



OFFICE OF THE CITY CLERK  
KAREEMAH FOWLER, CITY CLERK

**MEMORANDUM**

**TO:** MEMBERS OF THE COMMON COUNCIL  
**FROM:** KAREEMAH FOWLER, CITY CLERK  
**DATE:** FEBRUARY 21, 2019  
**SUBJECT:** COMMITTEE MEETING NOTICE

The following Common Council Committee Meetings have been scheduled for **Monday, February 25, 2019:**

Council Informal Meeting Room  
4<sup>th</sup> Floor County-City Building  
227 W. Jefferson Blvd.  
South Bend, IN 46601

**2019 ORGANIZATIONAL COMMITTEE MEETINGS**

|                         |  |                            |
|-------------------------|--|----------------------------|
| <b><u>3:30 P.M.</u></b> | <b><u>COMMUNITY INVESTMENT</u></b><br>1. Organizational Meeting  | CHAIRPERSON, FERLIC        |
| <b><u>3:37 P.M.</u></b> | <b><u>RESIDENTIAL NEIGHBORHOODS</u></b><br>1. Organizational Meeting   | CHAIRPERSON, WHITE         |
| <b><u>3:44 P.M.</u></b> | <b><u>PARC</u></b><br>1. Organizational Meeting  | CHAIRPERSON, MCBRIDE       |
| <b><u>3:51 P.M.</u></b> | <b><u>PUBLIC WORKS &amp; PROPERTY VACATION</u></b><br>1. Organizational Meeting  | CHAIRPERSON, VOORDE        |
| <b><u>3:58 P.M.</u></b> | <b><u>COMMUNITY RELATIONS</u></b><br>1. Organizational Meeting   | CHAIRPERSON, PRESTON       |
| <b><u>4:05 P.M.</u></b> | <b><u>ZONING &amp; ANNEXATION</u></b><br>1. Organizational Meeting   | CHAIRPERSON, DAVIS         |
| <b><u>4:12 P.M.</u></b> | <b><u>PUBLIC WORKS &amp; PROPERTY VACATION</u></b><br>1. <a href="#">Bill No. 05-19</a> - Alley Vacation- East/West portion of Dubail Street   | <b>CHAIRPERSON, VOORDE</b> |
| <b><u>4:22 P.M.</u></b> | <b><u>HEALTH &amp; PUBLIC SAFETY</u></b><br>1. <i>Substitute</i> <a href="#">Bill No. 03-19</a> - New Article 14 to Chapter 6 of the South Bend Municipal Code Rental Safety Verification Program  | <b>CHAIRPERSON, BRODEN</b> |
| <b><u>4:52 P.M.</u></b> | <b><u>ZONING &amp; ANNEXATION</u></b><br>1. <a href="#">Bill No. 69-18</a> - 2610 E. Jefferson Boulevard Zoning Amendment<br>2. <i>Substitute</i> <a href="#">Bill No. 02-19</a> - 2307 Edison Road Rezoning<br>3. <i>Substitute</i> <a href="#">Bill No. 19-01</a> - Special Exception: 3602 West Sample Street<br>4. <a href="#">Bill No. 19-04</a> - Special Exception: 1119 Lincoln Way West | <b>CHAIRPERSON, DAVIS</b>  |

Council President Tim Scott has called an **Informal Meeting** of the Council which will commence immediately after the adjournment of the Zoning & Annexation Committee Meeting.

INTEGRITY | SERVICE | ACCESSIBILITY

JENNIFER M. COFFMAN  
CHIEF DEPUTY/DIRECTOR OF OPERATIONS

BIANCA L. TIRADO  
DEPUTY/DIRECTOR OF POLICY

JOSEPH R. MOLNAR  
ORDINANCE VIOLATION CLERK

EXCELLENCE | ACCOUNTABILITY | INNOVATION | INCLUSION | EMPOWERMENT

455 County-City Building | 227 W. Jefferson Blvd. | South Bend, Indiana 46601 | p 574.235.9221 | f 574.235.9173 | www.southbend.in.gov



**INFORMAL MEETING OF THE COMMON COUNCIL**

**PRESIDENT, T. SCOTT**

1. Discussion of Council Agenda
2. Update and Announcements
3. Adjournment

cc: Mayor Pete Buttigieg  
Committee Meeting List  
Media

**NOTICE FOR HEARING AND SIGHT IMPAIRED PERSONS**  
Auxiliary Aid or Other Services may be Available upon Request at No Charge.  
Please give Reasonable Advance Request when Possible



## **SOUTH BEND COMMON COUNCIL**

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### **MEETING AGENDA**

Monday, February 25, 2019  
7:00 P.M.

1. **INVOCATION- MINISTER LAQUITA ALDRIDGE-HUGHES- NEW HORIZONS OUTREACH MINISTRIES**
2. **PLEDGE TO THE FLAG**
3. **ROLL CALL**
4. **REPORT FROM THE SUB-COMMITTEE ON MINUTES**
5. **SPECIAL BUSINESS**
6. **REPORTS FROM CITY OFFICES**
7. **COMMITTEE OF THE WHOLE** **TIME: \_\_\_\_\_**  
BILL NO.

[69-18](#) PUBLIC HEARING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE AND SEEKING A SPECIAL EXCEPTION FOR PROPERTY LOCATED AT 2610 EAST JEFFERSON BOULEVARD, COUNCILMANIC DISTRICT NO. 3 IN THE CITY OF SOUTH BEND, INDIANA

[02-19](#) PUBLIC HEARING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 2307 EDISON ROAD, COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

[03-19](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER SIX OF THE SOUTH BEND MUNICIPAL CODE BY ADDING A NEW ARTICLE 14 TITLED RENTAL SAFETY VERIFICATION PROGRAM

[05-19](#) PUBLIC HEARING ON AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE EAST/WEST PORTION OF DUBAIL ST. 29.8' IN WIDTH RUNNING WEST APPROX. 303' FROM RIGHT-OF-WAY OF S. OLIVE ST TO PARCEL 018-8102-3875

8. **BILLS ON THIRD READING**

TIME: \_\_\_\_\_

BILL NO.

69-18 THIRD READING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE AND SEEKING A SPECIAL EXCEPTION FOR PROPERTY LOCATED AT 2610 EAST JEFFERSON BOULEVARD, COUNCILMANIC DISTRICT NO. 3 IN THE CITY OF SOUTH BEND, INDIANA

02-19 THIRD READING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 2307 EDISON ROAD, COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

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9. **RESOLUTIONS**

BILL NO.

19-01 A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE AREA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 3602 WEST SAMPLE STREET

19-04 A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE AREA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 1119 LINCOLNWAY WEST

10. **BILLS ON FIRST READING**

11. **UNFINISHED BUSINESS**

12. **NEW BUSINESS**

13. **PRIVILEGE OF THE FLOOR**

14. **ADJOURNMENT**

TIME: \_\_\_\_\_

**Notice for Hearing and Sight Impaired Persons**  
**Auxiliary Aid Or Other Services Are Available Upon Request At No Charge.**  
**Please Give Reasonable Advance Request When Possible.**

*In the interest of providing greater public access and to promote greater transparency, the South Bend Common Council agenda has been translated into Spanish. All agendas are available online from the Council's website, and also in paper format in the Office of the City Clerk, 4<sup>th</sup> Floor County-City Building. Reasonable efforts have been taken to provide an accurate translation of the text of the agenda, however, the official text is the English version. Any discrepancies which may be created in the translation, are not binding. Such translations do not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the Common Council or the City of South Bend, Indiana.*





## 2019 COMMON COUNCIL STANDING COMMITTEES (Rev. 01-10-19)

### COMMUNITY INVESTMENT COMMITTEE

Oversees the various activities of the Department of Community Investment. This Committee reviews all real and personal tax abatement requests and works closely with the Business Development Team.

Gavin Ferlic, Chairperson

Regina Williams-Preston, Vice-Chairperson

Oliver J. Davis, Member

Sharon L. McBride, Member

### COMMUNITY RELATIONS COMMITTEE

Oversees the various activities of the Engagement and Economic Empowerment, Neighborhood Development, and Community Resources Teams within the City's Department of CI and is charged with facilitating partnerships and ongoing communications with other public and private entities operating within the City.

Regina Williams-Preston, Chairperson

Gavin Ferlic, Vice-Chairperson

John Voorde, Member

Jo M. Broden, Member

### COUNCIL RULES COMMITTEE

Oversees the regulations governing the overall operation of the Common Council, as well as all matters of public trust. Its duties are set forth in detail in Section 2-10.1 of the *South Bend Municipal Code*.

Tim Scott, Member

Jake Teshka, Member

Gavin Ferlic, Member

Karen L. White, Member

### HEALTH AND PUBLIC SAFETY COMMITTEE

Oversees the various activities performed by the Fire and Police Departments, EMS, Department of Code Enforcement, ordinance violations, and related health and public safety matters.

Jo M. Broden, Chairperson

Karen L. White, Vice-Chairperson

Oliver J. Davis, Member

John Voorde, Member

### INFORMATION AND TECHNOLOGY COMMITTEE- Innovation

Oversees the various activities of the City's Department of Innovation, which includes the Divisions of Information Technology and 311 so that the City of South Bend remains competitive and on the cutting edge of developments in this area. Reviewing and proposing upgrades to computer systems and web sites, developing availability and access to GIS data and related technologies are just some of its many activities.

Tim Scott, Chairperson

Gavin Ferlic, Vice-Chairperson

Jake Teshka, Member

Sharon L. McBride, Member

### PARC COMMITTEE- Venues Parks and Arts (Parks, Recreation, Cultural Arts & Entertainment)

Oversees the various activities of the Century Center, College Football Hall of Fame, Four Winds Stadium, Morris Performing Arts Center, Studebaker National Museum, South Bend Regional Museum of Art, Potawatomi Zoo, My SB Trails, DTSB relations, and the many recreational and leisure activities offered by the Department of Venues Parks and Arts.

Sharon L. McBride, Chairperson

Jake Teshka, Vice-Chairperson

Oliver J. Davis, Member

John Voorde, Member



## 2019 COMMON COUNCIL STANDING COMMITTEES (Rev. 01-10-19)

### **PERSONNEL AND FINANCE COMMITTEE**

Oversees the activities performed by the Department of Administration and Finance, and reviews all proposed salaries, budgets, appropriations and other fiscal matters, as well as personnel policies, health benefits and related matters.

Karen L. White, Chairperson  
John Voorde, Vice-Chairperson

Regina Williams-Preston, Member  
Jo M. Broden, Member

### **PUBLIC WORKS AND PROPERTY VACATION COMMITTEE**

Oversees the various activities performed by the Building Department, the Department of Public Works and related public works and property vacation issues.

John Voorde, Chairperson  
Sharon L. McBride, Vice-Chairperson

Jo M. Broden, Member  
Karen L. White, Member

### **RESIDENTIAL NEIGHBORHOODS COMMITTEE**

Oversees the various activities and issues related to neighborhood development and enhancement.

Karen L. White, Chairperson  
Jo M. Broden, Vice-Chairperson

Regina Williams-Preston, Member  
Sharon L. McBride, Member

### **UTILITIES COMMITTEE**

Oversees the activities of all enterprise entities including but not limited to the Bureau of Waterworks, Bureau of Sewers and all related matters.

Jake Teshka, Chairperson  
Oliver J. Davis, Vice-Chairperson

Sharon L. McBride, Member  
Regina Williams-Preston, Member

### **ZONING AND ANNEXATION COMMITTEE**

Oversees the activities related to the Board of Zoning Appeals, recommendations from the Area Plan Commission and the Historic Preservation Commission, as well as all related matters addressing annexation and zoning.

Oliver J. Davis, Chairperson  
John Voorde, Vice-Chairperson

Gavin Ferlic, Member  
Jo M. Broden, Member

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### **SUB-COMMITTEE ON MINUTES**

Reviews the minutes prepared by the Office of the City Clerk of the regular, special and informal meetings of the Common Council and makes a recommendation on their approval/modification to the Council

Tim Scott, Member  
Jake Teshka, Member



## 2019 COMMON COUNCIL STANDING COMMITTEES (Rev.01-10-19)

### **TIM SCOTT, 1<sup>ST</sup> District Council Member**

#### **President**

Information and Technology Committee, Chairperson

Council Rules Committee, Member  
Sub-Committee on Minutes, Member

### **REGINA WILLIAMS-PRESTON 2<sup>nd</sup> District Council Member**

Community Relations Committee, Chairperson

Community Investment Committee, Vice-Chairperson

Residential Neighborhood Committee, Member  
Personnel & Finance Committee, Member  
Utilities Committee, Member

### **SHARON L. MCBRIDE, 3<sup>rd</sup> District Council Member**

PARC Committee, Chairperson

Public Works & Property Vacation, Vice-Chair

Community Investment Committee, Member  
Information & Technology Committee, Member  
Utilities Committee, Member  
Residential Neighborhoods Committee, Member

### **JO M. BRODEN, 4<sup>TH</sup> District Council Member**

Health and Public Safety Committee, Chairperson

Residential Neighborhood Committee, Vice-Chairperson

Public Works & Property Vacation, Member  
Zoning & Annexation Committee, Member  
Community Relations Committee, Member  
Personnel and Finance Committee, Member

### **JAKE TESHKA, 5<sup>TH</sup> District Council Member**

Utilities Committee, Chairperson

PARC Committee, Vice-Chairperson

Council Rules Committee, Member  
Information and Technology Committee, Member  
Sub-Committee on Minutes, Member

### **OLIVER J. DAVIS, 6<sup>TH</sup> District Council Member**

Zoning & Annexation Committee, Chairperson

Utilities Committee, Vice-Chairperson

Community Investment Committee, Member  
Health & Public Safety Committee, Member  
PARC Committee, Member

### **GAVIN FERLIC, AT LARGE Council Member**

Community Investment Committee, Chairperson

Information & Technology Committee, Vice-Chairperson

Community Relations Committee, Vice-Chairperson

Council Rules Committee, Member  
Zoning & Annexation Committee, Member

### **KAREN L. WHITE, AT LARGE Council Member**

#### **Vice-President**

Residential Neighborhood Committee, Chairperson

Personnel & Finance Committee, Chairperson

Health & Public Safety Committee, Vice-Chairperson

Council Rules Committee, Member  
Public Works & Property Vacation, Member

### **JOHN VOORDE, AT LARGE Council Member**

#### **Chairperson, Committee of the Whole**

Public Works & Property Vacation, Chairperson

Zoning & Annexation Committee, Vice-Chairperson

Personnel and Finance Committee, Vice-Chairperson

Community Relations Committee, Member  
PARC Committee, Member  
Health and Public Safety Committee, Member





AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

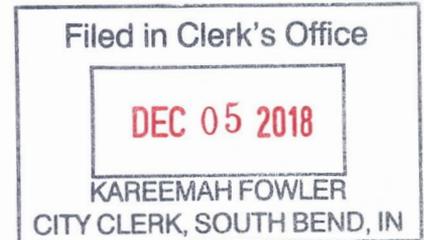
LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

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

December 5, 2018

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



RE: 2610 E. Jefferson Boulevard  
APC# 2884-18

Dear Council Members:

Enclosed is an Ordinance for the proposed Zoning Ordinance Amendment. Please include the attached Ordinance on the Council agenda for first reading at your December 10<sup>th</sup>, 2018 Council meeting, and set it for public hearing at your January 28<sup>th</sup>, 2019 Council meeting. The petition is tentatively scheduled for public hearing at the January 15<sup>th</sup>, 2018 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.

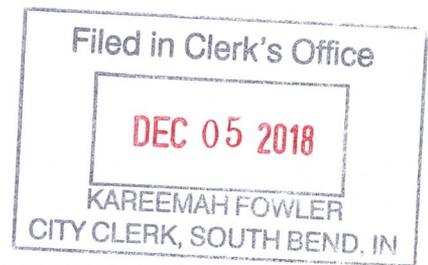
If you have any questions, please feel free to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Jordan Wyatt".

Jordan Wyatt  
Planner

CC: Bob Palmer



**BILL NO. 69-18**

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

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**AN ORDINANCE AMENDING THE ZONING ORDINANCE AND SEEKING A SPECIAL EXCEPTION FOR PROPERTY LOCATED AT 2610 EAST JEFFERSON BOULEVARD, COUNCILMANIC DISTRICT NO. 3 IN THE CITY OF SOUTH BEND, INDIANA**

**STATEMENT OF PURPOSE AND INTENT**

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Petitioners desire to rezone the property from OB to MF1 and seek a Special Exception Use for a group residence.

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

SECTION I. 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:

A part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 37 North, Range 3 East, St. Joseph County, Indiana, lying North of the right-of-way of the Grand Trunk Western Railroad, now within and a part of the City of South Bend, Indiana, more particularly described as follows:

Beginning at a point 62.5 feet South and 971.57 feet West of the Northeast corner of said Quarter-Quarter Section, said point being the intersection of the South line of Jefferson Boulevard with the West line of a 13 foot public alley; thence South 90°00'00" West along said South line of Jefferson Boulevard, 141.50 feet to the intersection of said South line with the East line of 26th Street; thence South 00°02'00" East along said East line 157.65 feet; thence North 90°00'00" East, 141.50 feet to the West line of a 13 foot public alley; thence North 00°02'00" West, along said West line 157.65 feet to the place of beginning.

EXCEPTING THEREFROM, A part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 37 North, Range 3 East, St. Joseph County, Indiana, lying North of the Right-of-Way of the Grand Trunk Western Railroad, now within and a part of the City of South Bend, Indiana, more particularly described as follows:

Beginning at a point 62.5 feet South and 1064.07 feet West of the Northeast corner of said

Quarter-Quarter Section, said point being 92.50 feet West of the intersection of the South line of Jefferson Boulevard with the West line of a 13 foot public alley; thence South 90°00'00" West along the South line of Jefferson Boulevard, 48.90 feet to the intersection of said South line with the East line of 26th Street; thence South 00°02'00" East along said East line 157.65 feet; thence North 90°00'00" East 59.30 feet; thence North 00°02'00" West 72.45 feet; thence South 90°00'00" West, 10.40 feet; thence North 00°02'00" West, 85.20 feet to the place of beginning.

be and the same is hereby established as MF1 Urban Corridor Multifamily District.

SECTION II. That a Special Exception Use for a *group residence* in a *MF1 Urban Corridor Multifamily 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 is and shall be subject to commitments as provided by Chapter 21-09.02(d) Commitments, if applicable.

SECTION IV. 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, and full execution of any conditions or Commitments placed upon the approval.

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Tim Scott, Council President  
South Bend Common Council

Attest:

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Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_ . m.

---

Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, at \_\_\_\_ o'clock \_\_\_\_ .m.

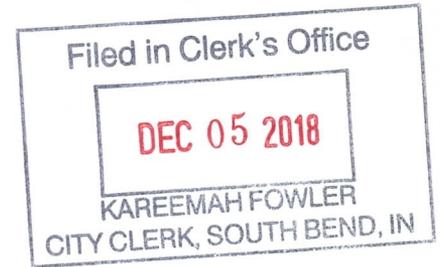
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Pete Buttigieg, Mayor  
City of South Bend, Indiana

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:  
*2610 East Jefferson Boulevard  
South Bend, Indiana 46615*
- 2) The property Tax Key Number(s) is/are: *018-6139-4715*
- 3) Legal Descriptions: *See Attached*
- 4) Total Site Area: *13,836.39 square feet: 0.318 acres*
- 5) Name and address of property owner(s) of the petition site:  
*Richard D. Patterson  
Think Big, LLC, an Indiana limited liability company  
2610 East Jefferson Boulevard  
South Bend, Indiana 46615  
574 271-1771  
drdougpaterson@gmail.com*

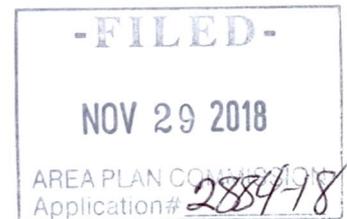


Name and address of additional property owners, if applicable:

- 6) Name and address of contingent purchaser(s), if applicable:  
*Tia Corp., a Michigan corporation  
121 Capital Avenue N.E.  
Battle Creek, Michigan 49017  
269 704-7563  
spowell@rehabadmin.com*

Name and address of additional property owners, if applicable:

- 7) It is desired and requested that this property be rezoned:  
  
From: *Choose current zoning district OB Office Buffer District*  
  
To: *MF1 Urban Corridor Multifamily District*
- 8) This rezoning is requested to allow the following use(s): *Group Residence*



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

- 1) *List each variance being requested. Contact Commission Staff if you need assistance with wording.*
- 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: *Please explain how your variance petition addresses this criteria*
  - (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: *Please explain how your variance petition addresses this criteria*
  - (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: *Please explain how your variance petition addresses this criteria*

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

1) The Special Exception Use(s) being requested: *Group Residence*

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: *There will be no changes to the exterior of the building or parking lot and the public will not be affected by the new use.*
- (b) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein: *The adjacent area is multi-family and residential in use, which is the intended use of this property. Therefor the use and value of the adjacent properties will not be affected*
- (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: *The surrounding properties are residential in nature as is the proposed use of this property*
- (d) The proposed use is compatible with the recommendations of the Comprehensive Plan. *As residential in nature, the property is compatible with the Comprehensive Plan*

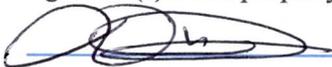
\* In the case of a Special Exception Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

**CONTACT PERSON:**

*Edward M. Fisher  
303 East Third Street  
Mishawaka, Indiana 46544  
(574) 255-8377  
fishersurvey@aol.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):

 owner \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- FILED -  
NOV 29 2018  
AREA PLAN COMMISSION  
Application# 2884-18

EXHIBIT "A"

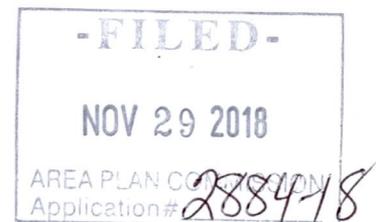
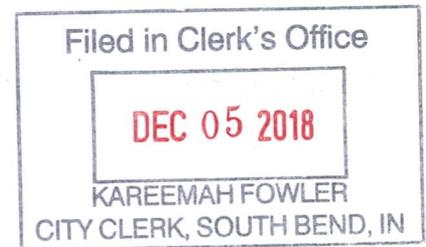
A part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 37 North, Range 3 East, St. Joseph County, Indiana, lying North of the right-of-way of the Grand Trunk Western Railroad, now within and a part of the City of South Bend, Indiana, more particularly described as follows:

Beginning at a point 62.5 feet South and 971.57 feet West of the Northeast corner of said Quarter-Quarter Section, said point being the intersection of the South line of Jefferson Boulevard with the West line of a 13 foot public alley; thence South 90°00'00" West along said South line of Jefferson Boulevard, 141.50 feet to the intersection of said South line with the East line of 26th Street; thence South 00° 02'00" East along said East line 157.65 feet; thence North 90° 00'00" East, 141.50 feet to the West line of a 13 foot public alley; thence North 00°02'00" West, along said West line 157.65 feet to the place of beginning.

EXCEPTING THEREFROM, A part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 37 North, Range 3 East, St. Joseph County, Indiana, lying North of the Right-of-Way of the Grand Trunk Western Railroad, now within and a part of the City of South Bend, Indiana, more particularly described as follows:

Beginning at a point 62.5 feet South and 1064.07 feet West of the Northeast corner of said Quarter-Quarter Section, said point being 92.50 feet West of the intersection of the South line of Jefferson Boulevard with the West line of a 13 foot public alley; thence South 90°00'00" West along the South line of Jefferson Boulevard, 48.90 feet to the intersection of said South line with the East line of 26th Street; thence South 00°02'00" East along said East line 157.65 feet; thence North 90°00'00" East 59.30 feet; thence North 00°02'00" West 72.45 feet; thence South 90°00'00" West, 10.40 feet; thence North 00°02'00" West, 85.20 feet to the place of beginning.

Property Address Reference: 2610 East Jefferson Boulevard, South Bend, IN 46615



*This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First American Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.*

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AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

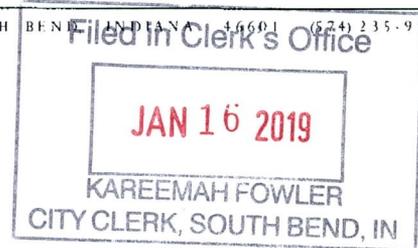
LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9371

Wednesday, January 16, 2019

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 D. Patterson to zone from OB Office Buffer District to MF1 Urban Corridor Multifamily District and seeking a Special Exception Use for a group residence, property located at 2610 East Jefferson Boulevard, City of South Bend - APC# 2884-18.

Dear Council Members:

I hereby Certify that the above referenced ordinance of Richard D. Patterson was legally advertised on January 3, 2019 and that the Area Plan Commission at its public hearing on January 15, 2019 took the following action:

Upon a motion by John McNamara, being seconded by Rick Kennedy and carried, a proposed ordinance of Richard D. Patterson to zone from OB Office Buffer District to MF1 Urban Corridor Multifamily District, property located at 2610 East Jefferson Boulevard, City of South Bend, is sent to the Common Council with an UNFAVORABLE recommendation.

Upon a motion by Elizabeth Maradik, being seconded by Adam DeVon and carried, a proposed Special Exception Use for a Group Residence, property located at 2610 East Jefferson Boulevard, City of South Bend, is 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 D. Patterson  
Tia Corp., A Michigan Corporation

**Staff Report**

1/7/2019

APC # 2884-18  
Owner: Richard D. Patterson  
Location: 2610 East Jefferson Boulevard  
Jurisdiction: City of South Bend  
Public Hearing Date: 1/15/2019

**Requested Action:**

The petitioner is requesting a zone change from OB Office Buffer District to MF1 Urban Corridor Multifamily District and seeking a Special Exception Use for a group residence.

**Land Uses and Zoning:**

- On site: On site is an office building and parking lot.
- North: To the north, across Jefferson Boulevard, are single-family homes zoned MF2 High Density Multifamily District.
- East: To the east is an office zoned OB Office Buffer District.
- South: To the south are two-family homes zoned MF1 Urban Corridor Multifamily District.
- West: To the west is an office zoned OB Office Buffer District.

**District Uses and Development Standards:**

The MF1 District is established to protect, promote and maintain the development of urban style multifamily dwellings and to provide for limited public and institutional uses that are compatible with a multifamily residential neighborhood. The development standards are designed to promote the establishment of: multifamily dwelling projects (including apartment, townhouse or row house style developments); and, high density two family dwelling developments located along a block face, in developed areas of the community which are served by a full range of public amenities.

**Site Plan Description:**

The site plan shows the office and parking lot to remain and includes the proper screening and buffering.

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

This area has consistently featured multifamily and office zones since the adoption of the Zoning Ordinance in 2004.

**Traffic and Transportation Considerations:**

Jefferson Boulevard is four lanes.

**Utilities:**

The site is served by municipal sewer and water.

**Agency Comments:**

The Department of Community Investment offers a favorable recommendation.

**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 proposed use is consistent with City Plan, South Bend Comprehensive Plan (2006), Objective H1: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of households now and in the future.

**Land Use Plan:**

The Future Land Use Plan identifies this area for commercial development.

**Plan Implementation/Other Plans:**

There are no other plans in effect for this area.

**2. Current Conditions and Character:**

This area of Jefferson Boulevard has developed into a multifamily and office use corridor.

**3. Most Desirable Use:**

The most desirable use for this site is one that is consistent with the mixed use character of the area.

**4. Conservation of Property Values:**

The proposed use is compatible with the land use character of the area and should not adversely affect adjacent property values.

**5. Responsible Development And Growth:**

It is responsible development and growth to locate high density uses along major corridors.

This is a combined public hearing procedure, which includes a rezoning and a Special Exception Use. The Commission will forward the rezoning and Special Exception Use to the Council with or without a recommendation.

**The Petitioner is seeking a Special Use to allow:**

a Group Residence.

**A Special Exception 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 facility should not affect the public health, safety, or 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;**

The proposed use is compatible with the multifamily character of the area and should not adversely affect adjacent property values.

**(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 development is consistent with the character of the district and the

neighborhood. The building and parking are existing with no changes proposed to the exterior portion of the property.

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

The proposed use is consistent with City Plan, South Bend Comprehensive Plan (2006), Objective H1: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of households now and in the future.

**Staff Comments:**

The staff has no additional comments at this time.

**Recommendation:**

Based on information available prior to the public hearing, the staff recommends sending this rezoning petition and Special Exception Use to the Common Council with a favorable recommendation.

**Analysis:**

Rezoning the site to MF1 Urban Corridor Multifamily District is consistent with the surrounding properties. Approval of the Special Exception Use will provide housing and service options to meet the needs of the community.

REZONING  
#2884-18

ASPEN

26TH

WOODMERE

JEFFERSON

27TH

26TH

PORTAGE TOWNSHIP

1 inch = 100 feet

27TH



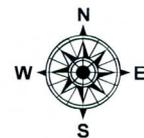


**Rezoning from: SOUTH BEND SF2 SINGLE FAMILY AND TWO FAMILY DISTRICT TO O OFFICE DISTRICT**

**MASTER ZONING KEY**

-  SOUTH BEND "MF1" URBAN CORRIDOR MULTIFAMILY DISTRICT
-  SOUTH BEND "MF2" HIGH-DENSITY MULTIFAMILY DISTRICT
-  SOUTH BEND "OB" OFFICE BUFFER DISTRICT
-  SOUTH BEND "O" OFFICE DISTRICT

Filed in Clerk's Office  
 JAN 16 2019  
 KAREEMAH FOWLER  
 CITY CLERK, SOUTH BEND, IN



1 inch = 100 feet

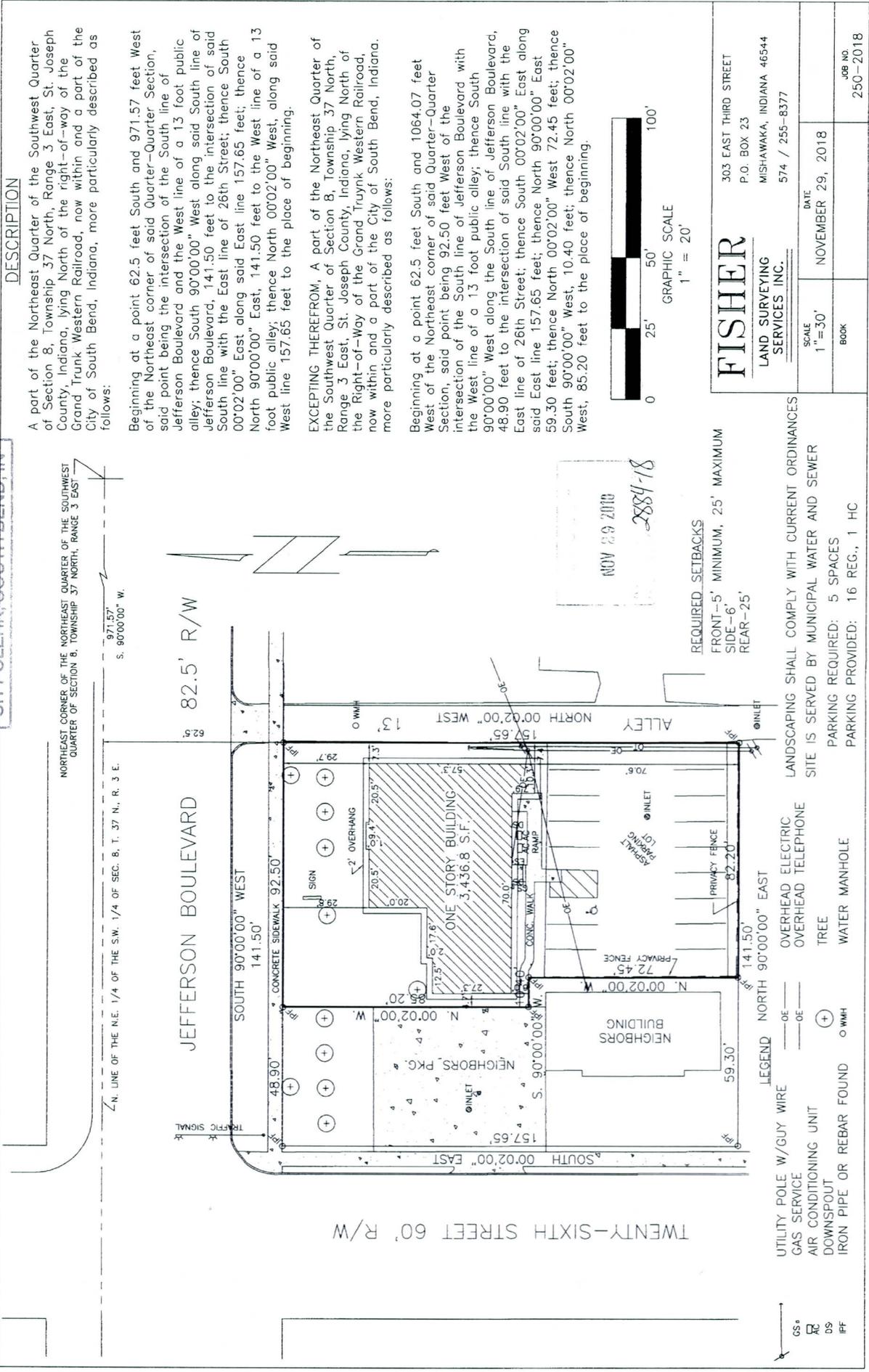
**APC # 2884-18**

Filed in Clerk's Office

JAN 16 2019

KAREEMAH FOWLER

CITY CLERK, SOUTH BEND, IN



**DESCRIPTION**

A part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 37 North, Range 3 East, St. Joseph County, Indiana, lying North of the right-of-way of the Grand Trunk Western Railroad, now within and a part of the City of South Bend, Indiana, more particularly described as follows:

Beginning at a point 62.5 feet South and 971.57 feet West of the Northeast corner of said Quarter-Quarter Section, said point being the intersection of the South line of Jefferson Boulevard and the West line of a 13 foot public alley; thence South 90°00'00" West along said South line of Jefferson Boulevard, 141.50 feet to the intersection of said South line with the East line of 26th Street; thence South 00°02'00" East along said East line 157.65 feet; thence North 90°00'00" East, 141.50 feet to the West line of a 13 foot public alley; thence North 00°02'00" West, along said West line 157.65 feet to the place of beginning.

EXCEPTING THEREFROM, A part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 37 North, Range 3 East, St. Joseph County, Indiana, lying North of the Right-of-Way of the Grand Trunk Western Railroad, now within and a part of the City of South Bend, Indiana, more particularly described as follows:

Beginning at a point 62.5 feet South and 1064.07 feet West of the Northeast corner of said Quarter-Quarter Section, said point being 92.50 feet West of the intersection of the South line of Jefferson Boulevard with the West line of a 13 foot public alley; thence South 90°00'00" West along the South line of Jefferson Boulevard, 48.90 feet to the intersection of said South line with the East line of 26th Street; thence South 00°02'00" East along said East line 157.65 feet; thence North 90°00'00" East 59.30 feet; thence North 00°02'00" West 72.45 feet; thence South 90°00'00" West, 10.40 feet; thence North 00°02'00" West, 85.20 feet to the place of beginning.



**FISHER**

LAND SURVEYING SERVICES INC.

303 EAST THIRD STREET  
P.O. BOX 23  
MISHAWAKA, INDIANA 46544  
574 / 255-8377

|                 |                           |
|-----------------|---------------------------|
| SCALE<br>1"=30' | DATE<br>NOVEMBER 29, 2018 |
| BOOK            | JOB NO.<br>250-2018       |

REQUIRED SETBACKS  
FRONT-5' MINIMUM, 25' MAXIMUM  
SIDE-6'  
REAR-25'

LANDSCAPING SHALL COMPLY WITH CURRENT ORDINANCES  
SITE IS SERVED BY MUNICIPAL WATER AND SEWER  
PARKING REQUIRED: 5 SPACES  
PARKING PROVIDED: 16 REG., 1 HC

LEGEND

- UTILITY POLE W/GUY WIRE
- GAS SERVICE
- AIR CONDITIONING UNIT
- DOWNSPOUT
- IRON PIPE OR REBAR FOUND
- OVERHEAD ELECTRIC
- OVERHEAD TELEPHONE
- TREE
- WATER MANHOLE

NOV 29 2018  
2581-18



AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

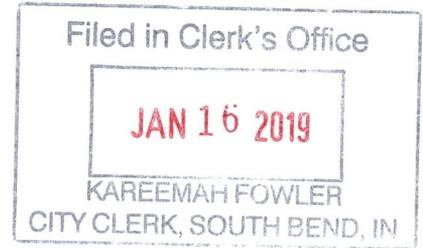
LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

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

January 16, 2019

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



RE: Bill #69-18  
Rezoning: APC#2884-18 – 2610 E. Jefferson Boulevard

Dear Council Members:

The Area Plan Commission held a public hearing on January 15<sup>th</sup>, 2019 for the above referenced petition. This petition is set for public hearing before the Common Council on Monday, January 28<sup>th</sup>, 2019.

**Ordinance & Petition Amendments:**

The where no changes to the ordinance.

**Public Hearing Summary:**

There were two people who spoke in opposition to the petition. Remonstrators spoke their concerns over safety in the area and security of the group residence itself. They thought the group residence was out of character with the area.

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

Sincerely,

Jordan Wyatt  
Planner

CC: Bob Palmer



AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

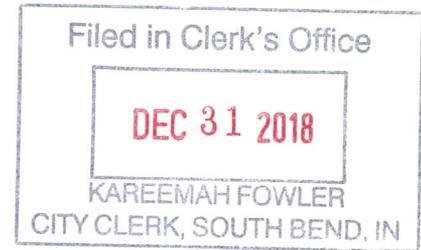
Angela M. Smith  
Deputy Director

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

December 31, 2018

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

RE: 2307 Edison Road  
APC# 2887-18



Dear Council Members:

Enclosed is an Ordinance for the proposed Zoning Ordinance Amendment. Please include the attached Ordinance on the Council agenda for first reading at your January 14<sup>th</sup>, 2019 Council meeting, and set it for public hearing at your February 25<sup>th</sup>, 2019 Council meeting. The petition is tentatively scheduled for public hearing at the February 19<sup>th</sup>, 2018 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,

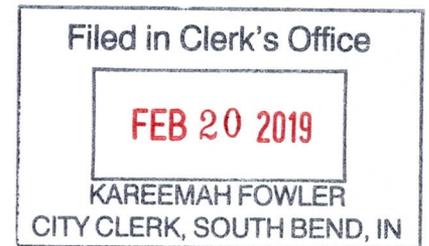
A handwritten signature in black ink, appearing to read "Jordan Wyatt".

Jordan Wyatt  
Planner

CC: Bob Palmer

SUBSTITUTE BILL NO. 02-19

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



AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED  
AT 2307 EDISON ROAD, COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH  
BEND, INDIANA

---

STATEMENT OF PURPOSE AND INTENT

---

Petitioners desire to rezone the property from CB Community Business District to MU Mixed Use District for a mixed-use building.

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:

A part of the Southwest Quarter of Section 32, Township 38 North, Range 3 East, St. Joseph County, Indiana, more particularly described as follows:

Beginning at a point 40.00 feet North and 140 feet east of the Southwest Corner of Section 32; thence North parallel with the West line of said Section 180.00 feet; thence East parallel with the South line of said Section 85.00 feet; thence South parallel with the West line of said Section 180.00 feet to the Northern boundary 85.00 feet to the point of beginning.

Containing 0.351 acres more or less.

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

SECTION II.

This ordinance is and shall be subject to commitments as provided by Chapter 21-09.02(d) Commitments, if applicable.

SECTION III. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, legal publication, and full execution of any conditions or Commitments placed upon the approval.

\_\_\_\_\_  
Tim Scott, Council President  
South Bend Common Council

Attest:

\_\_\_\_\_  
Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_\_ o'clock \_\_\_\_ . m.

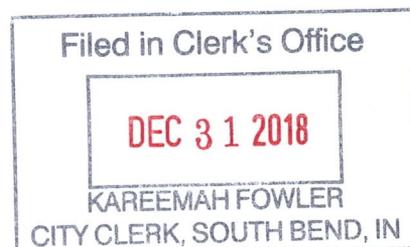
\_\_\_\_\_  
Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_ o'clock \_\_\_\_ .m.

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

**BILL NO. 02-19**

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



AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 2307 EDISON ROAD, COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

---

**STATEMENT OF PURPOSE AND INTENT**

---

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:

A part of the Southwest Quarter of Section 32, Township 38 North, Range 3 East, St. Joseph County, Indiana, more particularly described as follows:

Beginning at a point 40.00 feet North and 140 feet east of the Southwest Corner of Section 32; thence North parallel with the West line of said Section 180.00 feet; thence East parallel with the South line of said Section 85.00 feet; thence South parallel with the West line of said Section 180.00 feet to the Northern boundary 85.00 feet to the point of beginning.

Containing 0.351 acres more or less.

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

SECTION II.

This ordinance is and shall be subject to commitments as provided by Chapter 21-09.02(d) Commitments, if applicable.

SECTION III. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, legal publication, and full execution of any conditions or Commitments placed upon the approval.

---

Tim Scott, Council President  
South Bend Common Council

Attest:

---

Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_\_ o'clock \_\_\_\_ . m.

---

Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_ o'clock \_\_\_\_ .m.

---

Pete Buttigieg, Mayor  
City of South Bend, Indiana



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

Wednesday, February 20, 2019

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

RE: A proposed ordinance of Beach House LLC to zone from CB Community Business District to MU Mixed Use District, property located at 2307 Edison Road, City of South Bend - APC# 2887-18.

Dear Council Members:

I hereby Certify that the above referenced ordinance of Beach House LLC was legally advertised on February 7, 2019 and that the Area Plan Commission at its public hearing on February 19, 2019 took the following action:

Upon a motion by Elizabeth Maradik, being seconded by Oliver Davis and unanimously carried, a proposed ordinance of Beach House LLC to zone from CB Community Business District to MU Mixed Use District, property located at 2307 Edison Road, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. Rezoning this site to MU Mixed Use District will allow for a mix of uses and development that is consistent with an urban neighborhood center, which will help meet the needs of the residential uses in the area.

PLEASE NOTE that the Ordinance has been amended by the petitioner and is different than that used for the Common Council's first reading. The amended Ordinance was legally advertised and heard by the Area Plan Commission.

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,

A handwritten signature in black ink, appearing to read 'Lawrence P. Magliozzi', written over a horizontal line.

Lawrence P. Magliozzi

Attachment

CC: Beach House LLC

**Staff Report**

2/7/2019

APC # 2887-18  
Owner: Beach House LLC  
Location: 2307 Edison Road  
Jurisdiction: City of South Bend  
Public Hearing Date: 2/19/2019

**Requested Action:**

The petitioner is requesting a zone change from LB Local Business District to MU Mixed Use District.

**Land Uses and Zoning:**

- On site: On site is a vacant business and parking lot.
- North: To the north are businesses zoned CB Community Business District.
- East: To the east is a funeral home CB Community Business District.
- South: To the south, across Edison Road, is CVS Pharmacy zoned LB Local Business District.
- West: To the west is a business zoned CB Community Business District.

**District Uses and Development Standards:**

The CB - Community Business District is established to provide a location for high volume and high intensity commercial uses. Activities in this district are often large space users which may include limited amounts of outdoor sales or outdoor operations. Developments within the CB District shall be coordinated to facilitate vehicular and pedestrian access from nearby residential districts.

**Site Plan Description:**

The site plan shows the development of a new three-story mixed-use building with retail, office, and residential space. Off-street parking will be provided. The development will need to meet the development standards of the CB Community Business District.

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

The Walgreens at the corner of Edison and Ironwood was rezoned to LB Local Business District in 2005. Three properties at the corner of Edison and Pyle were rezoned to O Office District in 2009.

**Traffic and Transportation Considerations:**

Edison Road is four lanes with a center turn lane.

**Utilities:**

The site will be served by municipal sewer and water.

**Agency Comments:**

The City of South Bend Engineering Department offers a favorable recommendation. They noted that the site is in the Edison Park Wellfield Protection Zone and the St. Joseph County Health Department Regulates drywells in this area. Engineering also brought up traffic concerns about the access being in close proximity to the intersection. The

Department of Community Investment offers a favorable recommendation, stating the area would be appropriate for an urban neighborhood center. They recommended planning for future vehicular connections, for access to adjoining lots, on the north end of the site to help reduce the need for curb cuts, allowing street frontages to be fully developed and more walkable.

**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:**

This petition is consistent with City Plan, South Bend Comprehensive Plan (2006), Objective LU 2.2: Pursue a mix of land uses along major corridors and other locations identified on the Future Land Use Map.

**Land Use Plan:**

The Future Land Use Plan identifies this area for commercial uses.

**Plan Implementation/Other Plans:**

There are no other plans in effect for this area.

**2. Current Conditions and Character:**

Ironwood and Edison Roads have developed as a corridor that features a mix of commercial and residential uses.

**3. Most Desirable Use:**

The most desirable use for the property is commercial or mixed use.

**4. Conservation of Property Values:**

Locating commercial uses in commercial areas and providing the proper landscaping should not adversely affect property values.

**5. Responsible Development And Growth:**

It is responsible development and growth to locate commercial uses along major corridors.

**Staff Comments:**

The staff has no additional comments at this time.

**Recommendation:**

Based on information available prior to the public hearing the staff recommends that this rezoning petition be sent to the Common Council with a favorable recommendation.

**Analysis:**

Rezoning this site to MU Mixed Use District will allow for a mix of uses and development that is consistent with an urban neighborhood center, which will help meet the needs of the residential uses in the area.

REZONING  
#2887-18

IRONWOOD

EDISON

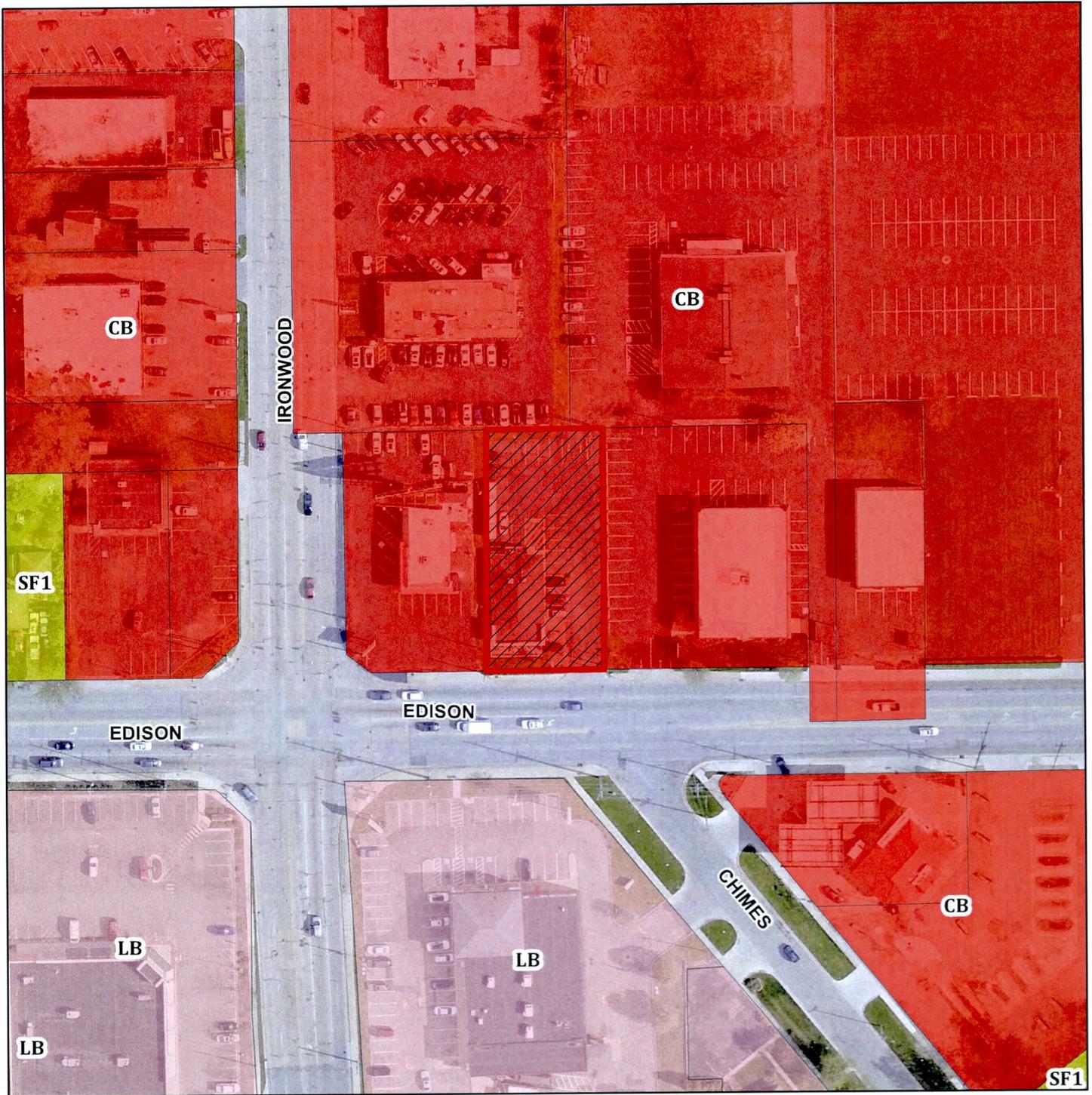
EDISON

CHIMES

OAK PARK

PORTAGE TOWNSHIP  
1 inch = 100 feet

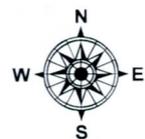




**Rezoning from: SOUTH BEND CB COMMUNITY BUSINESS DISTRICT TO MU MIXED USE DISTRICT**

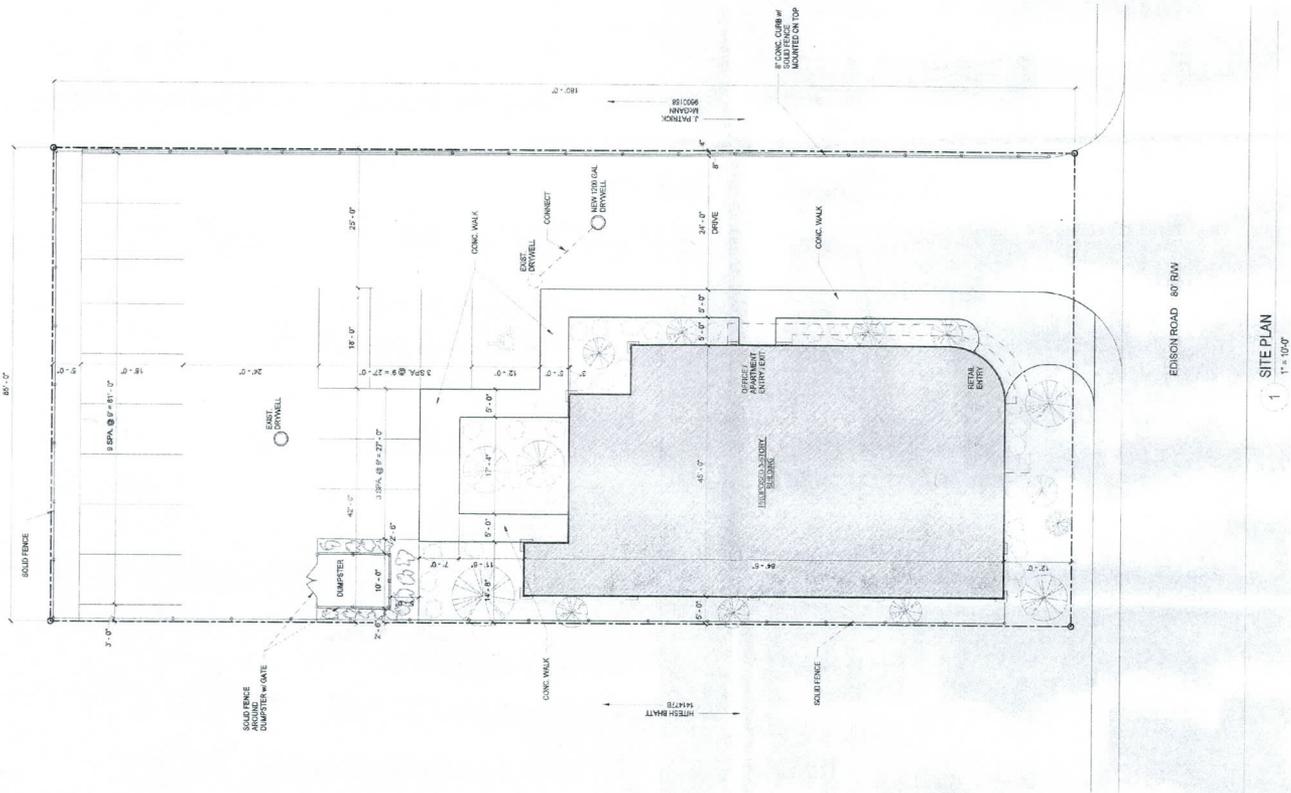
**MASTER ZONING KEY**

-  SOUTH BEND "SF1" SINGLE FAMILY & TWO FAMILY DISTRICT
-  SOUTH BEND "LB" LOCAL BUSINESS DISTRICT
-  SOUTH BEND "CB" COMMUNITY BUSINESS DISTRICT



1 inch = 100 feet

**APC # 2887-18**



**LANDSCAPING REQUIREMENTS:**  
 DECIDUOUS SHADE TREES: A MINIMUM OF ONE (1) SHADE TREE PLANTED FOR EVERY TWO THOUSAND (2000) SQUARE FEET OF THE APPLICABLE LOT LINE.  
 NORTH SIDE: 2  
 WEST SIDE: 2  
 TOTAL: 4

**PERMANENT TREES:** A MINIMUM OF ONE (1) PERMANENT TREE PLANTED FOR EVERY THOUSAND (1000) SQUARE FEET OF THE APPLICABLE LOT LINE.  
 NORTH SIDE: 1  
 WEST SIDE: 1  
 TOTAL: 2

**FOUNDATION LANDSCAPING:** PLANTS PROVIDED:  
 NORTH SIDE: 10  
 WEST SIDE: 10  
 TOTAL: 20

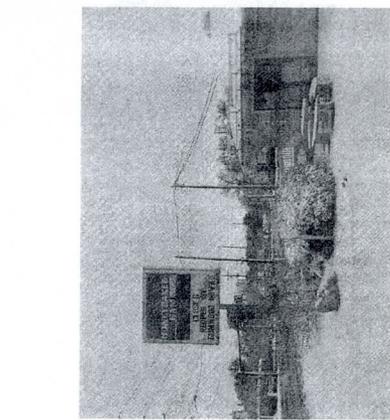
**BUILDING INFORMATION:**  
 BUILDING GEOMETRY: 30,000 SF  
 BUILDING TYPE: OFFICE/RETAIL  
 PROPOSED SECURITY WALL USE: PERIMETER FENCE  
 2ND LEVEL: OFFICE  
 3RD LEVEL: ONE APARTMENT  
 NOTES: THE BUILDING SHALL BE CONNECTED TO EXISTING PUBLIC UTILITY SERVICE.

**LEGEND**  
 EXISTING DRIVEWELL  
 PROPOSED DRIVEWELL  
 PROPOSED FENCE

**DEVELOPED BY: BEACH HOUSE, LLC**  
 OWNER: PATRICK CONNAUGHTON  
 ARCHITECT: RAYMOND ENFIELD  
 DATE: JANUARY 29, 2019

**GRAPHIC SCALE**  
 0 5' 10' 20'

**1 SITE PLAN**  
 1" = 10'-0"



**NOTES:**  
 1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.  
 2. THE EXISTING DRIVEWELL IS TO BE RELOCATED TO THE NEW POSITION SHOWN.  
 3. THE PROPOSED DRIVEWELL IS TO BE CONCRETE WITH A 4" THICK SLAB ON 4" REBAR.  
 4. THE PROPOSED FENCE IS TO BE 6' TALL WITH A 4" THICK CONCRETE FOUNDATION.  
 5. ALL PLANTINGS ARE TO BE INSTALLED AS SHOWN.  
 6. THE BUILDING SHALL BE CONNECTED TO EXISTING PUBLIC UTILITY SERVICE.

**PROJECT: BEACH HOUSE, L.L.C.**  
 2307 EDISON ROAD, SOUTH BEND, IN  
 OWNER: PATRICK CONNAUGHTON  
 AGENT: LEONARD CONNAUGHTON, PH: 781-844-7248  
 1242 OAKRIDGE DR., SOUTH BEND, IN 46617  
 Len.phlic@gmail.com

**DATE:** 01-29-2019  
**DRN:** SMB  
**CHK:** REVISIONS

**C-1**

**SITE PLAN**

**KEVIN M. FINN, P.E., INC.**  
 815 WATERBURY PARK DRIVE  
 ELKHART, IN 46517 574-537-1300  
 RAYMOND L. ENFIELD, DESIGNER



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

February 20, 2019

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

RE: Bill #02-19  
Rezoning: APC#2887-18 – 2307 Edison Road

Dear Council Members:

The Area Plan Commission held a public hearing on February 19<sup>th</sup>, 2019 for the above referenced petition. This petition is set for public hearing before the Common Council on Monday, February 25<sup>th</sup>, 2019.

**Ordinance & Petition Amendments:**

- 1) The ordinance was amended to add the statement of purpose and intent.
- 2) The petition was amended to show the correct district the request is zoning from.

**Public Hearing Summary:**

There was one person who spoke in remonstrance of the petition. They were concerned about users of the site parking on his property.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Jordan Wyatt', written over a horizontal line.

Jordan Wyatt  
Planner

CC: Bob Palmer

---

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

WWW.STJOSEPHCOUNTYINDIANA.COM/AREAPLAN

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

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY  
LOCATED AT 2307 EDISON ROAD, COUNCILMANIC DISTRICT NO. 4 IN THE CITY  
OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

Petitioners desire to rezone the property from CB Community Business District to MU Mixed Use District for a mixed-use building.

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:

A part of the Southwest Quarter of Section 32, Township 38 North, Range 3 East, St. Joseph County, Indiana, more particularly described as follows:

Beginning at a point 40.00 feet North and 140 feet east of the Southwest Corner of Section 32; thence North parallel with the West line of said Section 180.00 feet; thence East parallel with the South line of said Section 85.00 feet; thence South parallel with the West line of said Section 180.00 feet to the Northern boundary 85.00 feet to the point of beginning.

Containing 0.351 acres more or less.

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

SECTION II.

This ordinance is and shall be subject to commitments as provided by Chapter 21-09.02(d) Commitments, if applicable.

SECTION III. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, legal publication, and full execution of any conditions or Commitments placed upon the approval.

\_\_\_\_\_



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

Wednesday, February 20, 2019

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 832 ST RD 23 LLC to zone from GB General Business District to MU Mixed Use District and seeking a Special Exception Use to allow for a drive-through restaurant, and seeking the following variance(s): 1) from the required 5' minimum side residential bufferyard to 0'; and 2) from the required 12' bailout lane to none, property located at 832 South Bend Avenue, City of South Bend - APC# 2888-18.

Dear Council Members:

I hereby Certify that the above referenced ordinance of 832 ST RD 23 LLC was legally advertised on February 7, 2019 and that the Area Plan Commission at its public hearing on February 19, 2019 took the following action:

Upon a motion by Oliver Davis, being seconded by Elizabeth Maradik and unanimously carried, a proposed ordinance of 832 ST RD 23 LLC to zone from GB General Business District to MU Mixed Use District, property located at 832 South Bend Avenue, City of South Bend, is TABLED INDEFINITELY.

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,

A handwritten signature in black ink that reads 'L. P. Magliozzi'.

Lawrence P. Magliozzi

Attachment

CC: 832 ST RD 23 LLC

REZONING  
#2887-18

IRONWOOD

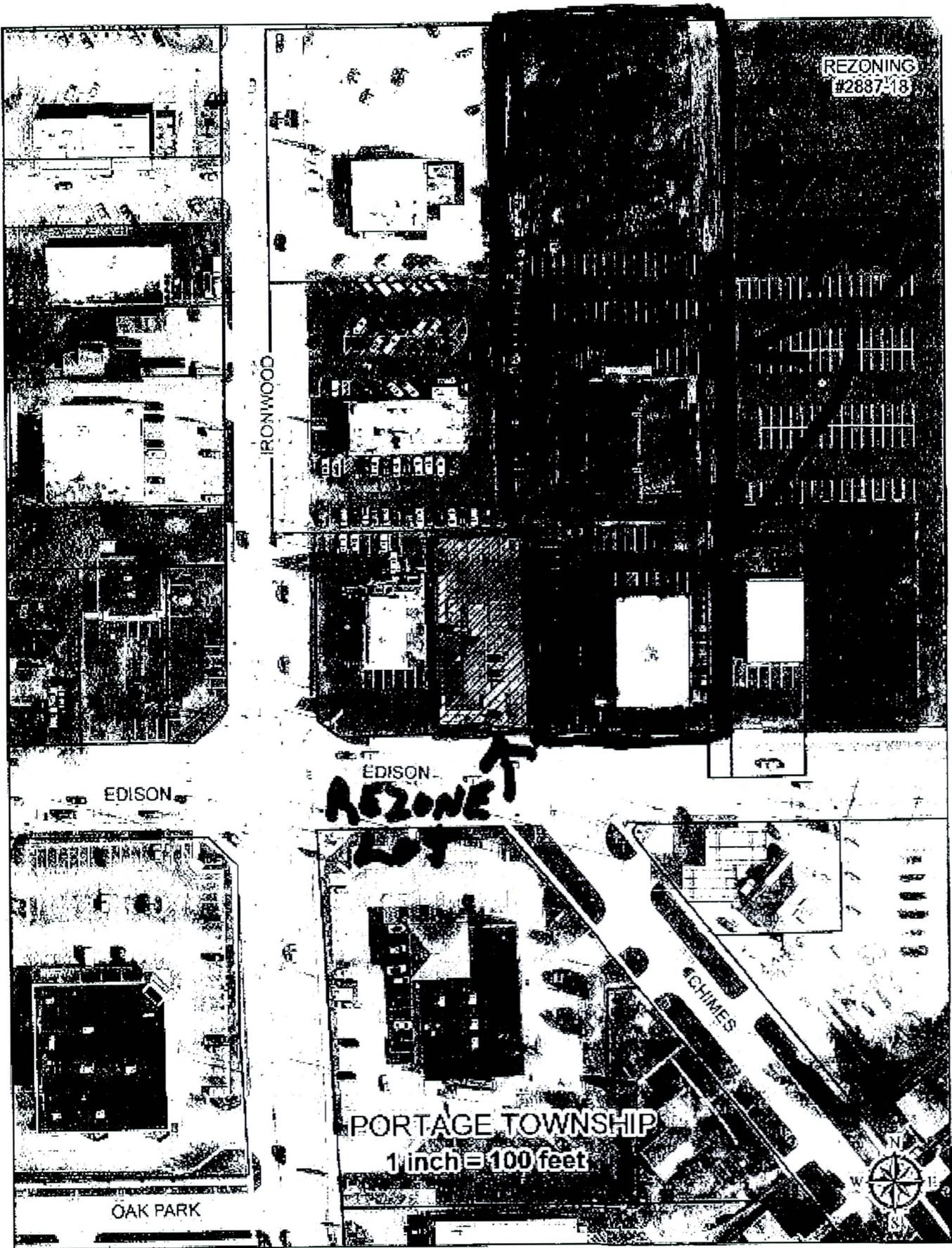
EDISON

REZONE  
LOT

PORTAGE TOWNSHIP  
1 inch = 100 feet

OAK PARK

CHIMES



Area Plan Commission  
County-City Bldg. 4<sup>th</sup> Floor  
South Bend, IN 46601



February 13, 2019, via email

Dear Commissioners and Staffers:

In reference to Rezoning request of 2307 Edison Rd., SB, IN APC# 2887-18, please consider my objections to the following concerns:

- 1) **Inadequate Parking.** I am the owner of the property behind this property in part to the North, and next door to this property to the East, both operated by McGann Hay Funeral Homes, University Chapel and the American Cremation Society. Please see the attached **highlighted** copy of their site plan showing my land. Having been the adjacent property owner here since 1984 I have known both Pizza Hut then Heavenly Hams to occupy the proposed property asking for rezoning. In that time parking has ALWAYS been insufficient for the business being operated and their customers have ALWAYS **overflowed on a daily basis** into my parking lots being the closest parking lots to park in when their lot is full. Moreover, an ingress and egress for the new building, as suggested in the staff recommendations, would require their traffic in addition to Edison Rd. driveway to enter/exit at the rear and cut across my property, to cut down on traffic on Edison Rd., which **there is no easement for.**
  
- 2) **Hidden in the back** of this proposed large three story building **are the only six (6) parking spaces (two per floor).** With the proposed hidden parking being, and all so those drivers pulling into their property will see that it is much easier to just pull into my parking area which is much more visible from the street. When entering and exiting onto Edison it really must be a pretty quick turn to avoid traffic which is often backed up in the westbound lanes at red light often 200-300 feet to the east of this properties existing driveway. There is no middle turn lane on this part of Edison Rd., which is a very heavily travelled street with the nearby intersection with Ironwood.
  
- 3) **The placement of the building** is proposed to be very close to the front Right of Way, although it may be allowed within the new zoning requirements it is far from the best placement of this three story building on the property as an undersized lot. There are no other even two story buildings in the commercial area near this intersection of Edison and Ironwood and would seem to me to be very out of place for the area.
  
- 4) **Semi Trucks, heavy trash and delivery trucks** will have a very difficult time gaining access to this building as it has in the past. Often blocking the very heavy traffic as they attempt to back up off of Edison into a lot where it is impossible to turn around. So, what ends up happening is the trucks approach off my parking lots, often even driving over my concrete parking bumpers. The heavy weight of these truck cause damage to my asphalt and bumpers.

Therefore, I respectfully request resolutions to these issues or a rejection of this rezoning request.

Very truly yours,

**J. P. McGann**

J. Patrick McGann, President  
McGann Hay Funeral Homes  
McGann Investment Co.



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:  
2307 Edison Road  
South Bend In. 46617

2) The property Tax Key Number(s) is/are: *Enter property tax key number(s)*

3) Legal Descriptions: *A part of the southwest quarter of section 32 Township 38 North Range 3 east described as follow: Beginning on the northern Boundary of Edison Rd, North 40.00 Feet and East 140.00 Ft From the southwest corner of said section : Thence north parallel with the west line of said section 180.00 feet. thence east parallel with the south line of said section 85.00 Feet: Thence south parallel with the west line of said section 180.00 Feet. to the northern boundary of Edison Rd. Thence west along said northern boundary 85.00 Feet to the point of beginning and containing 0.351 acres more or less in St. Joseph County, Indiana*

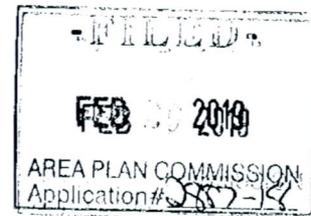
4) Total Site Area: *0.351 acres*

5) Name and address of property owner(s) of the petition site:  
*Beach House LLC  
18512 Summer Wind Lane  
South Bend IN 46637  
781-844-7248  
Len.bhllc@gmail.com*

Name and address of additional property owners, if applicable:

6) Name and address of contingent purchaser(s), if applicable:  
*Name  
Address  
City, State Zip Code  
Phone number with Area Code  
E-Mail Address*

Name and address of additional property owners, if applicable:



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

From: CB Community Business District      Additional zoning district, if applicable  
To:    MU Mixed Use District

8) This rezoning is requested to allow the following use(s): *Retail , Office , Residential*

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

- 1) *List each variance being requested. Contact Commission Staff if you need assistance with wording.*
- 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: *Please explain how your variance petition addresses this criteria*

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

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.**

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South Bend In. 46617*

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4) Total Site Area: *0.351 acres*

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

*Beach House LLC  
18512 Summer Wind Lane  
South Bend IN 46637  
781-844-7248  
Len.bhllc@gmail.com*

Name and address of additional property owners, if applicable:

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

*Name  
Address  
City, State Zip Code  
Phone number with Area Code  
E-Mail Address*

Name and address of additional property owners, if applicable:

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

From: *LB Local Business District* Additional zoning district, if applicable

To: *MU Mixed Use District*

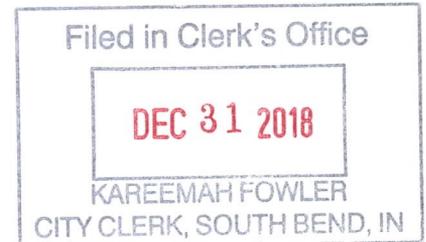
8) This rezoning is requested to allow the following use(s): *Retail , Office , Residential*

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

1) *List each variance being requested. Contact Commission Staff if you need assistance with wording.*

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: *Please explain how your variance petition addresses this criteria*



- (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: *Please explain how your variance petition addresses this criteria*
- (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: *Please explain how your variance petition addresses this criteria*

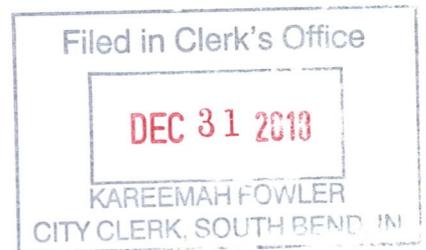
IF A SPECIAL EXCEPTION USE IS BEING REQUESTED, (if not, please skip to next section):

- 1) The Special Exception Use(s) being requested: *Insert text*
- 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: *Please explain how your Special Exception Use petition addresses this criteria*
  - (b) The proposed *use* will not injure or adversely affect the *use* of the adjacent area or property values therein: *Please explain how your Special Exception Use petition addresses this criteria*
  - (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: *Please explain how your Special Exception Use petition addresses this criteria*
  - (d) The proposed use is compatible with the recommendations of the Comprehensive Plan. *Please explain how your Special Exception Use petition addresses this criteria*

\* 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:

*Leonard Connaughton  
18512 Summer Wind Lane  
South Bend IN 46637  
781-844-7248  
Len.bhllc@gmail.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):

*[Handwritten Signature]*  
\_\_\_\_\_  
*BEACH HOUSE LLC*  
\_\_\_\_\_





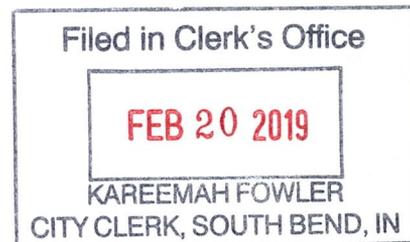
**SUBSTITUTE BILL NO. 03-19**

1300 COUNTY-CITY BUILDING  
227 W. JEFFERSON BOULEVARD  
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9486  
FAX 574/ 235-7703

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR  
**DEPARTMENT OF CODE ENFORCEMENT**



South Bend Common Council  
County-City Building  
227 W. Jefferson Blvd  
South Bend, IN 46601

RE: Bill No. 03-19 New Article 14 to Chapter 6 of the South Bend Municipal Code: Rental Safety Verification Program

Dear South Bend Common Council Members:

On January 9, 2019, the Department, pursuant to IC 36-1-20-4.1, filed the proposed ordinance Rental Safety Verification Program or "RSVP" which would add a new Article 14 to Chapter 6 (Building). Since the filing, the Department participated in a public meeting held by the Health and Public Safety Committee (2/6/19) and has continued to meet with and receive feedback from various stakeholders.

In response to stakeholder feedback, the following changes are reflected in this amended ordinance:

- 1) Sec. 6-79(a) removed reference to other codes and unsafe building law to correctly reflect the IPMC is the property standard
- 2) Sec. 6-79(e) deleted
- 3) Sec. 6-80 (c) changed for consistency with 6-79(a) above
- 4) Sec. 6-80 (r) changed defined word from "Inspection Warrant" to "Rental Safety Verification Program Warrant" or "RSVP Warrant" (see Sec. 6-80 (dd)).
- 5) Sec. 6-80 (hh) added term "short term rental" and its definition
- 6) Sec. 6-80 (ii) added term "short term rental platform" and its definition
- 7) Sec. 6-80 (ll) removed term "transient occupancy" and its definition
- 8) Sec. 6-81 (c)(3) replaced "transient occupancy" with "short term rental(s)"
- 9) Sec. 6-81(d) added 3-year exclusion for real estate sales transaction inspections
- 10) Sec. 6-82 (c) chart – removed "business" after sixty (60); removed language referring to enforcement law for consistency of language in ordinance; and revised language regarding lead safe practices for chipping and peeling paint
- 11) Sec. 6-82 (d) changed ten (10) to five (5), and eleven (11) to six (6)
- 12) Sec. 6-82 (i) changed and added language to match intent for enforcement as allowed by law and added language recognizing due process or appeal rights as afforded thereunder
- 13) Sec. 6-82 (m) revised, added and removed language on the inspection process sequence for consistency with the intent of the process and when to seek inspection warrant
- 14) Sec. 6-82(q)(2)(d) removed "licensed by the Indiana Real Estate Commission".

A handwritten signature in blue ink, appearing to be "P. Buttigieg", is located in the bottom right corner of the page.

- 15) Sec. 6-83(a)(7) changed “nuisance” to “problem property”
- 16) Sec. 6-84 changed “and the owner shall place it” to “which should be placed”.
- 17) Sec. 6-85 removed language regarding a fee, and added part (b) to include a penalty for failure to submit the transfer information to the Department
- 18) Sec. 6-86 (d) removed “vacate and seal” and other language for consistency with the intent of how to give notice and why to issue penalties
- 19) Sec. 6-86 (e) added language that penalties and fees enforced through OVB with all due process or appeal rights as afforded thereunder
- 20) Sec. 6-86 (g) corrected the reference to the Indiana Code
- 21) Sec. 6-86 (h) removed language about time specified in the bill because it will be handled by OVB
- 22) Sec. 6-87 changed reference to Code Enforcement to Department for consistency of use as defined

The RSVP ordinance has been revised accordingly and enclosed is the amended Bill No. 03-19 for the Council’s consideration. In addition to ordinance revisions, the Department also proposes the following policy implementation changes in response to community and Council feedback:

Phase In:

- The deletion of Sec. 6-79(e) allows for the Department to implement priority-based inspections, starting with properties of known need. In response to industry and community input, addressing concerns in properties that have already been identified as potential health and safety risks for occupants will be the focus of the first year of the program. We propose that during 2019, RSVP will apply to eligible properties with active housing Code cases and referrals from the St. Joseph County Health Department (and other health and safety agencies). We will always accommodate landlord requests for inspection and continue to follow up on complaints made by occupants. The Code Department staff will prioritize the landlord requests for inspection of vacant units.
- Starting in 2020, we will begin a geographic phase-in based on areas with the highest known levels of childhood lead poisoning, as established by the St. Joseph County Health Department. Childhood lead poisoning is a known crisis in our community, and rental inspection will help identify and enforce the existing safety standards for lead paint. The Health Department is responsible for the medical case management of children with elevated blood lead levels. RSVP will allow the Health Department to work directly with City Code to ensure children are living in lead-safe homes by partnering medical interventions with code enforcement to ensure South Bend families live in safe and healthy homes.

We are confident in our ability to administer this program and have taken steps to ensure success. While there are an estimated 16,000 rental units in South Bend, the conservative estimate as to the number of inspections is closer to 7,500 (this accounts for properties that are not eligible for the program based on exclusions such as government-inspected housing, units constructed in past 10 years, or units receiving satisfactory real estate sales inspections within the last three years). The number of units to be inspected also reflects the fact that the program provides for random sampling of multi-unit properties, creating efficiencies for property owners and decreasing the number of inspections required.

Using current staffing levels, we can accomplish the 700-800 inspections prioritized in 2019, and 1,200 inspections per year thereafter. By this rate, we expect to complete this first pass by mid-2025, which is a typical timeline for most programs of this nature. The priorities identified at our phase-in (landlord requests, Health Dept. referrals, and active cases) will continue to be priorities of the Department as we work our way through the City. This implementation plan strikes a balance between the capacity of the Department, the need to address priority properties, and allowing plenty of time for any repairs to be made before inspection notice is sent to property owners.

As stated in the initial filing letter, the Department stands ready to begin the program upon passage and we are prepared to share additional details on our implementation and monitoring plans. I will present this revised ordinance to the Council at its Committee meeting and at its regular meeting for second and third reading, and I will be accompanied by my support staff on this ordinance who will address any questions that may arise.

Sincerely,  


Tracy Skibins  
Director, Code Enforcement

1300 COUNTY-CITY BUILDING  
227 W. JEFFERSON BOULEVARD  
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9486  
FAX 574/ 235-7703

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR  
**DEPARTMENT OF CODE ENFORCEMENT**

South Bend Common Council  
County-City Building  
227 W. Jefferson Blvd  
South Bend, IN 46601

RE: New Article 14 to Chapter 6 of the South Bend Municipal Code: Rental Safety Verification Program

Dear Council Members:

To promote the well-being of our community, preserve existing rental housing stock, and ensure rental housing remains a safe and desirable housing option for residents, the Department, pursuant to IC 36-1-20-4.1, has enclosed a proposed ordinance which would add a new Article 14 to Chapter 6 (Building): Rental Safety Verification Program or "RSVP." RSVP is intended to protect public health, safety, and welfare in rental units by verifying minimum property standards for occupancy. The most effective way to seek compliance with minimum property standards is through routine, periodic inspections of rental housing properties.

An estimated 16,000 units of rental housing exist within South Bend City limits. Substandard housing conditions have been shown to be responsible for a range of significant and costly health problems, including asthma, child lead poisoning, and increased rates of injury and mortality. Information from our community partners, Code Enforcement, and Census data suggest the presence of home hazards in the City that compromise safety and habitability.

Proactive rental inspection is a benefit to tenants and landlords. The RSVP program will help landlords identify problems early before they become costly repairs. The program also provides an extra tool to distinguish higher-quality properties in the housing market. The City will continue to investigate complaints from occupants. The RSVP program supplements current Code services for renters by reducing barriers to Code assistance by scheduling periodic inspections that address health and safety concerns directly with property owners. Proactive rental inspection programs can safeguard against properties becoming blighted, thereby preserving neighborhoods. Establishing the RSVP program will help to ensure that all persons who live in rental housing units are provided decent, safe and sanitary housing.

The RSVP program intends to inspect 20% of rental housing within the first three years of implementation. The program will follow a geographic phase-in process prioritizing Census tracts that show evaluated concern for public health and safety. The Department is ready to begin the program upon passage and we are prepared to share our implementation and monitoring plans.

I will present this ordinance to the Council at its Committee meeting and at its regular meeting for second and third reading, and I will be accompanied by Assistant City Attorney Thomas Panowicz who will address any legal issues that may arise.

This ordinance is sponsored by Council Members President Tim Scott, Vice President Karen White, Jo M. Broden, and Regina Williams-Preston.

Sincerely,

Tracy Skibins

Director, Code Enforcement

Filed in Clerk's Office

JAN 09 2019

KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

FEB 20 2019

KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

**SUBSTITUTE BILL NO. 03-19**

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

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER SIX OF THE SOUTH BEND MUNICIPAL CODE BY ADDING A NEW ARTICLE 14 TITLED RENTAL SAFETY VERIFICATION PROGRAM

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**STATEMENT OF PURPOSE AND INTENT**

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The rental safety verification program is established to protect the public health, safety, and welfare in rental units by encouraging quality rental housing stock in the City of South Bend through inspections to verify minimum property standards for occupancy.

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

**SECTION I.** Chapter 6 of the South Bend Municipal Code shall be and hereby is amended to include a new Article 14 that shall read in its entirety as follows:

**ARTICLE 14. Rental Safety Verification Program**

**Sec. 6-79. General Concept and Purpose of Rental Inspections.**

- (a) The Rental Safety Verification Program requires an occupancy inspection of all real property or rental units that are intended to be occupied or are occupied by anyone other than the owner. This program is designed to ensure all City of South Bend rental units meet the minimum property standards of the International Property Maintenance Code, which are incorporated into this Article 14 without formal citation.
- (b) Once the rental unit has been inspected with an Inspection Report and approved for occupancy, an Inspection Certificate shall be issued by the Department authorizing the rental unit to be occupied.
- (c) The purpose of the Inspection Report and Inspection Certificate issued to the owner or the property manager (if applicable) is to verify that the rental unit is safe and habitable for occupancy with respect to: electrical systems, plumbing systems, water and sanitary system, including hot water, heating and ventilation systems, bathroom, toilet facilities, doors, windows, stairways, hallways, functioning smoke detectors, lead hazards, indoor air quality, and the overall structure in which a rental unit is established.
- (d) This Article shall be liberally construed and applied to promote its purpose and intent.

**Sec. 6-80. Definitions.**

- (a) *Bedroom* means any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.
- (b) *City* means the City of South Bend, Indiana.
- (c) *Code* means the property standards pursuant to the International Property Maintenance Code.
- (d) *Code Inspector* means an employee of the Department who is charged with the administration and enforcement of this Article.
- (e) *Condemn* means to adjudge unfit for occupancy.
- (f) *Condemned with conditions* means that as to a unit unfit for occupancy, the owner, or agent of owner, may enter the property from 7:00 AM to 7:00 PM to make all the required repairs.
- (g) *Contract of Sale* means land contract sales or purchases.
- (h) *Department* means the City of South Bend Department of Code Enforcement.
- (i) *Dwelling unit* means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Examples include but are not limited to apartments, single family homes and multi-family homes.
- (j) *Egress* means a place or means of going out or exiting.
- (k) *Director* means the Director of the Department of Code Enforcement for the City or that person's designee, or in the Director's absence the Deputy Director.
- (l) *Group home* means a community home where a small number of unrelated people in need of specialized care, support, or supervision can live together with support and services by trained caregivers.
- (m) *Habitable space* means the space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, attics and basements and similar areas are not considered habitable spaces. Finished basements are not considered habitable spaces unless proper egress requirements are met.
- (n) *Indiana Unsafe Building Law* means Indiana Code, Title 36, Article 7, Chapter 9, as it may be amended.
- (o) *Inspection Certificate* means a certificate issued by the Department, after all fees and penalties due under this Article are paid, that documents that the rental unit has passed the Inspection Report and authorizes the occupancy of the rental unit as compliant with the provisions of this Article.
- (p) *Inspection Cycle* means the period between the issuance and expiration of an Inspection Certificate as may be determined under the provisions of this Article.
- (q) *Inspection Report* means a report that an Code Inspector prepares after conducting a visual examination of a rental unit, including all its major systems, to verify existence of, and list repairs or improvements necessary to meet minimum property standards for occupancy as referenced in Sec. 6-79.
- (r) *International Property Maintenance Code (IPMC)* is a model code that regulates the minimum maintenance requirements for existing buildings. The IPMC is a maintenance document intended to establish minimum maintenance standards, such as for basic equipment, light, ventilation, heating, sanitation and fire safety.
- (s) *Occupancy* means the purpose for which a building or portion thereof is utilized or occupied.
- (t) *Occupant* means any individual living or sleeping or having possession of a space within a rental unit.
- (u) *Off-Cycle Inspection* means an Inspection Report conducted based upon a reasonable belief of noncompliance or a complaint.

- (v) *Operator* means any person who has charge, care or control of a structure or rental unit which is let or offered for occupancy.
- (w) *Owner* means any person, operator or agent thereof having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control over decisions on the use and condition of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person.
- (x) *Owner of Record* means any person who holds any fee interest, life estate interest, or equitable interest of a contract purchaser and whose identity can be determined from an instrument recorded in the recorder's office of the county where the rental unit is located; or, written information or actual knowledge received by the Department; or a review of Department records that is sufficient to identify information that is reasonably ascertainable.
- (y) *Person* means an individual, corporation, partnership or association, or any other group acting as a unit, and includes a government, governmental subdivision or agency, business trust, estate, trust, two or more people having a joint or common interest, and any other legal or commercial entity.
- (z) *Premises* means a lot, plot or parcel of land, easement or public way, including any structures thereon.
- (aa) *Private Inspector* means, for purposes of IC 36-1-20-4.1(c)(2)(B)(iii), an inspector of rental units who satisfies the following qualifications prescribed by the City: must be a State of Indiana Licensed Home Inspector.
- (bb) *Private Inspection* means an inspection conducted for the purposes of meeting the exemption requirements under IC 36-1-20-4.1(c).
- (cc) *Re-Inspection* means a follow up inspection or assessment of a rental unit to check for completion of repairs or compliance pursuant to an Inspection Report.
- (dd) *Rental Safety Verification Program Warrant (RSVP Warrant)* means the court authorization to enter a rental unit and complete an Inspection Report that the Director may obtain if the owner or those in possession of a rental unit refuse entry.
- (ee) *Rental unit* means as used in this Article one (1) or more dwelling units in a structure intended to be occupied or is occupied as a home, residence or habitable space by anyone other than the owner and may include a tenancy agreement or lease.
- (ff) *Rental unit community* means one (1) or more parcels of contiguous real property upon which are located in one (1) or more structures containing rental units, if the combined total of all rental units in all of the structures is five (5) or more rental units and the rental units are not occupied solely by the owner or owner's family.
- (gg) *Revocation of Inspection Certificate* means the Department canceling an issued Inspection Certificate whenever it discovers that such certificate was issued in error or based on incorrect information, or discovers other causes demonstrating a lack of compliance with the provisions of this Article.
- (hh) *Short term rental* means the rental of a single-family home, a dwelling unit in a single-family home, a dwelling unit in a two-family or multifamily dwelling, or a dwelling unit in a condominium, cooperative, or time share for terms of less than thirty (30) days at a time through a short term rental platform. The term includes a detached accessory structure, including a guest house, or other living quarters that are intended for human habitation, if the entire property is designated for a single-family residential use. The term does not include property that is used for any nonresidential use.

- (ii) *Short term rental platform* means an entity that provides a platform, or a business model facilitating exchanges between two or more groups of consumers and producers, through which unaffiliated parties offer to rent a short term rental to an occupant and collects consideration for the rental from the occupant.
- (jj) *Smoke detector* means a device which senses visible or invisible particles of combustion and conforms to the minimum standards for type, components, and maintenance prescribed by the National Fire Protection Association.
- (kk) *Structure* means that which is built or constructed or a portion thereof.
- (ll) *Tenancy Agreement* means all agreements, written, oral or implied, and valid rules and regulations embodying the terms and conditions concerning the use and occupancy of a rental unit.
- (mm) *Tenant* means a person who occupies a rental unit for residential purposes with the landlord's consent and may include monetary or other legal consideration that is agreed upon by both parties.

**Sec. 6-81. Compliance required.**

- (a) No person shall maintain, or allow occupancy of, a rental unit in the City without compliance with the provisions of this Article. Failure to comply with the provisions is a violation of this Article. Any structure converted into a rental unit must have an Inspection Report completed and receive an Inspection Certificate before occupancy.
- (b) The provisions in this Article shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe stricter standards than are provided herein.
- (c) This Article applies to rental units located within the City, but shall not apply to the following occupancy arrangements unless such arrangements are created to avoid the application of this Article:
  - (1) Occupancy in group homes.
  - (2) Occupancy by the purchaser of a dwelling unit under a recorded contract of sale.
  - (3) Short term rental.
  - (4) Owners who occupy the premises and rent to no more than two unrelated occupants.
- (d) This Article does not apply to the following:
  - (1) Rental units built as new construction, for ten (10) years after the rental unit construction is completed. The owner of such rental unit must submit to the Department the required information to prove the new construction date of the rental unit; and
  - (2) Rental units inspected by a State of Indiana licensed home inspector pursuant to a completed real estate sales transaction, for three (3) years from the date of the inspection. The purchaser of the rental unit must submit to the Department the required information to prove the validity of the inspection meeting the minimum standards on this Article.
- (e) This Article applies to governmental or public agencies acting as landlords. If the federal or state subsidized, or owned rental units are regularly inspected by a government entity and verification of housing conditions meeting the standards of this Article are delivered to the Department as requested, then such rental units may qualify for an exemption as provided in sub-section 6-82(n).

(f) An owner shall not allow a rental unit to be occupied that has been issued a vacate and seal order by the Department or is condemned by any agency that has the authority to condemn.

**Sec. 6-82. Inspection of rental units.**

- (a) Unless sub-section 6-82 (n) below is applicable, each rental unit covered by Secs. 6-79 and 6-81 within the City shall be inspected by the Department.
- (b) At the start of the Rental Safety Verification Program, the initial inspection cycle will be one, two, four, or five years. Thereafter, the inspection cycles are subject to adjustment as established and published by the Department pursuant to Sec. 6-87.
- (c) Inspection cycle certification paths are as follows:

| <b>Inspection</b>   | <b>Certification Path</b>   |
|---|---|
| Initial Inspection – <i>Passes &amp; Initiated Contact with the Department for Initial Inspection</i> | <p>Single-family property or duplex will be issued a five-year inspection certificate.</p> <p>Multi-family property will be issued a five-year inspection certificate.</p> <p>Rental units qualifying for a five-year inspection certificate are potentially eligible for a self-certification program that may be implemented by the Department.</p>   |
| Initial Inspection – <i>Passes</i>  | <p>Single-family property or duplex will be issued a four-year inspection certificate.</p> <p>Multi-family property will be issued a four-year inspection certificate.</p> <p>Rental units qualifying for a four-year inspection certificate are potentially eligible for a self-certification program that may be implemented by the Department.</p>   |
| Initial Inspection – <i>Fails</i>   | <p>Re-inspection must be conducted within no later than sixty (60) days.</p> <p>No fees are imposed for first re-inspection.</p> <hr/> <p>Single-family property or duplex upon passage of the first re-inspection will result in a four-year inspection certificate.</p> <p>Multi-family property upon passage of the first re-inspection will result in a four-year inspection certificate.</p> |
| Additional Re-Inspection(s) - <i>Fails</i>  | <p>Re-inspection(s) must be conducted within no later than sixty (60) days.</p>   |

|                                   |   |
|-----------------------------------|---|
|                                   | <p>Fees begin to accrue. See Penalties and Fees section in this Article.</p> <p>The Code Inspector may issue penalties and the property may be subject to further enforcement as allowed by law, including the Indiana Unsafe Building Law.</p>   |
|                                   | <p>Single-family property or duplex upon passage of a subsequent re-inspection will result in a one-year inspection certificate.</p> <p>Multi-family property upon passage of a subsequent re-inspection will result in a two-year inspection certificate.</p>  |
| <p>Defective Paint Conditions</p> | <p>For rental units built before 1978 with deteriorated surfaces (for example, chipping, peeling, chalking, cracking or damaged paint), owners must complete the repairs to such surfaces using lead safe practices in accordance with all applicable federal and state laws and related agency rules and regulations, and submit to the Department lawful proof of compliance before being issued an Inspection Certificate.</p> |

- (d) If a rental unit community has five (5) or fewer units, Code Inspectors will inspect every unit. Rental unit communities with six (6) or more units will have a percentage (between 10-20%) of the units randomly sampled by the Code Inspector to inspect and then use those findings to extrapolate the overall quality and condition of the rental units therein.
  - (1) If the findings extrapolated indicate to the Code Inspector overall substandard conditions of the rental units or such violations that could affect other rental units, the Code Inspector may complete Inspection Reports for additional units as deemed necessary.
- (e) In conjunction with the Inspection Report, and to receive the Inspection Certificate, the owner shall repair pre-existing substandard housing violations currently active with the Department to meet minimum standards under this Article.
- (f) Conditional Occupancy Certification will be issued to a rental unit that has all repairs completed excepting minor exterior items that cannot be completed due to the weather conditions and will include all the necessary information for the timely completion thereof.
- (g) The Code Inspector reserves the right to conduct a re-inspection of the rental unit and may adjust the certification cycle based upon any re-inspection.
- (h) The Inspection Certificate will be issued after the rental unit passes the Inspection Report and all fees and penalties due under this Article are paid. The Code Inspector may consider documentation submitted by the owner as sufficient proof of compliance on minor violations at the discretion of the Code Inspector.

- (i) Should the rental unit fail to achieve certification, the Code Inspector may issue penalties, and the rental unit and the owner of record may be subject to further enforcement as allowed by law, including the Indiana Unsafe Building Law, but with all due process or appeal rights as afforded thereunder. The Department may post the rental unit as “No Inspection Certificate and Illegal for Non-Owner Occupancy”.
- (j) An Inspection Report and Inspection Certificate shall be issued to the owner for each rental unit upon which an inspection cycle is performed within ten (10) business days from the date the Inspection Report is completed and from the date the Inspection Certificate is issued.
- (k) An Off-Cycle Inspection may be conducted based upon a complaint, or upon the Department’s reasonable belief that the unit is out of compliance with or in violation of the IPMC, State of Indiana law or the South Bend Municipal Code.
- (l) If the Code Inspector has reason to believe that the rental unit does not comply with the Code or determines that the condition of the rental unit has deteriorated since the last Inspection Report, that resulted in certification, to such an extent that a complete new Inspection Report is required, then a complete new Inspection Report of the entire rental unit may be performed.
  - (1) Upon completion, a new Inspection Report and appropriate Inspection Certificate, as approved by the Code Inspector, shall be issued to the owner.
- (m) Whenever an Inspection Report is required, the Department will contact the owner to initiate the process for completing the Inspection Report. Unless waived by the owner or tenant, the following procedure shall be used to obtain entry to rental units for completing any Inspection Report:
  - (1) The owner shall supply notice to the tenant(s) or occupant(s) and make reasonable arrangements with the tenant or occupant for a date and time to complete the Inspection Report. The owner shall inform the Department of the arrangements made with the tenant or occupant at least seven (7) business days before the scheduled date to complete the Inspection Report.
  - (2) The owner, or the owner’s authorized agent, must be present at the time the Code Inspector conducts the Inspection Report.
  - (3) Should the owner fail to schedule a date and time to complete the Inspection Report and inform the Department per sub-section (1) above, the Department may send a 1st class letter to the owner of record explaining the failure to comply and the possible consequences, such as penalties and a RSVP warrant, for such failure if not cured within the time prescribed.
  - (4) If the owner does not comply with scheduling a date and time to complete the Inspection Report after the time allowed in sub-section (3) above, the Department may issue penalties under this Article.
  - (5) Should the owner continue to fail to schedule a date and time to complete the Inspection Report, the Department may send a 1<sup>st</sup> class and certified letter to the owner of record, or provide notice by publication, explaining the failure to comply and the consequences, such as penalties and a RSVP warrant, for such failure if not cured within the time prescribed. The Department may post the rental unit as “No Inspection Certificate and Illegal for Non-Owner Occupancy”.

- (6) If the owner, occupant or tenant refuses to allow entry or schedule arrangements to complete the Inspection Report, the Department may obtain a RSVP warrant from any court of competent jurisdiction.
- (n) Private Inspections completed as specified under IC 36-1-20-4.1(c) must meet all the requirements for an exemption to be approved by the Department.
- (1) An owner of a rental unit qualifying for an exemption described in IC 36-1-20-4.1(c) must apply to the Department for that exemption which may be denied if all qualifications of IC 36-1-20-4.1(c) are not met.
  - (2) The owner applying to the Department for approval of the exemption must submit a written inspection report that verifies the rental unit is safe and habitable, along with all other necessary proof of the exemption, to the Department on or before the due date established by the Department.
  - (3) Pursuant to IC 36-1-20-4.1(d), the Department may inspect a rental unit that meets the requirements of and has been approved for an exemption if the Department has reason to believe or receives a complaint that the rental unit does not comply with applicable Code requirements.
- (o) An Inspection Report will be made available for the tenant who occupies the rental unit at the time of the inspection and cooperates with the Department to complete the inspection. Unless other arrangements are made with the Department, the Inspection Report may be sent to the tenant who occupies the rental unit upon request as approved by the Department.
- (p) Stop Work Order. To further the purposes of Secs. 6-79 and 6-81, and in conjunction with Chapter 16, Article 8 of the South Bend Municipal Code, Code Inspectors may issue stop work orders.
- (1) Authority. Whenever the Code Inspector finds any work regulated by this Article being performed in a manner contrary to the provisions of this Article or in a dangerous or unsafe manner, the Code Inspector is authorized to issue a stop work order.
  - (2) Issuance. A stop work order shall be in writing and shall be given to the owner of the property, to the owner's authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.
  - (3) Emergencies. Where an emergency exists, the Code Inspector shall not be required to give a written notice prior to stopping the work.
  - (4) Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a penalty of not less than \$500.00 dollars or more than \$2,500.00 dollars per day.

(q) At the time the owner informs the Department of the arrangements made with the occupant or tenant to complete the Inspection Report, the owner shall provide the following contact information to the Department:

- (1) The name, telephone number, email address and the commercial domicile address of the owner's physical business location. Additional listing of a secondary address which is not required to be physical, may also be given when used for availability to the public;
- (2) The name, address, phone number, e-mail address of:
  - a. The person(s) residing in Indiana authorized to manage the rental unit; and
  - b. The person listed as the "responsible party" with the Internal Revenue Service; and
  - c. The person who is authorized to act as agent for the owner for purposes of service of process and receiving and receipting for notices and demands on record with the Indiana Secretary of State's Business Services Division; and
  - d. The property manager, if any.
- (3) Real property tax identification key number of each rental unit and/or rental unit community owned in the City;
- (4) An affirmation of whether the rental units, the real property of which the rental units are a part, and any other rental unit property owned in the City, are subject to any unremediated citation or violation of the federal, state and local codes and ordinances;
- (5) A statement of the number of rental units on each separate parcel of real property.

**Sec. 6-83. Revocation of Inspection Certificate.**

(a) The Department may revoke an Inspection Certificate, by sending notice to the owner of record via first-class and certified mail and publication if mail service is returned undeliverable, for the following causes:

- (1) The rental unit has deteriorated, does not pass minimal standards and the owner is unresponsive or refuses to make repairs.
- (2) The rental unit has deteriorated significantly to the point of becoming condemned.
- (3) The rental unit appears to have significantly deteriorated since the Inspection Report was last completed and owner is unresponsive to new Inspection Report requirement.
- (4) The owner supplied false information or false private inspection.
- (5) Since last Inspection Report, owner or occupant illegally converted space in the rental unit to increase the occupancy.
- (6) Since last Inspection Report, owner failed to correct Code violations within time allowed.
- (7) The rental unit has been designated as a chronic problem property pursuant to the South Bend Municipal Code.

**Sec. 6-84. Approved certification for rental.**

After the Inspection Report is completed and the rental unit receives an Inspection Certificate, the Department will provide the owner with the appropriate certification which should be placed in a conspicuous location, such as in the façade of the building facing a public street and containing a building entry, or in a conspicuous interior location.

### **Sec. 6-85. Transfer of Inspection Certificate**

(a) An Inspection Certificate may be transferred to a new owner, except as prohibited in this section, by the owner filing with the Department the required owner information and agent information, if applicable. This includes transfers of ownership between corporations or other legal entities even where there is identical ownership interest in the acquiring legal entity as in the previous legal entity. An Inspection Certificate may not be transferred, or a new Inspection Certificate issued to any owner, owned in whole or in part by an owner, that currently has any Inspection Certificate revoked, or has been issued a Conditional Occupancy Certification or has a rental unit condemned by any agency that has the authority to condemn.

(b) The new owner shall have thirty (30) days from the date the rental unit was transferred to the new owner to file with the Department the required owner information and agent information, if applicable, and failure to do so will result in a penalty of \$250.00.

### **Sec. 6-86. Penalties and fees.**

(a) There is no fee for the initial inspection and the first re-inspection.

(b) There is a \$100.00 fee for the second re-inspection per rental unit and the fee doubles for each re-inspection per rental unit thereafter.

(c) There is a \$100.00 fee for each rental unit for the owner's failure to meet the Code Inspector for a scheduled inspection.

(d) The owner of record will be notified by first-class mail before any penalty may issue in accordance with IC 36-1-20-6. Penalties may be imposed as follows:

(1) A \$250.00 penalty per week for a rental unit that has not been inspected or certified.

(2) A \$300.00 penalty per week for a rental unit that has an expired certification posted.

(3) A \$500.00 penalty for removing a condemned notice from the rental unit.

(4) A \$500.00 penalty the first week allowing occupancy in a condemned structure. After the first week, the penalty doubles each week thereafter until a maximum of \$7,500.00 per week.

(e) The fees and penalties imposed under this section shall be enforced through the City's Ordinance Violations Bureau as prescribed in Chapter 2, Article 19 of the South Bend Municipal Code, with all due process or appeal rights as afforded thereunder, and do not prohibit or restrict the enforcement for violations under other applicable ordinances, state or federal laws.

(f) Fees and penalties generated from this Article shall be dedicated funds and are not to revert at the end of the City's fiscal year to the General Fund. These funds are to be accumulated and maintained in Fund 219. Penalties from this Article are to be used for purposes of assisting those in need of short-term relocation within the City from their rental unit because of owner noncompliance with this Article. Surplus revenue maintained in Fund 219 may be used for operating costs of the Rental Safety Verification Program.

(1) Acts of God or other conditions beyond the control of the property owner or caused by the tenant's negligent, wrongful or malicious acts or omissions will not qualify for short-term relocation assistance.

- (g) Penalties under this section will be imposed pursuant to IC 36-1-20-6(b).
- (h) If the owner of record fails to pay penalties, fees, costs and expenses, the Department may pursue collections in personam and in rem as allowed by law, including in the same manner as prescribed under IC 36-1-6-2, IC 36-7-9-13 and IC 36-7-9-13.5 except that amounts collected shall be deposited and used according to sub-section(f) above.

**Sec. 6-87. Monitoring progress.**

The Rental Safety Verification Program will be subject to review at regular intervals, which includes meetings of a working group consisting of Code Inspector staff, Department leadership, a Common Council appointee, and Mayor’s office leadership. Following the first six (6) months of implementation, the Department and the Mayor’s Office will make a preliminary report to the Common Council on the progress in the focus areas, challenges faced, and anticipated procedural changes, including adjustments to the inspection cycles and the potential to add a self-certification program.

**Sec. 6-88. Severability clause.**

The provisions of this ordinance are severable, and the invalidity of any phrase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

**Secs. 6-89—6-93. Reserved.**

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

---

Tim Scott, Council President  
South Bend Common Council

Attest:

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Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_\_ o’clock \_\_\_\_ . m.

---

Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_ o’clock \_\_\_\_ .m.

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Pete Buttigieg, Mayor  
City of South Bend, Indiana

**BILL NO. 05-19- Councilmember Oliver J. Davis (District No. 6)**

1316 COUNTY-CITY BUILDING  
227 W. JEFFERSON BOULEVARD  
SOUTH BEND, INDIANA 46601-1830

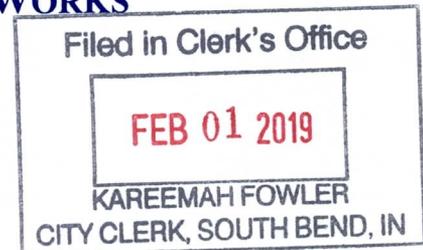


PHONE 574/235-9251  
FAX 574/235-9171

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR  
**BOARD OF PUBLIC WORKS**

January 22, 2019

Lori Kay Gesto  
1705 S. Olive Street  
South Bend, IN 46613



RE: Street Vacation – Portion of Dubail Street running from Olive Street West to termination at Wabash Street (Preliminary Review)

Dear Ms. Gesto:

The Board of Public Works, at its January 22, 2019, meeting, reviewed comments by the Engineering Division, Area Plan Commission, Community Investment, Fire Department and the Street Department.

Per the Indiana Code 36-7-3-13 guidelines, the vacation met all criteria for a street vacation. Engineering noted there is an existing public water main running down this right-of-way which would require a utility easement agreement to be created if it were to be vacated.

Therefore, the Board of Public Works submitted a favorable recommendation for the vacation of this street, subject to a utility easement agreement.

**Please contact Donna Hanson at (574) 235-9254 prior to picking up your radius map.** You will need a radius map showing properties within 150' of the proposed vacation for your petition to the Common Council. Once you pick up the radius map, proceed to the City Clerk's office for your street vacation packet.

Sincerely,

  
Linda M. Martin, Clerk

**BILL NO. 05-19**

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

**AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:**

**The East/West portion of Dubail St. 29.8' in width running West approximately 303' from right-of-way of S. Olive St to parcel 018-8102-3875**

**STATEMENT OF PURPOSE AND INTENT**

Pursuant to Indiana Code Section 36-7-3-12, the Common Council is charged with the authority to hear all petitions to vacate public ways or public places within the City.

The following Ordinance vacates the above described public property.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, as follows:

SECTION I. The Common Council of the City of South Bend having held a Public Hearing on the petition to vacate the following property:

**The East/West portion of Dubail St. 29.8' in width running West approx. 303' from right-of-way of S. Olive St to parcel 018-8102-3875.**

hereby determines that it is desirable to vacate said property.

SECTION II. The City of South Bend hereby reserves the rights and easements of all utilities and the Municipal City of South Bend, Indiana, to construct and maintain any facilities, including, but not limited to, the following: electric, telephone, gas, water, sewer, surface water control structures and ditches, within the vacated right-of-way, unless such rights are released by the individual utilities.

SECTION III. The following property may be injuriously or beneficially affected by such vacating:

**Lot Number...Track of Land 450'N&S W Of Olive St Lying In  
No Pt Ne1/4 Sw1/4 Sec 15-37-2e Cont 13.5566Acres+- St  
Bd Assessed**

Section IV. The purpose of the vacation of the real property is:

**To continue to use this a our North Driveway in and out of Belle Way Sales & Service, Inc.**

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

---

Tim Scott, Council President  
South Bend Common Council

Attest:

---

Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_\_ o'clock \_\_\_\_ . m.

---

Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_ o'clock \_\_\_\_ .m.

---

Pete Buttigieg, Mayor  
City of South Bend, Indiana



KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN



City of South Bend  
Dept. of Public Works  
227 W Jefferson Blvd. #1316  
South Bend, IN 46601  
Phone: (574) 235-9251



150' Buffer

\*Address List attached

Date Prepared: 1/28/2019 DCH

### Alley Vacation 150' Radius Map

Lori Kay Gesto

Alley/Street to be vacated is the East/West portion of Dubail 29.8' in width running West approx. 303' from W right-of-way of S. Olive Street to parcel 018-8102-3875.

| name 1   | prop addr       | prop city  | prop state | prop zip | mailingadd             | mailingcit | mailing sta ip | mailingz | legaldescr  |
|--|-----------------|------------|------------|----------|------------------------|------------|----------------|----------|---|
| NEW LIFE FELLOWSHIP MINISTRY OF SOUTH BEND INDIANA INC | 1640 S OLIVE ST | SOUTH BEND | IN         | 46613    | 2301 W Dubail          | South Bend | IN             | 46613    | Lots 125 & 126 & W 1/2 Vac Alley E & Adj South Bend Industrial Addn 99-00 Vac Ord #8908-98                  |
| NEW JERSEY IND AND ILL RR CO % NORFOLK SOUTHERN CORP   |                 |            |            |          | Three Commercial Place | Norfolk    | VA             | 23510    | S S N 1/2 Ne Sw 5.88 Acres 15 37 2e   |
| NEW LIFE FELLOWSHIP MINISTRY OF SOUTH BEND             | 1702 S OLIVE ST | SOUTH BEND | IN         | 46613    | 2301 W Dubail St       | South Bend | IN             | 46613    | Lots 121, 122, 123 & 124 So Bend Industrial Add 08/09 cons w/3660, 3661, & 3662 per owners req              |
| GESTO JAMES & LORI                                     | 1705 S OLIVE ST | SOUTH BEND | IN         | 46613    | Po Box 3966            | South Bend | IN             | 46619    | Lots 9 Thru & Inc 22 & Pt Of N/S Vac Alley & E1/2 Vac Wabash St W & Adj Olive Place Add                     |
| GESTO JAMES W & LORI K                                 |                 |            |            |          | P O Box 3966           | South Bend | IN             | 46619    | Vac Olive Place Add & Vac Dubail St And Pt Vac Wabash St W1/2 Sw Sec 15-37-2e Cont 4.85 Ac+-                |
| KASER JOHN T & JULIE M                                 |                 |            |            |          | 61130 Locust Rd        | South Bend | IN             | 46614    | Lot 127 & W 1/2 Vac Alley E & Adj South Bend Industrial Addn 99-00 Vac Ord #8908-98                         |
| NEW JERSEY IND AND ILL RR C/O NORFOLK SOUTHERN CORP    |                 |            |            |          | 110 Franklin Rd        | Roanoke    | VA             | 24042    | Tr Of Land 450'N&S W Of Olive St Lying In No Pt Ne1/4 Sw1/4 Sec 15-37-2e Cont 13.5566Acres+- St Bd Assessed |

PETITION TO VACATE PUBLIC RIGHTS-OF-WAY  
(STREETS/ALLEYS)

DATE: January 31, 2019

TO THE COMMON COUNCIL  
OF THE CITY OF SOUTH BEND, INDIANA

I (WE), THE UNDERSIGNED PROPERTY OWNER(S), PETITION YOU TO VACATE:

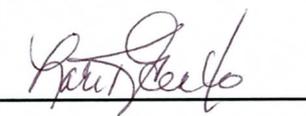
A. THE ALLEY DESCRIBED AS:

\_\_\_\_\_

B. THE STREET DESCRIBED AS:

The East/West portion of Dubail St. 29.8' in width running West approx.  
303' from right-of-way of S. Olive St to parcel 018-8102-3875.

Filed in Clerk's Office  
**FEB 01 2019**  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

| NAME (signed & printed)  | ADDRESS                                      | LOT #   |
|--|--|---|
| <u>Lori Gesto</u><br>  | <u>1705 S. Olive St South Bend, IN 46613</u> | <u>9 thru &amp; inc. 22 &amp; Pt Of N/S Vac Alley &amp; E 1/2 Vac Wabash St W &amp; Adj Olive Place Add</u> |
| <u>James Gesto</u><br> | <u>1705 S. Olive St South Bend, IN 46613</u> | <u>9 thru &amp; inc. 22 &amp; Pt Of N/S Vac Alley &amp; E 1/2 Vac Wabash St W &amp; Adj Olive Place Add</u> |

CONTACT PERSON (S)

NAME: Lori Kay Gesto

ADDRESS: 1705 S. Olive St.  
South Bend, IN 46613

PHONE: 574-261-0305

RETURN TO:

OFFICE OF THE CITY CLERK  
JOHN VOORDE, CITY CLERK  
ROOM 455-COUNTY-CITY BUILDING  
SOUTH BEND, IN 46601  
574-235-9221

CITY OF SOUTH BEND  
**DEPARTMENT OF PUBLIC WORKS**  
**Street/Alley Vacation Form**



227 W. JEFFERSON BOULEVARD    PHONE 574/ 235-9251  
 SUITE 1316 COUNTY-CITY BUILDING    FAX 574/ 235-9171  
 SOUTH BEND, INDIANA 46601    TDD 574/ 235-5567

**\*THIS FORM MUST BE REVIEWED BY THE CITY ENGINEERING DEPARTMENT PRIOR TO GRANTING A RADIUS MAP\***

|   |   |  |  |
|---|---|--|--|
| Submission Date:  | Dec 12, 2018                                      |  |  |
| Applicant Name:   | LORI KAY GESTO                                    | Phone #:                               | 574-261-0305                                   |
|   |   | Email:                                 | lgesto@belleway.com                            |
| Property Address:   | 1705- S. OLIVE ST. South Bend IN 46613            |  |  |
| Applicant property information:   | <input type="checkbox"/> Residential              | <input type="checkbox"/> Commercial    | <input checked="" type="checkbox"/> Industrial |
| Describe the general alley location with boundaries (ex. Church Pl, between E. Colfax Ave & E. LaSalle Ave):  | street is Dubail, west of olive st<br>APPROX 300' |  |  |
| Is your property adjacent to the alley of interest?   | <input checked="" type="checkbox"/> Yes           | <input type="checkbox"/> No            |  |
| Do you own all adjacent properties to the alley of interest?  | <input checked="" type="checkbox"/> Yes           | <input type="checkbox"/> No            |  |
| If no, use the attached table to provide the following information for all affected property owners: Name, Address, Consent for the proposed alley vacation |   |  |  |
| Reason for street/alley vacation and proposed use:  | WE USE AS OUR North DRIVE way.                    |  |  |
| Does the existing alley provide garage access to other property owners?   | <input type="checkbox"/> Yes                      | <input checked="" type="checkbox"/> No |  |
| Does the alley receive daily traffic excluding your own use?  | <input type="checkbox"/> Yes                      | <input checked="" type="checkbox"/> No |  |
| Would the vacation hinder public access to any of the following: a church, school, or any other public building or place?                                   | <input type="checkbox"/> Yes                      | <input checked="" type="checkbox"/> No |  |

**OFFICE USE ONLY:**

Board Recommendation for the proposed alley vacation:

Board of Public Works Authorized Signatures:

|   |
|---|
| <input checked="" type="checkbox"/> Filed in Clerk's Office<br><div style="border: 1px solid black; padding: 5px; text-align: center; color: red; font-weight: bold;">DEC 14 2018</div> KAREEMAH FOWLER<br>CITY CLERK, SOUTH BEND, IN |
|---|

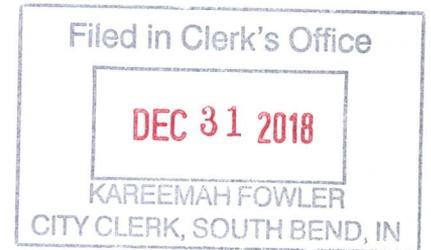
12-13-18

FYI - This alley vacation will be coming your way - I am just preparing docs for BOPW review and recommendation now. they sent check to me.  
 Donna



AREA BOARD OF ZONING APPEALS

1140 County-City Building  
227 W. Jefferson Boulevard  
South Bend, IN 46601  
[www.sjcindiana.com](http://www.sjcindiana.com)  
Phone - 574-235-9571 - Fax - 574-235-9813



December 31, 2018

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

RE: Special Exception Use at 3602 West Sample Street

Dear Council Members:

Enclosed is an Ordinance for the proposed Special Exception Use. Please include the attached Ordinance on the Council agenda for unfinished business at your January 14<sup>th</sup>, 2019 Council meeting, and set it for public hearing at your January 28<sup>th</sup>, 2019 Council meeting. The petition is tentatively scheduled for public hearing at the January 9<sup>th</sup>, 2019 Area Board of Zoning Appeals meeting. The recommendation of the Area Board of Zoning Appeals 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,

A handwritten signature in black ink, appearing to be "Jordan Wyatt". The signature is stylized with a large loop at the top and a horizontal stroke at the end.

Jordan Wyatt  
Planner

CC: Bob Palmer

**SUBSTITUTE BILL NO. 19-01**

**RESOLUTION NO. \_\_\_\_\_**

---

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, APPROVING A PETITION OF THE AREA BOARD OF ZONING APPEALS  
FOR THE PROPERTY LOCATED AT 3602 WEST SAMPLE STREET**

---

**WHEREAS**, Indiana Code Section 36-7-4-918.6, requires the Common Council to give notice pursuant to Indiana Code Section 5-14-1.5-5, 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 pursuant to Indiana Code Section 36-7-4-918.4; and

**WHEREAS**, the Area Board of Zoning Appeals has made a recommendation, pursuant to applicable state law.

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

**SECTION I.** The Common Council has provided notice of the hearing on the Petition from the Area Board of Zoning Appeals pursuant to Indiana Code Section 5-14-1.5-5, requesting that a Special Exception be granted for property located at:

3602 WEST SAMPLE STREET

In order to permit paving materials preparation, including on-site crushing of materials, and outdoor storage in excess of 50% of the total lot area.

**SECTION II.** Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the petition of the Area Board of Zoning Appeals, a copy of which is on file in the Office of the City Clerk.

**SECTION III.** The Common Council of the City of South Bend, Indiana, hereby finds that:

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

2. The proposed use will not injure or adversely affect the use of the adjacent area of property values therein;
3. The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;
4. The proposed use is compatible with the recommendations of the City of South Bend Comprehensive plan;

**SECTION IV.** Approval is subject to the Petitioner complying with the reasonable conditions established by the Area Board of Zoning Appeals which are on file in the office of the City Clerk.

**SECTION V.** The Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

---

Tim Scott, Council President  
South Bend Common Council

# AREA BOARD OF ZONING APPEALS

1140 County-City Building  
227 W. Jefferson Boulevard  
South Bend, IN 46601  
www.sjcindiana.com  
Phone - 574-235-9571 - Fax - 574-235-9813

Thursday, January 10, 2019

Common Council  
227 W. Jefferson Boulevard  
South Bend, IN 46601

RE: The petition of JUPITER SOUTH BEND LLC seeking a Special Use for processing and storage of aggregate materials, including on-site crushing of materials and to allow storage in excess of 50% of the total lot area in the GI General Industrial District (South Bend) for property located at 3602 W SAMPLE ST, City of South Bend

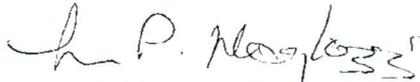
Dear Council Members:

I hereby Certify that the above referenced ordinance of JUPITER SOUTH BEND LLC was legally advertised on December 27, 2018 and that the Area Board of Zoning Appeals at its public hearing on January 9, 2019 took the following action:

Upon a motion by Jack Young, being seconded by Michael Urbanski and unanimously carried, a petition by JUPITER SOUTH BEND LLC seeking a Special Use for processing and storage of aggregate materials, including on-site crushing of materials and to allow storage in excess of 50% of the total lot area for property located at 3602 W SAMPLE ST, City of South Bend, was sent to the Council with a favorable recommendation, and will issue written Findings of Fact.

The deliberations of the Area Board of Zoning Appeals 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, Executive Director

Attachment

CC: JUPITER SOUTH BEND LLC

Firm Scott  
SO  
GF  
JT



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

## MEMORANDUM

DATE: December 28, 2018  
FROM: Jordan Wyatt, Planner  
SUBJECT: January 9, 2019 Area Board of Zoning Appeals Hearing

### Special Exception / Special Use

*A special exception use / special use may only be granted upon making a written determination and adopting appropriate Findings of Fact, 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;*
- (2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;*
- (3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;*
- (4) The proposed use is compatible with the recommendations of the Comprehensive Plan.*

#### **4. Petition of Jupiter South Bend, LLC**

Based on information available prior to the public hearing, the staff recommends the Special Exception Use be sent to the Common Council with a favorable recommendation. The staff recommends denial of the variance from the required perimeter yard landscaping in the front and from the required foundation landscaping.

- (1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare.*  
Locating the proposed use in an industrial area should not be injurious to the public health, safety, or 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.*  
Preserving the façade of the building and installation of landscaping will provide screening to prevent negative affects on the use or value of the adjacent property values.
- (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 use is consistent with the character of the GI General Industrial District.
- (4) The proposed use is compatible with the recommendations of the Comprehensive Plan.*  
The proposed use is consistent with the City Plan, South Bend Comprehensive Plan (November 2006): Objective ED 1.2: Encourage reuse of abandoned and underutilized land and structures.

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

WWW.STJOSEPHCOUNTYINDIANA.COM/AREAPLAN





AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

LAWRENCE P. MAGLIOZZI

EXECUTIVE DIRECTOR

Angela M. Smith

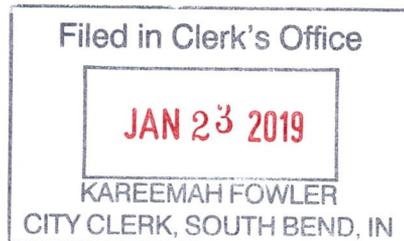
Deputy Director

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

January 22, 2019

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

RE: 1119 Lincolnway West  
Special Exception Use



Dear Council Members:

Enclosed is a Resolution for the proposed Special Exception Use. Please include the attached Resolution on the Council agenda for unfinished business at your January 28<sup>th</sup>, 2019 Council meeting, and set it for public hearing at your February 25<sup>th</sup>, 2019 Council meeting. The petition is tentatively scheduled for public hearing at the February 13<sup>th</sup>, 2019 Area Board of Zoning Appeals meeting. The recommendation of the Area Board of Zoning Appeals will be forwarded to your office by noon on February 15<sup>th</sup>, 2019.

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

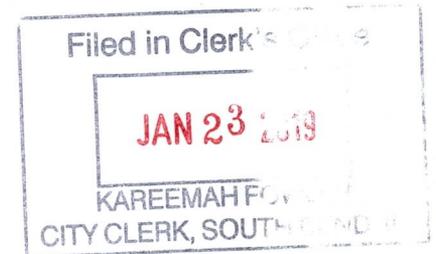
Sincerely,

A handwritten signature in black ink, appearing to read "Jordan Wyatt".

Jordan Wyatt  
Planner

CC: Bob Palmer

**BILL NO. 19-04**  
**RESOLUTION NO. \_\_\_\_\_**



A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE AREA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 1119 LINCOLNWAY WEST

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**WHEREAS**, Indiana Code Section 36-7-4-918.6, requires the Common Council to give notice pursuant to Indiana Code Section 5-14-1.5-5, 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 pursuant to Indiana Code Section 36-7-4-918.4; and

**WHEREAS**, the Area Board of Zoning Appeals has made a recommendation, pursuant to applicable state law.

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

**SECTION I.** The Common Council has provided notice of the hearing on the Petition from the Area Board of Zoning Appeals pursuant to Indiana Code Section 5-14-1.5-5, requesting that a Special Exception be granted for property located at:

1119 LINCOLNWAY WEST

In order to permit a car wash.

**SECTION II.** Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the petition of the Area Board of Zoning Appeals, a copy of which is on file in the Office of the City Clerk.

**SECTION III.** The Common Council of the City of South Bend, Indiana, hereby finds that:

1. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;
2. The proposed use will not injure or adversely affect the use of the adjacent area of property values therein;

3. The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;
4. The proposed use is compatible with the recommendations of the City of South Bend Comprehensive plan;

**SECTION IV.** Approval is subject to the Petitioner complying with the reasonable conditions established by the Area Board of Zoning Appeals which are on file in the office of the City Clerk.

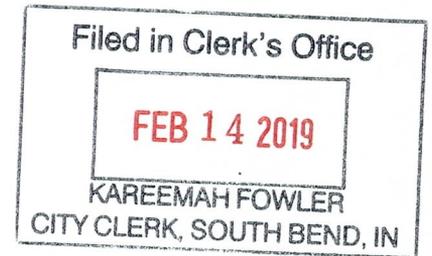
**SECTION V.** The Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

---

Tim Scott, Council President  
South Bend Common Council

# AREA BOARD OF ZONING APPEALS

1140 County-City Building  
227 W. Jefferson Boulevard  
South Bend, IN 46601  
www.sjindiana.com  
Phone - 574-235-9571 - Fax - 574-235-9813



Thursday, February 14, 2019

Common Council  
227 W. Jefferson Boulevard  
South Bend, IN 46601

RE: The petition of EL-AMMORI WADAD seeking a Special Exception Use for a Car Wash in the LB Local Business District (South Bend) for property located at 1119 LINCOLN WAY W, City of South Bend

Dear Council Members:

I hereby Certify that the above referenced ordinance of EL-AMMORI WADAD was legally advertised on January 31, 2019 and that the Area Board of Zoning Appeals at its public hearing on February 13, 2019 took the following action:

Upon a motion by Kathy Schuth, being seconded by Jack Young and unanimously carried, a petition by EL-AMMORI WADAD seeking a Special Exception Use for a Car Wash for property located at 1119 LINCOLN WAY W, City of South Bend, was sent to the Council with a favorable recommendation, and will issue written Findings of Fact.

The deliberations of the Area Board of Zoning Appeals 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,

A handwritten signature in black ink that reads "L. P. Magliozzi".

Lawrence P. Magliozzi, Executive Director

Attachment

CC: EL-AMMORI WADAD  
Barbara Griley  
Terrell Jones



MEMORANDUM

DATE: January 30, 2019  
FROM: Jordan Wyatt, Planner  
SUBJECT: February 13, 2019 Area Board of Zoning Appeals Hearing

Special Exception / Special Use

*A special exception use / special use may only be granted upon making a written determination and adopting appropriate Findings of Fact, 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;*
- (2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;*
- (3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;*
- (4) The proposed use is compatible with the recommendations of the Comprehensive Plan.*

**6. Petition of El-Ammori Wadad**

Based on information available prior to the public hearing, the staff recommends the Special Exception Use be sent to the Common Council with a favorable recommendation subject to the following written commitment: No vehicles may be stored onsite overnight unless located within the building.

- (1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare.*  
Locating the proposed use along a major corridor and within an existing building should not be injurious to the public health, safety, or 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.*  
Utilizing the existing building for the proposed use should not negatively affect the use or value of the adjacent property values.
- (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 use is consistent with the character of the LB Local Business District.
- (4) The proposed use is compatible with the recommendations of the Comprehensive Plan.*  
The proposed use is consistent with the City Plan, South Bend Comprehensive Plan (November 2006): Objective ED 1.2: Encourage reuse of abandoned and underutilized land and structures.