash

dumpster, parking, and driveway

4) from the required minimum 15 ft. rear residential bufferyard to a minimum of 5 ft. for a building, trash dumpster, parking, and driveway

5) from the required 15 ft. side and rear residential bufferyard to a minimum of 0 ft. for a balcony structure and driveway

6) from the maximum allowed 40 ft. building height to 42 ft.

7) from the required Type A landscaping of required front perimeter yards to none

8) from the required Type B landscaping of required side and rear perimeter yards to none

9) from the required screening parking spaces to screening with small shrubs and trees

10) from the required screening of a trash dumpster to none; 11) from the required 9' X 20' parking spaces to a minimum of 9' X 19'; 12) from the required minimum 24 foot wide maneuvering aisle to a minimum of 22 feet wide; and 13) from the required 137 parking spaces to 37

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;**

The proposed development will fill a need in the neighborhood for affordable housing and local retail, supporting the general welfare of the community.

**(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;**

With proper landscape buffering along the residential properties, the use and value of the adjacent area should not be affected.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

Due to the layout of the existing building and the odd configuration of the lots, the setback requirements result in practical difficulties in the use of the property. The location of the property along a public transportation route and the intended market of the development reduce the demand for onsite parking, creating practical difficulties in meeting the strict application of the ordinance.

**Staff Comments:**

The staff has no additional comments.

**Recommendation:**

Based on information available prior to the public hearing, the staff recommends that the rezoning petition be sent to the Common Council with a favorable recommendation. Based on information available prior to the public hearing, the staff recommends that the special exception use be sent to the Common Council with a favorable recommendation. The staff recommends approval of the variances, however notes that variance number nine is no longer necessary.

**Analysis:**

Rezoning this site to MU Mixed Use will allow for the reuse and redevelopment of an underutilized build and vacant land. The special exception use will serve the residents and retail users of the site. The proposed development will fill a need in the neighborhood for affordable housing and local retail.

REZONING  
#2799-16






1 inch = 100 feet  
PORTAGE TOWNSHIP






Rezoning from: CITY OF SOUTH BEND in Clerk's Office  
 "SF2" SINGLE FAMILY AND TWO FAMILY DISTRICT,  
 "MU" MIXED USE DISTRICT, AND "PUD" PLANNED UNIT DEVELOPMENT DISTRICT  
 to "MU" MIXED USE DISTRICT

**MASTER ZONING KEY**

-  SOUTH BEND "SF2" SINGLE FAMILY AND TWO FAMILY DISTRICT
-  SOUTH BEND "MU" MIXED USE DISTRICT
-  SOUTH BEND "PUD" PLANNED UNIT DEVELOPMENT

OCT 19 2016

KAREEMAH FOWLER  
 CITY CLERK, SOUTH BEND, IN



1 inch = 100 feet

**APC # 2799-16**







AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

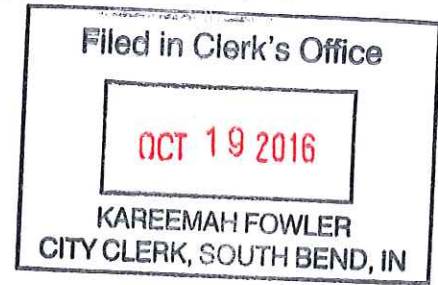
LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

October 19, 2016

South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601



RE: Bill # 52-16  
Rezoning: APC #2799 - 736 California and 808, 812, 824, 826, 828, 830, 832, 834, 836, 838, 906, 908, And 910 Portage Avenue

Dear Council Members:

The Area Plan Commission held a public hearing on October 18, 2016 for the above reference petition. This petition is set for public hearing before the Common Council on Monday, October 24, 2016.

**Ordinance & Petition Amendments:**

The following changes have been made to the above referenced petition:

Petition:

- 1.) An owner's name was added.
- 2.) The variances were updated.

A Copy of the revised Petition is attached.

**Public Hearing Summary:**

There was 4 persons that spoke in opposition to the proposed rezoning.

- 1) Brenda Lucas – She was ok with using the existing building. The lack of provided parking and traffic generated by proposed uses is a problem. Concerned about maintaining a quiet neighborhood.
- 2) Larry Lucas – Concerned for security of residents. Crime is an issue in this neighborhood. Sidewalks don't get shoveled in the winter.
- 3) Robert Bollman Jr. – Stated that the area designated for future development will never be developed. Parking is a problem in the area. He was concerned about dumpster screening, also what kind of development and where would they park.
- 4) Charlene Bollman – Grass doesn't get mowed on the City property. In the past the site had drainage problems. It's a disgrace that the building has sat there like this for so many years. She tried to purchase the properties from the City, was told in the past that the only thing that would go in there would be single family homes.



If you have any further questions, please feel free to contact me at (574) 235-9571.

Sincerely,

A handwritten signature in cursive script that reads "Keith Chapman". The signature is written in black ink and is positioned above the typed name.

Keith Chapman, Planner

CC: Kathleen Cekanski-Farrand

PETITION FOR ZONE MAP AMENDMENT  
City of South Bend, Indiana

**I (we) the undersigned make application to the City of South Bend Common Council to amend the zoning ordinance as herein requested.**

1) The property sought to be rezoned is located at:

*Address(es) -736 California Avenue and 808, 812, 824,826, 828, 830, 832, 834, 836,838, 906, 908, 910 Portage Avenue, South Bend, Indiana 46616.*

2) The property Tax Key Number(s) is/are: *Enter property tax key number(s):018-1062-2658, 018-1060-2535, 018-1060-2536, 018-1059-2488, 018-1059-2489, 018-1059-2490, 018-1059-2491, 018-1059-2492, 018-1059-2505.*

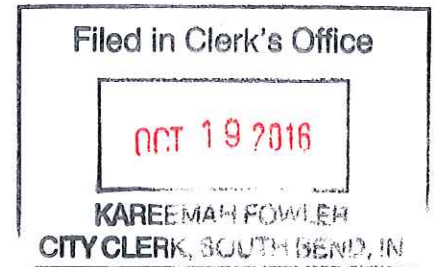
3) Legal Descriptions: *Enter full legal description: See attached.*

4) Total Site Area: *Enter total acres to be rezoned: 1.75 Acres.*

5) Name and address of property owner(s) of the petition site:

*Richard & Linda Ford  
908 Portage Avenue  
South Bend, Indiana 46616  
Ph. No. 317-848-5111  
E-Mail Address N/A*

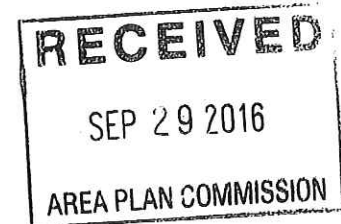
*Civil City of South Bend  
227 West Lafayette Blvd., Suite 1400  
South Bend, Indiana 46601  
Ph. No.574-235-9371  
E-Mail Address N/A*



Name and address of additional property owners, if applicable:

6) Name and address of contingent purchaser(s), if applicable:

*N/A*



Name and address of additional property owners, if applicable:

7) It is desired and requested that this property be rezoned:

From: SF2 Single Family Two Family District PUD Planned Unit Development District  
& MU Mixed Use District  
To: MU Mixed Use District

8) This rezoning is requested to allow the following use(s): *Insert intended use(s): Commercial and Residential Uses.*

IF VARIANCE(S) ARE BEING REQUESTED (if not, please skip to next section):

1) *List each variance being requested. See attached.*

2) A statement on how each of the following standards for the granting of variances is met:

- (a) The approval will not be injurious to the public health, safety, morals and general welfare of the community: *See Attached*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: *See Attached*
- (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: *See Attached*

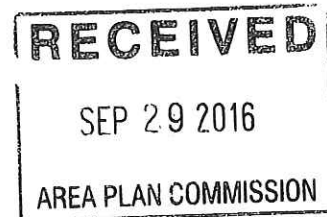
IF A SPECIAL EXCEPTION USE IS BEING REQUESTED, (if not, please skip to next section):

- 1) A detailed description and purpose of the Special Exception Use(s) being requested: *See Attached*
- 2) A statement on how each of the following standards for the granting of a Special Exception Use is met:
  - (a) The proposed *use* will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare: *See Attached*
  - (b) The proposed *use* will not injure or adversely affect the *use* of the adjacent area or property values therein: *See Attached*
  - (c) The proposed *use* will be consistent with the character of the *district* in which it is located and the land uses authorized therein; and: *See Attached*
  - (d) The proposed use is compatible with the recommendations of the City of South Bend Comprehensive Plan. *See Attached*

\* In the case of a Special Exception Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

CONTACT PERSON:

*Name: Danch, Harner & Associates, Inc.  
 Address: 1643 Commerce Drive  
 South Bend, Indiana 46628  
 574-234-4003 mdanch@danchharner.com*



**BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA PLAN COMMISSION AND COMMON COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS THEREON.**

Signature(s) of all property owner(s), or signature of Attorney for all property owner(s):

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Legal Descriptions for rezoning:

That part of the Northeast Quarter of Section 2, Township 37 North, Range 2 East, Portage Township, City of South Bend, St. Joseph County, Indiana which is described as: Lots # 113, # 114, # 115 and Lot # 112 of the Plat of "Shetterley Place 3<sup>rd</sup> Plat" now a part of the City of South Bend as recorded in Plat Book # 5, on Page # 60 in the records of the St. Joseph County, Indiana Recorder's office, excepting the East 35 feet of said Lot # 112, Lot "A", and also including Lot # 33 of the Plat of "Shetterley Place 2<sup>nd</sup> Plat" to the City of South Bend as recorded in Plat Book # 5 on Page # 44 in the records of said Recorder's office.

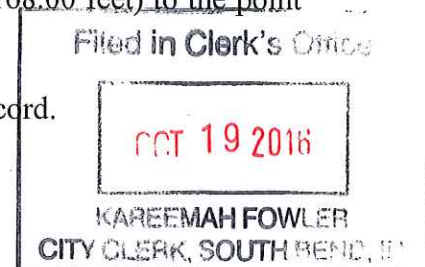
Containing 0.96 acres more or less.

Subject to all legal highways, easements and restrictions of record.

Also that Part of the Northeast and Southeast Quarters of Section 2, Township 37 North, Range 2 East, City of South Bend, Portage Township, St. Joseph County, Indiana, being Lots # 34-37 of the recorded Plat of "Shetterley Place 2<sup>nd</sup> Plat", to the City of South Bend, Indiana as recorded in Plat Book # 5, Page # 44 in the office of the Recorder of St. Joseph County, Indiana, also Lot # 7 of the recorded Plat of "C.E. Smith's Subdivision of Lots numbered 38, 39, 40 & 41 of Shetterley Place, 2<sup>nd</sup> Plat", to the City of South Bend, recorded May 3, 1916 in the office of the Recorder of St. Joseph County, Indiana in Plat Book # 10, Page # 10, and being more particularly described as beginning at the Northeasterly corner of said Lot # 34; thence South 43°09'35" East along the West line of a 14 foot wide Public Alley, 174.03 feet (Rec. 174.10 feet) to the Northeast corner of said Lot # 34; thence South 46°32'49" West, 35.14 feet (Rec. 35.00 feet) to the Northwest corner of said Lot # 7; thence South 43°11'52" East along the Northerly line of said Lot # 7, 32.56 feet (Rec. 32.66 feet) to the Northeasterly corner of said Lot # 7; thence South 46°32'49" West along the Southerly line of said Lot # 7, 97.39 feet (rec. 97.00 feet) to the Northerly right-of-way of Portage Avenue; thence North 43°12'56" West along the Northerly right-of-way line of Portage Avenue, 316.67 feet (Rec. 315.46 feet); thence North 22°54'31" East, 8.91 feet to the South right-of-way line of Rex Street; thence North 89°01'58" East along said south right-of-way line, 168.27 (Rec. 168.00 feet) to the point of beginning.

Containing 0.79 acres more or less.

Subject to all legal right-of-ways, easements and restrictions of record.



Legal Descriptions for special exceptions:

That part of the Northeast Quarter of Section 2, Township 37 North, Range 2 East, Portage Township, City of South Bend, St. Joseph County, Indiana which is described as: Lots # 112 of the Plat of "Shetterley Place 3<sup>rd</sup> Plat" now a part of the City of South Bend as recorded in Plat Book # 5, on Page # 60 in the records of the St. Joseph County, Indiana Recorder's office, excepting the East 35 feet of said Lot # 112.

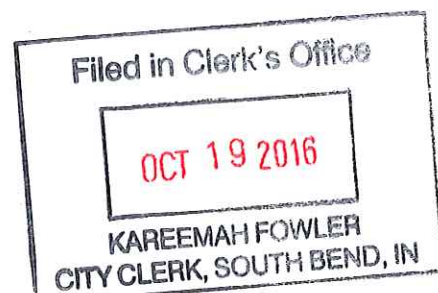
Containing 0.07 acres more or less.

Subject to all legal highways, easements and restrictions of record.

Also that Part of the Northeast and Southeast Quarters of Section 2, Township 37 North, Range 2 East, City of South Bend, Portage Township, St. Joseph County, Indiana, being Lots # 34-37 of the recorded Plat of "Shetterley Place 2<sup>nd</sup> Plat", to the City of South Bend, Indiana as recorded in Plat Book # 5, Page # 44 in the office of the Recorder of St. Joseph County, Indiana, also Lot # 7 of the recorded Plat of "C.E. Smith's Subdivision of Lots numbered 38, 39, 40 & 41 of Shetterley Place, 2<sup>nd</sup> Plat", to the City of South Bend, recorded May 3, 1916 in the office of the Recorder of St. Joseph County, Indiana in Plat Book # 10, Page # 10, and being more particularly described as beginning at the Northeasterly corner of said Lot # 34; thence South 43°09'35" East along the West line of a 14 foot wide Public Alley, 174.03 feet (Rec. 174.10 feet) to the Northeast corner of said Lot # 34; thence South 46°32'49" West, 35.14 feet (Rec. 35.00 feet) to the Northwest corner of said Lot # 7; thence South 43°11'52" East along the Northerly line of said Lot # 7, 32.56 feet (Rec. 32.66 feet) to the Northeasterly corner of said Lot # 7; thence South 46°32'49" West along the Southerly line of said Lot # 7, 97.39 feet (rec. 97.00 feet) to the Northerly right-of-way of Portage Avenue; thence North 43°12'56" West along the Northerly right-of-way line of Portage Avenue, 316.67 feet (Rec. 315.46 feet); thence North 22°54'31" East, 8.91 feet to the South right-of-way line of Rex Street; thence North 89°01'58" East along said south right-of-way line, 168.27 (Rec. 168.00 feet) to the point of beginning.

Containing 0.79 acres more or less.

Subject to all legal right-of-ways, easements and restrictions of record.



Requested Revised Variances & Special Exception

Variance Requests:

- 1). From the required minimum 5 ft. front yard setback to 0 ft.;
- 2). From the required minimum 20 ft. front yard setback for parking to 5 ft.;
- 3). From the required minimum 15 ft. side residential bufferyard to 5 ft. for a building, trash dumpster, parking and driveway;
- 4). From the required 15 ft. rear residential bufferyard to a minimum of 5 ft. for a Building, trash dumpster, parking and driveway;
- 5). From the required 15 ft. side and rear residential bufferyard to a minimum of 0 ft. for a balcony structure and driveway;
- 6). From the maximum allowed 40 ft. building height to 42 ft.;
- 7). From Type A landscaping of required perimeter yards to none;
- 8). From the required Type B landscaping of required side and rear perimeter yards to none;
- 9). From the required screening parking spaces to screening with small shrubs and trees;
- 10). From the required screening of dumpsters to none;
- 11). From the required 9'x20' parking spaces to a minimum of 9'x19';
- 12). From the required minimum 24 foot-wide maneuvering aisle to a minimum of 22 Feet wide; and
- 13). From the required 137 parking spaces to 37.

Special Exception Requests:

- 1). Approval of a Special Exceptions to allow for 2 proposed off-site Parking lots on properties zoned "MU" Mixed Use.

Requested Variances & Special Exception information:

The owners are in the process of working with an interested party who desires to transform the existing building into a mixed use development containing residential dwelling units and a commercial component that will serve the residential owners. This same project was approved previously in 2013 as a PUD Planned Unit Development. The project is proposed to use tax credits to development and renovate the existing building. As proposed a portion of the existing structure will be raised and rebuilt with new residential units being placed in the new and older sections of the building. A portion of the first floor and basement will be used for commercial uses as such as a café space, retail space, a bicycle repair space. The building will include an open landscaped courtyard area open to all building residents. There are also two areas that will be used to provide for parking for the residents. A small parking area to the east and a parking area located on the southeast corner of Portage Avenue and Rex Street. When the original project was done under the City's PUD zoning classification, the development standards were written to allow for the building renovation and a relaxation of parking and landscaping standards.

The owner's representative meet with the Area Plan Commission staff to review the project and the process required for allowing the development to be approved as proposed. Based on that meeting it was determined that the best way to proceed with the project would be to request a rezoning of the properties to the "MU" Mixed Use zoning classification. This would allow for the uses proposed without the requirement of a restrictive site plan as dictated under the City's PUD Planned Unit Development classification. The project was allowed under the "MU" classification with approval of variances for the proposed development and approval of Special Exceptions for the off-site parking areas. This would give the project more flexibility for the development.

Filed in Clerk's Office  
OCT 19 2016  
MARIE MAH KOWLER  
CITY CLERK, PUD BEND, IN

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The proposed development would require the following Variances: From the "Yards and building Setback requirements"; 1). From the required minimum 5 ft. front yard setback to 0 ft. ; 2). From the required minimum 20 ft. front yard setback for parking to 5 ft.; 3). From the required minimum 15 ft. side residential bufferyard to 5 ft. for a building, trash dumpster, parking and driveway; 4). From the required 15 ft. rear residential bufferyard to a minimum of 5 ft. for a building, trash dumpster, parking and driveway; 5). From the required 15 ft. side and rear residential bufferyard to a minimum of 0 ft. for a balcony structure and driveway;

The proposed site plan shows the building at the property line along Portage Avenue, California Street and Rex Street. A major portion of the existing building was along these property lines. The owners desire to remove old sections of the structure and replace them with a new structure to house the residential portion of the development. The building will be kept back 5 feet from the property line adjacent to the east where a 14 ft. public alley presently exists. The proposed parking areas will be placed as close as 5 ft. from a property line for the small parking area and trash dumpster located along California Street and both will be landscaped with trees, and evergreen and deciduous shrubs to create a visual buffer. An ornamental fence will be placed along the public street side of the parking area. The proposed parking area on the southeast corner of Portage Avenue and Rex Street would be kept back 15 ft. from the street right-of-way line to allow for a landscape area and ornamental fencing. Along the alley there will be a 5 ft. setback which will be landscaped as well.

The building may have small balconies which would be located on the east side of the building adjacent to the public alley. If any balconies are located toward the public street side of the building the owners would be required to ask for approval of an encroachment into those public right-of-ways with the Board of Public Works. There would also be a driveway for the south parking area which would be used to access the adjacent alley from the parking lot which would encroach into the side & rear residential bufferyard. The owners do not believe these requests would have a negative effect on any surrounding property.

The next Variance required is: 6). From the maximum allowed 40 ft. building height to 42 ft. The existing and proposed portions of the building would have a maximum height of 42 feet and the owners would ask to be allowed to have this as the maximum permitted height for all renovations which would also include elevator equipment room on the existing building rooftop and for possible future solar panels. The owners do not believe this height would have an adverse impact on any adjacent property.

The next set of Variance requests are from the Landscaping requirement of the ordinance, more specifically from: 7). From Type A landscaping of required perimeter yards to none; 8). From the required Type B landscaping of required side and rear perimeter yards to none; 9). From the required screening parking spaces to screening with small shrubs and trees; 10). From the required screening of dumpsters to none.

The plan as shown would, if allowed placed over-story deciduous trees along the streetscape for Portage Avenue. This would allow for a visual break of the building façade along this portion of the project site. This would still allow for the intent of providing Type A perimeter landscaping for the project site. Trees and shrubs would also be placed along the perimeter of the two parking areas to provide a visual break from the adjacent streets and adjacent properties. This landscaping would replace the type B landscaping. The proposed dumpster location will be screened from the adjacent residential properties by an evergreen screen placed along the east property line. The remaining two sides of the dumpster will be enclosed with a solid wall and the front of the dumpster will have gates with materials to screen the dumpster from view off the alley. As the building would be placed on the property line along the main streets, no foundation landscaping would be provided. This situation presently exists for the existing structure. The owners do not believe approval of these requests will have a negative impact on surrounding properties.

The next set of Variance requests are from the Parking regulations and more specifically from; 11). From the required 9'x20' parking spaces to a minimum of 9'x19'; 12). From the required

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minimum 24 foot-wide maneuvering aisle to a minimum of 22 feet wide; and 13). From the required 137 parking spaces to 37.

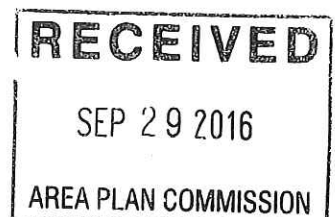
These variances are similar to the development standards that were approved under the previously approved PUD. The owners are asking for a variance to use 19 foot deep parking spaces instead of 20 foot and from the minimum 24 foot-wide maneuvering aisle to 22 feet wide. These sizes do work well in developments and allow for less of a heat island effect for parking areas. The request for the reduction in parking for the retail space is based on the retail uses are focused on the residents in the building and providing them with needed services. It is also based on providing adjacent neighborhood residents with local access to retail that they can walk to from their homes without the need of using their cars. A large portion of the retail space is in the basement of the building which again reduces the street exposure for the retail uses and reduces the amount of passing vehicles that would stop at this development. The request for the reduction of parking spaces for the residential dwelling units is based on the premise that this development is located on a main public transportation route for the City. It is envisioned that a portion of the residents of this development will use public transportation to get to work and that if they have vehicles, they would most likely have a single vehicle. This helps to eliminate the need to provide an excess amount of parking that would not be used. The owners do not believe these requests would have a negative effect on any surrounding property.

The owners would ask the Commission members to agree that the approval of the above requested Variances, will not be injurious to the public health, safety, morals and general welfare of the community and the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and, that the strict application of the terms of this Ordinance would result in practical difficulties in the use of the property.

With regards to the proposed Special Exceptions, the owners are also requesting approval of a for each of the two off-site parking areas shown on the attached site plan. The project site is bisected by a Public Alley on the east and Rex Street on the south. As designed there are two parking areas proposed for the project. Based on the zoning ordinance the only way to use the two parking areas for the project is to request approval of a Special Exception for each lot. This is considered off-site parking and is allowed as a Special Exception. The parking areas are adjacent to the property where the building is located and provides easy access for residents. The parking areas will be landscaped to soften the appearance of the paved parking spaces from the street and the adjacent properties.

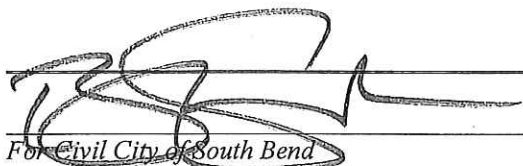
The owners would state that they believe approval of the Special Exceptions for the proposed off-site parking *use as described above*, will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare, nor will the proposed *use* will not injure or adversely affect the *use* of the adjacent area or property values therein. The proposed *use* will be consistent with the character of the *district* in which it is located and the land uses authorized therein. The owners would state that, there are similar off-site parking areas located in this neighborhood. The owners would state that the proposed use is compatible with the recommendations of the City of South Bend *Comprehensive Plan*. Several areas in this neighborhood are zoned as MU Mixed Use, which have the potential for off-site parking. Most properties' in this neighborhood are small and would require the use of off-site parking to provide spaces for permitted and proposed uses in existing buildings.

The owners would ask for approval of the Special Exceptions for the proposed off-site parking areas.





Signature(s) of All Property owner(s), or  
signature of Attorney for all property owner(s):



For ~~Civil City of~~ South Bend  
227 West Jefferson Blvd.  
Suite 1200

South Bend, Indiana 46601

E-Mail Address N/A

Ph. No. 231-9337

Brian J. Pawlowski  
Interim Director, Dept. of Community  
Investment

Ph. No. \_\_\_\_\_

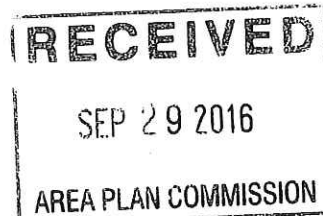
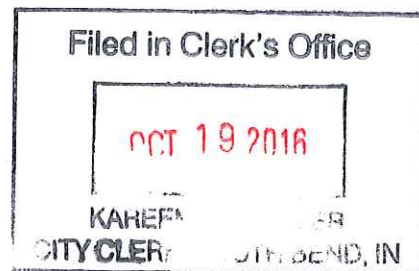
PETITION PREPARED BY & CONTACT PERSON:

Name: *Danch, Harner & Associates, Inc.*

Address: 1643 Commerce Drive

South Bend, Indiana 46628

574-234-4003 [mdanch@danchharner.com](mailto:mdanch@danchharner.com)



Signature(s) of All Property owner(s), or  
signature of Attorney for all property owner(s):

Richard Ford

Richard Ford  
908 Portage Avenue  
South Bend, Indiana 46616  
E-Mail Address N/A  
Ph. No. 305 394 1706

Linda Ford

Linda Ford  
908 Portage Avenue  
South Bend, Indiana 46616  
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Ph. No. 305-395-0430

PETITION PREPARED BY & CONTACT PERSON:

Name: *Danch, Harner & Associates, Inc.*  
Address: 1643 Commerce Drive  
South Bend, Indiana 46628  
574-234-4003 [mdanch@danchharner.com](mailto:mdanch@danchharner.com)

