



OFFICE OF THE CITY CLERK

BIANCA L. TIRADO, CITY CLERK

MEMORANDUM

TO: MEMBERS OF THE COMMON COUNCIL
FROM: BIANCA L. TIRADO, CITY CLERK
DATE: THURSDAY, OCTOBER 24, 2024
SUBJECT: COMMITTEE MEETING NOTICE

The following Common Council Committee Meetings have been scheduled for **Monday, October 28, 2024:**

Council Chambers
4th Floor County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601

The Council Chambers will be Open to the Public. Members of the Public may Attend this Meeting Virtually via Microsoft Teams Meeting app here: <https://tinyurl.com/102824CC>

- 4:00 P.M.** **PERSONNEL & FINANCE** **CHAIRPERSON, NIEZGODSKI**
1. [Bill No. 61-24](#) - Firefighter Salary Ordinance
- 4:15 P.M.** **PUBLIC WORKS & PROPERTY VACATION** **CHAIRPERSON, NIEZGODSKI**
1. [Bill No. 62-24](#) - Alley Vacation - South Chestnut Street and South Walnut Street
- 4:30 P.M.** **COMMUNITY INVESTMENT** **CHAIRPERSON, WARNER**
1. [Bill No. 24-35](#) - Confirming Resolution - Real Property Tax Abatement 321 West Wayne Street
2. [Bill No. 24-36](#) - Resolution Correcting a Scrivener's Error in Resolution 5096-24
3. [Bill No. 24-37](#) - Confirming Resolution - Real Property Tax Abatement 123 North Dr. Martin Luther King Jr. Boulevard
- 5:15 P.M.** **ZONING & ANNEXATION** **CHAIRPERSON, DR. DAVIS**
1. [Bill No. 42-24](#) - Amending Zoning Ordinance for Property Located at 829 South 27th Street
2. [Bill No. 44-24](#) - Annexing and Amending the Zoning Ordinance for Property Located at 25471, 25481, and 25491 Cleveland Road (*Public Hearing Only*)

INTEGRITY | SERVICE | ACCESSIBILITY

Elivet Quijada-Navarro
CHIEF OF STAFF / CHIEF DEPUTY CITY CLERK

Matthew Neal
DEPUTY CITY CLERK / DIRECTOR OF POLICY

Talia J. Thornton
DIRECTOR OF SPECIAL PROJECTS

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



3. [Bill No. 24-34](#) - Resolution Adopting a Written Fiscal Plan and Establishing a Policy for the Provision of Services to the Cleveland Poppy Annexation Area in Warren Township

Council President Sharon L. McBride has called an **Informal Meeting** of the Council which will commence immediately after the adjournment of the Zoning and Annexation Committee Meeting.

INFORMAL MEETING OF THE COMMON COUNCIL

PRESIDENT, S. MCBRIDE

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

cc: Mayor James Mueller
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

MEETING AGENDA

Monday, October 28, 2024

7:00 P.M.

The South Bend Common Council meeting will be open to the public at the Council Chambers on the 4th floor of the County-City Building, 227 W. Jefferson Blvd., South Bend, IN 46601

or available by way of a virtual meeting using the Microsoft Teams Meeting App. Public access to the meeting can be granted by this Microsoft Teams Link:

<https://tinyurl.com/SBCC102824>

1. **INVOCATION**

PASTOR MICAH KLUTINOTY | GOSPEL CITY CHURCH

2. **PLEDGE TO THE FLAG**

3. **ROLL CALL**

4. **REPORT FROM THE SUB-COMMITTEE ON MINUTES**

OCTOBER 14, 2024

5. **SPECIAL BUSINESS**

SPECIAL RESOLUTION RECOGNIZING RISE UP ACADEMY

6. **REPORTS FROM CITY OFFICES**

7. **COMMITTEE OF THE WHOLE**

TIME: _____

BILL NO.

42-24 PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 829 SOUTH 27TH STREET COUNCILMANIC DISTRICT NO. 3 IN THE CITY OF SOUTH BEND, INDIANA

[44-24](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ANNEXING TO AND BRINGING WITHIN THE CITY LIMITS OF SOUTH BEND, INDIANA, AND AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 25471, 25481, AND 25491 CLEVELAND ROAD, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA (PUBLIC HEARING ONLY)

[61-24](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, FIXING THE ANNUAL PAY AND MONETARY FRINGE BENEFITS OF SWORN MEMBERS OF THE SOUTH BEND FIRE DEPARTMENT FOR CALENDAR YEAR 2025

[62-24](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, TO VACATE THE FIRST EAST-WEST ALLEY SOUTH OF NAPIER STREET BETWEEN CHESTNUT STREET AND TERMINATING IN PARCELS 018-3076-3055 AND 018-3076-3053; AND THE FIRST NORTH-SOUTH ALLEY EAST OF CHESTNUT STREET BETWEEN PARCELS 018-3076-305301 AND 018-3076-3052 AND TERMINATING IN THE NORFOLK-SOUTHERN RAILROAD RIGHT-OF-WAY

8. **BILLS ON THIRD READING**
BILL NO.

TIME: _____

[42-24](#) THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 829 SOUTH 27TH STREET COUNCILMANIC DISTRICT NO. 3 IN THE CITY OF SOUTH BEND, INDIANA

[61-24](#) THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, FIXING THE ANNUAL PAY AND MONETARY FRINGE BENEFITS OF SWORN MEMBERS OF THE SOUTH BEND FIRE DEPARTMENT FOR CALENDAR YEAR 2025

[62-24](#) THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, TO VACATE THE FIRST EAST-WEST ALLEY SOUTH OF NAPIER STREET BETWEEN CHESTNUT STREET AND TERMINATING IN PARCELS 018-3076-3055 AND 018-3076-3053; AND THE FIRST NORTH-SOUTH ALLEY EAST OF CHESTNUT STREET BETWEEN PARCELS 018-3076-305301 AND 018-3076-3052 AND TERMINATING IN THE NORFOLK-SOUTHERN RAILROAD RIGHT-OF-WAY

9. **RESOLUTIONS**

BILL NO.

[24-34](#) A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ADOPTING A WRITTEN FISCAL PLAN AND ESTABLISHING A POLICY FOR THE PROVISION OF SERVICES TO THE CLEVELAND POPPY ANNEXATION AREA IN WARREN TOWNSHIP

[24-35](#) A RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 321 WEST WAYNE STREET, SOUTH BEND, INDIANA 46601 AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A TEN-YEAR (10) REAL PROPERTY TAX ABATEMENT FOR HISTORIC HEARTHSTONE LLC

[24-36](#) A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, CORRECTING SCRIVENER'S ERROR IN RESOLUTION NO. 5096-24 DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 123 NORTH DR. MARTIN LUTHER KING JR. BOULEVARD, SOUTH BEND, INDIANA 46601 AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A NINE-YEAR (9) REAL PROPERTY TAX ABATEMENT FOR AFP 111 CORPORATION

[24-37](#) A RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 123 NORTH DR. MARTIN LUTHER KING JR. BOULEVARD, SOUTH BEND, INDIANA 46601 AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A NINE-YEAR (9) REAL PROPERTY TAX ABATEMENT FOR AFP 111 CORP.

10. **BILLS ON FIRST READING**

BILL NO.

[63-24](#) FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ANNEXING TO AND BRINGING WITHIN THE CITY LIMITS OF SOUTH BEND, INDIANA, CERTAIN LAND LOCATED IN CENTRE TOWNSHIP, CONTIGUOUS THEREWITH; COUNCILMANIC DISTRICT NO. 5, FOR LAND SOUTH OF LAFAYETTE FALLS PHASE I ANNEXATION AREA AND WEST OF SOUTH US-31 HIGHWAY, SOUTH BEND, INDIANA

11. **UNFINISHED BUSINESS**

12. **NEW BUSINESS**

ANNOUNCEMENT OF 2025 COMMON COUNCIL MEETING DATES

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, 4th Floor County-City Building. Reasonable efforts have been taken to provide an accurate translation of the text of the agenda, however, the officiate 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.



2024 COMMON COUNCIL STANDING COMMITTEES (Rev. 07-22-2024)

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.

Troy Warner, Chairperson
Rachel Tomas Morgan, Vice-Chairperson
Ophelia Gooden-Rodgers., Member

Sherry Bolden-Simpson, Member
Kaine Kanczuzewski, Citizen Member
Thomas Gryp, Citizen 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.

Ophelia Gooden-Rodgers, Chairperson
Canneth Lee, Vice-Chairperson
Citizen Member

Sheila Niezgodski, Member
Sherry Bolden-Simpson, 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*.

Sharon L. McBride, Member
Sheila Niezgodski, Member

Troy Warner, 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.

Rachel Tomas Morgan, Chairperson
Dr. Oliver Davis, Vice-Chairperson
Karen L. White, Member

Troy Warner, Member
Savino Rivera, Citizen Member
Frank Spesia, Citizen 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.

Rachel Tomas Morgan, Chairperson
Sherry Bolden-Simpson, Vice-Chairperson
Kate Berlent, Citizen Member

Canneth Lee, Member
Maria Gibbs, Citizen 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.

Canneth Lee, Chairperson
Troy Warner, Vice-Chairperson
Citizen Member

Dr. Oliver Davis, Member
Rachel Tomas Morgan, Member



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.

Sheila Niezgodski, Chairperson
Troy Warner, Vice-Chairperson
Rachel Tomas Morgan, Member
Ross Deal, Citizen Member

Karen L. White, Member
Canneth Lee, Member
Angela Smith, Citizen 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.

Sheila Niezgodski, Chairperson
Karen L. White, Vice-Chairperson
Jason Piontek, Citizen Member

Dr. Oliver Davis, Member
Sherry Bolden-Simpson, Member
Carl Littrell, Citizen Member

RESIDENTIAL NEIGHBORHOODS COMMITTEE

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

Karen L. White, Chairperson
Canneth Lee, Vice-Chairperson
Amika Micou, Citizen Member

Ophelia Gooden-Rodgers, Member
Sheila Niezgodski, Member
Citizen 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.

Sherry Bolden-Simpson, Chairperson
Dr. Oliver Davis, Vice-Chairperson
Joseph Mayer, Citizen Member

Troy Warner, Member
Ophelia Gooden-Rodgers, Member
Dr. Janet J. Evelyn, Citizen 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.

Dr. Oliver Davis, Chairperson
Ophelia Gooden-Rodgers, Vice-Chairperson
Stacey Odom, Citizen Member

Sheila Niezgodski, Member
Karen L. White, Member
Jordan Giger, Citizen Member

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.

Troy Warner, Member

Sherry Bolden-Simpson, Member



2024 COMMON COUNCIL STANDING COMMITTEES (Rev.03-21-2024)

CANNETH LEE, 1ST District Council Member

Chairperson, Committee of the Whole

PARC Committee, Chairperson

Residential Neighborhoods Committee, Vice-Chairperson

Community Relations Committee, Vice-Chairperson

Personnel & Finance Committee, Member

Information & Technology Committee, Member

OPHELIA GOODEN-RODGERS, 2ND District Council Member

Community Relations Committee, Chairperson

Zoning & Annexation Committee, Vice-Chairperson

Community Investment Committee, Member

Utilities Committee, Member

Residential Neighborhoods Committee, Member

SHARON L. MCBRIDE, 3RD District Council Member

President

Council Rules Committee, Member

TROY WARNER, 4TH District Council Member

Community Investment Committee, Chairperson

Personnel & Finance Committee, Vice-Chairperson

PARC Committee, Vice-Chairperson

Council Rules Committee, Member

Health & Public Safety Committee, Member

Utilities Committee, Member

Sub-Committee on the Minutes, Member

SHERRY BOLDEN-SIMPSON, 5TH District Council Member

Utilities Committee, Chairperson

Information & Technology, Vice-Chairperson

Public Works & Property Vacation Committee, Member

Sub-Committee on Minutes, Member

Community Relations Committee, Member

Community Investment Committee, Member

SHEILA NIEZGODSKI, 6TH District Council Member

Vice-President

Personnel & Finance Committee, Chairperson

Public Works & Property Vacation, Chairperson

Council Rules Committee, Member

Residential Neighborhoods Committee, Member

Zoning & Annexation Committee, Member

Community Relations Committee, Member

DR. OLIVER DAVIS, AT LARGE Council Member

Zoning & Annexation Committee, Chairperson

Utilities Committee, Vice-Chairperson

Health and Public Safety Committee, Vice-Chairperson

Public Works & Property Vacation, Member

PARC Committee, Member

RACHEL TOMAS MORGAN, AT LARGE Council Member

Information & Technology Committee, Chairperson

Health & Public Safety Committee, Chairperson

Committee Investment Committee, Vice-Chairperson

PARC Committee, Member

Personnel & Finance Committee, Member

KAREN L. WHITE, AT LARGE Council Member

Residential Neighborhoods Committee, Chairperson

Public Works & Property Vacation, Vice-Chairperson

Personnel and Finance Committee, Member

Health & Public Safety Committee, Member

Zoning & Annexation Committee, Member

42-24



City of South Bend
PLAN COMMISSION

County-City Building
227 W. Jefferson Blvd. 1400S
South Bend, IN 46601
(574) 235-7627
www.southbendin.gov/zoning

August 20, 2024

Honorable Committee Chair Davis
4th Floor, County-City Building
South Bend, IN 46601

RE: 829 S 27th Street – PC#0222-24

Dear Committee Chair Davis:

Enclosed is an Ordinance for the proposed Zone Map Amendment at the above referenced location. Please include the attached Ordinance on the Council agenda for first reading at your August 26, 2024, Council meeting, and set it for public hearing at your September 23, 2024, Council meeting. The petition is tentatively scheduled for public hearing at the September 16, 2024. South Bend Plan Commission meeting. The recommendation of the South Bend Plan Commission will be forwarded to the Office of the City Clerk by noon on the day following the public hearing.

The petitioner provided the following to describe the proposed project:

Petitioner desires to rezone from U1 Urban Neighborhood 1 to U2 Urban Neighborhood 2

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

Sincerely,

Kari Myers
Zoning Specialist

CC: Bob Palmer

Filed in Clerk's Office

AUG 21 2024

Bianca Tirado
City Clerk, South Bend, IN

Tim Corcoran
Planning Director

Tim Corcoran
Interim Zoning Administrator

Scott Ford
Commission President

BILL NO. 42-24

AUG 21 2024

ORDINANCE NO. _____

**Bianca Tirado
City Clerk, South Bend, IN**

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED
829 SOUTH 27TH STREET COUNCILMANIC DISTRICT NO. 3 IN THE CITY OF
SOUTH BEND, INDIANA**

STATEMENT OF PURPOSE AND INTENT

Petitioner desires to rezone from U1 Urban Neighborhood 1 to U2 Urban
Neighborhood 2

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

SECTION I. Ordinance No. 10689-19, which ordinance is commonly known as the
Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby 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:

LOT 144 OF BERNERS GROVE 1ST ADDITION TO THE CITY OF SOUTH BEND
COMMONLY KNOWN AS 829 SOUTH 27TH STREET

be and the same is hereby established as U2 Urban Neighborhood 2

SECTION II. This ordinance is and shall be subject to commitments as provided by
Chapter 21-12.07(f)(7) Commitments, if applicable.

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

Sharon McBride, Council President

South Bend Common Council

Attest:

Bianca Tirado, 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 _____, 2024, at _____ o'clock ____ . m.

Bianca Tirado, City Clerk
Office of the City Clerk

Approved and signed by me on the _____ day of _____, 2024, at ____ o'clock ____ .m.

James Mueller, Mayor
City of South Bend, Indiana

Petition for Rezoning or Combined Public Hearing

Property Information

Tax Key Number 018-6065-2226
Address: 829 S 27th St, South Bend, IN, 46615
Owner: Two Brother Real Estate Investments LLP
Legal Description:
Lot 144 Berners Grove 1st

Project Summary

Rezone to triplex

Requested Action

Application includes (check all that apply)

- Rezoning
Current District: U1 Urban Neighborhood 1 Additional Districts, if applicable
Proposed District: ~~S2 Suburban Neighborhood 2~~ U2 Urban Neighborhood 2 Additional Districts, if applicable
The Plan Commission and Council will consider the following in the review of a rezoning petition:
 - (1) The comprehensive Plan;
 - (2) Current conditions and the character of the current structures and uses in each district;
 - (3) The most desirable use for which the land in each district is adapted;
 - (4) The conservation of property values throughout the jurisdiction; and
 - (5) Responsible development and growth.

- Subdivision – complete and attach subdivision application
- Special Exception – complete and attach Criteria for Decision Making
Use requested: _____
- Variance(s) - List variances below, complete and attach Criteria for Decision Making
Variance(s) requested:

Required Documents

- Completed Application (including Contact Information)
- Site Plan drawn to scale
- Filing Fee
- Additional documents as noted above

Contact information

Property owner(s) of the petition site:

Name: Two Brothers Real Estate Investments LLP

Address: 1251 N Eddy St, Suite 200, South Bend, IN, 46617

Name: _____

Address: _____

Name: _____

Address: _____

Contact Person:

Name: Stephen Fryer

Address: 1251 N Eddy St, Suite 200, South Bend, IN, 46617

Phone Number: 574-397-0466

E-mail: a2zstephen.fryer@gmail.com

By signing this petition, the Petitioner/Property Owners of the above described Real Estate acknowledge they are responsible for understanding and complying with the South Bend Zoning Ordinance and any other ordinance governing the property. Failure of staff to notify the petitioner of a requirement does not imply approval or waiver from anything contained within the ordinance.

The undersigned authorizes the contact person listed above to represent this petition before the South Bend Plan Commission and Common Council and to answer any and all questions related to this petition.

Property Owner (s) Signatures:

Stephen Fryer



City of South Bend PLAN COMMISSION

County-City Building
227 W. Jefferson Blvd. 1400S
South Bend, IN 46601
(574) 235-7627
www.southbendin.gov/zoning

September 17, 2024

Filed in Clerk's Office

SEP 17 2024

Bianca Tirado
City Clerk, South Bend, IN

South Bend Common Council
227 W. Jefferson Blvd., 4th Floor
South Bend, IN 46601

Re: Bill #42-24 - A proposed ordinance of TWO BROTHERS REAL ESTATE INVESTMENTS LP to zone from U1 Urban Neighborhood 1 to U2 Urban Neighborhood 2, property located at 829 27TH ST, City of South Bend - PC# 0222-24

Dear Council Members:

I hereby Certify that the above referenced ordinance of TWO BROTHERS REAL ESTATE INVESTMENTS LP was legally advertised on September 6, 2024, and that the South Bend Plan Commission at its public hearing on September 16, 2024, took the following action:

Upon a motion by Dr. Oliver Davis, being seconded by Sarah Barber and unanimously carried, a proposed ordinance of TWO BROTHERS REAL ESTATE INVESTMENTS LP to zone from U1 Urban Neighborhood 1 to U2 Urban Neighborhood 2, property located at 829 27TH ST, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation.

The staff report is attached. The deliberations of the Plan Commission and points considered in arriving at the above decision are shown in the minutes of the public hearing, Minutes of the public hearing are available in our office and will be posted on our website once approved.

Sincerely,

Kari Myers
Zoning Specialist

Attachment

CC: TWO BROTHERS REAL ESTATE INVESTMENTS LP
Bob Palmer

Tim Corcoran
Planning Director

Tim Corcoran
Interim Zoning Administrator

Scott Ford
Commission President

Property Information

Location: 829 27TH ST
Owner: TWO BROTHERS REAL ESTATE INVESTMENTS LP

Requested Action

Rezone from U1 Urban Neighborhood 1 to U2 Urban Neighborhood 2

Project Summary

A rezoning to legalize an existing triplex.

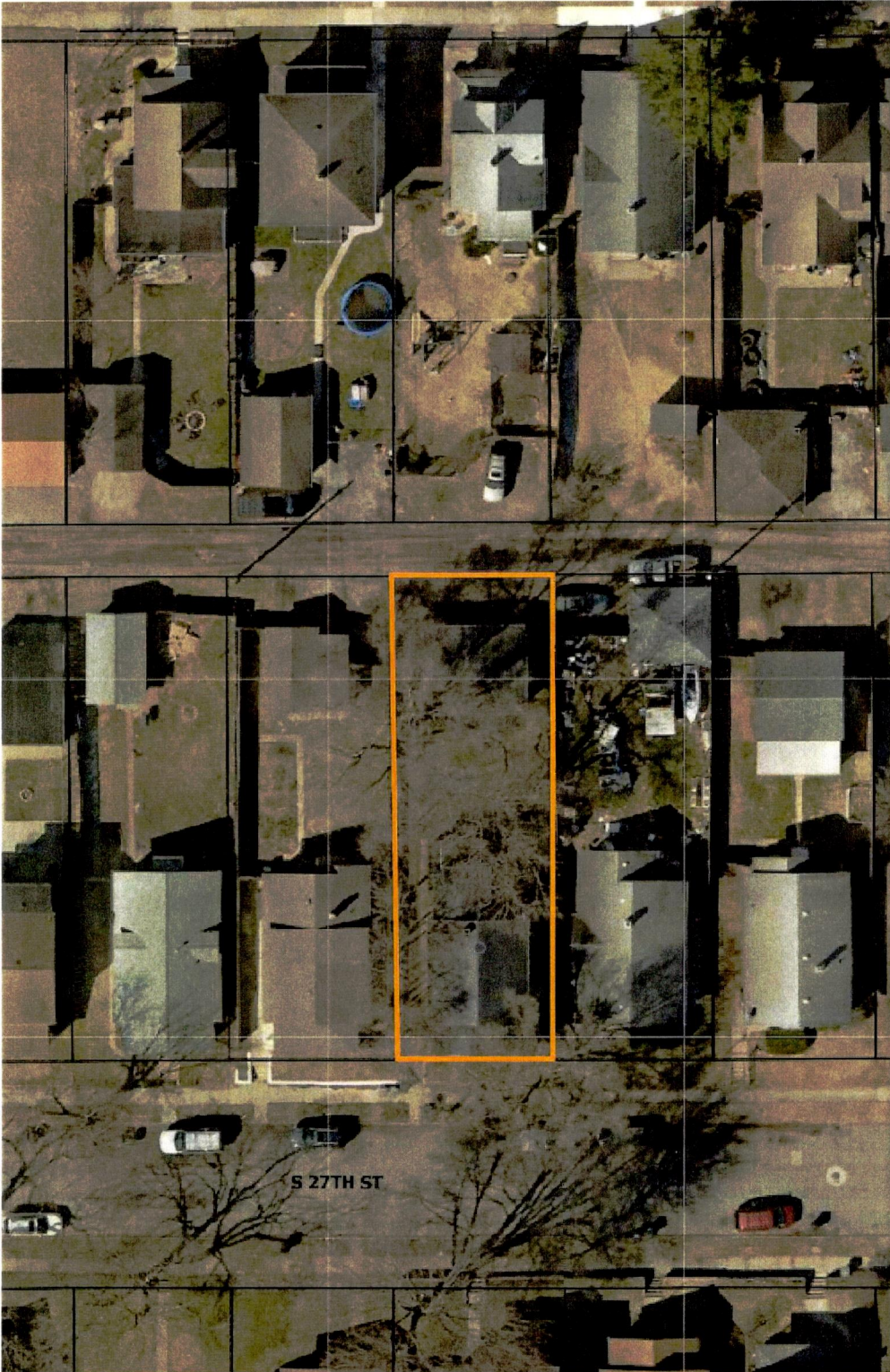
Location Map



Recommendation

Staff Recommendation: Based on information available prior to the public hearing, staff recommends the Plan Commission send the rezoning petition to the Common Council with a favorable recommendation subject to the condition of creating a zoning compliant frontage type by reopening the original porch.

Proposed Site Plan



Site & Context

Land Uses and Zoning:

- On site: A building being used as a triplex, zoned U1 Urban Neighborhood 1
- North: A one unit dwelling zoned U1 Urban Neighborhood 1
- East: Across 27th Street a one unit dwelling zoned U1 Urban Neighborhood 1
- South: A one unit dwelling zoned U1 Urban Neighborhood 1
- West: Across an alley a one unit dwelling zoned U1 Urban Neighborhood 1

District Intent:

The U2 District is established to provide for, promote, and maintain the development of diverse housing types in urban neighborhoods located near neighborhood centers in core and outlying areas of the City.

Site Plan Description:

The owner intends to continue using the 2,249 square foot house as a triplex.

Zoning and Land Use History and Trends:

The house was originally constructed in 1922, and the Sanborn maps show that the house was a single family dwelling at least through 1960. It is unclear when the house was converted from a single unit to its current three unit layout.

Traffic and Transportation Considerations:

To the east, S 27th Street is a 30' wide street with on-street parking.

Agency Comments

Agency Comments:

There are no engineering comments at this time.

Staff Comments:

Zoning of properties to U2 Urban Neighborhood 2 allows for the creation of more diverse and affordable housing types. With proper design, these housing types blend well with the character and scale of existing urban neighborhoods. Located in a fairly walkable urban neighborhood that is close to a major corridor, businesses, and transit, this property is suited for U2 zoning.

Criteria for Decision Making

Rezoning

Per State Law, the Plan Commission and Common Council shall pay reasonable regard to:

1. Comprehensive Plan:

Policy Plan:

The petition is consistent with the City Plan, South Bend Comprehensive Plan (2006), Objective H 1: 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 Medium Density Residential, which would allow for a range of neighborhood-scaled residential housing types.

Plan Implementation/Other Plans:

While the River Park Neighborhood Plan is in progress, there are no neighborhood specific plans for this area at this time.

2. Current Conditions and Character:

A dense, primarily residential neighborhood just north of the mixed-use Mishawaka Avenue corridor.

3. Most Desirable Use:

The most desirable use would fall in the range of one unit to medium-density residential housing types that match the established character of the neighborhood.

4. Conservation of Property Values:

The use and value of the adjacent properties should not be negatively impacted. Rezoning to U2 would legalize the use as a triplex, providing additional housing units to the neighborhood. The condition to open the porch would bring the property into compliance with zoning standards.

5. Responsible Development and Growth:

It is responsible development and growth to allow for a variety of housing options within this urban neighborhood.

Analysis & Recommendation

Commitments: There are no commitments proposed at this time.

Analysis: Rezoning the site to U2 Urban Neighborhood 2 will legalize an existing triplex, allowing for a higher density housing type that still blends into the context of the surrounding neighborhood.

Recommendation: Based on information available prior to the public hearing, the staff recommends the Plan Commission send the rezoning petition to the Common Council with a favorable recommendation subject to the condition of creating a zoning compliant frontage type by reopening the original porch.

44-24



City of South Bend
PLAN COMMISSION

County-City Building
227 W. Jefferson Blvd. 1400S
South Bend, IN 46601
(574) 235-7627
www.southbendin.gov/zoning

August 20, 2024

Honorable Committee Chair Dr. Oliver Davis
4th Floor, County-City Building
South Bend, IN 46601

RE: 25471, 25481, 25491 Cleveland Rd – PC#0224-24

Dear Committee Chair Dr. Davis:

Enclosed is an Ordinance for the proposed Annexation and Zone Map Amendment at the above referenced location. Please include the attached Ordinance on the Council agenda for first reading at your August 26, 2024, Council meeting and set it for second reading on October 28, 2024, and third reading on November 12, 2024, Council meetings. The petition is tentatively scheduled for public hearing at the September 16, 2024, South Bend Plan Commission meeting. The recommendation of the South Bend Plan Commission will be forwarded to the Office of the City Clerk by noon on the day following the public hearing.

The petitioner provided the following to describe the proposed project:

Petitioners desire to annex and rezone 25471, 25481, and 25491 Cleveland Road from R Single Family District in Unincorporated St. Joseph County to I Industrial

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

Sincerely,

Kari Myers
Zoning Specialist

CC: Bob Palmer

Filed in Clerk's Office

AUG 21 2024

Bianca Tirado
City Clerk, South Bend, IN

Tim Corcoran
Planning Director

Tim Corcoran
Interim Zoning Administrator

Scott Ford
Commission President

BILL NO. 44-24

AUG 21 2024

ORDINANCE NO. _____

Bianca Tirado
City Clerk, South Bend, IN

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ANNEXING TO AND BRINGING WITHIN THE CITY LIMITS OF SOUTH BEND, INDIANA, AND AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 25471, 25481, AND 25491 CLEVELAND ROAD, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

Petitioners desire to annex and rezone 25471, 25481, and 25491 Cleveland Road from R Single Family District in Unincorporated St. Joseph County to I Industrial in the City of South Bend

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

SECTION I. That the following described real estate is situated in St. Joseph County, Indiana, being contiguous by more than one-eighth (1/8) of its aggregate external boundaries with the present boundaries of the City of South Bend, Indiana, shall be and hereby is annexed to and brought within the City of South Bend:

THAT PART OF THE SOUTH HALF OF SECTION 24 AND THE NORTH HALF OF SECTION 25, BOTH IN TOWNSHIP 38 NORTH, RANGE 1 EAST, WARREN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, WHICH IS MORE PARTICULARLY DESCRIBED AS: NORTHWEST CORNER OF A PARCEL OF GROUND DESCRIBED IN DEED DOCUMENT NUMBER 9349703 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE; THENCE EAST (ALL BEARINGS ASSUMED) ALONG THE NORTH LINE OF SAID PARCEL AND THE EXISTING CITY OF SOUTH BEND MUNICIPAL CORPORATE LIMIT LINE, A DISTANCE OF 706.79 FEET MORE OR LESS TO THE NORTHEAST CORNER OF A PARCEL OF GROUND DESCRIBED IN SAID DEED DOCUMENT; THENCE SOUTH ALONG THE EAST LINE OF SAID PARCEL AND ITS SOUTHERLY EXTENSION, A DISTANCE OF 1356.5 FEET MORE OR LESS TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF CLEVELAND ROAD; THENCE WEST ALONG SAID SOUTH LINE, A DISTANCE OF 727.2 FEET MORE OR LESS TO THE INTERSECTION OF THE SOUTH LINE OF SAID CLEVELAND ROAD WITH THE WEST RIGHT-OF-WAY LINE OF POPPY ROAD; THENCE NORTH, A DISTANCE OF 80 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF SAID CLEVELAND ROAD; THENCE EAST ALONG SAID NORTH LINE, A DISTANCE OF 40 FEET MORE OR LESS,

TO A POINT ON THE WEST LINE OF SAID PARCEL; THENCE NORTH ALONG THE WEST LINE OF SAID PARCEL, A DISTANCE OF 1297 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 21.83 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS AND RESTRICTIONS OF RECORD.

SECTION II. That the boundaries of the City of South Bend, Indiana, shall be and are hereby declared to be extended so as to include the real estate of the above-described parcel as part of the City of South bend, Indiana.

SECTION III. Ordinance No. 10689-19, which ordinance is commonly known as the Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby amended in order that the zoning classification of the above described real estate, with the exception of all adjacent rights-of-way, in the City of South Bend, St. Joseph County, State of Indiana be and the same is hereby established as I Industrial District.

SECTION IV. This Ordinance shall be in full force and effect 30 days from and after its passage by the Common Council, approval by the Mayor, and legal publication.

Sharon McBride, Council President
South Bend Common Council

Attest:

Bianca Tirado, 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 _____, 2024, at _____ o'clock ____ . m.

Bianca Tirado, City Clerk
Office of the City Clerk

Approved and signed by me on the _____ day of _____, 2024, at ____ o'clock ____ .m.

James Mueller, Mayor

City of South Bend, Indiana



City of South Bend Petition for Annexation and Rezoning or Combined Public Hearing

Property Information

Tax Key Number: 021, 1036--0590, 021-1036-059003, 021-1036-059005, 021-1036-059006

Property Address: 25471, 25481, and 25491 Cleveland,

Property Owner: John Joseph Sims; Heirs of Leo Sims, Pasqua DiPinta Sims, and Pasqua Sims - Mary Ann Montgomery, Teress Ferency, Rosemary Hoffman, Johanna Rymer

Legal Description of Annexation Area: (include any adjacent rights of way not already in the City)

THAT PART OF THE SOUTH HALF OF SECTION 24 AND THE NORTH HALF OF SECTION 25, BOTH IN TOWNSHIP 38 NORTH, RANGE 1 EAST, WARREN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, WHICH IS MORE PARTICULARLY DESCRIBED AS: NORTHWEST CORNER OF A PARCEL OF GROUND DESCRIBED IN DEED DOCUMENT NUMBER 9349703 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE; THENCE EAST (ALL BEARINGS ASSUMED) ALONG THE NORTH LINE OF SAID PARCEL AND THE EXISTING CITY OF SOUTH BEND MUNICIPAL CORPORATE LIMIT LINE A DISTANCE OF 700.70 FEET MORE

Project Summary

The petitioner seeks to rezone the property to allow for the offices of HRP Construction, a sewer, watermain and treatment facilities contractor for municipal, commercial, and industrial customers in northern Indiana.

Rezoning

County Zoning Map at: <https://www.sjcindiana.com/996/Zoning-Map>

City Zoning Map at: <https://southbendin.gov/zoning>

Current Zoning District (County): R Single Family District

Select One

Additional Districts, if applicable

Proposed Zoning District (City): I Industrial

Select One

Additional Districts, if applicable

The Plan Commission and Council will consider the following in the review of a rezoning petition:

- (1) The comprehensive Plan;
- (2) Current conditions and the character of the current structures and uses in each district;
- (3) The most desirable use for which the land in each district is adapted;
- (4) The conservation of property values throughout the jurisdiction; and
- (5) Responsible development and growth.

Additional Requested Actions (check all that apply and include additional required documentation)

- Subdivision** - complete and attach Subdivision Application
- Special Exception** - complete and attach Criteria for Decision Making
- Variance(s)** - list variances below, complete and attach Criteria for Decision Making

- 1) From the required hard surface for outdoor storage to aggregate
- 2) From the required Type 3 Buffer to existing vegetation on the East and a 6' - 8' earthen berm plus existing vegetation on the West.

Criteria for Decision Making

Variance(s) - if applicable

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. Please address how the project meets the following criteria:

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

The proposed variances would not be injurious to the public health, safety, or general welfare of the community. The requested variances allow for the retention of mature trees, which are better for the environment and general welfare of the community. The proposed aggregate area is relatively small and setback a significant distance from the road.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner, because:

The use and value of adjacent property should not be adversely affected. The proposed use is essentially an office. The proposed landscaping variance will ultimately exceed that of what is required by the Ordinance. The location of the outdoor storage area with aggregate surface is on the east side of the property away from any residential uses.

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

Strict application of the Ordinance would require removing existing mature trees in order to replace them with evergreen trees starting at 6' in height. It would also require the pavement of the entire outdoor storage area, which would increase the impervious surface, which is ultimately detrimental to the environment and would increase required area on site be devoted to drainage.

(4) The variance granted is the minimum necessary, because:

The proposed variances are the minimum necessary to ensure a well buffered area adjacent to a low-intensity use. The proposed development would still included hard surfaced parking and drives. The area proposed for aggregate is where the large equipment would be stored. Because of the type of equipment being stored, frequent resurfacing would be needed.

(5) The variance does not correct a hardship caused by a former or current owner of the property, because:

The proposed development is trying to retain as much of a the natural landscape as possible. The Ordinance does not anticipate this type of office (a suburban style office with an area for parking equipment), which is not a result of an action by the owner or petitioner. The variances requests are specific to this user, but with the intention of preserving as much mature vegetation as possible and minimizing paving on the site.

Contact information

Property owner(s) of the petition site:

Name: John Joseph Sims
Address: 51109 Broken Wood Ct.
Granger, IN 46530

Name: Heirs and/or Devisees of Leo A. Sims and Pasqua Di Pinto Sims, deceased
Address: 25471 and 25491 Cleveland Rd., South Bend, IN 46628

Name: MaryAnnMontgomery, TeresaFerency, RosemaryHoffman, Johanna Rhymer
Address: 25471 and 25491 Cleveland Rd.
South Bend, IN 46628

Contact Person:

Name: Danch, Harner & Associates; Attn: Angela Smith
Address: 1643 Commerce Drive
South Bend, IN 46628
Phone Number: 574-234-4003
E-mail: asmith@danchharner.com

By signing this petition, the Petitioner/Property Owners of the above described Real Estate acknowledge they are responsible for understanding and complying with the South Bend Zoning Ordinance and any other ordinance governing the property. Failure of staff to notify the petitioner of a requirement does not imply approval or waiver from anything contained within the ordinance.

The undersigned authorizes the contact person listed above to represent this petition before the South Bend Plan Commission and Common Council and to answer any and all questions related to this petition.

Property Owner (s) Signatures:

x John Joseph Sims _____

Contact Information

Property owner(s) of the petition site:

Name: John Joseph Sims
Address: 51109 Broken Wood Ct.
Granger, IN 46530

Name: Hairs and/or Devisees of Leo A. Sims and Pasqua Di Pinto Sims, deceased
Address: 25471 and 25491 Cleveland Rd., South Bend, IN 46628

Name: MaryAnnMontgomery, TeresaFerency, RosemaryHoffman, Johanna Rhymer
Address: 25471 and 25491 Cleveland Rd.
South Bend, IN 46628

Contact Person:

Name: Danch, Hamer & Associates; Attn: Angela Smith
Address: 1643 Commerce Drive
South Bend, IN 46628

Phone Number: 574-234-4003

E-mail: asmith@danchhamer.com

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The undersigned authorizes the contact person listed above to represent this petition before the South Bend Plan Commission and Common Council and to answer any and all questions related to this petition.

Property Owner (s) Signatures:

Rosemary Hoffman _____

Contact Information

Property owner(s) of the petition site:

Name: John Joseph Sims

Address: 51109 Broken Wood Ct.
Granger, IN 46530

Name: Heirs and/or Devisees of Leo A. Sims and Pasqua Di Pinto Sims, deceased

Address: 25471 and 25491 Cleveland Rd., South Bend, IN 46628

Name: MaryAnnMontgomery, TeresaFerency, RosemaryHoffman, Johanna Rhymer

Address: 25471 and 25491 Cleveland Rd.
South Bend, IN 46628

Contact Person:

Name: Danch, Hamer & Associates; Attn: Angela Smith

Address: 1643 Commerce Drive
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The undersigned authorizes the contact person listed above to represent this petition before the South Bend Plan Commission and Common Council and to answer any and all questions related to this petition.

Property Owner (s) Signatures:

Johanna Rhymer

Contact Information

Property owner(s) of the petition site:

Name: John Joseph Sims
Address: 51109 Broken Wood Ct.
Granger, IN 46530

Name: Heirs and/or devisees of Leo A. Sims and Pasqua Di Pinto Sims, deceased
Address: 25471 and 25491 Cleveland Rd., South Bend, IN 46628

Name: MaryAnnMontgomery, TeresaFerency, RosemaryHoffman, Johanna Rhymer
Address: 25471 and 25491 Cleveland Rd.
South Bend, IN 46628

Contact Person:

Name: Danch, Harner & Associates; Attn: Angela Smith
Address: 1643 Commerce Drive
South Bend, IN 46628

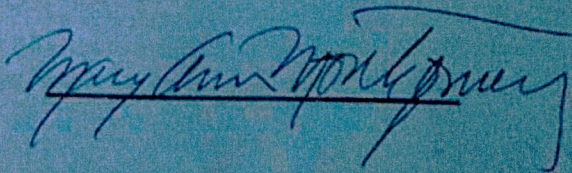
Phone Number: 574-234-4003

E-mail: asmith@danchharner.com

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Property Owner (s) Signatures:



Contact information

Property owner(s) of the petition site:

Name: John Joseph Sims
Address: 51109 Broken Wood Ct.
Granger, IN 46530

Name: Heirs and/or devisees of Leo A. Sims and Pasqua Di Pinto Sims, deceased
Address: 25471 and 25491 Cleveland Rd., South Bend, IN 46628

Name: MaryAnnMontgomery, TeresaFerency, RosemaryHoffman, Johanna Rhymer
Address: 25471 and 25491 Cleveland Rd.
South Bend, IN 46628

Contact Person:

Name: Danch, Harner & Associates; Attn: Angela Smith
Address: 1643 Commerce Drive
South Bend, IN 46628
Phone Number: 574-234-4003
E-mail: asmith@danchharner.com

By signing this petition, the Petitioner/Property Owners of the above described Real Estate acknowledge they are responsible for understanding and complying with the South Bend Zoning Ordinance and any other ordinance governing the property. Failure of staff to notify the petitioner of a requirement does not imply approval or waiver from anything contained within the ordinance.

The undersigned authorizes the contact person listed above to represent this petition before the South Bend Plan Commission and Common Council and to answer any and all questions related to this petition.

Property Owner (s) Signatures:

Teresa Ferency

Teresa Ferency 08/16/2024

Post of Sims

MAIL ORDER TO:

MAIL, TAX, BILLS TO:

25471 Cleveland Rd
South Bend IN 46628

9349703

QUIT-CLAIM DEED

LEO A. SIMS and PASQUA DIPINTO SIMS
Husband and Wife
the Grantors

COMPONENT
OF INDIANA DEPARTMENT OF REVENUE
MAILING FROM 04 - 914

AUDITOR'S RECORD	
Transfer No.	11939
Taxing Unit	Warram
Date	12-2-93

1

Release and Quit-Claim to
Leo A. Sims, Pasqua Dipinto Sims, Mary Ann Montgomery, Teresa Perency,
Rosemary Hoffman and Johanna Rhymer, joint tenants, full rights of
survivorship
from the Grantors

for and in consideration of Ten Dollars (\$10.00) and other valuable consideration

the receipt of which is hereby acknowledged, Real Estate in St. Joseph County,
in the State of Indiana, described as follows:

Tax Key No. 21-1036-059003

A parcel of land located in the Southeast Quarter of Section 24, Township 38 North, Range 1 East, described as beginning at the Southwest corner of the Southeast Quarter of said Section 24; thence running North along the North and South Quarter Section line, 1337 feet; thence East along a hedge and tree line, 603 feet to an iron stake; thence South 991 feet; thence West 10 feet to an iron stake; thence South 338 feet to a railroad spike in the center of Cleveland Road; thence West along the center line of Cleveland Road to the place of beginning. EXCEPTING THEREFROM a tract or parcel of land consisting of Eleven (11) acres taken off of the entire West side thereof; ALSO, EXCEPTING THEREFROM a tract of land described as follows: Beginning at a point on the South line of said Section 24, 793 feet East of the Southwest corner of the Southeast Quarter of said Section 24; thence North 338 feet to an iron stake; thence East 10 feet to an iron stake; thence North 991 feet to a hedge and tree line; thence West 100 feet to an iron stake; thence South 1337 feet to the center line of Cleveland Road; thence East to the place of beginning.

DULY ENTERED FOR TAXATION
BEVERLY D. CRONE
AUDITOR
ST. JOSEPH CO. INDIANA

Signed and dated on _____, 19__

State of Indiana, St. Joseph's County, IN.

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared:



and on _____ of the foregoing deed on

_____ 19__

Dana L. Erickson, Notary Public

Dana L. Erickson

My commission expires March 1995

Leo A. Sims

Leo A. Sims

Pasqua Dipinto Sims

Pasqua Dipinto Sims

FILE NO. _____

DATE OF RECORDATION _____

INDEXED _____

FILED _____

ALTA COMMITMENT FOR TITLE INSURANCE

issued by:



Fidelity National Title*
Insurance Company

Commitment Number:

792400195
Revision 1

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and the Commitment Conditions, Fidelity National Title Insurance Company, a Florida corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Amount of Insurance and the name of the Proposed Insured.

If all of the Schedule B, Part I-Requirements have not been met within one hundred eighty (180) days after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Fidelity National Title Insurance Company

By:

Michael J. Nolan, President

Attest:

Marjorie Nemzura, Secretary

Countersigned By:

Edward W. Hardig, Jr.
Authorized Officer or Agent

Issued Date: July 3, 2024

This page is only a part of a 2021 ALTA® Commitment for Title Insurance issued by Fidelity National 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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FIDELITY NATIONAL TITLE INSURANCE COMPANY

REVISION 1

Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

<p>ISSUING OFFICE: Fidelity National Title Company, LLC 401 W. High Street Elkhart, IN 46516 Main Phone: (574)293-2341</p>	<p>FOR SETTLEMENT INQUIRIES, CONTACT: Fidelity National Title Company, LLC 401 W. High Street Elkhart, IN 46516 Main Phone: (574)293-2341 Main Fax: (574)674-7231</p>
--	---

Order Number: 792400195

Property Address: 25471 Cleveland Road, South Bend, IN 46628
25491 W. Cleveland Rd., South Bend, IN 46628
Cleveland Rd, South Bend, IN 46628
25471 Cleveland Road, South Bend, IN 46628

SCHEDULE A

1. Commitment Date: June 22, 2024 at 08:00 AM
2. Policy to be issued:
 - (a) ALTA Owner's Policy 2021
 - Proposed Insured: Blueprint, LLC or its assigns
 - Proposed Amount of Insurance: \$875,000.00
 - The estate or interest to be insured: Fee Simple
 - (b) ALTA Loan Policy 2021
 - Proposed Insured: Lender with contractual obligations under a loan agreement with the proposed insured owner identified in Item 2 above
 - Proposed Amount of Insurance: \$100,000.00
 - The estate or interest to be insured: Fee Simple
3. The estate or interest in the Land at the Commitment Date is:
 - Fee Simple
4. The Title is, at the Commitment Date, vested in:
 - Heirs and/or Devisees of Pasqua DiPinto Sims aka Pasqua Sims, deceased, as to Parcels 1 and 4
 - Heirs and/or Devisees of Leo A. Sims, deceased, Heirs and/or Devisees of Pasqua Di Pinto Sims, deceased, Mary Ann Montgomery, Teresa Ferency, Rosemary Hoffman and Johanna Rhymer, joint tenants, full rights of survivorship, as to Parcel 2
 - John Joseph Sims, as to Parcel 3
5. The Land is described as follows:
 - SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

END OF SCHEDULE A

This page is only a part of a 2021 ALTA® Commitment for Title Insurance issued by Fidelity National 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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City of South Bend PLAN COMMISSION

County-City Building
227 W. Jefferson Blvd. 1400S
South Bend, IN 46601
(574) 235-7627
www.southbendin.gov/zoning

September 17, 2024

Filed in Clerk's Office

SEP 17 2024

South Bend Common Council
227 W. Jefferson Blvd., 4th Floor
South Bend, IN 46601

Bianca Tirado
City Clerk, South Bend, IN

Re: Bill #44-24 - A proposed ordinance of SIMS LEO A & PASQUA DIPINTO & HOFFMAN ROSEMARY & MONTGOMERY MARY ANN & RHYMER JOHANNA & FERENCY TERESA JT W/ROS and JOHN JOSEPH SIMS to zone from R Single Family District (St. Joseph County) to I Industrial, property located at 25491 CLEVELAND RD and 25471 CLEVELAND RD and 25481 CLEVELAND RD, City of South Bend - PC# 0224-24

Dear Council Members:

I hereby Certify that the above referenced ordinance of SIMS LEO A & PASQUA DIPINTO & HOFFMAN ROSEMARY & MONTGOMERY MARY ANN & RHYMER JOHANNA & FERENCY TERESA JT W/ROS and JOHN JOSEPH SIMS was legally advertised on September 6, 2024, and that the South Bend Plan Commission at its public hearing on September 16, 2024, took the following action:

Upon a motion by Francisco Fotia, being seconded by Jason Piontek and unanimously carried, a proposed ordinance of SIMS LEO A & PASQUA DIPINTO & HOFFMAN ROSEMARY & MONTGOMERY MARY ANN & RHYMER JOHANNA & FERENCY TERESA JT W/ROS and JOHN JOSEPH SIMS to zone from R Single Family District (St. Joseph County) to I Industrial, property located at 25491 CLEVELAND RD and 25471 CLEVELAND RD and 25481 CLEVELAND RD, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation.

The staff report is attached. The deliberations of the Plan Commission and points considered in arriving at the above decision are shown in the minutes of the public hearing, Minutes of the public hearing are available in our office and will be posted on our website once approved.

Sincerely,

Kari Myers
Zoning Specialist

Attachment

CC: SIMS LEO A & PASQUA DIPINTO & HOFFMAN ROSEMARY & MONTGOMERY MARY ANN & RHYMER JOHANNA & FERENCY TERESA JT W/ROS, JOHN JOSEPH SIMS

Tim Corcoran
Planning Director

Tim Corcoran
Interim Zoning Administrator

Scott Ford
Commission President

Property Information

Location: 25491, 25471, 25471 and 25481 CLEVELAND RD
Owner: SIMS LEO A & PASQUA DIPINTO & HOFFMAN ROSEMARY & MONTGOMERY MARY ANN & RHYMER JOHANNA & FERENCY TERESA JT W/ROS and JOHN JOSEPH SIMS

Requested Action

Rezone from R Single Family District (St. Joseph County) to I Industrial

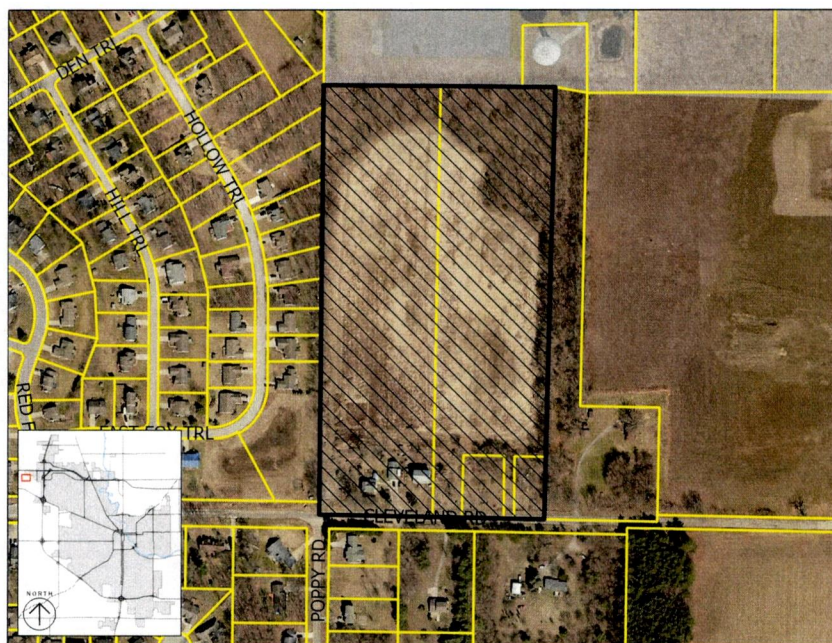
Variance(s):

- 1) from required hard surface for outdoor storage to aggregate
- 2) from the required Type 3 buffer to existing vegetation on the East and a 6' - 8' earthen berm plus existing vegetation on the West

Project Summary

Development of land into an office and small warehouse with outdoor storage of service equipment. THIS REQUEST INCLUDES ANNEXATION INTO THE CITY OF SOUTH BEND.

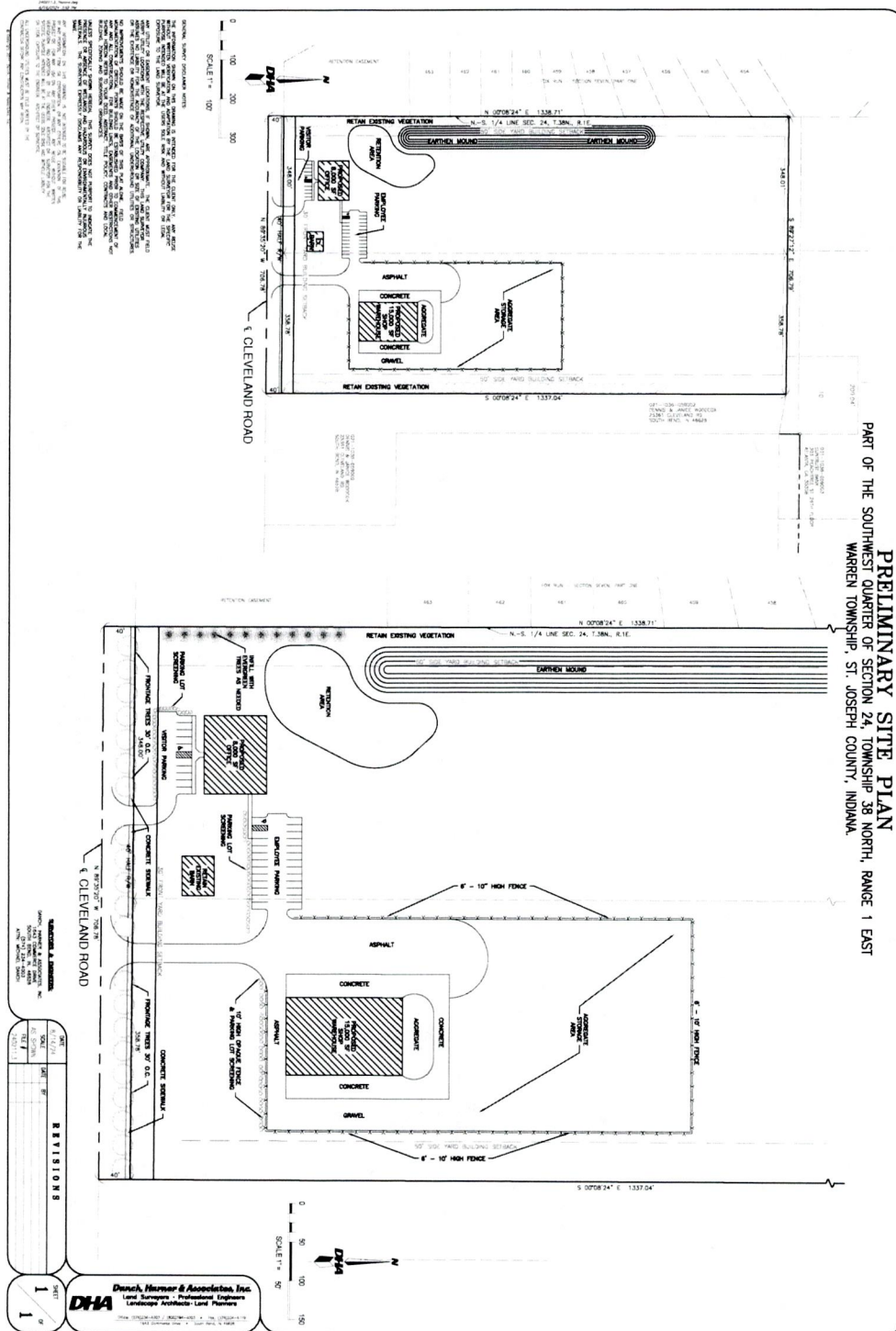
Location Map



Recommendation

Staff Recommendation: Based on information available prior to the public hearing, Staff recommends the Commission send the rezoning and annexation petition to the Common Council with a favorable recommendation. Staff recommends the Commission approve the variances as presented subject to a written commitment to maintain a 100' natural area along the west property line.

Proposed Site Plan



Site & Context

Land Uses and Zoning:

- On site: The site currently holds a house, garage, barn, and large farm field bordered by vegetation, and is zoned R Single Family District in St. Joseph County
- North: A warehouse zoned I Industrial
- East: A 100' strip of mature vegetation zoned R Single Family Residential in St. Joseph County and, further east, a vacant lot and manufacturing plant zoned I Industrial in St. Joseph County.
- South: Across Old Cleveland Road, residential units zoned R Single Family Residential in St. Joseph County
- West: A residential neighborhood zoned R Single Family Residential in St. Joseph County

District Intent:

The I District is established to provide a location for medium- to high intensity industrial uses, typically grouped along highways and major streets and separated from residential uses.

Site Plan Description:

The proposed development will consist of an 8000 square foot office on the western portion of the lot, a 15,000 square foot warehouse/shop and outdoor storage of large equipment on the eastern portion of the lot, and the preservation of an existing barn on the southern end of the parcel.

Zoning and Land Use History and Trends:

The surrounding area was largely farmland until the late 1990s, when the subdivision to the west of the site began to develop. Between 2000 and 2010 several new industrial buildings were constructed to the north and east of the site, with a final industrial site to the east of the parcel constructed between 2016 and 2017.

Traffic and Transportation Considerations:

Old Cleveland Road is a two lane, 20' wide road.

Agency Comments

Agency Comments: There are no agency comments at this time.

Staff Comments: There are no staff comments at this time.

Criteria for Decision Making

Rezoning

Per State Law, the Plan Commission and Common Council shall pay reasonable regard to:

1. Comprehensive Plan:

Policy Plan:

The petition is consistent with the City Plan, South Bend Comprehensive Plan (2006), Objective ED2: Retain existing businesses and recruit new ones to the city.

Land Use Plan:

The Future Land Use Plan does not address properties outside of the City limits.

Plan Implementation/Other Plans:

The petition is consistent with South Bend's Annexation Policy Plan (1992) "[E]xtension of City services and utilities beyond the City limits should not occur unless it furthers the annexation policies of the City..."

2. Current Conditions and Character:

Currently the character of the properties located within the City to the north are industrial uses and the properties located in the County are residential to the south and west and industrial to the east.

3. Most Desirable Use:

The most desirable land use would be one which supports the ongoing development in the area in a manner compatible with the surrounding context.

4. Conservation of Property Values:

The properties in the area a mix of residential and industrial uses. The annexation and rezoning should not affect the use or value of the surrounding properties, as long as an appropriate buffer is preserved between the industrial property and residential properties to the west, preserving the existing mature vegetation.

5. Responsible Development and Growth:

It is responsible development and growth to require properties contiguous to the City limits to annex into the City and the time of development. Likewise, it is responsible development to allow property in an industrially developing area to be used for industrial growth at a scale that is compatible with the adjacent residential properties.

Variance(s)

The petitioner is seeking the following variance(s):

- 1) from required hard surface for outdoor storage to aggregate
- 2) from the required Type 3 buffer to existing vegetation on the East and a 6' - 8' earthen berm plus existing vegetation on the West

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community.**

The approval of outdoor storage on aggregate should not be injurious to the general welfare of the community. The aggregate surfaced storage area will be a considerable distance from the right of way and buffered from any privately owned adjacent property, limiting any adverse affects of the use or value of the adjacent properties. A variance from the required type 3 buffer to the existing vegetation on the east and the existing vegetation plus an earthen berm on the west would not be injurious to the general welfare of the community. The use of existing mature vegetation to buffer the property from surrounding incompatible uses would meet the intent of the ordinance.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

The use and value of adjacent properties should not be adversely impacted by the proposed variances. The aggregate surfaced storage area will be a considerable distance from the right of way and buffered from any privately owned adjacent property, limiting any adverse affects of the use or value of the adjacent properties. The use of the existing mature vegetation to the east, and the mature vegetation with an added earthen berm to the west will provide appropriately buffering.

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

The strict application of the terms of this Chapter would require the developer to create a large paved surface that would likely be damaged by the equipment stored in the area. The negative impact of that large of a impervious surface would far outweigh the potential benefit of strict compliance with the ordinance. A strict application of the ordinance calling for use of a type 3 buffer would require the developer to remove existing mature vegetation at the property line and replace it with a 6' evergreen trees.

(4) The variance granted is the minimum necessary.

The variances granted are the minimum necessary. Allowing an aggregate surfaced storage area set back over 300' from the right of way and buffered from adjacent properties outweighs the potential benefits of an impervious surfaced storage area. Utilizing the existing vegetation on the east property line and the existing vegetation, plus an earthen berm, on the west property line, meets the intent of the ordinance by providing appropriate buffering between adjacent uses. Alternative to the earthen berm, a written commitment to maintain a 100' natural area along the western border would also ensure appropriate buffering and the preservation of the existing mature vegetation, meeting the intent of the ordinance.

(5) The variance granted does not correct a hardship caused by a former or current owner of the property.

The storage of heavy equipment on an aggregate surface over 300' from the right of way meets the intent of the ordinance, and the large size of the lot allows for appropriate buffering and space in all directions to minimize potential adverse affects on adjacent properties. The existence of mature vegetation on the borders of the lot create the hardship that installing a type 3 buffer would cause a reduction in the current vegetation.

Analysis & Recommendation

Commitments: Maintaining a 100' natural area along the west property line.

Analysis: The annexation and rezoning of the property to I Industrial will allow for the development of the site as an office and small scale warehouse/storage that contributes to the industrial development in the area while preserving mature vegetation. It is responsible development to assure that properties adjacent to the City limits are annexed and developed under City standards. Allowing an aggregate surfaced storage area set back over 300' from the right of way and buffered from adjacent properties outweighs the potential benefits of an impervious surfaced storage area. Utilizing the existing vegetation on the east property line and the existing vegetation, plus a 100' natural area, on the west property line, meets the intent of the ordinance by providing appropriate buffering between adjacent uses.

Recommendation: Based on information available prior to the public hearing, the Staff recommends the Commission send the rezoning and annexation petition to the Common Council with a favorable recommendation. The Staff recommends the Commission approve the variances as presented subject to a written commitment to maintain a 100' natural area along the west property line.



61-24
City of South Bend
Common Council

441 County-City Building • 227 W. Jefferson Blvd
South Bend, Indiana 46601

(574) 235-9321
Fax (574) 235-9173
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<http://www.southbendin.gov>

October 9, 2024

Sharon L. McBride
President

Sheila Niezgodski
Vice-President

Canneth Lee
Chairperson, Committee
of the Whole

Canneth Lee
First District

Ophelia Gooden Rodgers
Second District

Sharon L. McBride
Third District

Troy Warner
Fourth District

Sherry Bolden-Simpson
Fifth District

Sheila Niezgodski
Sixth District

Karen L. White
At Large

Rachel Tomas Morgan
At Large

Oliver Davis
At Large

South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

**Re: AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF SOUTH BEND, INDIANA, FIXING THE ANNUAL PAY
AND MONETARY FRINGE BENEFITS OF SWORN MEMBERS OF
THE SOUTH BEND FIRE DEPARTMENT FOR CALENDAR YEAR
2025**

Dear Council Members:

On behalf of Council Member Ophelia Gooden Rodgers and myself, as the Council's advisory members participating in the negotiations with the South Bend Firefighters, I am submitting the attached draft ordinance for filing. This ordinance sets forth the salary and other financial considerations provided to the Firefighters in their contract.

As you can see, the details are left blank. This is because negotiations are ongoing. This filing will allow first reading on October 14, 2024. A substitute bill with the details filled in will be filed before second and third readings on October 28, 2024.

Please file this proposed ordinance for first reading on October 14 to be assigned to the Personnel and Finance Committee for second reading and public hearing on October 28, 2024.

Thank you for your consideration.

Sincerely yours,

Canneth Lee, First District

South Bend Common Council

Filed in Clerk's Office

OCT 09 2024

Bianca Tirado
City Clerk, South Bend, IN

BILL NO. 61-24

OCT 09 2024

ORDINANCE NO. _____

Bianca Tirado
City Clerk, South Bend, IN

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, FIXING THE ANNUAL PAY AND MONETARY FRINGE BENEFITS OF
SWORN MEMBERS OF THE SOUTH BEND FIRE DEPARTMENT FOR CALENDAR
YEAR 2025**

STATEMENT OF PURPOSE AND INTENT

The South Bend Common Council, pursuant to *Indiana Code* § 36-8-3-3 (d) is charged with establishing, before November 1st, the annual compensation of the South Bend Fire Department. The City of South Bend is currently negotiating a collective bargaining agreement with members of the South Bend Firefighters' Association Local No. 362 for the 2025 calendar year beginning January 1, 2025 and ending December 31, 2025.

This ordinance fixes the annual pay and salaries of the sworn members of the South Bend Fire Department, including salaries for upper level policy making positions in the department as defined in *Indiana Code* § 36-8-1-12, and other monetary fringe benefits. This ordinance is subject to substitution, should an agreement on wages be reached.

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

Section I. Recognition.

The South Bend Common Council recognizes the negotiating team which represents the South Bend Firefighters' Association Local No. 362 of the International Association of Firefighters, AFL-CIO, as the sole bargaining agent for the sworn members of the South Bend Fire Department for purposes of negotiating annual pay, monetary fringe benefits and other monetary items which are addressed in this ordinance, excepting the Fire Chief, the Assistant Fire Chiefs, and the Battalion Chiefs, who are governed by *Indiana Code* §.36-8-1-12.

Section II. Annual Maximum Salaries.

(a) **Definitions:** For purposes of this ordinance, "Salary Classifications" mean Categories for salary and annual pay purposes only. "Rank" does not mean salary classification.

(b) **Annual Pay for Sworn Members of the South Bend Fire Department:** Maximum annual pays for the sworn members of the South Bend Fire Department, including upper level policy making positions defined by *Indiana Code* § 36-8-1-12 for calendar year 2025 shall be set as follows:

Salary Classification	2025
Fire Chief	
Assistant Chief	
Battalion Chief	
Captain	
Inspector (Non-Rank)	
Investigator (Non-Rank)	
Instructor (Non-Rank)	
Community Paramedic	
Paramedic Lt (Non-Rank)	
Pump Engineer (Non-Rank)	
Firefighter 1 st Class	
Firefighter 2 nd Class	
Fire Recruit (Civilian)	

Section III. Additional Areas of Compensation.

(a) Maximum Amounts. All monetary amounts set forth in this ordinance shall be the Maximum amounts permitted in each calendar year addressed.

(b) City of South Bend Residency Incentives. Qualifying sworn members and upper level policy making positions of the South Bend Fire Department, who establish and maintain legal residence within any neighborhood within the City of South Bend city limits and reside on a continuous permanent basis within the South Bend city limits, and comply with the governing regulations for such compliance shall be entitled to the following bonuses:

2025: \$ _____ maximum payable on or before December 15, 2025

Said bonus amounts shall be pro-rated in the event that a qualifying sworn member or upper level policy making person moves into the South Bend city limits after the beginning of the calendar year or moves out of the South Bend city limits during a calendar year.

Section IV. Specialty Pay.

(a) EMS Incentives. Monetary incentives and seat pay shall be paid to the sworn members of the South Bend Fire Department who meet the Fire Department's requirements and are assigned to perform such special duties which are verified by the department. Unless indicated otherwise, all specialty pay shall be prorated to the date of the regular assignment for such specialty duty or duties and paid accordingly. A qualifying sworn member performing any of the following specialties shall be paid at the highest certification/licensing only.

Assignment	2025
Field Training Officer (FTO)	
Lead Paramedic Incentive	
Emergency Medical Responder	
EMT - Basic	
EMT – Adv.	
EMT - Paramedic	
Advanced EMT Assigned	
Paramedic Assigned	

(b) Special Operation Team Specialty Pay. The following specialty pay shall be paid to the sworn members of the South Bend Fire Department who meet the Fire Department's requirements for each specialty and who are regularly assigned to perform such special duties. All specialty pay shall be prorated to the date of regular assignment for such special duty or duties and paid accordingly. The following Special Operation Team Specialty Pay are established:

Type of Special Operation Team	2025
<i>Hazardous Materials Team</i>	
Response Team Member	
Team Leader	
<i>Swift Water Rescue Team</i>	
Scuba Diver	
Specialist	
Technician	
Team Leader	
<i>Tactical Rescue Team</i>	
Response Team Member	
Team Leader	
Honor Guard Team Leader	

(c) LEP Specialty Pay: A Limited English Proficiency (LEP) Program overseen by the City's Human Resources Director or his/her designee shall monitor the Department's requirements. All qualifying sworn members who meet the requirements and who are regularly assigned to perform LEP duties shall be paid the following specialty pay in a lump sum in the last payroll in December of each year of such assignment:

	2025
Limited English Proficiency (LEP)	

(d) Payment of Specialty Pays/Seat Pay: Unless indicated otherwise, specialty pay and seat pay shall be paid on a bi-weekly basis.

Section V. Recall of Duty Pay and Emergency Duty Pay.

(a) In the event that a sworn member of the South Bend Fire Department is recalled for duty, and he or she reports for duty, he or she shall be paid at the rate of one and one-half (1 ½) times the sworn member's hourly rate of pay and shall be guaranteed a minimum of two (2) hours of work with pay. Any additional fraction of an hour over thirty (30) minutes shall constitute one (1) hour for purposes of this paragraph.

(b) A sworn member of the South Bend Fire Department who works emergency duty shall be paid at the rate of one and one-half (1 ½) times the sworn member's hourly rate and shall be guaranteed a minimum of four (4) hours of work or pay.

(c) In the event that a sworn member of the South Bend Fire Department is called to work emergency duty for extra-alarm fires or disasters, seniority provisions will not apply. Recall will be in accordance with procedures outlined in the official orders governing the dispatching of South Bend Fire Department units for extra-alarm fire or disasters. In any emergency where personnel with specialized skills are needed, seniority or procedural terms described in a Collective Bargaining Agreement governing extra-duty or recall are not applicable. The Fire Chief or his or her authorized designee may specify which off-duty personnel with specialized skills, including but not limited to sworn members of the South Bend Fire Department's Hazardous Materials Response Team, Swift Water Rescue Team, Tactical Rescue Team, or with needed medical specialties.

Section VI. Working Out of Classification Pay.

If a sworn member of the South Bend Fire Department is temporarily assigned as a Battalion Chief, Captain, Paramedic or Pump Engineer, that sworn member shall be paid while so performing such duties at the rate of pay for that position, provided that the duty assignment is for a minimum of four (4) consecutive hours as verified by a Working Out of Classification form, as verified by the officer of the rig or the Battalion Chief.

Section VII. Longevity Pay.

(a) The Common Council hereby continues a longevity program for qualifying sworn members of the South Bend Fire Department.

(b) Qualifying sworn members of the South Bend Fire Department holding the rank of First Class Firefighter and above, who are employed by the South Bend Fire Department shall receive additional compensation in recognition of the cumulative years of service on the South Bend Fire Department. For the purposes of Longevity Pay described in this subsection, "Years of Service" shall be calculated from the date on which a firefighter was sworn in and accrue upon the passing of the anniversary of said date. Such longevity pay shall be earned upon completion of the number

of years indicated below, paid in a lump sum in the last payroll period in December, and shall be attributed to the annual salary base for pension purposes. Longevity pay shall be as follows:

Cumulative Years of Service on SBFD:

Longevity Pay	2025
5-9 Years of Service	
10-14 Years of Service	
15-19 Years of Service	
20-24 Years of Service	
25+ Years of Service	

(c) Qualifying sworn members of the South Bend Fire Department holding the designation of “Lead” on the Ambulance in the South Bend Fire Department shall receive additional compensation in recognition of the cumulative years of service, earned upon completion of the number of years indicated below, calculated from a firefighter’s designation as a “Lead.” Such longevity pay shall be divided into bi-weekly payments over the year. Longevity pay shall be as follows:

Longevity Pay	2025
0-1 Year of Service	
2-4 Years of Service	
5-8 Years of Service	
9+ Years of Service	

Section VIII. Station Allowance.

The South Bend Common Council shall budget a total monetary amount for a line-item station allowance which incorporates realignment so that the concerns of the smaller and older fire stations will be addressed and that minimum needed purchases can be made with proper approval. The amount per station shall be as follows from this line-item:

Station Number	2025
#1	
#2	
#3	
#4	
#5	
#6	
#7	
#8	
#9	
#10	
#11	

Needed station purchases shall be approved by a majority vote of the assigned sworn members at each fire station and shall be submitted by each House Captain for review, approval and purchase by the Fire Chief and the City Controller. Such monies may not be carried over from year to year and must be used by December 31" of each calendar year.

Section IX. Other Monetary Benefits.

(a) Safety Officers. The regularly assigned Safety Officers shall receive, in addition to his or her base salary, the sum of _____ in calendar year 2025.

(b) 8-Hour Incentive Pay. An 8-hour Incentive Pay shall continue to be paid to those individuals regularly assigned to work a forty (40) hour workweek, not including temporary duty assignments (TDY). The sum of _____ shall be paid to such qualifying individuals in the calendar year 2025.

(c) Inspector/Instructor Pay. Those First-Class Firefighters who are qualified and regularly assigned, not including temporary duty assignments (TDY), as an Inspector/Instructor, shall be provided with duty shirts and a badge, and shall be paid at the non-rank specialty pay as an Inspector or Instructor.

(d) Shift Instructor Pay. Shift Instructors who are qualified and selected to teach on-duty in-house instruction programs for rookie schools, driving, confined space rescue, rope techniques, water safety, watercraft techniques, CPR, and other authorized department instruction, shall be paid at the rate of _____ Dollars (\$____) per hour up to a maximum of _____ Dollars (\$____) per year, with any teaching thereafter requiring the approval of the Fire Chief, or his or her designee. Full-time instructors and company training instructors shall be ineligible for any pay under this paragraph.

(e) Luther J. Taylor, Sr. Fire Safety Training Center 8-Hour Instructor Pay. An 8-hour Instructor Pay shall be paid to the individual regularly assigned to work a forty (40) hour workweek, not including temporary duty assignments (TOY), at the Luther J. Taylor, Sr. Fire Safety Training Center. The sum of _____ Dollars (\$____) shall be paid per year in 2025 to the qualifying individual who is regularly assigned to work in this capacity each of those years.

(f) Pay for Other Instructors. Other instructors who are qualified and selected to teach specified on-duty in-house instruction programs for rookie schools, driving, confined space rescue, rope techniques, water safety, watercraft techniques, CPR and other authorized departmental instruction, shall be paid at the rate of _____ Dollars (\$____) per hour, upon the approval of the Fire Chief, or his or her designee. Said hourly rate shall be paid over and above the qualifying individual's salary classification and shall be paid in a manner consistent with applicable

regulations of the State Board of Accounts. Full-time instructors and company training instructors shall be ineligible for any pay under this paragraph.

(g) Pay for Certified SCBA Repair Specialists. Those sworn members of the South Bend Fire Department who are qualified, certified and regularly assigned by the Fire Chief, or his or her designee to perform self-contained breathing apparatus (SCBA) repairs, shall be paid at the rate of _____ Dollars (\$_____) per hour up to a maximum of _____ Dollars (\$_____) in any one calendar year.

(h) Critical Duty Day Stipends. In 2025, the Critical Duty Day Stipend shall be set at one-half (1/2) of an eligible sworn member's regular hourly rate plus longevity, but not less than _____ Dollars (\$_____) for the ten (10) Critical Duty Days which are designated each calendar year by the Board of Public Safety. Such stipend may be pro-rated for time actually worked with the eligible sworn member choosing among three (3) options which are further addressed in the governing Collective Bargaining Agreement approved by the Board of Public Safety.

(i) Deferred Compensation. The City of South Bend agrees to continue to maintain the Deferred Compensation Program which became effective on January 1, 1997 for the South Bend Fire Department. This program provides that for the first _____ Dollars (\$_____) deferred by a sworn member of the Department each calendar year, the City of South Bend will match said amount \$_____ on the dollar, and for the next _____ Dollars (\$_____) deferred by a sworn member of the Department each calendar year, the City of South Bend will match said amount, dollar for dollar.

(j) Life Insurance. The City of South Bend shall continue to provide life insurance coverage on all sworn members and upper level policy making positions of the South Bend Fire Department in an amount equal to the amount of the sworn member's base pay or the upper level policy making position's base pay.

(k) Health Insurance. Each active sworn member and upper level policy maker of the of the South Bend Fire Department who has met the eligibility requirements shall have the opportunity to participate in the City's comprehensive major medical insurance program. The contribution of such individuals shall be no greater than the contribution of other City employees receiving the same benefits, and the level of benefits shall be no less than the level for other City employees.

Fire pensioners who are not members of South Bend Firefighters Association Local # 362 shall pay an additional _____ Dollars (\$_____) per month over and above such rates, subject to the obligations of Local # 362 as may be further addressed in an approved Collective Bargaining Agreement between the City of South Bend and Local # 362 which provides that membership shall not be unreasonably withheld, unless agreed to by a Letter of Understanding approved by the Board of Public Safety.

(l) Post-Employment Health Plan. In 2022, the City of South Bend established a Post-Employment Health Plan (PEHP) for retired firefighters into which the City of South Bend shall make an annual contribution of _____ Dollars (\$_____) for each sworn member in the calendar year 2025. Sworn firefighters may make additional contributions according to the plan documentation.

(m) Program Coordinators. Any appointed Program Coordinator shall receive in addition to his or her annual base salary, a maximum sum of _____ Dollars (\$_____) while he or she serves in that capacity in calendar year 2025.

Section X. Education Tuition Reimbursement Program.

(a) The South Bend Common Council agrees to continue the Education Tuition Reimbursement Program which originally began on January 1, 2005, for calendar year 2025. Qualifying sworn members of the South Bend Fire Department participating in the education Tuition Reimbursement Program shall be entitled to the following maximum dollar amounts for course tuition and other expenses related thereto:

Course Grade Earned	Maximum Amount to be Reimbursed by the City
A	100% of tuition costs and other expenses directly related to said costs up to a maximum of _____ Dollars (\$_____)
B	100% of tuition costs and other expenses directly related to said costs up to a maximum of _____ Dollars (\$_____).

(b) Education tuition reimbursement shall be on a "first come, first serve basis," subject to the maximum dollar amount budgeted by the South Bend Common Council for said program in calendar year 2025. All Fire Department regulations governing such program must be complied with by qualifying sworn members of the South Bend Fire Department in order for an individual to be eligible to be paid under this program.

Section XI. Severability.

If any part, section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason declared to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section XII. Effective Date.

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

Sharon L. McBride, Council President
South Bend Common Council

Attest:

Bianca L. Tirado, 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 _____, 2024, at _____ o'clock ____ . m.

Bianca L. Tirado, City Clerk
Office of the City Clerk

Approved and signed by me on the _____ day of _____, 2024, at ____ o'clock ____ .m.

James Mueller, Mayor
City of South Bend, Indiana

62-24

R Ray Real Estate, LLC
Robert Michalak
705 N Hill Street
South Bend, IN 46617
Phone: 574.287.6567
Fax: 574.288.7680

9th October, 2024

City of South Bend
466 County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601

Filed in Clerk's Office

OCT 09 2024

Bianca Tirado
City Clerk, South Bend, IN

City of South Bend,

I am submitting a petition to vacate the alley located between S. Chestnut Street and S. Walnut Street, as highlighted in the attached image. The purpose of this petition is to request that the public access to this alley be vacated for the following reasons:

1. Improved Safety: Vacating the alley would allow for the installation of a fence, which will help secure the property and reduce unauthorized foot traffic, improving overall safety for employees of 325 S. Walnut Street, residents, and surrounding community.
2. Enhanced Property Management: Fencing in the property will allow for better control of access and improved management of operations, reducing liability and enhancing the overall security of the businesses premise.

I believe that vacating this alley is in the best interest of the community, and I kindly request that the municipal authorities consider this petition.

Thank you for your time and attention to this matter.

Thank you,



Rob Michalak, Managing Member
R Ray Real Estate, LLC
325 S Walnut Street
South Bend, IN 46601
Phone: 574.287.6567
Fax: 574.288.7680

OCT 09 2024

Bianca Tirado
City Clerk, South Bend, IN

BILL NO. _____
ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, TO VACATE THE FOLLOWING DESCRIBED PROPERTY:**

**THE FIRST EAST-WEST ALLEY SOUTH OF NAPIER STREET BETWEEN
CHESTNUT STREET AND TERMINATING IN PARCELS 018-3076-3055 and 018-3076-
3053; AND THE FIRST NORTH-SOUTH ALLEY EAST OF CHESTNUT STREET
BETWEEN PARCELS 018-3076-305301 AND 018-3076-3052 AND TERMINATING IN
THE NORFOLK-SOUTHERN RAILROAD RIGHT-OF-WAY**

STATEMENT OF PURPOSE AND INTENT

**Petitioner requests the vacation to fence in the perimeter to protect the property, shop, and
employees at the Petitioner's place of business.**

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 Ordinances 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 FIRST EAST-WEST ALLEY SOUTH OF NAPIER STREET BETWEEN CHESTNUT STREET AND TERMINATING IN PARCELS 018-3076-3055 and 018-3076-3053; and THE FIRST NORTH-SOUTH ALLEY EAST OF CHESTNUT STREET BETWEEN PARCELS 018-3076-305301 and 018-3076-3052 AND TERMINATING IN THE NORFOLK-SOUTHERN RAILROAD RIGHT-OF-WAY.

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 properties may be injuriously or beneficially affected by such vacating:

- 316 Chestnut St – 018-3076-3052
- 318 Chestnut St – 018-3076-305401

320 Chestnut St – 0183076-3054
Vacant Lot – 018-3076-3056
324 Chestnut St – 018-3076-3059
331 S Walnut St – 018-3076-3061
325 S Walnut St – 018-3076-3060

323 S Walnut St – 018-3076-3058
Vacant Lot – 018-3076-3057
319 S Walnut St – 018-3076-3055
Vacant Lot – 018-3076-3053
Vacant Lot – 018-3076-305301

SECTION IV. The vacation is subject to the elimination of the alley approach on Chestnut Street by hiring a private contractor bonded with the City to tear out the approach, replace with curb, and establish a tree lawn in accordance with City standards and specifications.

SECTION IV. The vacation is subject to the dedication of right-of-way to provide a turnaround space in the remaining North-South alley as shown in the exhibit.

SECTION V. The purpose of the vacation of the real property is to fence in the perimeter of the business located at 325 S. Walnut Street in order to protect the property, shop, and employees of the tagging and printing shop at that location.

SECTION VI. This Ordinance shall be in full force and effect after adoption by the Common Council, approval by the Mayor, and any publication required by law, with an effective date of _____, 2024

Sharon McBride, President,
South Bend Common Council

ATTEST:

Bianca Tirado, City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2024, at _____ o'clock __.m.

Bianca Tirado, City Clerk

Approved and signed by me on the _____ day of _____, 2024, at _____ o'clock __.m.

James Mueller, Mayor, City of South Bend, Indiana



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 JAMES MUELLER, MAYOR
BOARD OF PUBLIC WORKS

Filed in Clerk's Office

August 27, 2024

OCT 09 2024

Ms. Ariel Stanley
Masterbilt Precision Machining
325 S. Walnut St.
South Bend, IN 46601
ariel@masterbilt-inc.com

Bianca Tirado
City Clerk, South Bend, IN

RE: Alley/Street Vacation – East/West Alley between S. Chestnut St. and S. Walnut St. and North/South Alley between the Train tracks and Napier St. (Preliminary Review)

Dear Ms. Stanley:

At its August 27, 2024 meeting, the Board of Public Works reviewed comments by the Engineering Division, Community Investment, Fire Department, Police Department. The following comments and recommendations were submitted:

Per IC 36-7-3-13, the vacation would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous. The vacation would not make access to the lands of the aggrieved person by means of public way difficult or inconvenient. The vacation would not hinder the public's access to a church, school or other public building or place. The vacation would not hinder the use of a public right of way by the neighborhood in which it is located or to which it is contiguous.

Therefore, the Board of Public Works submitted a **favorable** recommendation for the vacation of this alley. If you still wish to pursue this alley vacation, please bring this BPW Recommendation Packet to the City Clerk's Office, located on the 4th floor of the County-City Building. Alley/Street vacations require a presentation to the Common Council, approval of an ordinance, and certification of the ordinance from the Mayor. The property then must be recorded with the Recorder's Office to ensure that your 50% ownership of the property is appropriately transferred to your name. If you have any questions about how the alley vacation will affect your property taxes, please contact the Auditor's Office.

In its Ordinance, the City of South Bend Common Council included the Board of Public Works' requirement that you **eliminate the alley approach by hiring a private contractor bonded with the City to tear out the approach, replace with curb, and establish a tree lawn in accordance with City standards and specifications.** These updates should be made within ninety (90) days of final approval from the Common Council. Please notify us when this work is complete. If you have any further questions, please call this office at (574) 235-9251.

Sincerely,

/s/ Theresa Heffner

Theresa Heffner, Clerk

Enclosures
TH/hh

OCT 09 2024

Bianca Tirado
City Clerk, South Bend, IN



**INTEROFFICE MEMORANDUM
BOARD OF PUBLIC WORKS**

DATE: February 23, 2024

TO: Kyle Ludlow, Public Works
Kara Boyles, Engineering
Zach Hurst, Engineering
Chris Dressel, Community Investment
Derek Erquhart, Fire Department
Brad Rohrscheib, Police Department

FROM: Theresa Heffner, Clerk (theffner@southbendin.gov)

SUBJECT: REQUEST FOR RECOMMENDATIONS – ALLEY VACATION

APPLICANT: Ariel Stanley/Masterbilt Precision Machining
LOCATION: 325 S. Walnut St.

PLEASE INSERT YOUR RECOMMENDATIONS IN THE APPROPRIATE FIELD BELOW, BASED ON THE FOLLOWING I.C. 36-7-3-13 CRITERIA:

1. The vacation would/would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.
2. The vacation would/would not make access to the lands of the aggrieved person by means of public way difficult or inconvenient.
3. The vacation would/would not hinder the public's access to a church, school or other public building or place.
4. The vacation would/would not hinder the use of a public right-of-way by the neighborhood in which it is located or to which it is contiguous.

PUBLIC WORKS/ENGINEERING: Favorable

COMMUNITY INVESTMENT: Favorable

- The vacation would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.
- The vacation would not make access to the lands of the aggrieved person by means of public way difficult or inconvenient.
- The vacation would not hinder the public's access to a church, school or other public building or place.
- The vacation would not hinder the use of a public right-of-way by the neighborhood in which it is located or to which it is contiguous.

FIRE: Favorable Recommendation

POLICE: Favorable recommendation



STREET/ALLEY VACATION APPLICATION

City of South Bend – Board of Public Works
227 W. Jefferson Boulevard, Ste. 1316
South Bend, IN 46601

Filed in Clerk's Office

OCT 09 2024

Bianca Tirado
City Clerk, South Bend, IN

Date: 05.25.2024

Phone #: 2698080732

Name: Ariel Stanley

Email: ariel@masterbilt-inc.com

Property

Address:

317, 319, 321, 323, 325, 331 Walnut Street, 316 and 320 Chestnut Street, and the two vacant parcels on the Southeast side of Chestnut Street

Applicant property information:

Residential Commercial Industrial

Describe the general alley location with boundaries (Ex: Church Pl, between E. Colfax Ave & E. LaSalle Ave):

Highlighted WE ally between S Chestnut and S Walnut and highlighted NS ally between traintracks and Napier Street.

There would be a turn around for traffic.

Is your property adjacent to the alley of interest?

Yes No

Do you own all adjacent properties to the alley of interest?

Yes No

Does the existing alley provide garage access to other property owners?

Yes No

Does the alley receive daily traffic excluding your own use?

Yes No

Would the vacation hinder public access to any of the following: a church, school, or any other public building or place?

Yes No

Reason for street/alley vacation and proposed use:

There is an operating tagging/printing shop at 325 S Walnut Street. We want to fence in the perimeter (highlighted yellow) of the property to protect the property, shop, and employees. Evtually, we plan to rezone all lots to be Industrial.

A map MUST be provided highlighting the area you would like to vacate with this application.

OFFICE USE ONLY:

Board Recommendation:

Yes No

CITY OF SOUTH BEND, INDIANA
BOARD OF PUBLIC WORKS

Elizabeth A. Maradik, President

Gary A. Gilot, Member

Murray L. Miller, Member

Joseph R. Molnar, Vice President

Briana Micou, Member

Attest: Theresa M. Heffner, Clerk

Date: August 27, 2024

OCT 09 2024

Bianca Tirado
City Clerk, South Bend, IN



OFFICE OF THE CITY CLERK

DAWN M. JONES, CITY CLERK

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

Ariel Geary
3801 Voorde Drive
South Bend, IN 46601

DATE: 10-8-24

To the Common Council of the City of South Bend, Indiana. I (we), the undersigned property owner(s), petition you to vacate:

1. THE ALLEY DESCRIBED AS:

E W Alley S of Napier St between Chestnut St
vs Alley E of Chestnut St

2. THE STREET DESCRIBED AS:

Abutting Property Owner(s) Signatures:

Name (print):	Signature	Address	Lot Number
1. Betty Luster	<i>Betty Luster</i>	1314 Napier St.	
2.			
3.			

INTEGRITY | SERVICE | ACCESSIBILITY

BIANCA L. TIRADO
CHIEF DEPUTY/DIRECTOR OF OPERATIONS

GRAHAM D. SPARKS
DEPUTY/DIRECTOR OF POLICY

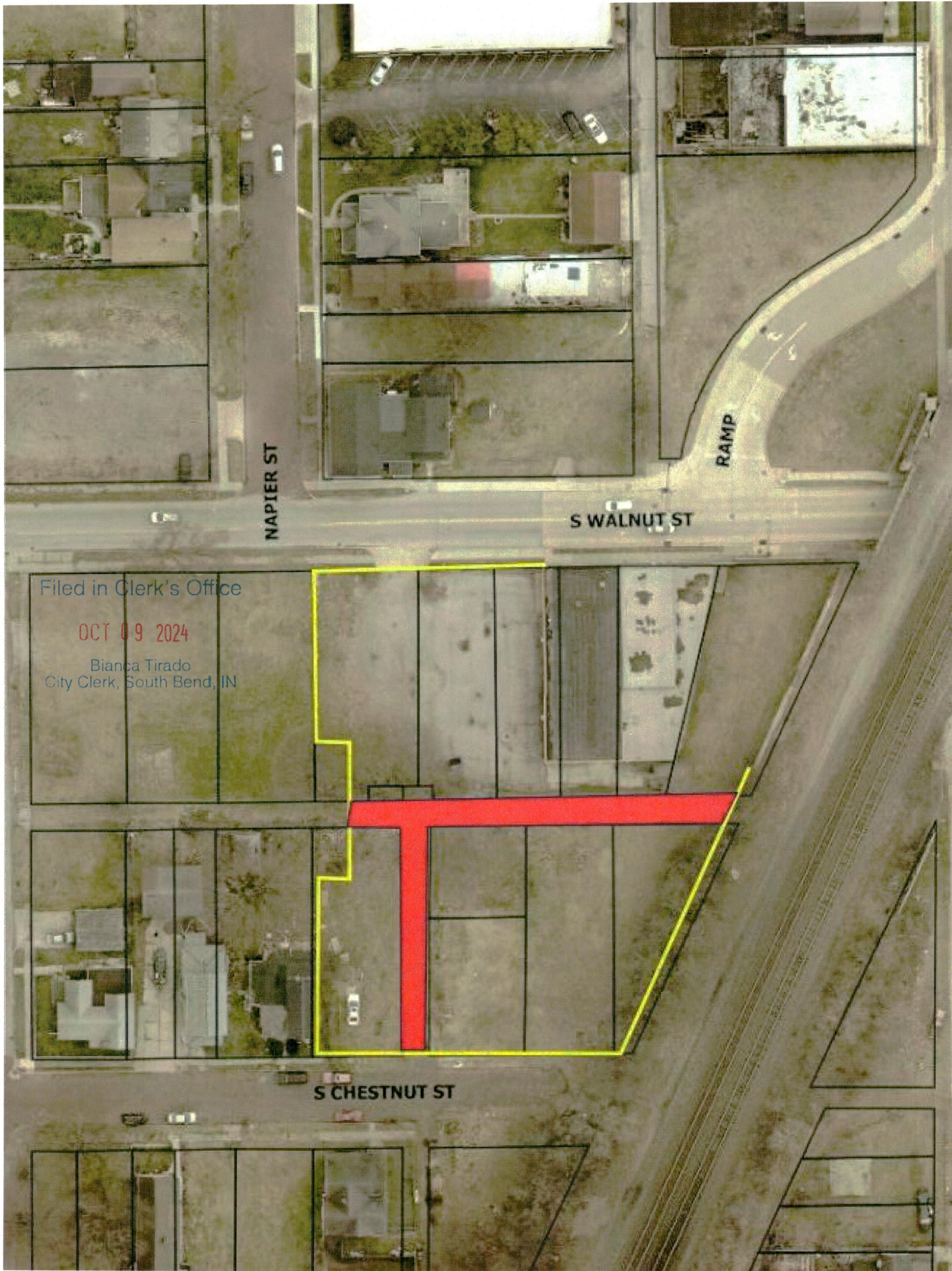
GABRIEL N. MUREI
ORDINANCE VIOLATION CLERK

EXCELLENCE | ACCOUNTABILITY | INNOVATION | INCLUSION | EMPOWERMENT

OCT 09 2024

Bianca Tirado
City Clerk, South Bend, IN

Name	Mailing Address	Proper Address
Ross Grady	PO BOX 11714 Merrillville, IN 46411	313 S. Chestnut St. South Bend, IN 46601
Guadalupe Ramos	512 S. Olive St. South Bend, IN 46619	310 S. Chestnut St. South Bend, IN 46601
William Anderson Jr.	315 Chestnut St. South Bend, IN 46601	315 S. Chestnut St. South Bend, IN 46601
Richard Dodson	617 S.36 th St. South Bend, IN 46615	309 S. Chestnut St. South Bend, IN 46601
Bear Tidmore	1904 W. 84 th Ave. Merrillville, IN 46410	308 S. Chestnut St. South Bend, IN 46601
Gethsemane Church of God Inc. Indiana Corp.	308 S. Walnut St. South Bend, IN 46619	307 S. Walnut St. South Bend, IN 46601 & Parcel# 018-3076-3051
R. Ray Real Estate, LLC.	705 N. Hill St. South Bend, IN 46617	324 Chestnut St. South Bend, IN 46601 & Parcel# 018-3076-305301
Kenny & Jamie Johnson	311 Chestnut St. South Bend, IN 46619	311 S. Chestnut St. South Bend, IN 46601
Foxtrot Realty Inc.	4201 W. Linden Ave. South Bend, IN 46619	1410 Napier St. South Bend, IN 46601
Thomas and Joetta Taylor	225 N. Mahaffie St. Olathe, KS 66061	312 S. Chestnut St. South Bend, IN 46601
Masterbilt Inc.	325 S. Walnut St. South Bend, IN 46619	316, 318, 319, 320, 323, 325 & 331 S. Chestnut St. & Parcel# 018-3076-3053 & Parcel# 018-3076-3056



Filed in Clerk's Office

OCT 09 2024

Bianca Tirado
City Clerk, South Bend, IN

NAPIER ST

S WALNUT ST

RAMP

S CHESTNUT ST

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OCT 09 2024

Bianca Tirado
City Clerk, South Bend, IN





OCT 22 2024

Bianca Tirado
City Clerk, South Bend, IN

CITY OF SOUTH BEND

COMMUNITY INVESTMENT

October 22, 2024

Sharon L. McBride, President
South Bend Common Council
4th Floor, County-City Building

RE: A Resolution of the Common Council of the City of South Bend, Indiana, Adopting a Written Fiscal Plan and Establishing a Policy for the Provision of Services to an Annexation Area in Warren Township (Cleveland Poppy Annexation Area)

Dear President McBride:

I am attaching for filing the above resolution, which is a companion to Bill No. 44-24. That bill proposes to voluntarily annex contiguous territory in Warren Township to the City of South Bend. This resolution provides for the Common Council's adoption of the written plan and policy concerning the provision of services, both capital and non-capital, to the territory to be annexed.

This 21.8-acre annexation area contains four parcels at the northeast corner of Poppy Road and Cleveland Road, plus adjacent right-of-way. All public improvements, if any, will be required to be done at the expense of the developer.

I request that the attached resolution be placed on the agenda of the October 28, 2024, Common Council meeting at which the companion bill is given Second Reading. I will be attending the meeting, as well as the Zoning & Annexation Committee hearing, as the presenter.

If you have any questions, please feel free to contact me at (574) 235-7625. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Amani Morrell", is written over a horizontal line.

Amani Morrell
Principal Development Planner

OCT 22 2024

Bianca Tirado
City Clerk, South Bend, IN

BILL NO. 24-34
RESOLUTION NO. _____

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
SOUTH BEND, INDIANA, ADOPTING A WRITTEN FISCAL PLAN AND
ESTABLISHING A POLICY FOR THE PROVISION OF SERVICES TO AN
ANNEXATION AREA IN WARREN TOWNSHIP
(CLEVELAND POPPY ANNEXATION AREA)**

WHEREAS, there has been submitted to the Common Council of the City of South Bend, Indiana, an Ordinance and a petition by all (100%) property owners which proposes the annexation of real estate located in Warren Township, St. Joseph County, Indiana, which is more particularly described at Section I of this Resolution; and

WHEREAS, the territory proposed to be annexed encompasses approximately 21.8 acres of land, which property is at least 12.5% contiguous to the current City limits, i.e., 16.8% contiguous, generally located at the northeast corner of Poppy Road and Cleveland Road (25471, 25481, and 25491 Cleveland Road). It is anticipated that the annexation area will be used for office, warehouse, and storage development; and

WHEREAS, this development will require a basic level of municipal public services of a non-capital improvement nature, including police and fire protection, street and road maintenance, street sweeping, flushing, snow removal, and sewage collection, as well as services of a capital improvement nature, including street and road construction, sidewalks, street lighting, a sanitary sewer system, a water distribution system, and a storm water system and drainage plan; and

WHEREAS, the South Bend Common Council now desires to establish and adopt a fiscal plan and establish a definite policy showing: (1) the cost estimates of services of a non-capital nature, including police and fire protection, street and road maintenance, street sweeping, flushing, and snow removal, and sewage collection, and other non-capital services normally provided within the corporate boundaries; and services of a capital improvement nature including street and road construction, street lighting, a sanitary sewer extension, a water distribution system, and a storm water system to be furnished to the territory to be annexed; (2) the method(s) of financing those services; (3) the plan for the organization and extension of those services; (4) that services of a non-capital nature will be provided to the annexed area within one (1) year after the effective date of the annexation, and that they will be provided in a manner equivalent in standard and scope to similar non-capital services provided to areas within the corporate boundaries of the City of South Bend, regardless of similar topography, patterns of land use, and population density; (5) that services of a capital improvement nature will be provided to the annexed area within three (3) years after the effective date of the annexation within the same manner as those services are provided to areas within the corporate boundaries of the City of South Bend regardless of similar topography, patterns of land use, or population density, and in a manner consistent with federal, state and local laws, procedures, and planning criteria; and (6) the plan for hiring the employees

or other governmental entities whose jobs will be eliminated by the proposed annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AS FOLLOWS:

Section I. It is in the best interest of the City of South Bend and the area proposed to be annexed that the following described real property located in Warren Township, St. Joseph County, Indiana, be annexed to the City of South Bend:

That part of the South Half of Section 24 and the North Half of Section 25, both in Township 38 North, Range 1 East, Warren Township, St. Joseph County, Indiana, which is more particularly described as:

Northwest corner of a parcel of ground described in deed document number 9349703 in the records of the St. Joseph County, Indiana Recorder’s Office; thence east (all bearings assumed) along the north line of said parcel and the existing City of South Bend municipal corporate limit line, a distance of 706.79 feet more or less to the northeast corner of a parcel of ground described in said deed document; thence south along the east line of said parcel and its southerly extension, a distance of 1356.5 feet more or less to a point on the south right-of-way line of Cleveland Road; thence west along said south line, a distance of 727.2 feet more or less to the intersection of the south line of said Cleveland Road with the west right-of-way line of Poppy Road; thence north, a distance of 80 feet more or less to the north right-of-way line of said Cleveland Road; thence east along said north line, a distance of 40 feet more or less, to a point on the west line of said parcel; thence north along the west line of said parcel, a distance of 1297 feet more or less to the point of beginning. Containing 21.83 acres more or less.

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

Section II. It shall be and hereby is now declared and established that it is the policy of the City of South Bend, to furnish to said territory services of a non-capital nature, such as police and fire protection, street and road maintenance, street sweeping, flushing, and snow removal, within one (1) year of the effective date of the annexation in a manner equivalent in standard and scope to services furnished by the City to other areas of the City regardless of similar topography, patterns of land utilization, and population density; and to furnish to said territory, services of a capital improvement nature such as street and road construction, sidewalks, a street light system, a sanitary sewer system, a water distribution system, a storm water system and drainage plan, within three (3) years of the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries of the City of South Bend regardless of similar topography, patterns of land use, or population density.

Section III. The South Bend Common Council, shall and does hereby now establish and adopt the Fiscal Plan, attached hereto and fully incorporated herein as Exhibit “A”, and made a part hereof, for the furnishing of said services to the territory to be annexed, which provides, among

other things, that the public sanitary sewer and water network is available with capacity sufficient to service this area with costs for extensions, any improvements in sewer or water capacity, and a City-approved drainage system to be paid for by the developer, all in compliance with state and local law; that no additional street lighting will be necessary and any future lighting especially of a decorative nature or with underground wiring will be at the developer/owner's expense; that no new public streets will be required.

Section IV. Sidewalks should be provided along public streets as required and must comply with the Americans with Disabilities Act (ADA) under the PROWAG standards.

Section V. It is required as a condition of annexation that any future improvements or alterations to the property meet the City of South Bend's building, zoning, and subdivision requirements.

Section VI. This Resolution shall be effective from and of the date of adoption by the Common Council.

Sharon McBride, Council President
South Bend Common Council

Attest:

Bianca L. Tirado, 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 _____, 2024, at _____ o'clock ____ .m.

Bianca L. Tirado, City Clerk
Office of the City Clerk

Approved and signed by me on the _____ day of _____, 2024, at ____ o'clock ____ .m.

James Mueller, Mayor
City of South Bend, Indiana

Exhibit "A"

Filed in Clerk's Office

OCT 22 2024

Bianca Tirado
City Clerk, South Bend, IN

THE CITY OF SOUTH BEND

FISCAL PLAN

CLEVELAND POPPY ANNEXATION AREA

Prepared by
City of South Bend
Department of Community Investment

September 30, 2024

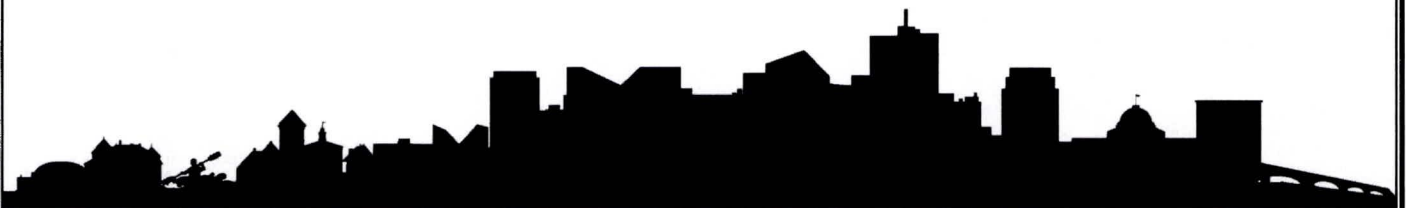


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SECTION I. INTRODUCTION

This Fiscal Plan represents the City of South Bend’s (hereinafter, “City”) policy for the annexation of property in Warren Township, St. Joseph County, Indiana (hereinafter, “Annexation Area”), and was developed through the cooperative efforts of the following City Departments:

- Legal Department
- Department of Public Works
- South Bend Fire Department
- South Bend Police Department
- Department of Community Investment
- Department of Administration & Finance

SECTION II. GENERAL DATA

A. Location

The Annexation Area is located at the northeast corner of Poppy Road and Cleveland Road (25471, 25481, and 25491 Cleveland Road). See *Map 1*.

B. Legal Description

The Annexation Area is part of the South Half of Section 24 and the North Half of Section 25, both in Township 38 North, Range 1 East, Warren Township, St. Joseph County, Indiana. For a complete legal description, see Page 13.

C. Contiguity

The Annexation Area is at least 1/8 (12.5%) contiguous to the current City limits:

<i>Contiguous</i>	706.79 feet	16.8%
<i>Non-Contiguous</i>	<u>3,500.71 feet</u>	<u>83.2%</u>
<i>Total</i>	4,207.50 feet	100.0%

D. Size of Annexation Area

The Annexation Area is approximately 21.8 acres.

E. Buildings & Land Use

The Annexation Area contains a house, garage, barn, and farm field. A development of office space, a warehouse/workshop, and construction equipment storage is proposed for the land.

F. Zoning & Subdivisions

The property in the Annexation Area is currently zoned R Single Family District in St. Joseph County. With the annexation petition, the petitioner seeks to rezone the land to I Industrial District in the City. The Annexation Area does not fall within any subdivision of record.

G. Population

No people currently reside in the Annexation Area. After development, no residents are proposed to live in the Annexation Area.

H. Tax Rate & Impact

The tax rates used are those of 2023 payable 2024. The total tax rate for unincorporated Warren Township is 2.7780 per \$100 of taxable real estate. The total tax rate for South Bend Warren Township is 5.3430 per \$100 of taxable real estate.

Per State law, the tax caps expressed as a percentage of the gross assessed value for different classifications of property are as follows, regardless of the property's location being within South Bend or unincorporated St. Joseph County:

<i>Property Type</i>	<i>Cap</i>
Homestead Residential	1.0%
Non-Homestead Residential	2.0%
Agricultural	2.0%
Other (Commercial)	3.0%

For at least the four years after the effective date of the annexation, the expected tax rates, tax levies, expenditure levels, service levels, and annual debt service payments are estimated to be approximately the same as those in effect at the time of annexation for each of the political subdivisions to which the proposed annexation applies.

Because of the relatively small size of the Annexation Area and its assessed value relative to the total size and tax base of the various political subdivisions, this annexation is expected, for at least four years after the effective date of this annexation, to have a negligible impact on the finances and tax revenues of South Bend and other political subdivisions to which the proposed annexation applies, on the political subdivisions in St. Joseph County not part of this annexation, and on taxpayers not part of this annexation.

I. Parcel Ownership & Assessments

<i>Parcel Identification Number</i>	<i>Address</i>	<i>Parcel Owner</i>	<i>Assessed Value (Total)</i>
021-1036-059003	25471 Cleveland Rd	Sims Leo A & Pasqua Dipinto HW	\$159,100
021-1036-0590	25491 Cleveland Rd	Sims Leo A & Pasqua Dipinto & Hoffman Rosemary & Montgomery Mary Ann & Rhymer Johanna & Ferency Teresa JT w/ROS	\$13,900
021-1036-059006	25481 Cleveland Rd	Sims John Joseph	\$4,700
021-1036-059005	25471 Cleveland Rd	Sims Pasqua	\$3,800

Total Assessments

Land:	\$71,800
Improvements:	\$109,700
Total (Gross):	\$181,500
Total (Net):	\$181,500

Assessments are based on 2024 payable 2025 St. Joseph County property tax records.

J. Municipal Legislative District

The Annexation Area will be in the 1st District.

K. Hiring Plan

This annexation is not anticipated to result in the elimination of jobs for employees of any other governmental entities. The Warren Township Trustee has been notified of this proposed annexation.

SECTION III. MUNICIPAL SERVICES

A. Public Works

Sewer – The nearest sanitary sewer is an 8” diameter pipe parallel to Cleveland Road and south of the pavement. The depth of the sewer is unknown and must be field-verified. It is the developer’s financial responsibility to make the connection to a public sewer.

Development of the site requires development of a Drainage Plan. No public storm sewer is available to the site. Retention basins and low impact means to promote infiltration of surface water will be required. The developer will also be required to generate an erosion control plan and obtain a permit.

Water - There is a 16” water main under the pavement on Old Cleveland Road. It is the developer’s financial responsibility to make the connection to public water.

Extensions of or taps into sanitary sewer and water lines shall be governed by state law and the rules and regulations of the South Bend Water Works and Sewer Utility. The Annexation Area may be subject to system development charges for both water and sewer services.

Streets – This annexation would add about 700 feet of Old Cleveland Road to the City. A City permit will be needed for driveway access to the property. The lot lines of the proposed annexation area extend into Old Cleveland Road. A lot line adjustment on these lots is recommended to provide a consistent forty-foot public right-of-way. There is no sidewalk in this area, and the developer may be required to build public sidewalk as part of the development process.

Street Lighting – There is no street lighting on Old Cleveland Road. No additional street lighting is necessary for this annexation area. Should any additional street lighting be desired, it can be provided on wood poles with overhead wiring through an ongoing contract with Indiana Michigan Power.

Waivers of Annexation – No waivers of right to remonstrate against annexation are in effect for this area.

2023 Actual Budget Report for the Department:

Expenditures:	\$36,313,657
Miles of Roadway in City:	@502
Cost per Mile:	@\$72,338
New Mileage within Area:	@0.14 miles (727 feet)
Estimated Maintenance Cost for Annexation Area per year:	@\$10,127

B. Police Department

The Annexation Area would be added to the existing Beat 22. Police patrols and emergency responses will be part of the services the City will offer to this area. This proposed annexation would require officers to cover a relatively small additional area on this beat.

At this time, it is not expected that this annexation would cause calls for service to increase significantly, and it is not anticipated that it will be necessary to increase police patrols beyond the existing beat patrol. The addition of this Annexation Area will not significantly increase response time.

The cost of servicing the proposed area is not expected to impact the existing budget of the Police Department with any significance. The patrol costs would be assumed by the Police Department budget. However, this area, as well as all other areas of the City, will continually be monitored for level of service demands and other criteria that would necessitate additional resources through budgetary increases or possible shifting of existing resources, such as a beat restructure.

Police services and response time in this area can be expected to be comparable with that found in all other areas of the City. Police coverage to this area could begin immediately upon annexation.

Note: The cost of service for this Annexation Area is based on the number of parcels. Household information is provided for comparative purposes.

2023 Actual Budget Report for the Department:

Expenditures (including pension cost):	\$54,441,986
Number of Households in City (2022):	@41,488
Cost per Household:	@\$1,312
Number of Parcels in City (2024):	@47,400
Cost per Parcel:	@\$1,149
Proposed Number of Households in Area:	0
Proposed Number of Parcels in Area:	4
Cost for Annexation Area per year:	\$4,596 (4 parcels x \$1,149 / parcel)

C. Fire Department & EMS

Fire Response – The South Bend Fire Department provides a fully staffed, full-time fire department. The Annexation Area will be serviced primarily by Fire Station #11 at 3505 N. Bendix Drive, which is approximately 3.9 miles away. Additional Fire Department units would respond from Fire Station #6, located at 4302 W. Western Avenue, approximately 6.2 miles away.

Response times will be slower than best practice response times as designated by NFPA 1710. These standards note that a first engine should arrive within 4 minutes and a second engine within 6 minutes at a fire suppression incident. The response time to the annexation area will be comparable to other areas on the edge of the City, where it typically takes the first engine 6-7 minutes to arrive and the second engine 10 minutes.

Otherwise, the South Bend Fire Department does not foresee any unusual fire protection problems related to this annexation. No additional equipment will need to be purchased or personnel hired to service the Annexation Area. Fire coverage to this area could begin immediately upon annexation. Adequate water supply will be necessary as any development takes place.

Emergency Medical Response – The City will provide emergency medical response to the Annexation Area. This area will be serviced by Medic #11, which is at Fire Station #11 at 3505 N. Bendix Drive (approximately 3.9 miles away) and Medic #6, which is at Fire Station #6 at 4302 W. Western Avenue (approximately 6.2 miles away).

Response times will be comparable to other areas on the edge of the City. No additional equipment will need to be purchased or personnel hired to service the Annexation Area. Emergency medical services are supported by user fees and would be available upon annexation.

Note: The cost of service for this Annexation Area is based on the number of parcels. Household information is provided for comparative purposes.

2023 Actual Budget Report for the Department:

Expenditures (including pension cost):	\$44,998,334
Number of Households in City (2022):	@41,488
Cost per Household:	@\$1,085
Number of Parcels in City (2024):	@47,400
Cost per Parcel:	@\$949
Proposed Number of Households in Area:	0
Proposed Number of Parcels in Area:	4
Cost for Annexation Area per year:	\$3,796 (4 parcels x \$949 / parcel)

D. Neighborhood Services & Enforcement

The Annexation Area will be added to Area 5. The Division of Neighborhood Services & Enforcement will be able to provide services to the Annexation Area with comparable response times. The Division will respond to calls for service upon the effective date of the annexation. Full and dedicated response will be in place within one year of the effective date of the annexation.

2023 Actual Budget Report for the Division:

Expenditures:	\$7,732,302
Number of Parcels in City (2024):	@47,400
Cost per Parcel:	@\$163
Proposed Number of Parcels in Area:	4
Cost for Annexation Area per year:	\$652 (4 parcels x \$163 / parcel)

E. Environmental Services

Wastewater Treatment - Wastewater treatment services are supported by user fees and are paid through the Water Works billing system.

Solid Waste - Larger scale commercial or industrial customers are generally not served by the Bureau of Solid Waste. However, the Bureau of Solid Waste can provide service to small commercial customers at the prevailing rate at that time for a 96-gallon container with service beginning on the effective date of the annexation.

F. Administrative Services

The City of South Bend provides a wide range of services other than those noted above, such as the Mayor's Office, the Legal Department, and Venues Parks & Arts.

These services are available upon the effective date of the annexation. Full and dedicated response for non-capital services will be in place within one year of the effective date of the annexation. Costs for these services have not been calculated.

The incorporation of the Annexation Area will not affect the provision of other services currently provided to this property on a countywide basis. The St. Joseph County Health Department, the St. Joseph County Public Library, and the St. Joseph County/South Bend Building Department are among the countywide agencies that will continue to provide the same type and level of services to the Annexation Area. Countywide services will continue to be supported by the County and Township taxes that will remain in effect.

SECTION IV. LAND USE ANALYSIS & DEVELOPMENT CRITERIA

This proposed annexation will bring four properties into the City of South Bend. The petitioner proposes to utilize the land for office and warehouse/storage space. The Annexation Area is presently zoned R Single Family District in unincorporated St. Joseph County and the petitioner is proposing a rezoning to I Industrial in the City. A warehouse, zoned I Industrial in the City, is located to the north. To the east is a 100' strip of mature vegetation zoned R Single Family Residential in St. Joseph County and, further east, a vacant lot and manufacturing plant zoned I Industrial in St. Joseph County. To the south, across Old Cleveland Road, are residential units zoned R Single Family Residential in St. Joseph County. To the west is a residential neighborhood zoned R Single Family Residential in St. Joseph County.

According to a preliminary site plan, the petitioner proposes to retain the existing barn and construct an 8,000 square foot office, 15,000 square foot warehouse, and an outdoor storage area.

Any improvements or future changes must meet the City's applicable building, zoning, and subdivision ordinances.

SECTION V. FISCAL IMPACT

- 1) Essential city services can be made available to the residents (and territory) of the Annexation Area in a timely and comparable fashion per the requirements of State law and this fiscal plan.
- 2) The City is financially able to support city services to the territory sought to be annexed.
- 3) Required improvements made by the petitioner and/or owner of the parcel(s) must be made in accordance with the standards of the City of South Bend.
- 4) Required improvements made by the City, if any, will be completed within the time frames provided by State law and this fiscal plan.
- 5) All figures are estimates. Final cost of capital expenditures, if any, will not be determined until bids are publicly solicited, contracts are awarded, and projects are closed out.
- 6) Property tax revenue and land assessment estimates are based on 2023 payable 2024 tax information, assessments of comparable developments, estimates of units built, estimates of unit values and land assessments, and tax abatements or adjustments, if any. Tax rates are subject to change every year, and property tax revenues may be subject to tax caps.
- 7) Department expenditures and revenues are derived from the City of South Bend Budget.
- 8) The estimated costs to provide services, noted in Section III, Municipal Services, are a City-wide average based on a particular budget year. In the case of the proposed development in the Annexation Area, some of these services may not be required or possibly requested for many years. Hence, the cost of providing services over the first five years should be evaluated with this in mind.

TABLE 1

Summary Table – Estimated Fiscal Impact

Expenditures	Capital (Est.)	Non-Capital Per Year (Est.)	Notes	5-Year Total
Street Construction	\$0			\$0
Sewer Extension	\$0		Connection at petitioner's expense	\$0
Water Extension	\$0		Connection at petitioner's expense	\$0
Street Lights	\$0			\$0
Street Maintenance	\$0	\$10,127		\$50,636
Police	\$0	\$4,596		\$22,980
Fire	\$0	\$3,796		\$18,980
Neighborhood Services	\$0	\$652		\$3,260
Approximate 5-Year Expenditures				\$95,856

Revenues	Notes	Total (Est.)	5-Year Total
Property Taxes (to City)	Year 1	\$5,430	\$185,430
	Year 2	\$45,000	
	Year 3	\$45,000	
	Year 4	\$45,000	
	Year 5	\$45,000	
MVH/LRSA	Estimated at revenue per mile of \$33,234	\$4,229	\$21,145
Approximate 5-Year Revenues			\$206,575

Revenue estimate based on \$181,500 net assessment and capped tax rate of 3% of \$181,500 gross assessment in Year 1 and \$1,500,000 net assessment and capped tax rate of 3% of \$1,500,000 gross assessment for all years following.

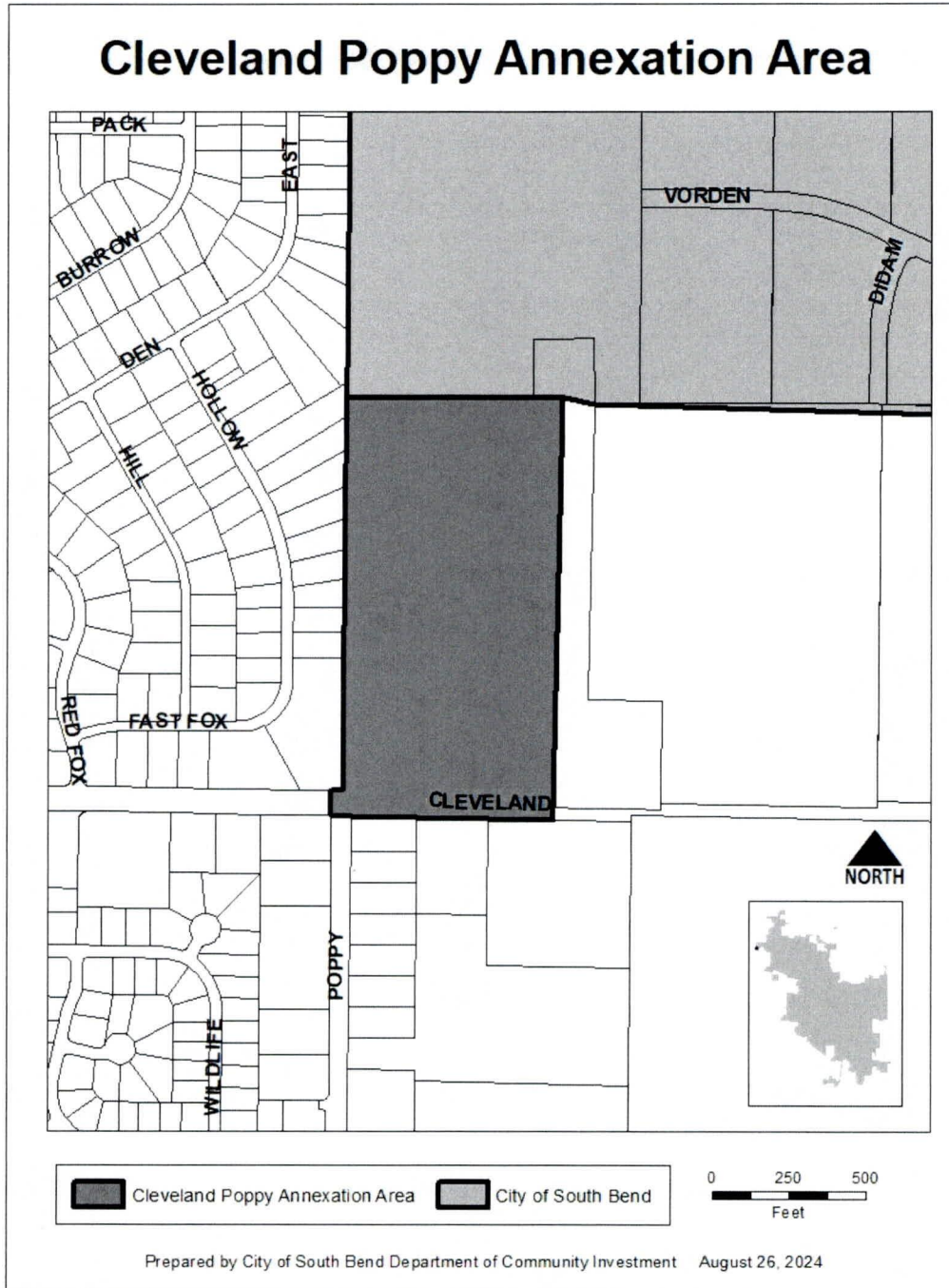
LEGAL DESCRIPTION

That part of the South Half of Section 24 and the North Half of Section 25, both in Township 38 North, Range 1 East, Warren Township, St. Joseph County, Indiana, which is more particularly described as:

Northwest corner of a parcel of ground described in deed document number 9349703 in the records of the St. Joseph County, Indiana Recorder's Office; thence east (all bearings assumed) along the north line of said parcel and the existing City of South Bend municipal corporate limit line, a distance of 706.79 feet more or less to the northeast corner of a parcel of ground described in said deed document; thence south along the east line of said parcel and its southerly extension, a distance of 1356.5 feet more or less to a point on the south right-of-way line of Cleveland Road; thence west along said south line, a distance of 727.2 feet more or less to the intersection of the south line of said Cleveland Road with the west right-of-way line of Poppy Road; thence north, a distance of 80 feet more or less to the north right-of-way line of said Cleveland Road; thence east along said north line, a distance of 40 feet more or less, to a point on the west line of said parcel; thence north along the west line of said parcel, a distance of 1297 feet more or less to the point of beginning. Containing 21.83 acres more or less.

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

MAP 1





CITY OF SOUTH BEND COMMUNITY INVESTMENT

OCT 23 2024

Bianca Tirado
City Clerk, South Bend, IN

October 23, 2024

Council Member Troy Warner
Chairperson, Community Investment Committee
South Bend Common Council
County-City Building, 4th Floor
South Bend, Indiana 46601

RE: **Confirming Resolution**: Mixed-Use Development Real Property Tax Abatement
Petition for the **Historic Hearthstone LLC**

Dear Council Member Warner,

Please find the enclosed Confirming Resolution and Memorandum of Agreement for a mixed-use development real property tax abatement for Historic Hearthstone LLC, an Indiana Limited Liability Company. The petitioner plans to redevelop the property at 321 W. Wayne Street into a restaurant and family entertainment space. Also, the building will provide office and working spaces for Indiana Landmarks and South Bend Trade Works.

The total investment for this project is approximately \$2,500,000. The project meets the qualifications for a ten-year (10) mixed-use development real property tax abatement.

A representative from Historic Hearthstone, LLC, will be available to meet with the Committee on Monday, October 28, 2024.

Should you or other Council members have questions about the report or need additional information, please feel free to call me at (574) 235-5838.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Glavich".

Erik Glavich
Director, Growth and Opportunity

OCT 23 2024

Bianca Tirado
City Clerk, South Bend, IN

BILL NO. 24-35
RESOLUTION NO. _____

A RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY
RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF
SOUTH BEND, INDIANA, COMMONLY KNOWN AS

321 W. Wayne Street, South Bend, Indiana 46601

AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A
TEN-YEAR (10) REAL PROPERTY TAX ABATEMENT FOR

Historic Hearthstone LLC

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as an Economic Revitalization Area for the purpose of tax abatement consideration; and

WHEREAS, a Declaratory Resolution designated the area described as:

<i>Key Number:</i>	<i>71-08-11-283-016.000-026</i>
<i>Local Parcel Number:</i>	<i>018-3011-0402</i>
<i>Commonly Known As:</i>	<i>321 W. Wayne Street</i>
<i>Legal Description:</i>	<i>68.6 Ft E Side Lot 4 Johnsons 2 Ac Sub</i>

be designated as an Economic Revitalization Area under the provisions of Indiana Code 6-1.1-12.1 et seq., and South Bend Municipal Code Sections 2-76 et seq.; and

WHEREAS, notice of the adoption of a Declaratory Resolution and the public hearing before the Council has been published pursuant to Indiana Code 6-1.1-12.1-2.5; and

WHEREAS, the Council held a public hearing for the purposes of hearing all remonstrances and objections from interested persons; and

WHEREAS, the Council has determined that the qualifications for an economic revitalization area have been met; and

WHEREAS, the Council adopted Declaratory Resolution No. 5095-24 on October 14, 2024.

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

SECTION I. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for real property tax abatement only and shall expire on December 31, 2027.

SECTION II. The Common Council hereby determines that the property owner is qualified for and is granted real property tax deduction for up to a period of ten (10) years as shown by the schedule outlined below as well as the attachment pursuant to Indiana Code 6-1.1-12.1-17 and further determines that the petition, the Memorandum of Agreement between the Petitioner and the City of South Bend, and the Statement of Benefits comply with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12 et seq.

- Year 3 - 100%
- Year 4 - 100%
- Year 5 - 100%
- Year 6 - 95%
- Year 7 - 95%
- Year 8 - 95%
- Year 9 - 95%
- Year 10 - 95%

SECTION III. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

Sharon McBride, Council President
South Bend Common Council

Attest:

Bianca Tirado, 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 _____, 2024, at _____ o'clock _____.m.

Bianca Tirado, City Clerk
Office of the City Clerk

Approved and signed by me on the _____ day of _____, 2024, at ___ o'clock
____.m.

James Mueller, Mayor
City of South Bend

OCT 23 2024

Bianca Tirado
City Clerk, South Bend, IN**MEMORANDUM OF AGREEMENT****(MIXED-USE DEVELOPMENT REAL PROPERTY TAX ABATEMENT)**

This Memorandum of Agreement (Agreement) dated as of October 18, 2024, serves as confirmation of a commitment by **Historic Hearthstone LLC** (the "Applicant"), pending an October 28, 2024, public hearing, to comply with the project description, job creation and retention (and associated wage rates and salaries) figures contained in its petition, Statement of Benefits, and attachments and this Agreement.

1. Property Associated with the Abatement and Responsibilities of the Applicant. At the time of this Agreement, the property is located at 321 West Wayne Street, South Bend, Indiana 46601, and has Key Number 71-08-11-283-016.000-026. Throughout the duration of the abatement, the Applicant shall promptly report any changes in the address or Key Number of the property receiving the abatement to the Department of Community Investment and to the Office of the City Clerk. Moreover, the Applicant also shall report any material changes or improvements made to the property subject to the abatement including changes as the result of subdividing, replatting, or otherwise. The Applicant agrees that failure to promptly report changes can result in a finding of noncompliance on behalf of the Applicant under the commitments of this Agreement.

2. Commitments of City and Applicant. Subject to the adoption of a Declaratory Resolution and a Confirmatory Resolution by the South Bend Common Council (the "SBCC"), the City of South Bend, Indiana, (the "City") commits to provide a **ten-year (10) mixed-use development real property tax abatement** for the Applicant, based on the Applicant's commitment set forth in its Application. The Applicant commits to the following (the "Commitments"):

(a) making or causing to be made total combined real property expenditures of no less than Two Million Dollars (\$2,000,000.00) for the rehabilitation of the existing structure of approximately seventeen thousand (17,000) square feet, which includes the creation of a restaurant and office spaces, at property identified in Section 1 of this Agreement;

(b) creating or enabling the creation of, at the new restaurant, approximately twenty (20) full-time equivalent jobs with a total estimated annual payroll of at least Seven Hundred Thirteen Thousand Six Hundred Dollars (\$713,600.00); and

(c) acting in good faith to complete the project as described in its Application.

3. Applicant's Compliance with City and State Laws. During the term of the abatement, the Applicant shall comply with Chapter 2, Article 6, of the South Bend Municipal Code, entitled "Tax Abatement Procedures," and all governing provisions of the Indiana Code. During the term of this abatement, the City may annually request information from the Applicant concerning the nature of the Project, the approved capital expenditure of the Project, the number of full-time permanent positions newly created by the Project, and the average wage rates and salaries (excluding benefits & overtime) associated with the positions, and the Applicant shall provide the City with adequate written evidence thereof within fifteen (15) days of such request (the "Annual Survey"). The City shall utilize this information and the information required to be filed by the Applicant in the CF-1 Compliance with the

Statement of Benefits form to verify that the Applicant has at all times complied with the Commitments after the Commitment Date and during the duration of the abatement and for no other purpose. The Applicant further agrees to provide the City with such additional information as requested by the City to determine Applicant's compliance with the Commitments and with local and state requirements within twenty (20) days following any such request. Notwithstanding anything herein to the contrary, the Applicant acknowledges that the City may be required to disclose certain documents provided by the Applicant as required by a court order or applicable law.

4. Substantial Compliance and Rights of Termination. The City, by and through the SBCC, reserves the right to terminate the Economic Revitalization Area designation and associated property tax abatement deductions if it reasonably determines that the Applicant has not made reasonable efforts to substantially comply with all the Commitments, as defined in Section 2 of this Agreement, and the Applicant's failure to substantially comply with the Commitments was not due to factors beyond its reasonable control, as described in Section 5 below.

5. Factors Beyond Control. As used in this Agreement, factors beyond the control of the Applicant shall only include factors not reasonably foreseeable at the time of designation application and submission of Statement of Benefits which are not caused by any act or omission of the Applicant, and which materially and adversely affect the ability of the Applicant to substantially comply with this Agreement. Applicant has the burden to communicate to the City any such factors in which it believes is beyond its control and impacting its ability to fulfill the terms of this Agreement or any tax abatement benefit provided to the City. The City reserves the right to investigate the factors cited by Applicant under this Section 5 to the fullest extent possible and may deny Applicant's request upon the completion of the City's investigation.

6. Repayment of Tax Abatement Savings. If at any time during the term of this Agreement the Applicant shall: (a) be delinquent or in default with respect to any tax payment in St. Joseph County, Indiana; or (b) cease operations at the facility for which the tax abatement was granted; or (c) announce the cessation of operations at such facility, then the City may immediately terminate the Economic Revitalization Area designation and associated tax abatement deductions, and upon such termination, require Applicant to repay all of the tax abatement savings received through the date of such termination.

7. Notice/Hearing of Termination. In the event that the City determines that the Economic Revitalization Area designation and associated tax abatement deductions should be terminated or that all or a portion of the tax abatement savings should be repaid, it will give the Applicant notice of such determination, including a written statement calculating the amount due from the Applicant, and will provide the Applicant with an opportunity to meet with the City's designated representatives to show cause why the abatement should not be terminated and/or the tax savings repaid. Such notice shall state the names of the person with whom the Applicant may meet and will provide that the Applicant shall have thirty (30) days from the date of such notice to arrange such meeting and to provide its evidence concerning why the abatement termination and/or tax savings repayment should not occur. If, after giving such notice and receiving such evidence, if any, the City determines that the abatement termination and/or the tax repayment action is proper, the Applicant shall be provided with written notice and a hearing before the SBCC before any final action shall be taken terminating the abatement

and/or requiring repayment of tax benefits. The Applicant shall be entitled to appeal that determination to a St. Joseph County Superior or Circuit Court.

8. Repayment. In the event the City requires repayment of the tax abatement savings as provided hereunder, it shall provide Applicant with a written statement calculating the amount due (the "Statement"), and Applicant shall make such repayment to the City within one hundred twenty (120) days of the date of the Statement. If the Applicant does not make timely repayment, the City shall be entitled to all reasonable costs and attorneys' fees incurred in the enforcement of this Agreement and the collection of the tax abatement savings required to be repaid hereunder.

9. Modification/Entire Agreement. This Agreement and the schedules attached hereto as Exhibit A contain the entire understanding between the City and the Applicant with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements, and conditions, expressed or implied, oral, or written, except as herein contained. This Agreement may not be modified or amended other than by an agreement in writing signed by the City and the Applicant. The Applicant understands that any and all filings required to be made or actions required to be taken to initiate or maintain the abatement are solely the responsibility of the Applicant.

10. Waivers. Neither the failure nor any delay on the part of the City to exercise any right, remedy, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege preclude any other or further exercise of the same or of any other right, remedy, power, or privilege with respect to any occurrence or be construed as a waiver of such right, remedy, power, or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

11. Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been received when delivered by hand or by facsimile (with confirmation by registered or certified mail) or on the third business day following the mailing, by registered or certified mail, postage prepaid, return receipt requested, thereof, addressed as set forth below:

If to Applicant: Historic Hearthstone LLC
615 W. Colfax Ave,
South Bend, Indiana 46601
Attn: Regina Emberton

If to the City: City of South Bend, Indiana
227 W. Jefferson Boulevard, Suite 1400S
South Bend, Indiana 46601
Attn: Executive Director of Community Investment

12. Governing Laws of Indiana. This Agreement and all questions relating to its validity, interpretation, performance, and enforcement shall be governed by the laws and decisions of the courts of the State of Indiana.

13. Applicant's Consent to Jurisdiction. The Applicant hereby irrevocably consents to the jurisdiction of the Courts of the State of Indiana and of the St. Joseph County Circuit or Superior Court in connection with any action or proceeding arising out of or relating to this Agreement or any documents or instrument delivered with respect to any of the obligations hereunder, and any action related to this Agreement shall be brought in such County and in such Court.

14. Assignment and Transfer Prohibited. This Agreement shall be binding upon and inure to the benefit of the City and the Applicant and their successors and assigns, except (a) that no party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other party hereto, in which consent shall not be unreasonably withheld, and (b) Applicant may assign and transfer its rights under this Agreement to the Permitted Assign without prior written consent. "Permitted Assign" means the affiliated single purpose entity created for purposes of designing, constructing, owning, operating, and maintaining the project which is the subject of this Agreement.

15. Valid and Binding Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. By executing this Agreement, each person so executing affirms that he has been duly authorized to execute this Agreement on behalf of such party and that this Agreement constitutes a valid and binding obligation of the party.

16. Severability. The provisions of this Agreement and of each section or other subdivision herein are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part unless this Agreement is rendered totally unenforceable thereby.

17. No Personal Liability. No official, director, officer, employee, or agent of the City shall be charged personally by the Applicant, its employees, or its agents with any liabilities or expenses of defense or be held personally liable to the Applicant under any term or provision of this Agreement or because of the execution by such party of this Agreement or because of any default by such party hereunder.

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.


<p>“Applicant”</p> <p>Historic Hearthstone LLC</p> <p>By: <u>Regina Emberton</u></p> <p>Regina Emberton Manager and Principal</p> <p>Approved as to Legal Adequacy and Form this _____ day of _____, 2024.</p> <p>Counsel, South Bend Common Council</p>	<p>“City”</p> <p>City of South Bend, Indiana</p> <p>By: _____</p> <p>Sharon McBride President, South Bend Common Council</p> <p>By: _____</p> <p>Troy Warner Chairperson, Community Investment Committee</p> <p>By: </p>
<p>Counsel for Applicant</p>	<p>By: _____</p> <p>Erik Glavich Department of Community Investment</p>
	<p>By: _____</p> <p>James Mueller Mayor</p>

EXHIBIT A

Abatement Schedule

Subject to the adoption by the SBCC of a resolution confirming the adoption of Declaratory Resolution No. 5095-24, the property owner is qualified for and is granted a mixed-use development real property tax abatement for a period of ten (10) years as shown by the schedule outlined below.

- Year 1 - 100%
- Year 2 - 100%
- Year 3 - 100%
- Year 4 - 100%
- Year 5 - 100%
- Year 6 - 95%
- Year 7 - 95%
- Year 8 - 95%
- Year 9 - 95%
- Year 10 - 95%

Signature: 
Regina Emberton Oct 22, 2024 20:55 GMT-2

Email: r.emberton@outlook.com

24-36

Filed in Clerk's Office



CITY OF SOUTH BEND
COMMUNITY INVESTMENT

OCT 23 2024

Bianca Tirado
City Clerk, South Bend, IN

October 23, 2024

Council Member Sharon McBride
President
South Bend Common Council
County-City Building, 4th Floor
South Bend, Indiana 46601

Council Member Troy Warner
Chairperson
Community Investment Committee
South Bend Common Council
County-City Building, 4th Floor
South Bend, Indiana 46601

RE: **Resolution Correcting Scrivener's Error**: Hotel/Motel Development Real Property Tax Abatement for **AFP 111 Corp. (DoubleTree by Hilton South Bend)**

Dear President McBride and Council Member Warner,

Please find the enclosed resolution correcting a scrivener's error in Resolution No. 5096-24, a declaratory resolution adopted by the Common Council on October 14, 2024. Resolution No. 5096-24 designated the property commonly known as 123 N. Dr. Martin Luther King Jr. Boulevard in South Bend an economic revitalization area for purposes of a nine-year (9) real property tax abatement.

Resolution No. 5096-24 had an inadvertent and unintended error in Section V. As adopted by the Common Council, Resolution No. 5096-24 established that the designation as an economic revitalization area shall expire on December 31, 2033. The expiration date of the designation should have been December 31, 2027. If adopted by the Common Council, the enclosed resolution would fix this error.

If you or any of the other Council members have questions concerning the report or need additional information, please feel free to call me at (574) 235-5838.

Sincerely,

Erik Glavich
Director, Growth and Opportunity

OCT 23 2024

Bianca Tirado
City Clerk, South Bend, IN

BILL NO. 24-36
RESOLUTION NO. _____

A RESOLUTION OF THE COMMON COUNCIL OF THE
CITY OF SOUTH BEND, INDIANA, CORRECTING SCRIVENER'S ERROR
IN RESOLUTION NO. 5096-24 DESIGNATING CERTAIN AREAS WITHIN
THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS

123 N. Dr. Martin Luther King Jr. Boulevard, South Bend, Indiana 46601

AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A
NINE-YEAR (9) REAL PROPERTY TAX ABATEMENT FOR

AFP 111 Corp.

WHEREAS, on October 14, 2024, the Common Council of the City of South Bend, Indiana, adopted Resolution No. 5096-24 designating a certain area within the City as an Economic Revitalization Area for the purpose of tax abatement consideration; and

WHEREAS, Resolution No. 5096-24 designated the area described as:

<i>Key Number:</i>	<i>71-08-12-112-002.000-026</i>
<i>Local Parcel Number:</i>	<i>018-3091-347401</i>
<i>Commonly Known As:</i>	<i>123 N. Dr. Marting Luther King Jr. Boulevard</i>
<i>Legal Description:</i>	<i>River Bend Addn To City Of So Bend Sec 12-37-2e Also Known As Block 3 & Pt Of Block 4</i>

an Economic Revitalization Area under the provisions of Indiana Code 6-1.1-12.1 et seq. and South Bend Municipal Code Sections 2-76 et seq.; and

WHEREAS, Section V of Resolution No. 5096-24 inadvertently and incorrectly established that the designation as an Economic Revitalization Area shall expire on December 31, 2033, and instead should have established that the designation as an Economic Revitalization Area shall expire on December 31, 2027; and

WHEREAS, the Common Council desires to correct this scrivener's error appearing in Resolution No. 5096-24.

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

SECTION I. Section V of Resolution No. 5096-24 as adopted on October 14, 2024, is deleted and in its place is inserted:

SECTION V. The designation as an Economic Revitalization Area shall expire on December 31, 2027.

SECTION II. Resolution No. 5096-24 is reaffirmed in all other respects and will continue in full force and effect according to its terms.

SECTION III. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

Sharon McBride, Council President
South Bend Common Council

Attest:

Bianca Tirado, 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 _____, 2024, at _____ o'clock _____.m.

Bianca Tirado, City Clerk
Office of the City Clerk

Approved and signed by me on the _____ day of _____, 2024, at ____ o'clock _____.m.

James Mueller, Mayor
City of South Bend

24-37

Filed in Clerk's Office

OCT 23 2024

Bianca Tirado
City Clerk, South Bend, IN



CITY OF SOUTH BEND

COMMUNITY INVESTMENT

October 23, 2024

Council Member Troy Warner
Chairperson, Community Investment Committee
South Bend Common Council
County-City Building, 4th Floor
South Bend, Indiana 46601

RE: **Confirming Resolution**: Hotel/Motel Development Real Property Tax Abatement
Petition for the **AFP 111 Corp. (DoubleTree by Hilton South Bend)**

Dear Council Member Warner,

Please find the enclosed Confirming Resolution and Memorandum of Agreement for a Hotel/Motel Development real property tax abatement for AFP 111 Corp., a foreign for-profit corporation.

The petitioner intends to renovate the DoubleTree hotel at 123 N. Dr. Martin Luther King Jr. Boulevard. The ownership group since 2017 has invested more than \$4.4 million in the property and is in the process of planning a major renovation to the guestrooms, bathrooms, restaurant spaces, ballrooms, and meeting rooms. Other planned improvements concern sprinkler pipe replacements, boiler conversions, elevator upgrades, and HVAC replacements.

The total investment for this project is \$9,200,000. The project meets the qualifications for a nine-year (9) hotel/motel development real property tax abatement.

A representative from AFP 111 Corp. will be available to meet with the Committee on Monday, October 28, 2024.

Should you or other Council members have questions about the report or need additional information, please feel free to call me at (574) 235-5838.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erik Glavich', is written over a light blue horizontal line.

Erik Glavich
Director, Growth and Opportunity

OCT 23 2024

Bianca Tirado
City Clerk, South Bend, IN

BILL NO. 24-37
RESOLUTION NO. _____

A RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS

123 N. Dr. Martin Luther King Jr. Boulevard, South Bend, Indiana 46601

AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A NINE-YEAR (9) REAL PROPERTY TAX ABATEMENT FOR

AFP 111 Corp.

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as an Economic Revitalization Area for the purpose of tax abatement consideration; and

WHEREAS, a Declaratory Resolution designated the area described as:

<i>Key Number:</i>	<i>71-08-12-112-002.000-026</i>
<i>Local Parcel Number:</i>	<i>018-3091-347401</i>
<i>Commonly Known As:</i>	<i>123 N. Dr. Marting Luther King Jr. Boulevard</i>
<i>Legal Description:</i>	<i>River Bend Addn To City Of So Bend Sec 12-37-2e Also Known As Block 3 & Pt Of Block 4</i>

be designated as an Economic Revitalization Area under the provisions of Indiana Code 6-1.1-12.1 et seq., and South Bend Municipal Code Sections 2-76 et seq.; and

WHEREAS, notice of the adoption of a Declaratory Resolution and the public hearing before the Council has been published pursuant to Indiana Code 6-1.1-12.1-2.5; and

WHEREAS, the Council held a public hearing for the purposes of hearing all remonstrances and objections from interested persons; and

WHEREAS, the Council has determined that the qualifications for an economic revitalization area have been met; and

WHEREAS, the Council adopted Declaratory Resolution No. 5096-24 on October 14, 2024.

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

SECTION I. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for hotel/motel development real property tax abatement only and shall expire on December 31, 2027.

SECTION II. The Common Council hereby determines that the property owner is qualified for and is granted real property tax deduction for up to a period of nine (9) years as shown by the schedule outlined below as well as the attachment pursuant to Indiana Code 6-1.1-12.1-17 and further determines that the petition, the Memorandum of Agreement between the Petitioner and the City of South Bend, and the Statement of Benefits comply with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12 et seq.

- Year 1 - 100%
- Year 2 - 100%
- Year 3 - 100%
- Year 4 - 95%
- Year 5 - 90%
- Year 6 - 85%
- Year 7 - 80%
- Year 8 - 75%
- Year 9 - 70%

SECTION III. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

Sharon McBride, Council President
South Bend Common Council

Attest:

Bianca Tirado, 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 _____, 2024, at _____ o'clock _____.m.

Bianca Tirado, City Clerk
Office of the City Clerk

Approved and signed by me on the _____ day of _____, 2024, at ___ o'clock
____.m.

James Mueller, Mayor
City of South Bend

OCT 23 2024

Bianca Tirado
City Clerk, South Bend, IN

MEMORANDUM OF AGREEMENT

(HOTEL/MOTEL DEVELOPMENT REAL PROPERTY TAX ABATEMENT)

This Memorandum of Agreement (Agreement) dated as of October 18, 2024, serves as confirmation of a commitment by **AFP 111 Corp. – Double Tree by Hilton South Bend** (the “Applicant”), pending an October 28, 2024, public hearing, to comply with the project description, job creation and retention (and associated wage rates and salaries) figures contained in its petition, Statement of Benefits, and attachments and this Agreement.

1. Property Associated with the Abatement and Responsibilities of the Applicant. At the time of this Agreement, the property is located at 123 N. Dr. Martin Luther King Jr. Blvd. in South Bend, and has Key Number 71-08-12-112-002.000-026. Throughout the duration of the abatement, the Applicant shall promptly report any changes in the address or Key Number of the property receiving the abatement to the Department of Community Investment and to the Office of the City Clerk. Moreover, the Applicant also shall report any material changes or improvements made to the property subject to the abatement including changes as the result of subdividing, replatting, or otherwise. The Applicant agrees that failure to promptly report changes can result in a finding of noncompliance on behalf of the Applicant under the commitments of this Agreement.

2. Commitments of City and Applicant. Subject to the adoption of a Declaratory Resolution and a Confirmatory Resolution by the South Bend Common Council (the “SBCC”), the City of South Bend, Indiana, (the “City”) commits to provide a **nine-year (9) hotel/motel development real property tax abatement** for the Applicant, based on the Applicant’s commitment set forth in its Application. The Applicant commits to the following (the “Commitments”):

(a) making total combined real property expenditures of no less than Nine Million and Two Hundred Thousand dollars (\$9,200,000.00) for the renovation of the current hotel at the property identified in Section 1 of this Agreement;

(b) creating at least five (5) permanent full-time jobs with a total estimated annual payroll of at least One Hundred and Sixty-Six Thousand Dollars (\$166,000.00); and

(c) acting in good faith to complete the project as described in its Application.

3. Applicant’s Compliance with City and State Laws. During the term of the abatement, the Applicant shall comply with Chapter 2, Article 6, of the South Bend Municipal Code, entitled “Tax Abatement Procedures,” and all governing provisions of the Indiana Code. During the term of this abatement, the City may annually request information from the Applicant concerning the nature of the Project, the approved capital expenditure of the Project, the number of full-time permanent positions newly created by the Project, and the average wage rates and salaries (excluding benefits & overtime) associated with the positions, and the Applicant shall provide the City with adequate written evidence thereof within fifteen (15) days of such request (the “Annual Survey”). The City shall utilize this information and the information required to be filed by the Applicant in the CF-1 Compliance with the Statement of Benefits form to verify that the Applicant has at all times complied with the Commitments after the Commitment Date and during the duration of the abatement and for no other purpose. The

Applicant further agrees to provide the City with such additional information as requested by the City to determine Applicant's compliance with the Commitments and with local and state requirements within twenty (20) days following any such request. Notwithstanding anything herein to the contrary, the Applicant acknowledges that the City may be required to disclose certain documents provided by the Applicant as required by a court order or applicable law.

4. Substantial Compliance and Rights of Termination. The City, by and through the SBCC, reserves the right to terminate the Economic Revitalization Area designation and associated property tax abatement deductions if it reasonably determines that the Applicant has not made reasonable efforts to substantially comply with all the Commitments, as defined in Section 2 of this Agreement, and the Applicant's failure to substantially comply with the Commitments was not due to factors beyond its reasonable control, as described in Section 5 below.

5. Factors Beyond Control. As used in this Agreement, factors beyond the control of the Applicant shall only include factors not reasonably foreseeable at the time of designation application and submission of Statement of Benefits which are not caused by any act or omission of the Applicant, and which materially and adversely affect the ability of the Applicant to substantially comply with this Agreement. Applicant has the burden to communicate to the City any such factors in which it believes is beyond its control and impacting its ability to fulfill the terms of this Agreement or any tax abatement benefit provided to the City. The City reserves the right to investigate the factors cited by Applicant under this Section 5 to the fullest extent possible and may deny Applicant's request upon the completion of the City's investigation.

6. Repayment of Tax Abatement Savings. If at any time during the term of this Agreement the Applicant shall: (a) be delinquent or in default with respect to any tax payment in St. Joseph County, Indiana; or (b) cease operations at the facility for which the tax abatement was granted; or (c) announce the cessation of operations at such facility, then the City may immediately terminate the Economic Revitalization Area designation and associated tax abatement deductions, and upon such termination, require Applicant to repay all of the tax abatement savings received through the date of such termination.

7. Notice/Hearing of Termination. In the event that the City determines that the Economic Revitalization Area designation and associated tax abatement deductions should be terminated or that all or a portion of the tax abatement savings should be repaid, it will give the Applicant notice of such determination, including a written statement calculating the amount due from the Applicant, and will provide the Applicant with an opportunity to meet with the City's designated representatives to show cause why the abatement should not be terminated and/or the tax savings repaid. Such notice shall state the names of the person with whom the Applicant may meet and will provide that the Applicant shall have thirty (30) days from the date of such notice to arrange such meeting and to provide its evidence concerning why the abatement termination and/or tax savings repayment should not occur. If, after giving such notice and receiving such evidence, if any, the City determines that the abatement termination and/or the tax repayment action is proper, the Applicant shall be provided with written notice and a hearing before the SBCC before any final action shall be taken terminating the abatement and/or requiring repayment of tax benefits. The Applicant shall be entitled to appeal that determination to a St. Joseph County Superior or Circuit Court.

documents or instrument delivered with respect to any of the obligations hereunder, and any action related to this Agreement shall be brought in such County and in such Court.

14. Assignment and Transfer Prohibited. This Agreement shall be binding upon and inure to the benefit of the City and the Applicant and their successors and assigns, except (a) that no party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other party hereto, in which consent shall not be unreasonably withheld, and (b) Applicant may assign and transfer its rights under this Agreement to the Permitted Assign without prior written consent. "Permitted Assign" means the affiliated single purpose entity created for purposes of designing, constructing, owning, operating, and maintaining the project which is the subject of this Agreement.

15. Valid and Binding Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. By executing this Agreement, each person so executing affirms that he has been duly authorized to execute this Agreement on behalf of such party and that this Agreement constitutes a valid and binding obligation of the party.

16. Severability. The provisions of this Agreement and of each section or other subdivision herein are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part unless this Agreement is rendered totally unenforceable thereby.

17. No Personal Liability. No official, director, officer, employee, or agent of the City shall be charged personally by the Applicant, its employees, or its agents with any liabilities or expenses of defense or be held personally liable to the Applicant under any term or provision of this Agreement or because of the execution by such party of this Agreement or because of any default by such party hereunder.

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.



<p>“Applicant”</p> <p>AFP 111 Corp. – Double Tree by Hilton South Bend</p> <p>By: </p> <p>Ben Zimmerman Vice President – AFP 111 Corp.</p> <p>Approved as to Legal Adequacy and Form this _____ day of _____, 2024.</p> <p>Counsel, South Bend Common Council</p>	<p>“City”</p> <p>City of South Bend, Indiana</p> <p>By: _____</p> <p>Sharon McBride President, South Bend Common Council</p> <p>By: _____</p> <p>Troy Warner Chairperson, Community Investment Committee</p> <p></p> <p>By: _____</p> <p>Erik Glavich Department of Community Investment</p>
<p>Counsel for Applicant</p>	<p>By: _____</p> <p>James Mueller Mayor</p>

EXHIBIT A

Abatement Schedule

Subject to the adoption by the SBCC of a resolution confirming the adoption of Declaratory Resolution No. 5096-24, the property owner is qualified for and is granted a hotel/motel development real property tax abatement for a period of nine (9) years as shown by the schedule outlined below.

Year 1 - 100%

Year 2 - 100%

Year 3 - 100%

Year 4 - 95%

Year 5 - 90%

Year 6 - 85%

Year 7 - 80%

Year 8 - 75%

Year 9 - 70%

63-24



CITY OF SOUTH BEND

COMMUNITY INVESTMENT

October 23, 2023

Sharon L. McBride, President
South Bend Common Council
4th Floor, County-City Building

RE: Lafayette Falls Extension Annexation Area, south of Lafayette Falls Phase I Annexation Area and west of S US-31 Highway

Dear President McBride:

Attached is an Ordinance for the proposed annexation at the above referenced location. Please include this Ordinance on the Council agenda for first reading at the October 28, 2024, Council meeting; for second reading at the January 13, 2025, Council meeting; and for third reading at the January 27, 2025, Council meeting. Per the provisions of Section 21-01.02(g) of the South Bend Municipal Code, the property would automatically be zoned to S1 Suburban Neighborhood 1 District upon annexation without needing a public hearing before the South Bend Plan Commission.

The petitioner provided the following to describe the proposed project:

Annexation of R-Residential parcels from St. Joseph County into the City of South Bend as S1 Suburban Neighborhood 1.

If you have any questions, please feel free to contact me at (574) 235-7625. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Amani Morrell".

Amani Morrell
Principal Development Planner

cc: Bob Palmer, Attorney, Common Council
Staff, South Bend Plan Commission

Filed in Clerk's Office

OCT 23 2024

Bianca Tirado
City Clerk, South Bend, IN

BILL NO. 63-24

OCT 23 2024

ORDINANCE NO. _____

Bianca Tirado
City Clerk, South Bend, IN

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ANNEXING TO AND BRINGING WITHIN THE CITY LIMITS OF SOUTH BEND, INDIANA, CERTAIN LAND LOCATED IN CENTRE TOWNSHIP, CONTIGUOUS THEREWITH; COUNCILMANIC DISTRICT NO. 5, FOR LAND SOUTH OF LAFAYETTE FALLS PHASE I ANNEXATION AREA AND WEST OF S US-31 HIGHWAY, SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

Petitioner desires to annex a portion of two properties south of Lafayette Falls Phase I Annexation area and west of S US-31 Highway; the properties would be automatically zoned to S1 Suburban Neighborhood 1 District in South Bend.

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

SECTION I. That the following described real estate is situated in St. Joseph County, Indiana, being contiguous by more than one-eighth (1/8) of its aggregate external boundaries with the present boundaries of the City of South Bend, Indiana, shall be and hereby is annexed to and brought within the City of South Bend:

A part of those lands conveyed to Lafayette Falls, LLC as described in Instrument Number 2020-06998 and Instrument Number 1723447 – Parcel 2, as recorded in the St. Joseph County Recorder’s Office, and part of those lands conveyed to the State of Indiana as described in Instrument Number 1113186 and Instrument Number 1115059, as recorded in said Recorder’s Office, and being situated in the South Half of Section 2, Township 36 North, Range 2 East, Centre Township, St. Joseph County Indiana, and being more particularly described as follows:

Commencing at the West Quarter corner of said Section 2 and being the Northwest corner of Outlot “A”, as shown on the recorded plat of Zeiger’s US 31 Minor Subdivision, recorded as Instrument Number 0516808 in said Recorder’s Office; thence Easterly, along the North line of said Outlot “A”, a distance of 2633 feet, more or less, to the Northeast corner of said Outlot “A”, also being the center of said Section 2; thence Easterly, along the North line of Lot 2 of said Zeiger’s US 31 Minor Subdivision, a distance of 406 feet, more or less, to the Easterly line of said State of Indiana land as described in Instrument Number 1113186, St Joseph County Recorder; thence

Southwesterly, along the Easterly line of said State of Indiana Land, a distance of 771 feet, more or less, to a point lying 680 feet South of the Easterly extension of the North line of said Outlot "A"; thence Westerly, parallel with the North line of said Outlot "A", a distance of 2667 feet, more or less, to the West line of said Section 2 and being the West line of Outlot "A"; thence Northerly, along the West line of said Section 2 and the West line of Outlot "A", a distance of 680 feet, more or less, to the Point of Beginning.

Containing 44.6 acres, more or less, and being subject to all rights-of-way, covenants, easements, and restrictions of record.

SECTION II. That the boundaries of the City of South Bend, Indiana, shall be and are hereby declared to be extended so as to include the real estate of the above-described parcel as part of the City of South Bend, Indiana.

SECTION III. Ordinance No. 10689-19, as amended, which ordinance is commonly known as the Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby amended in order that the zoning classification of the above described real estate, with the exception of all adjacent rights-of-way, in the City of South Bend, St. Joseph County, State of Indiana be and the same is hereby established as S1 Suburban Neighborhood 1 District, per the provisions of Section 21-01.02(g) of the South Bend Municipal Code.

SECTION IV. This Ordinance shall be in full force and effect 30 days from and after its passage by the Common Council, approval by the Mayor, and legal publication.

Sharon McBride, Council President
South Bend Common Council

Attest:

Bianca L. Tirado, 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 _____, 2024, at _____ o'clock ____ . m.

Bianca L. Tirado, City Clerk
Office of the City Clerk

Approved and signed by me on the _____ day of _____, 2024, at ____ o'clock ____ .m.

James Mueller, Mayor
City of South Bend, Indiana