



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, NOVEMBER 7, 2024
SUBJECT: COMMITTEE MEETING NOTICE

The following Common Council Committee Meetings have been scheduled for **Wednesday, November 13, 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/111324CC>

6:45 P.M. **ZONING & ANNEXATION** **CHAIRPERSON, DR. DAVIS**
1. [Bill No. 42-24](#) - Amending Zoning Ordinance for Property Located at 829 South 27th Street

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

INTEGRITY | SERVICE | ACCESSIBILITY

Elivet Quijada-Navarro Matthew Neal Talia J. Thornton
CHIEF OF STAFF / CHIEF DEPUTY CITY CLERK DEPUTY CITY CLERK / DIRECTOR OF POLICY 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.southbendin.gov



SOUTH BEND COMMON COUNCIL

MEETING AGENDA

Wednesday, November 13, 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/SBCC111324>

1. **INVOCATION**

PASTOR CARL HETLER | UNITED METHODIST CHURCH

2. **PLEDGE TO THE FLAG**

3. **ROLL CALL**

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

OCTOBER 28, 2024

5. **SPECIAL BUSINESS**

6. **REPORTS FROM CITY OFFICES**

DEPARTMENT OF INNOVATION & TECHNOLOGY | COMMUNITY SURVEY UPDATE

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

8. **BILLS ON THIRD READING**

TIME: _____

BILL NO.

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

44-24 THIRD 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, 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 (3RD READING ONLY)

9. **RESOLUTIONS**

10. **BILLS ON FIRST READING**

BILL NO.

64-24 FIRST READING ON 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 HURON STREET BETWEEN SOUTH WALNUT STREET AND TERMINATING AT THE PARCEL IDENTIFIED AS 018-3082-319602

65-24 FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ADOPTING A MERIT BOARD SYSTEM GOVERNING THE SOUTH BEND POLICE DEPARTMENT

11. **UNFINISHED BUSINESS**

12. **NEW BUSINESS**

13. **PRIVILEGE OF THE FLOOR**

14. **ADJOURNMENT**

TIME: _____

Notice for Hearing and Sight Impaired Persons

Auxiliary Aid Or Other Services Are Available Upon Request At No Charge.

Please Give Reasonable Advance Request When Possible.

In the interest of providing greater public access and to promote greater transparency, the South Bend Common Council agenda has been translated into Spanish. All agendas are available online from the Council's website, and also in paper format in the Office of the City Clerk, 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.

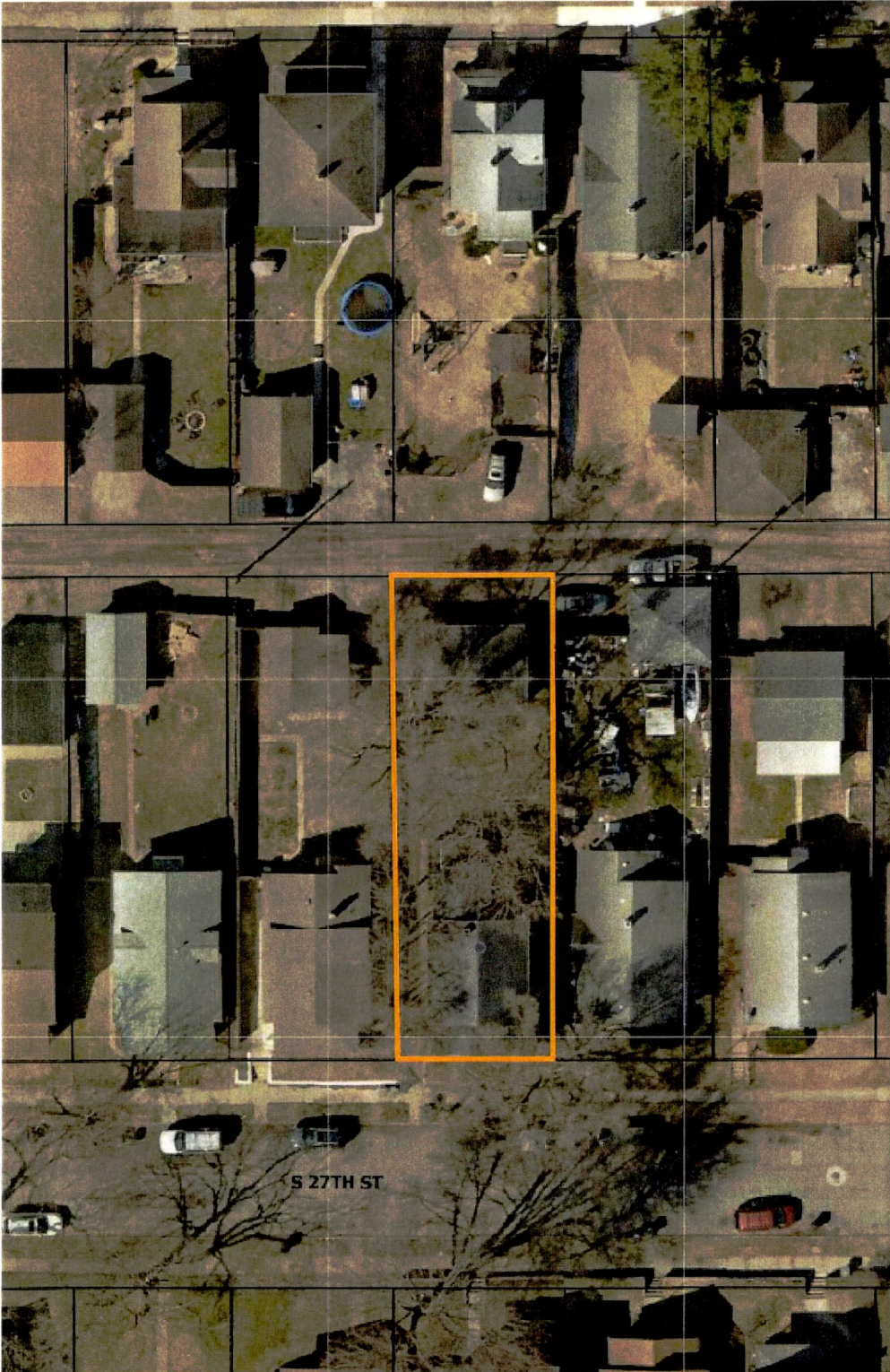
Location Map



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 bends 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

Filed in Clerk's Office

AUG 21 2024

Bianca Tirado
City Clerk, South Bend, IN

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

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, 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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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
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:

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

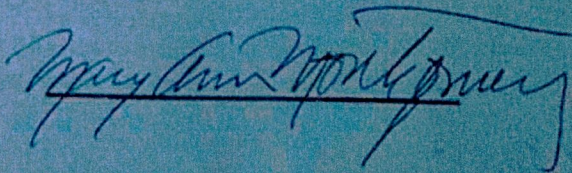
Phone Number: 574-234-4003

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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

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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:

Teresa Ferency

Teresa Ferency 08/16/2024

Post
of
Stamps

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 DEEDS
AND MORTGAGES
REGISTERED FROM 1974

AUDITOR'S RECORD

Transfer No. 11939

Taxing Unit Warram

Date 12-2-93

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
the Grantees

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 as witnesses of the foregoing deed on

December 1, 1993

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

Prepared by J. Michael Ebercol, 300 N. Michigan, Suite 207, South Bend, IN 46601

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

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.

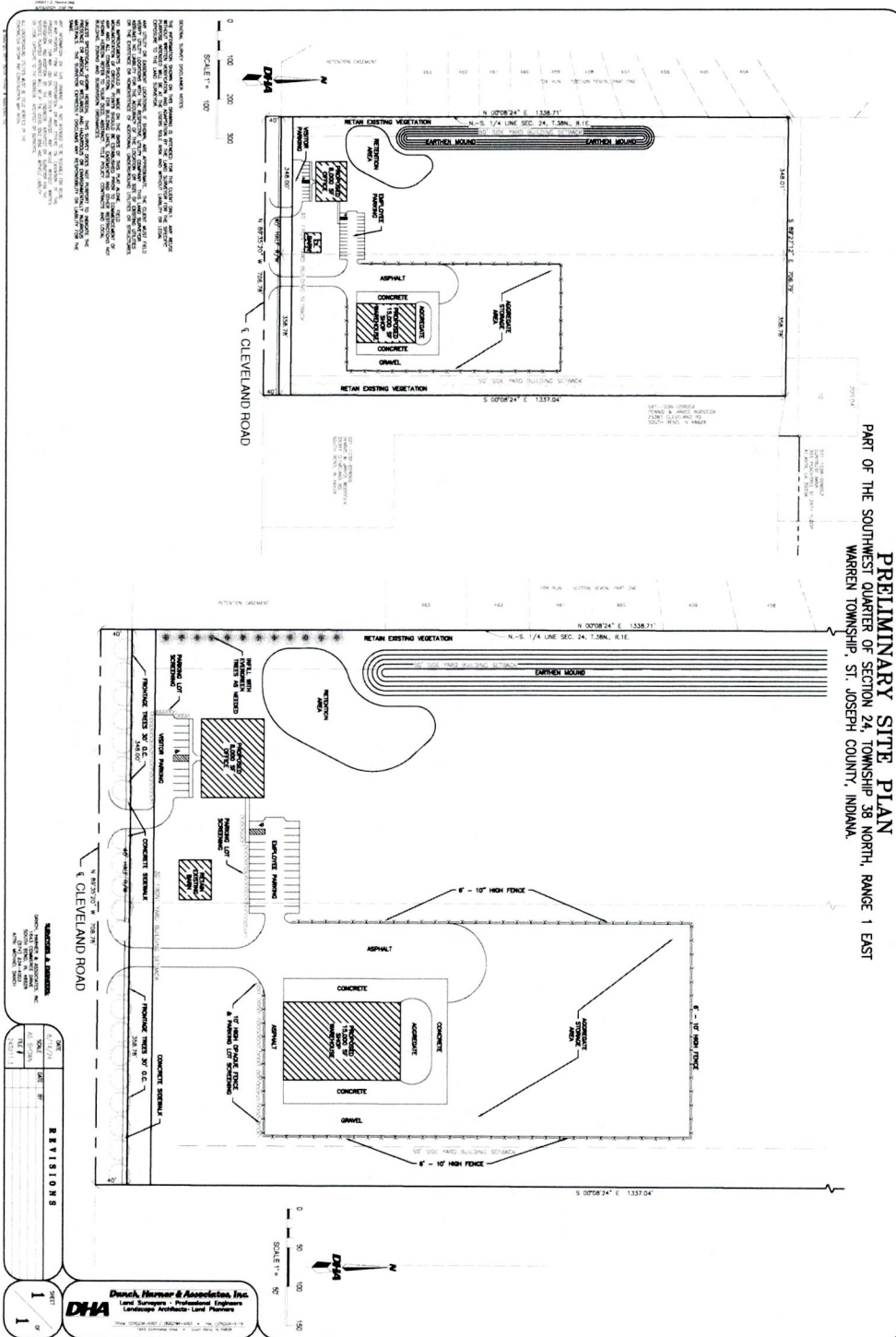
Location Map



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.

64-24

Filed in Clerk's Office

OCT 25 2024

Bianca Tirado
City Clerk, South Bend, IN

Friday, October 25, 2024

Office of The City Clerk

County City Building

227 W. Jefferson BLVD 4th Floor

South Bend, IN 46601

I, Edwardo J. Rodriguez, submitting my reasons for wanting to petition to vacate alley at my home located at 512 S. Walnut Street, South Bend, IN 46619 :

1. Pulaski Park is right behind my home and during the spring and summer seasons individuals park their vehicles on my property.
2. Individuals drive through the alley onto my property and dump their trash, such as , mattress, tires, furniture, etc.
3. And, individuals have utilize the alley to hide their vehicles while they steal and break into homes.

Thank you for your time.

Sincerely

Edwardo J. Roriguez

OCT 25 2024

Bianca Tirado
City Clerk, South Bend, IN

BILL NO. 64-24

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 HURON STREET BETWEEN SOUTH WALNUT STREET AND TERMINATING AT THE PARCEL IDENTIFIED AS 018-3082-319602

STATEMENT OF PURPOSE AND INTENT

Petitioner requests the vacation as he owns properties on both sides of the alley to be vacated.

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 Huron Street between South Walnut Street and terminating at the Parcel identified as 018-3082-319602

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:

- 512 S Walnut St – 018-3082-3288
- 514 S Walnut St – 018-3082-3290
- 531 Harris St – 018-3082-319602

SECTION IV. The purpose of the vacation of the real property is to consolidate ownership of the alley parcel and the neighboring parcels, as Petitioner owns properties on both sides of the alley to be vacated.

SECTION V. The vacation is subject to the elimination of 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.

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 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

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

September 24, 2024

OCT 25 2024

Bianca Tirado
City Clerk, South Bend, IN

Mr. Edwardo Rodriguez
512 S. Walnut St.
South Bend, IN 46619
eprieto1949@outlook.com

RE: Alley/Street Vacation – East/West Alley between 512 S. Walnut Street and 514 S. Walnut Street
(Preliminary Review)

Dear Mr. Rodriguez:

At its September 24, 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 **subject to the removal of alley approach along Walnut St.** 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 100% 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



Filed in Clerk's Office

OCT 25 2024

Bianca Tirado
City Clerk, South Bend, IN

**INTEROFFICE MEMORANDUM
BOARD OF PUBLIC WORKS**

DATE: July 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: Eduardo Rodriguez

LOCATION: 512 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 Recommendation pending the applicants removal of alley approach along Walnut.

COMMUNITY INVESTMENT: Favorable Recommendation

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 25 2024

Bianca Tirado
City Clerk, South Bend, IN

Date: 7-16-2024 Phone #: _____

Name: EDUARDO RODRIGUEZ Email: EPRIETO1949@outlook.com

Property Address: 512 South Walnut St, South Bend, IN 46619

Applicant property information: Residential Commercial Industrial

Describe the general alley location with boundaries (Ex: Church Pl, between E. Colfax Ave & E. LaSalle Ave):
E/W Alley South of 512 S. Walnut (Between Walnut and N/S Alley)

Is your property adjacent to the alley of interest?	Yes	<u>No</u>
Do you own all adjacent properties to the alley of interest?	<u>Yes</u>	No
Does the existing alley provide garage access to other property owners?	Yes	<u>No</u>
Does the alley receive daily traffic excluding your own use?	Yes	<u>No</u>
Would the vacation hinder public access to any of the following: a church, school, or any other public building or place?	Yes	<u>No</u>

Reason for street/alley vacation and proposed use: OWN PROPERTIES ON BOTH side of Alley to be vacation.

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

[Signature]
Elizabeth A. Maradik, President

[Signature]
Joseph R. Molnar, Vice President

[Signature]
Gary A. Gilot, Member

[Signature]
Briana Micou, Member

[Signature]
Murray L. Miller, Member

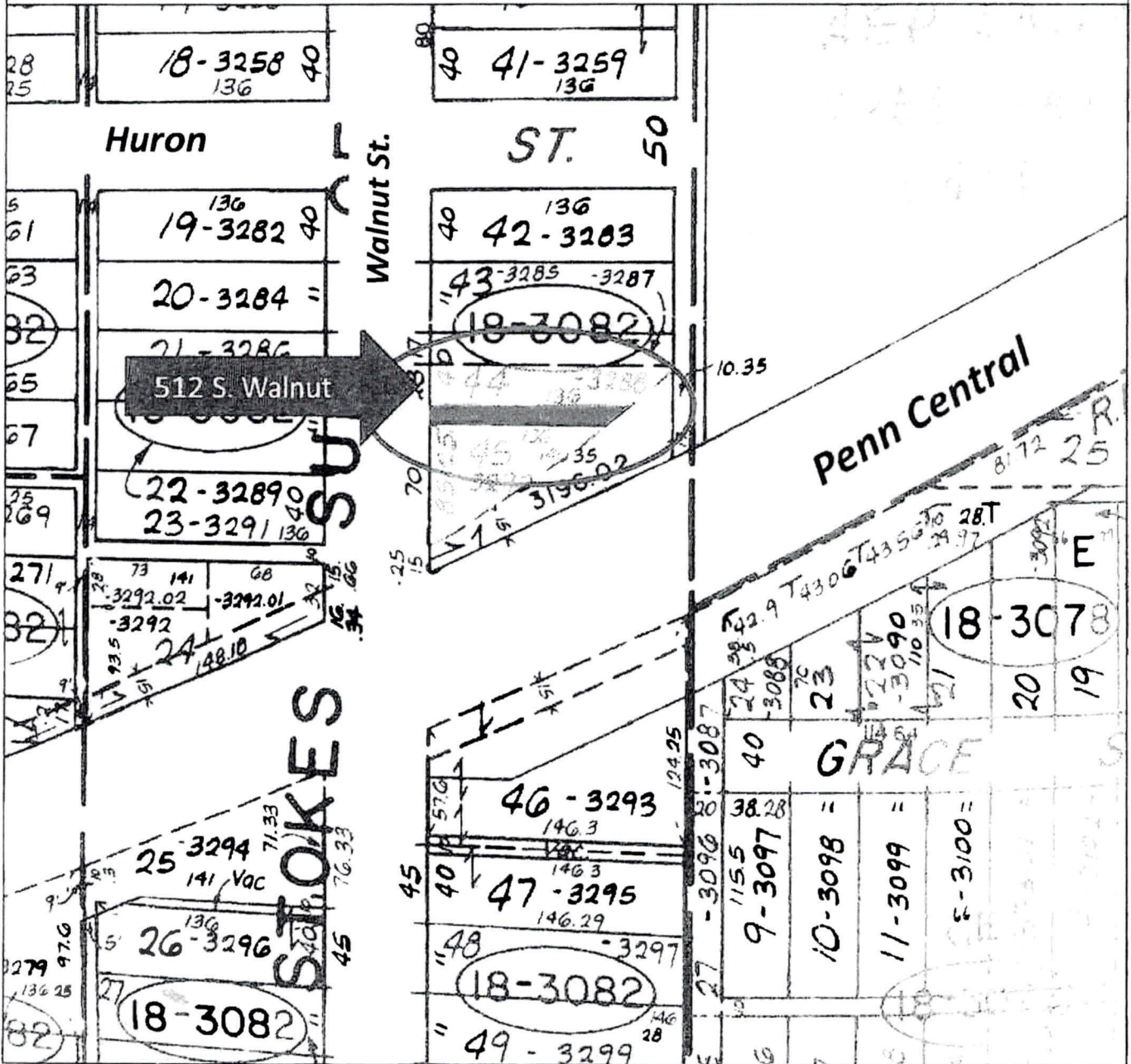
[Signature]
Attest: Theresa M. Heffner, Clerk

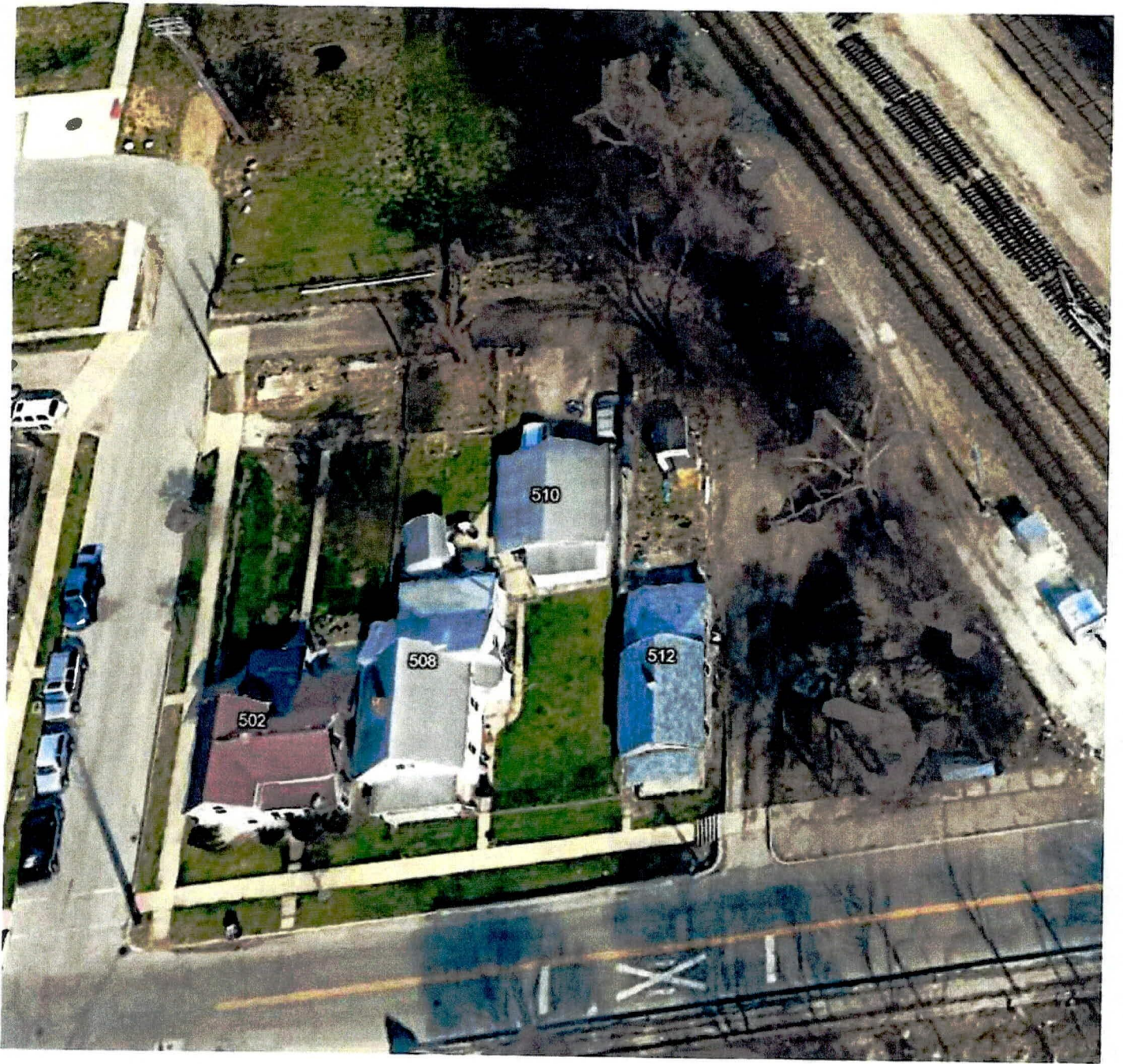
Date: September 24, 2024

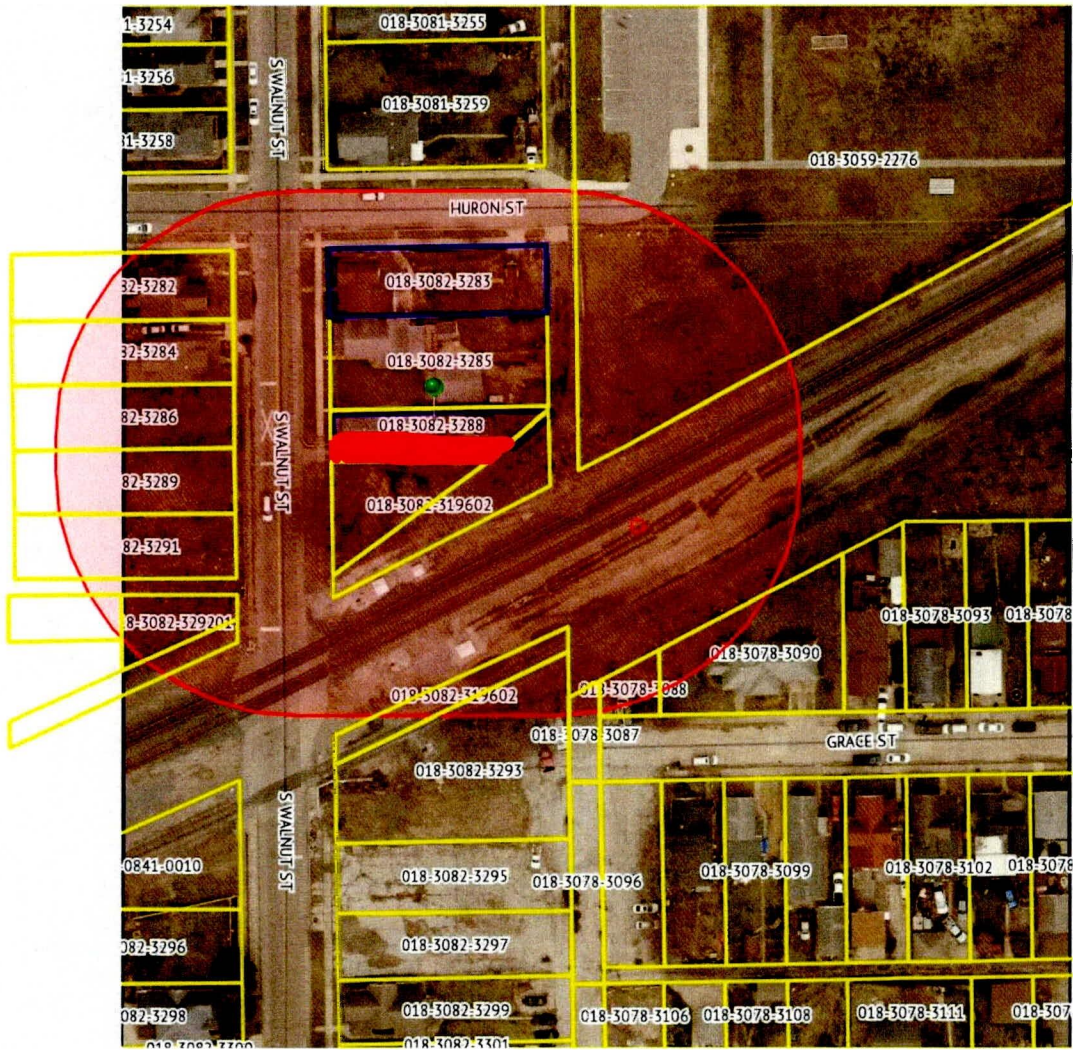
Edwardo Rodriguez
 512 S. Walnut St.
 South Bend, IN 46619
 574-514-1548



Alley to be vacated is the East/West alley 10' in width, north of RR right-of-way and south of Huron St., running approx. 136' from E right-of-way of Walnut Street on north boundary and running approx. 110' from the E right-of-way of Walnut Street on south boundary.







Name	Mailing Address	Proper Address
Julio Lara	518 S. Warren St. South Bend, IN 46619	502 S. Walnut St. South Bend, IN 46619
Allen Stenberg	505 S. Walnut St. South Bend, IN 46619	505 S. Walnut St. South Bend, IN 46619
Emma Bautista Williams	508 Walnut St. South Bend, IN 46619	508 S. Walnut St. South Bend, IN 46619
Hilda Garcia Escobedo	1313 Grace St. South Bend, IN 46619	514 S. Walnut St. South Bend, IN 46619
Victory Lighthouse Church	415 S. Harris St. South Bend, IN 46619	1325 Grace St. South Bend, IN 46619 & 1329 Grace St. South Bend, IN 46619
Virgilio Escobedo	3915 August Lane Elkhart, IN 46517	1321 Grace St. South Bend, IN 46619
Manuel & Sylvia Herbert	524 S. Harris St. South Bend, IN 46619	513 S. Walnut St. South Bend, IN 46619
TDJ Phase I LLC	2014 Cornflower Ct. Mishawaka, IN 46544	503 S. Walnut St. South Bend, IN 46619
Gregory & Gail Celmer	64757 Sycamore Rd North Liberty, IN 46554	531 Harris St. South Bend, IN 46619
Antonio Gerardo	1608 Marblehead Dr. Mishawaka, IN 46544	Parcel # 018-3082-329201 & Parcel # 018-3082-3291
Juan & Teresa Beserra	501 H. Harris St. South Bend, IN 46619	Parcel# 018-3082-3286
Civil City of South Bend	227 W. Jefferson Blvd. Ste 1200 South Bend, IN 46601	521 ½ S. Walnut St. South Bend, IN 46619
City of South Bend	301 S. St. Louis Blvd. South Bend, IN 46617	400 S. Walnut St. South Bend, IN 46619
Edwardo Rodriguez	56349 Butternut Rd. South Bend, IN 46619	512 S. Walnut St. & 514 S. Walnut St. South Bend, IN 46619

65-24

1200 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/235-9241
FAX 574/235-7670
TTY 574/235-5567
Filed in Clerk's Office

NOV 06 2024

Bianca Tirado
City Clerk, South Bend, IN

CITY OF SOUTH BEND JAMES MUELLER, MAYOR

DEPARTMENT OF LAW

SANDRA KENNEDY
CORPORATION COUNSEL

JENNA K. THROW
CITY ATTORNEY

November 6, 2024

South Bend Common Council
227 West Jefferson Blvd, Suite 441 S
South Bend, Indiana 46601

Re: Proposed Ordinance Establishing a Merit Board

Honorable Council Members,

The South Bend Police Department is requesting the establishment of a merit system for the Police Department pursuant to I.C. § 36-1-4-14 and in relevant parts I.C. § 36-8-3.5-1. The Police Merit Board will have the power of appointment, promotion, demotion, disciplinary action, and dismissal of members of the department. If a merit system is not established by December 31, 2024, I.C. 36-8-3.5-5.5 imposes a merit system under that chapter. It is the Department's desire with the support of the Fraternal Order of Police Lodge #36 (FOP) that a merit system be established under I.C. § 36-1-4-14 prior to December 31, 2024. The South Bend Police Department is requesting the Common Council's review and approval.

This proposed ordinance has been thoroughly reviewed by the City Legal Department, the Police Department, the FOP, and the Mayor's office. Chief Ruszkowski and Kylie Connell will present this to the Common Council.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Kylie Connell". The signature is written in a cursive style.

Kylie Connell
Assistant City Attorney

DANIELLE WEISS

MICHAEL SCHMIDT

KYLIE CONNELL

THOMAS E. PANOWICZ

JESSICA MCLAIN

ADAME E. TAYLOR

JOHN DORBIN

NOV 06 2024

Bianca Tirado
City Clerk, South Bend, IN

BILL NO. 65-24

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF
SOUTH BEND, INDIANA, ADOPTING A MERIT BOARD SYSTEM GOVERNING
THE SOUTH BEND POLICE DEPARTMENT**

STATEMENT OF PURPOSE AND INTENT

WHEREAS, the power of selection, appointment, promotion, demotion, disciplinary action, and dismissal of members of the City of South Bend Police Department has historically been delegated to the Board of Public Safety; and

WHEREAS, the City of South Bend recommends the development of a police merit system whose oversight is delegated to a Police Merit Board; and

WHEREAS, the Police Merit Board will assume the power of selection, appointment, promotion, demotion, disciplinary action, and dismissal of members of the City of South Bend Police Department; and

WHEREAS, the establishment of a police merit system by ordinance is authorized by statute; and

WHEREAS, pursuant to Indiana Code, this Ordinance sets forth the City of South Bend's intent to establish a merit system as well as the requirements of the merit system.

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

CHAPTER 2- ADMINISTRATION

ARTICLE 5- BOARDS AND COMMISSIONS

Sec. 2-62 Police Merit Board

Section I. Section 2-62 shall be added to Chapter 2, Article 5 of the City of South Bend Municipal Code as follows:

Establishment of Police Merit System

There is established for the City of South Bend Police Department a police merit system pursuant to I.C. § 36-1-4-14 and in relevant parts I.C. § 36-8-3.5-1.

- (a) The police merit system will be implemented through appointed and elected board members pursuant to I.C. § 36-8-3.5-1(f) with one-third (1/3) of its board members elected by the active members of the department. Elections shall be held pursuant to I.C. § 36-8-3.5-8.
 - 1. Each elected board member must be a person of good moral character who is not an active member of the police department.
- (b) The merit system will be known as the Police Merit Board (“Board”).
- (c) The merit system only applies to full-time sworn members of the Police Department except those in upper level policymaking positions.
- (d) All upper level policymaking positions shall only be appointed and removed by the city executive.
- (e) The Chief of Police has exclusive control of the police department subject to the rules and orders of the Board or the Board of Public Safety.

Section II. Section 2-62.1 shall be added to Chapter 2, Article 5 of the City of South Bend Municipal Code as follows:

Board Members

- (a) Initial appointments to the Board shall be made by and effective January 1, 2025.
- (b) The Board shall consist of five (5) members:
 - 1. Two members (one-third (1/3) of the Board) must be elected by active members of the police department.
 - 2. One member will be appointed by the Common Council.
 - 3. Two members will be appointed by the Mayor.
- (c) Each year the Board shall select a president, vice president, and secretary.
- (d) Starting January 1, 2025, one elected member and one Mayor appointed member shall serve for two years. All other Board members shall serve for five years. All Board members thereafter shall serve for five-year terms.
- (e) Each board member serves at the pleasure of the appointing or electing authority and may be removed at any time without cause or right to a hearing. To remove an elected member, a recall petition signed by a majority of the active members must be submitted to the Board.

Section III. Section 2-62.2 shall be added to Chapter 2, Article 5 of the City of South Bend Municipal Code as follows:

Budget and Records

- (a) The Board shall submit a proposed annual budget to the Common Council.
- (b) The Board shall keep a permanent record of its proceedings.

Section IV. Section 2-62.3 shall be added to Chapter 2, Article 5 of the City of South Bend Municipal Code as follows:

Powers and Duties

- (a) The Police Merit Board will have the power of initial appointment, promotion, demotion, discipline and dismissal of members of the police department. Assignment to non-supervisory positions is not a power of the Board.
- (b) The Police Merit Board adopts I.C. 36-8-3-3 (d) and (g), I.C. 36-8-3-4 and I.C. 36-8-3-4.1, all as amended, with the Board taking the role of “safety board” for purposes thereof.
- (c) Selection Appointment
 - 1. All sworn members shall be appointed to the Police Department in accordance with the Department determined selection process and the merit system appointment procedures.
 - 2. Any person who is a citizen of the United States, is at least 21 years of age and less than 40 years of age (unless otherwise eligible by law), has at least a high school diploma or equivalent, and has not been convicted within the past 20 years of a crime that is currently a felony under Indiana law, is eligible to apply to become a member of the Police Department. Each eligible applicant must meet and continue to meet all minimum fitness, medical, and psychological standards as adopted by the Department as a condition of employment with the Department. The Department shall develop such job-related minimum standards in order to meet applicable federal and state laws.
 - 3. All applicants must pass a written examination that evaluates their aptitude and intellectual capacity required for work as a police officer, a job-related agility test, a structured oral interview process, and such other job-related tests and examination as may be required by the Chief of Police, prior to beginning work in the Department.
- (d) Probationary Period
 - 1. The "Probationary Period" for a police officer newly appointed to the Police Department shall extend from the date the officer completes the South Bend Police Department Field Training Officer Program (“FTO”), until such time as the officer has completed and performed one year of Active Duty in the South Bend Police Department. "Active Duty" shall mean the full duties and responsibilities required of a South Bend police officer and shall include Department approved training (*not including FTO and any used vacation time, holiday time, bereavement time, and/or sick time, but shall not include any other period of leave, any period of suspension, or any period of limited/light duty status*). Each probationary police officer shall be evaluated quarterly during the officer’s Probationary Period by the officer’s immediate supervisor pursuant to the evaluation system provided for herein or as later adopted by the Police Chief, after consultation with the Police Department Merit Board. The appointment of a police officer to the Police Department shall become permanent when the officer’s Probationary Period is successfully completed. While a police officer is in FTO or in a Probationary Period, the officer is an "at-will" employee who may be terminated with or without cause and without a hearing.
- (e) Merit Promotion System

1. There is hereby established a Police Department Merit Promotion System ("Merit Promotion System") that shall be administered in accordance with the Police Department's respective rules and regulations. The Merit Promotion System shall apply to all promotions of Police Department members to the ranks of Sergeant and Lieutenant only. The Chief of Police, after consultation with the Board and the local Fraternal Order of Police, shall set standards for merit promotion within the Department in conformity with similar standards of comparable police departments, and shall establish reasonable prerequisites of training, education and experience for each rank in their Department subject to the Merit Promotion System.
 2. In determining the years of service for promotion eligibility, all time served by a member from the member's most recent date of appointment to the Department shall be considered. The Board shall resolve any issues relating to the determination of a member's years of service. A member may only be promoted to the next highest rank in conjunction with the Department's rules and regulations.
 3. The Chief of Police, after consultation with the Board, shall establish process phases and procedures for use in selecting candidates for promotion to Sergeant and Lieutenant. The Chief of Police may use the services of professional consultants from outside the Department to assist them in developing and administering such process and procedures, which shall be established in conformity with standard psychometric procedures, equal opportunity laws and generally accepted standards for the Department. Such processes may include written examination, structured interviews, performance evaluations, and/or assessment-centered techniques, structured to accommodate the various rank levels.
 4. The Chief of Police shall make promotions to ranks covered by the Merit Promotion System only after consultation with the Board. Such promotions shall be made to position vacancies identified and designated by the Chief. In making these promotion decisions, the Chief shall promote those candidates who, in their opinion, after consultation with the Board, are best qualified for the position vacancies, based upon successful performance evaluated by the promotion procedures established under Police Department Merit System, and subject to and consistent with the needs of the Department, the City and applicable law.
 5. All Merit Promotion System policies and procedures shall be made available to all Police Department members.
- (f) Evaluations. The Chief of Police, in consultation with the Board, has the sole authority to establish a written system for the evaluation of the work performance of each member of the Police Department.
- (g) Discipline
1. The Police Department and Board shall follow the substantive provisions and procedures set forth in I.C. 36-8-3-4 and I.C. 36-8-3-4.1, both as amended, when disciplining any regular members of the Department, with the Board taking the role of the "safety board" for purposes thereof. The procedures set forth in I.C. 36-8-3-

- 4 may be expended upon, but not limited by, written policies and procedures adopted by the Board.
2. The Chief of Police may discipline according to as amended, following the provisions and procedures, with the Board taking the role of the “Safety board” for purposes thereof.
 3. Any hearing before the Board shall be an administrative hearing, shall be de novo and shall be a hearing of records.

Section V. Section 2-62.4 shall be added to Chapter 2, Article 5 of the City of South Bend Municipal Code as follows:

Rules

- (a) Within thirty (30) days after the Board is selected, it shall adopt governing rules, subject to applicable laws, statutes, and ordinances, for its own operation, including time and place of regular monthly meetings, special meetings that are necessary to transact the business of the Board. A majority of the Board constitutes a quorum, and a majority vote of all the board members is necessary to transact the Board’s business.
- (b) Within ninety (90) days after the Board is selected, the Board shall adopt rules, including but not limited to:
 1. Selection and appointment of persons subject to Department standards;
 2. Promotions and demotions of members of the Department; and
 3. Disciplinary action or dismissal of members of the Department.
- (c) The Board of Public Safety shall retain the power of selection, appointment, promotion, demotion, disciplinary action, and dismissal of members of the City of South Bend Police Department until the Police Merit Board has adopted rules for these powers.
- (d) The Board will follow I.C. 36-8-3.5-10 as it applies to a public hearing prior to adoption of the proposed rules.
- (e) No rule of the Board may supersede this ordinance.

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

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