



## **SOUTH BEND COMMON COUNCIL**

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### **MEETING AGENDA**

Monday, February 8, 2016  
7:00 P.M.

1. **INVOCATION**
2. **PLEDGE TO THE FLAG**
3. **ROLL CALL**
4. **REPORT FROM THE SUB-COMMITTEE ON MINUTES**
5. **SPECIAL BUSINESS**

MAYOR'S ANNUAL ADDRESS TO THE COMMON COUNCIL ON FINANCES  
AND THE GENERAL CONDITION OF THE CITY PURSUANT TO § 2-3.1 OF THE  
SOUTH BEND MUNICIPAL CODE

6. **REPORTS FROM CITY OFFICES**

7. **COMMITTEE OF THE WHOLE**

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

BILL NO.

- |       |   |
|-------|---|
| 81-15 | PUBLIC HEARING ON A BILL AMENDING THE ZONING ORDINANCE FOR PROPERTIES LOCATED AT 5603 F J NIMTZ PARKWAY, THE SOUTHWEST CORNER OF F J NIMTZ PARKWAY AND MOREAU COURT AND PROPERTY NORTH OF AND ADJACENT TO 3575 MOREAU COURT, SOUTH BEND, IN                                   |
| 05-16 | PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING FEES FOR NUISANCE ABATEMENT SUCH AS TRASH, DEBRIS AND HAZARDOUS MATERIAL REMOVAL, AND FOR REMOVAL OF WEEDS AND RANK VEGETATION PURSUANT TO THE INDIANA UNSAFE BUILDING LAW |
| 06-16 | PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING FEES FOR SECURING AND DEMOLISHING STRUCTURES PURSUANT TO THE INDIANA UNSAFE BUILDING LAW   |

**8. BILLS ON THIRD READING**

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

BILL NO.

- 81-15           THIRD READING ON A BILL AMENDING THE ZONING ORDINANCE FOR PROPERTIES LOCATED AT 5603 F J NIMTZ PARKWAY, THE SOUTHWEST CORNER OF F J NIMTZ PARKWAY AND MOREAU COURT AND PROPERTY NORTH OF AND ADJACENT TO 3575 MOREAU COURT, SOUTH BEND, IN
  
- 05-16           THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING FEES FOR NUISANCE ABATEMENT SUCH AS TRASH, DEBRIS AND HAZARDOUS MATERIAL REMOVAL, AND FOR REMOVAL OF WEEDS AND RANK VEGETATION PURSUANT TO THE INDIANA UNSAFE BUILDING LAW
  
- 06-16           THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING FEES FOR SECURING AND DEMOLISHING STRUCTURES PURSUANT TO THE INDIANA UNSAFE BUILDING LAW

**9. RESOLUTIONS**

BILL NO.

- 16-03           A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE AREA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 2906 PRAIRIE AVENUE, SOUTH BEND, INDIANA
  
- 16-04           A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE AREA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 3939 SOUTH MICHIGAN STREET, SOUTH BEND, INDIANA
  
- 16-08           A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ESTABLISHING A 5-MEMBER ADVISORY SPECIAL COMMITTEE TO STUDY AND RECOMMEND ALL REASONABLE AND VIABLE OPTIONS FOR THE PROPERTY KNOWN AS ELBEL GOLF COURSE AS A SHORT AND LONG TERM ASSET OF THE CITY OF SOUTH BEND, INDIANA

## 10. **BILLS ON FIRST READING**

### BILL NO.

- 08-16 FIRST READING ON AN ORDINANCE TO VACATE THE FIRST NORTH/SOUTH ALLEY WEST OF 29<sup>TH</sup> STREET FROM MISHAWAKA AVENUE TO FIRST EAST/WEST ALLEY FOR A DISTANCE OF 130 FEET AND WIDTH OF 16 FEET. SAID ALLEY IS BEING APART OF EGGLESTON'S ADDITION, CITY OF SOUTH BEND, PORTAGE TOWNSHIP, ST JOSEPH COUNTY, INDIANA.
- 09-16 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, AND AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED IN PORTAGE TOWNSHIP, CONTIGUOUS THEREWITH; COUNCILMANIC DISTRICT NO. 6, FOR 22027 STATE ROAD 23, SOUTH BEND, INDIANA
- 10-16 FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN DEPARTMENTAL AND CITY SERVICES OPERATIONS IN 2016 OF \$68,000 FROM PARK NONREVERTING CAPITAL FUND (#405)

## 11. **UNFINISHED BUSINESS**

### BILL NO.

- 01-16 AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING THE DISPOSITION OF REAL PROPERTY LOCATED AT 26595 AUTEN ROAD, SOUTH BEND, INDIANA 46628
- 16-09 A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE AREA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 2610 PRAIRIE AVE., SOUTH BEND, INDIANA

### ***PENDING INACTIVE/DORMANT BILLS***

- 13-18 A RESOLUTION CALLING FOR A TEMPORARY MORATORIUM ON THE DEMOLITION OF BUILDINGS WHICH ARE NOT A HEALTH AND PUBLIC SAFETY HAZARD

- 15-13 VOICING CONCERNS OVER THE ASSESSMENTS OF LAND AND SEEKING AMICABLE SOLUTIONS WHICH ARE IN THE BEST INTERESTS OF THE TAXPAYERS
- 24-13 AN ORDINANCE AMENDING CHAPTER 13, ARTICLE 6 ADDRESSING AIR POLLUTION CONTROL AND ADDING NEW SECTIONS 13-76 THROUGH 13-77 ADDRESSING CLEAN AIR STANDARDS FOR WORKPLACE AND PUBLIC PLACES
- 70-13 AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 8 OF THE *SOUTH BEND MUNICIPAL CODE* BY THE INCLUSION OF NEW SECTION 2-116.1 CITY RESIDENCY
- 77-13 AN ORDINANCE ESTABLISHING RESPONSIBLE BIDDER REQUIREMENTS ON PUBLIC WORKS PROJECTS
- 14-100 A RESOLUTION RECOGNIZING THE 2<sup>ND</sup> MONDAY OF OCTOBER AS INDIGENOUS PEOPLES' DAY ALSO TO BE KNOWN AS NATIVE AMERICANS DAY
- 14-15 A BILL AMENDING CHAPTER 14 OF THE *SOUTH BEND MUNICIPAL CODE* BY THE INCLUSIONS OF NEW ARTICLE 12 ENTITLED COLLABORATIVE PILOT INITIATIVE ON HOMELESSNESS
- 15-94 A RESOLUTION PLEDGING SUPPORT TO THE SOUTH SHORE LINE
- 18-15 A ORDINANCE AMENDING CHAPTER 20, ARTICLE 13 OF THE *SOUTH BEND MUNICIPAL CODE* BY ESTABLISHING CITY-WIDE REGULATIONS BANNING THE USE OF ALL HAND-HELD ELECTRONIC COMMUNICATION DEVICES WHILE DRIVING
- 19-15 AN ORDINANCE CALLING FOR THE ESTABLISHMENT OF A SOUTH BEND MUNICIPAL ID CARD PROGRAM
- 74-15 AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 8 OF THE *SOUTH BEND MUNICIPAL CODE* BY ADDING NEW SECTION 2-125.2 POST CITY EMPLOYMENT RESTRICTIONS

**12. NEW BUSINESS**

**13. PRIVILEGE OF THE FLOOR**

**14. ADJOURNMENT**

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

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

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

# DHA

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

Land Surveyors ■ Professional Engineers

Landscape Architects ■ Land Planners

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

1643 Commerce Drive ■ South Bend, IN 46628

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

December 3, 2015

RE: Rezoning Petition for properties located at 5603 F J Nimitz Parkway, the Southwest corner of F J Nimitz Parkway and Moreau Court and property North of and adjacent to 3575 Moreau Court, South Bend, Indiana:

Dear Council Members:

Our clients are requesting the approval of a Rezoning Petition for their properties located at 5603 F J Nimitz Parkway, the Southwest corner of F J Nimitz Parkway and Moreau Court and property North of and adjacent to 3575 Moreau Court, South Bend, Indiana.

This requested Rezoning would allow for the approval of an LI Light Industrial zoning classification to allow for future industrial development of various types for the Blackthorn Corporate Office Park Campus.

Our clients believe the uses proposed for this portion of the Blackthorn Corporate Office Park Campus would be compatible with the surrounding mixed office, commercial and industrial uses in the area.

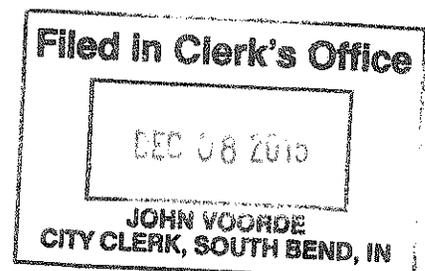
If you have any questions concerning this matter, please feel free to give me a call at 234-4003.

Sincerely,



Michael J. Danch  
President  
Danch, Harner & Associates

File No. 15240 "C" Md.



# **DHIA**

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1643 Commerce Drive ■ South Bend, IN 46628

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

January 21, 2016

RE: Rezoning Petition for properties located at 5603 F J Nimitz Parkway, the Southwest corner of F J Nimitz Parkway and Moreau Court and property North of and adjacent to 3575 Moreau Court, South Bend, Indiana:

Dear Council Members:

On Behalf of our client, the Department of Redevelopment for the City of South Bend, we are requesting a tabling of the above rezoning request until the February 8<sup>th</sup>, 2016 meeting of the Common Council. This tabling will allow for time to meet with representatives from the Airport Authority to discuss any concerns they may have on the rezoning petition.

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

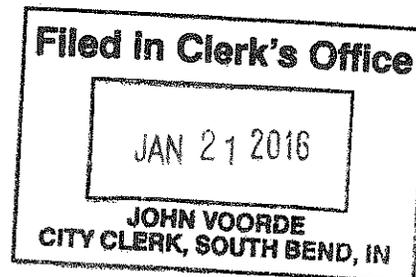
Sincerely,

**Michael J. Danch**

Michael J. Danch  
President  
Danch, Harner & Associates

Cc: Area Plan Commission  
Airport Authority  
David Relos

File No. 15240 "C" Md.



## **OFFICE OF THE CITY CLERK**

TO: AREA PLAN COMMISSION

DATE: December 15, 2015

At its meeting held on December 14th, 2015 the Common Council of the City of South Bend referred to you for review and recommendation the following item:

81-15            A BILL AMENDING THE ZONING ORDINANCE FOR PROPERTIES LOCATED AT 5603 F J NIMTZ PARKWAY, THE SOUTHWEST CORNER OF F J NIMTZ PARKWAY AND MOREAU COURT AND PROPERTY NORTH OF AND ADJACENT TO 3575 MOREAU COURT, SOUTH BEND, INDIANA COUNCILMANIC DISTRICT NO 1 IN THE CITY OF SOUTH BEND, INDIANA

If I can be of any assistance to you in this matter, please do not hesitate to contact this office.

CITY CLERK  
JOHN VOORDE

Janice Talboom  
DEPUTY



AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571  
Wednesday, January 20, 2016

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

RE: A proposed ordinance of the Department of Redevelopment of the City of South Bend to zone from O Office District to LI Light Industrial District, properties located at 5603 F.J. Nimitz Parkway, the Southwest corner of F.J. Nimitz Parkway and Moreau Court, and property on the west side of Moreau Court approximately 800 feet South of F.J. Nimitz Parkway, City of South Bend - APC# 2770-15.

Dear Council Members:

I hereby Certify that the above referenced ordinance of Department of Redevelopment of the City of South Bend was legally advertised on Thursday, January 07, 2016 and that the Area Plan Commission at its public hearing on Tuesday, January 19, 2016 took the following action:

Upon a motion by John DeLee, being seconded by Oliver Davis and unanimously carried, the proposed ordinance of the Department of Redevelopment of the City of South Bend to zone from O Office District to LI Light Industrial District, properties located at 5603 F.J. Nimitz Parkway, the Southwest corner of F.J. Nimitz Parkway and Moreau Court, and property on the west side of Moreau Court approximately 800 feet South of F.J. Nimitz Parkway, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation, subject to a written commitment that would exclude uses not compatible with the airport. The surrounding properties are a mix of commercial and industrial uses. Proximity to the interstate makes these sites ideal for industrial development and will allow the properties to be more effectively marketed to light industrial users.

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

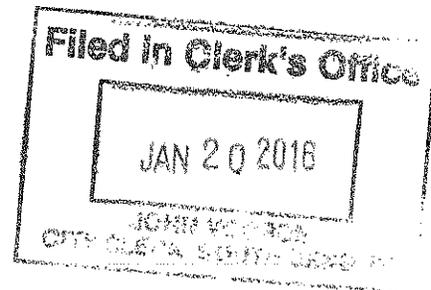
The deliberations of the Area Plan Commission and points considered in arriving at the above decision are shown in the minutes of the public hearing, and will be forwarded to you at a later date to be made a part of this report.

Sincerely,

Lawrence P. Magliozzi

Attachment

CC: Department of Redevelopment of the City of South Bend  
Danch, Harner & Associates





AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

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

January 20, 2016

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

RE: <sup>#81-15 AA</sup>  
Bill #85-15  
Rezoning: 5603 F.J. Nimtze Court (Dept. of Redevelopment)

Dear Council Members:

The Area Plan Commission held a public hearing on January 19, 2016 for the above reference petition. This petition is set for public hearing before the Common Council on Monday, January 25, 2016.

**Ordinance & Petition Amendments:**

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

Ordinance:

- 1.) The description of the property was modified in the title of the ordinance to more accurately describe the subject property.

A Copy of the revised Ordinance is attached.

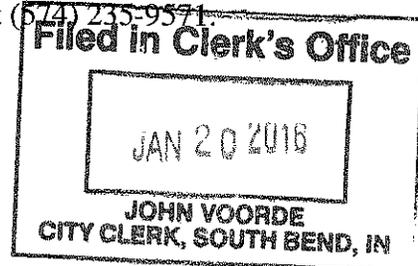
**Public Hearing Summary:**

There was one person that spoke in opposition to the proposed rezoning. Kerianne Linn spoke on behalf of the St. Joseph County Airport Authority. They expressed concern about the location and uses that the LI Light Industrial zoning district would allow, such as but not limited to, child care center, school, or artificial pond, stating that such uses would not be conducive with the Federal Aviation Administration guidelines on compatible land uses by airports. There was no one else present to speak in favor of or in opposition to the petition.

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

Sincerely,

Matthew P. Chappuies, Planner



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

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTIES LOCATED AT 5603 F. J. NIMTZ PARKWAY, THE SOUTHWEST CORNER OF F. J. NIMTZ PARKWAY AND MOREAU COURT AND PROPERTY ON THE WEST SIDE OF MOREAU COURT APPROXIMATELY 800 FEET SOUTH OF F. J. NIMTZ PARKWAY, SOUTH BEND, INDIANA, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

*PETITIONERS DESIRE TO REZONE THE PROPERTIES FROM O OFFICE DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT TO ALLOW FOR FUTURE INDUSTRIAL DEVELOPMENT OF VARIOUS TYPES FOR THE BLACKTHORN CORPORATE OFFICE PARK CAMPUS.*

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

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

A part of the Southwest Quarter of Section 20, Township 38 North, Range 2 East, German Township, City of South Bend, St. Joseph County, Indiana which is described as: Lots #1BB and #1CC of the Plat of "Blackthorn Corporate Office Park Minor #3, First Replat" and Lot # 1 of the Plat of "Blackthorn Corporate Office Park Minor #9" both as recorded in the records of the St. Joseph County, Indiana Recorder's Office. Containing 25.25 Acres more or less. Subject to all legal highways and easements of record,

be and the same is hereby established as *LI Light Industrial District*.

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

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

Attest:

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

Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

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

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

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

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPLICABLE  
REFERRED  
PASSED

**Filed in \_\_\_\_\_ Office**  
**JAN 20 2016**  
**JOHN \_\_\_\_\_**  
**CITY CLERK, SOUTH BEND, IN**

**Staff Report**

1/8/2016

APC # 2770-15  
Owner: Department of Redevelopment of the City of South Bend  
Location: 5603 F.J. Nimitz Parkway, the Southwest corner of F.J. Nimitz Parkway and Moreau Court, and property on the west side of Moreau Court approximately 800 feet South of F.J. Nimitz Parkway  
Jurisdiction: City of South Bend  
Public Hearing Date: 1/19/2016

**Requested Action:**

The petitioner is requesting a zone change from O Office District to LI Light Industrial District.

**Land Uses and Zoning:**

On site: On site is vacant land.  
North: To the north across F.J. Nimitz Parkway are vacant lots zoned LI Light Industrial District and a former police station located along I-80.  
East: To the east across Moreau Court are soccer fields zoned LI Light Industrial District.  
South: To the south is an office building zoned O Office District.  
West: To the west is a banquet hall and an office building zoned O Office District and a golf course zoned LI Light Industrial District.

**District Uses and Development Standards:**

The LI Light Industrial District is established to provide for development of office/warehouse, warehouse/distribution, wholesale, assembly and manufacturing or processing facilities which are clean, quiet, free of hazardous or objectionable elements such as noise, odor, dust, smoke, or glare. Permitted uses in this district tend to generate heavy traffic, require extensive community facilities, and may require limited amounts of outdoor storage. The LI District is also intended to function as a transitional district between the more intense general industrial districts and other less intense districts.

**Site Plan Description:**

The site plan shows no specific development proposals.

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

In 1990, 489 acres bound by Olive Road on the west, the regional airport on the east, U.S. 20 on the south and old Cleveland on the north was rezoned from "A" Residential to "D" Light Industrial. In 2004, with the passing of the new zoning map, the petition area was rezoned from "I" Light Industrial to O Office District. A large area to the north and to the east was rezoned from Light Industrial to O Office at that time as well. In 2005, seven parcels on the north and west side of Nimitz and Crescent Circle were rezoned from O

**Staff Report**

1/8/2016

Office to LI Light Industrial.

**Traffic and Transportation Considerations:**

F.J. Nimtz Parkway has four lanes. Moreau Court has four lanes and a dividing median.

**Utilities:**

This site will be served by municipal sewer and water.

**Agency Comments:**

County Surveyor, City Engineer, and the Department of Community Investment recommend approval.

**Commitments:**

The petitioner is not proposing any written commitments.

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

**1. Comprehensive Plan:**

**Policy Plan:**

The petition is consistent with City Plan, South Bend Comprehensive Plan (November, 2006); Policy ED 1.1: Establish and maintain a current inventory of land inside the city limits that is available for reuse and redevelopment efforts.

**Land Use Plan:**

The future land use map identifies this area as office/retail.

**Plan Implementation/Other Plans:**

No other relevant plans exist for this area.

**2. Current Conditions and Character:**

Currently, the Blackthorn Industrial Park has a mix of office and industrial uses, as well as a golf course.

**3. Most Desirable Use:**

The most desirable use for this property is one that promotes economic sustainability for the area and can fully utilize the nearby interstate access.

**4. Conservation of Property Values:**

Based on the existing office and industrial nature of the area, surrounding property values should not be adversely affected by any uses permitted within the Light Industrial zoning district.

**5. Responsible Development And Growth:**

It is responsible development and growth to allow properties to be zoned for industrial uses within a designated industrial park.

**Staff Comments:**

**Staff Report**

1/8/2016

The staff has no additional comments.

**Recommendation:**

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

**Analysis:**

The surrounding properties are a mix of commercial and industrial uses. Proximity to the interstate makes these sites ideal for industrial development and will allow the properties to be more effectively marketed to light industrial users.

PETITION TO REZONE

City of South Bend, Indiana

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

1) The subject property is located at:

Properties located at 5603 F J Nimitz Parkway, the Southwest corner of F J Nimitz Parkway and Moreau Court and property North of and adjacent to 3575 Moreau Court, South Bend, Indiana.

2) The property Tax Key Number(s) is/are:

25-1018-062401                      25-1018-062410                      25-1018-062411

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

Department of Redevelopment of the City of South Bend  
C/O  
City of South Bend- Department of Community Investment  
Attn: Mr. David Relos  
14<sup>th</sup> Floor County-City Building  
227 West Jefferson Blvd.  
South Bend, Indiana 46601  
574-235-9371, [DRelos@southbendin.gov](mailto:DRelos@southbendin.gov)

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

N/A  
E-Mail Address N/A

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

From:    O Office District  
  
To:        LI Light Industrial District

6) This rezoning is requested to allow the following use(s):

To allow Industrial uses that will be compatible with the Blackthorn Corporate Office Park Campus.

Attached, and made a part of this PETITION, is:

- (a) a copy of a legal description of the property;
- (b) a list of names and addresses of all property owners, and the tax key numbers for all properties within 300 feet of the petition property;

CONTACT PERSON:

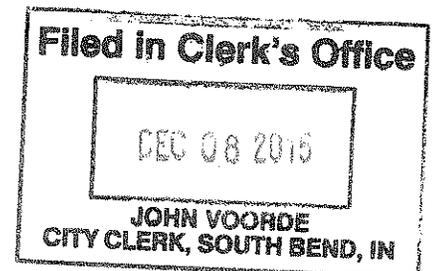
Name:    *Danch, Harner & Associates, Inc.*  
Address: *1643 Commerce Drive*  
*South Bend, Indiana 46628*  
*574-234-4003    [mdanch@danchharner.com](mailto:mdanch@danchharner.com)*

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



David Relos-

*For the Depart of Redevelopment for the City of South Bend*



Property Owners  
Within 300 Feet

St. Joseph County Airport Authority  
4477 Progress Dr  
South Bend, IN. 46628

St. Joseph County Airport Authority  
4535 LincolnWay W  
South Bend, IN. 46628

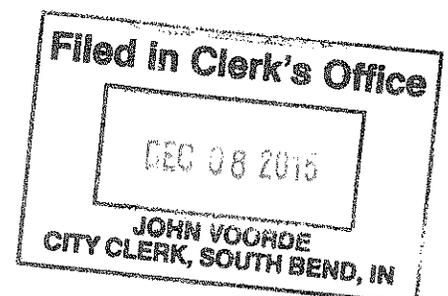
Department of Redevelopment  
227 W Jefferson  
South Bend, IN. 46601

3575 Moreau LLC  
1205 Frank  
Garden City, New York 11530

St. Joseph County Airport Authority  
C/O Mitchell Heppenheimer  
South Bend, IN. 46628

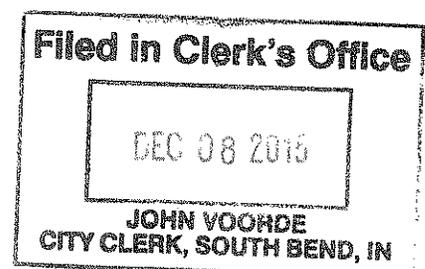
Blue Herron  
5540 F J Nimitz  
South Bend, IN. 46628

Acquisitions Group LLC  
6100 F J Nimitz  
South Bend, IN. 46628

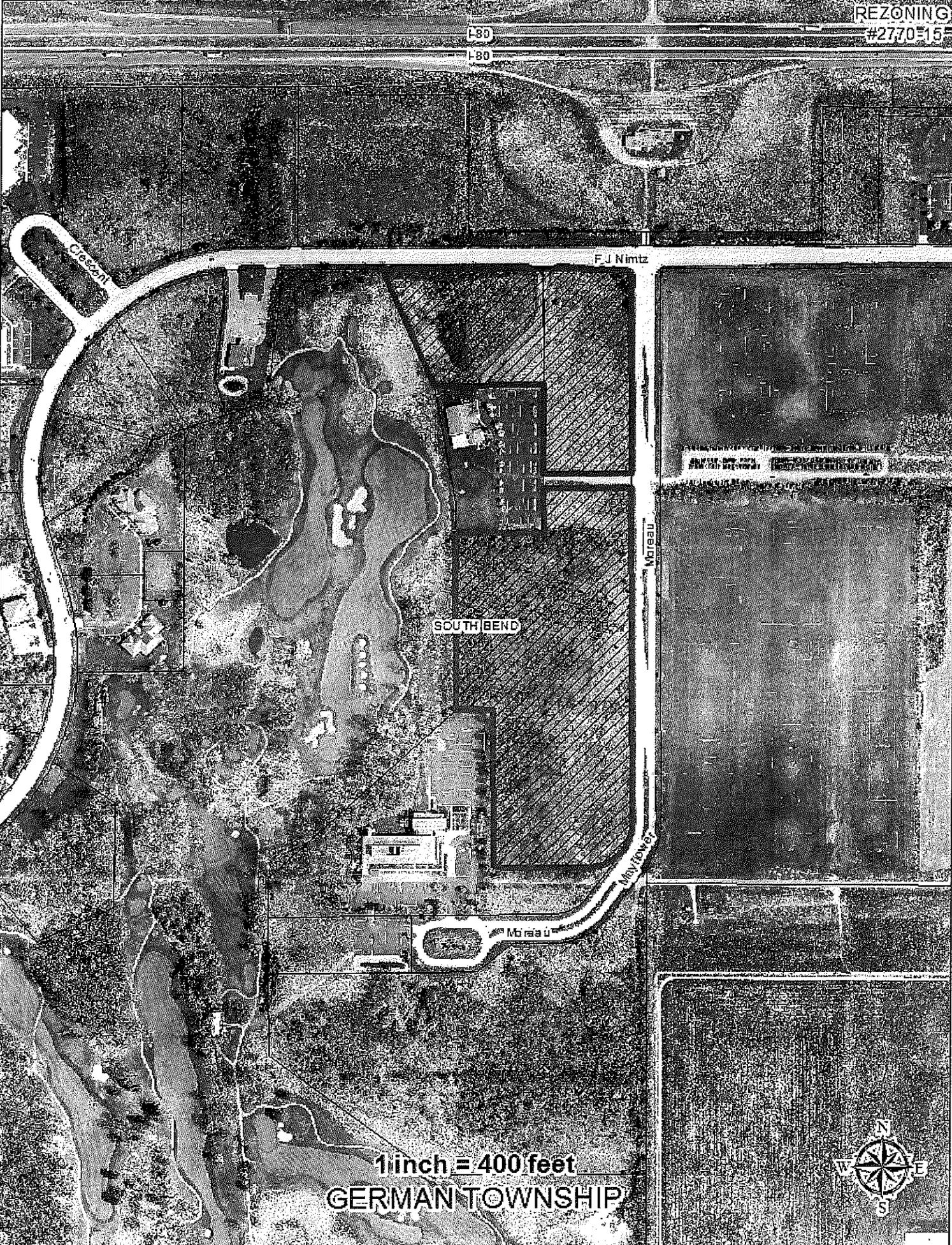


LEGAL DESCRIPTION

A part of the Southwest Quarter of Section 20, Township 38 North, Range 2 East, German Township, City of South Bend, St. Joseph County, Indiana which is described as: Lots #1BB and #1CC of the Plat of "Blackthorn Corporate Office Park Minor #3, First Replat" and Lot # 1 of the Plat of "Blackthorn Corporate Office Park Minor #9" both as recorded in the records of the St. Joseph County, Indiana Recorder's Office. Containing 25.25 Acres more or less. Subject to all legal highways and easements of record,



F-80  
F-80



SOUTH BEND

F. J. Nimitz

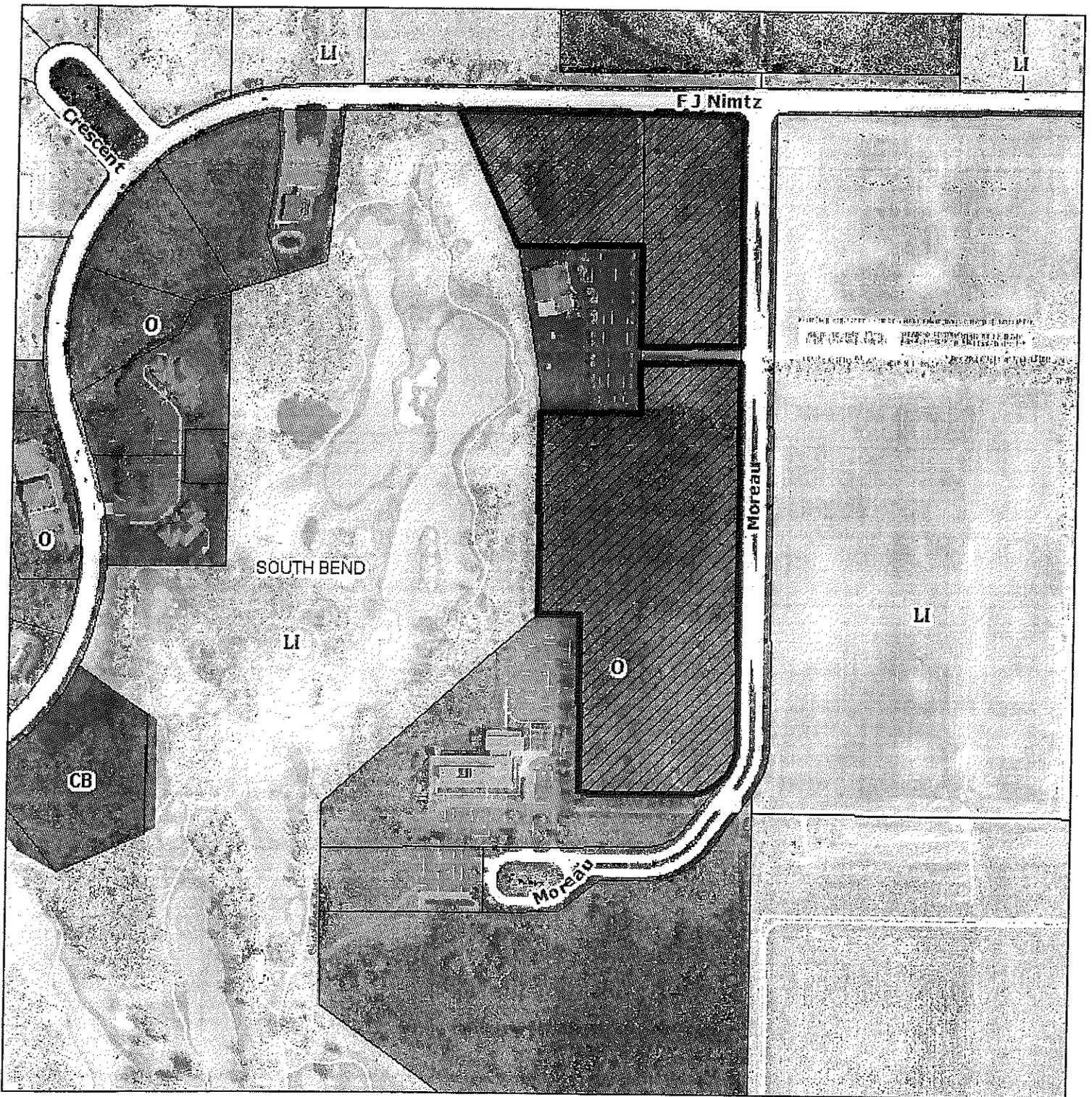
Moraau

Mantoy

Moraau

1 inch = 400 feet  
GERMAN TOWNSHIP

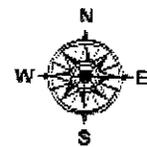




**Rezoning from: CITY OF SOUTH BEND  
"O" OFFICE DISTRICT to  
"LI" LIGHT INDUSTRIAL DISTRICT**

**MASTER ZONING KEY**

-  SOUTH BEND "O" OFFICE DISTRICT
-  SOUTH BEND "CB" COMMUNITY BUSINESS DISTRICT
-  SOUTH BEND "LI" LIGHT INDUSTRIAL DISTRICT



1 inch = 400 feet

**APC # 2770-15**



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



Bill No. 05-16

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

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

January 5, 2016

Tim Scott, Council President  
Common Council of the City of South Bend  
227 West Jefferson Blvd. • Suite 400 S  
South Bend, Indiana 46601

The Department of Code Enforcement respectfully requests that the Council consider this ordinance to raise the cost of abatements that are completed by the Department. The current increases reflect an 11.5 percent increase from the last increase in 2008. I have also revised some of the charges to be accurate with our current processes. It is important to point out this is not a request for a budget increase; this is a cost of service fee for the Department to complete the abatements on property owners that do not comply with the Indiana Unsafe Building Law and the City of South Bend's Ordinance's. I will be available as the presenter on behalf of the Department.

The costs of abating a nuisance such as trash, debris, fire hazardous materials and public health hazards and/or removing weeds and rank vegetation from real property include the costs of providing notice, the use of labor and equipment, and administrative costs. A schedule of fees for these services was last implemented in 2008, but the costs have increased since that time and now require adjustment.

We presented this to the City of South Bend Board of Public Works on November 24, 2015 at a public hearing and received information on the current costs of abating a nuisance such as trash, debris, fire hazardous materials and public health hazards and/or removing weeds and rank vegetation, and by Resolution No. 67-2015, it recommended for Common Council approval a schedule of fees for costs involved in the abatement of a nuisance, which is attached hereto and incorporated herein.

The Indiana Unsafe Building Law, Ind. Code 36-7-9-1, which is incorporated into the South Bend Municipal Code (the Code) in full and by reference at Chapter 6, Article 8, Section 6-37, authorizes the City of South Bend through its Department of Code Enforcement to remove trash, debris, fire hazardous material, or a public health hazard in an about an unsafe premises. The Indiana Code at IC 36-7-10.1-1 et seq. also authorizes municipalities to require property owners to remove weeds and other rank vegetation.

OK  
9/10

The Department of Code Enforcement may at the owner's expense enter an owner's property to abate a nuisance such as trash, debris, fire hazardous material and public health hazards, and/or may also remove weeds and rank vegetation if the City has complied with statutory procedures and given the owner proper notice, but the owner has failed to comply with the notice.

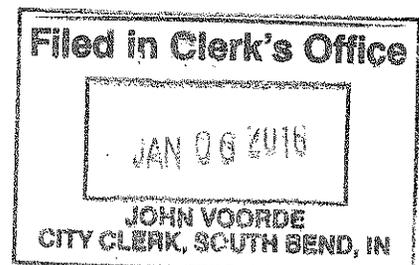
On behalf of the Department of Code Enforcement, it is my belief that this ordinance is in the best interest of the citizens of the City of South Bend.

Respectfully,



Randy Wilkerson

Director of Code Enforcement



**ORDINANCE NO. 10417-16****AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING FEES FOR NUISANCE ABATEMENT SUCH AS TRASH, DEBRIS AND HAZARDOUS MATERIAL REMOVAL, AND FOR REMOVAL OF WEEDS AND RANK VEGETATION PURSUANT TO THE INDIANA UNSAFE BUILDING LAW**

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**STATEMENT OF PURPOSE AND INTENT**

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The Indiana Unsafe Building Law, Ind. Code 36-7-9-1, which is incorporated into the *South Bend Municipal Code* (the Code) in full and by reference at Chapter 6, Article 8, Section 6-37, authorizes the City of South Bend through its Department of Code Enforcement to remove trash, debris, fire hazardous material, or a public health hazard in an about an unsafe premises. The Indiana Code at IC 36-7-10.1-1 et seq. also authorizes municipalities to require property owners to remove weeds and other rank vegetation. The Department of Code Enforcement may at the owner's expense enter an owner's property to abate a nuisance such as trash, debris, fire hazardous material and public health hazards, and/or may also remove weeds and rank vegetation if the City has complied with statutory procedures and given the owner proper notice, but the owner has failed to comply with the notice.

The costs of abating a nuisance such as trash, debris, fire hazardous materials and public health hazards and/or removing weeds and rank vegetation from real property include the costs of providing notice, the use of labor and equipment, and administrative costs. A schedule of fees for these services was last implemented in 2008, but the costs have increased since that time and now require adjustment.

At its meeting held on November 24, 2015, the South Bend Board of Public Works conducted a public hearing and received information on the current costs of abating a nuisance such as trash, debris, fire hazardous materials and public health hazards and/or removing weeds and rank vegetation, and by Resolution No. 67-2015, it recommended for Common Council approval a schedule of fees for costs involved in the abatement of a nuisance, which is attached hereto and incorporated herein.

The Council finds that the Schedule of Fees recommended for approval by the Board of Public Works in its Resolution No. 67-2015 attached hereto reflect the current and actual costs for performing the specific services and should be approved.

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

Section I. The Schedule of Fees for the Department of Code Enforcement's services in abating public nuisances such as trash, debris, fire hazardous material, or a public health hazard,

and for removing weeds and rank vegetation from real property, all as set out specifically in Section II of the Board of Public Works Resolution No. 67-2015 attached hereto and incorporated herein, is approved and confirmed.

Section II. A copy of the Schedule of Fees approved by this Resolution shall be on file for public inspection in the office of the City Clerk, the office of the Clerk of the Board of Public Works, and shall be posted on the City of South Bend's website.

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.

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

Attest:

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

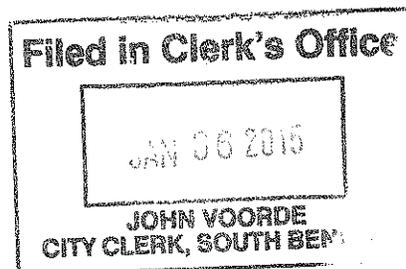
Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, at \_\_\_\_\_ o'clock \_\_\_\_\_m.

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

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_m.

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

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
REFERRED  
PASSED



**ATTACHMENT**

Board of Public Works Resolution No. 68- 2015 enacted on November 24, 2015

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**RESOLUTION NO. 67-2015**

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE CITY OF SOUTH BEND, INDIANA, ADJUSTING THE FEES RELATED TO ABATING NUISANCES AND REMOVING VEGETATION PURSUANT TO INDIANA CODE 36-7-9 AND 36-7-10.1 AND SOUTH BEND MUNICIPAL CODE CHAPTER 16, ARTICLE 8**

WHEREAS, the Board of Public Works ("Board") has authority to determine the costs for performance of work required by orders issued under the Unsafe Building Law, 36-7-9-1, et al., including orders to remove trash, debris, fire hazardous material, or a public health hazard in and about an unsafe premises; and

WHEREAS, the Board also has authority to abate nuisances described in South Bend Municipal Code Chapter 16, Article 8, Section 16-53; and

WHEREAS, the Indiana Code provision for removal of weeds and rank vegetation, Indiana Code 36-7-10.1-1, et seq., allows municipalities to require property owners to remove weeds and other rank vegetation, and sets forth procedures for giving notice to property owners and removing weeds and rank vegetation at the owner's expense; and

WHEREAS, the Department of Code Enforcement or an entity acting on its behalf may, after giving notice to the owner, enter property and remove weeds and rank vegetation at the owner's expense, pursuant to South Bend Municipal Code Chapter 16, Article 8, Section 16-59; and

WHEREAS, the Board has the expertise to determine the costs of abating nuisances such as trash, debris, fire hazardous material and public health hazards, and or removing weeds and rank vegetation, including the cost of providing notice, use of equipment and labor, and administrative costs; and

WHEREAS, the Board determines that the fees imposed for nuisance abatement and removal of weeds and rank vegetation should be adjusted from the 2008 schedule to reflect the current cost the City of South Bend incurs providing such services.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF SOUTH BEND, INDIANA, AS FOLLOWS:

Section I. That the Board of Public Works hereby sets forth fees for services in abating public nuisances such as trash, debris, fire hazardous material, or a public health hazard, and of removing weeds and rank vegetation from real property.

Section II. The owner, occupant or person in control of the property upon which the public nuisance or rank vegetation exists in violation of South Bend Municipal Code Chapter 16, Article 8, as it may be amended from time to time, shall be charged fees for the cost of equipment, services and labor incurred by the City in abatement of the nuisance or removal of vegetation. The following fees shall be charged:

**Fees and Costs**

Dump fee	\$150.00
Handling and disposal	\$ 84.00
Administrative fee	\$ 40.00
Technology and software	\$ 10.00
Supplies	\$ 8.00

**Hourly Labor and Equipment Use**

Inspection	\$ 29.00
Labor (General)	\$ 23.00
Labor (Operator -- skilled)	\$ 34.00
Supervisory staff	\$ 40.00
Dump truck	\$ 51.00
Small loader	\$ 51.00
Lightening loader	\$ 84.00
Large loader	\$119.00
Pick up and mower	\$ 44.00
Tractor mower	\$ 38.00

**Grass Cutting Fees**

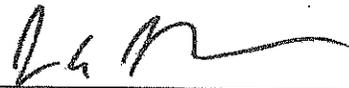
Inspection (2)	\$58.00
Administrative fee	\$40.00
Supervisory Staff	\$40.00
Pickup truck and mower	\$22.00
Labor general	\$11.50
Technology and software	\$10.00
Supplies	\$ 8.00
<b>TOTAL</b>	<b>\$189.50</b>

Adopted on the 24<sup>th</sup> day of November, 2015, by the Board of Public Works of the City of South Bend, Indiana.

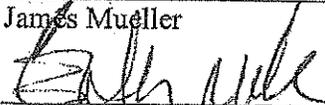
BOARD OF PUBLIC WORKS OF THE  
CITY OF SOUTH BEND, INDIANA

  
\_\_\_\_\_  
Gary Gilot

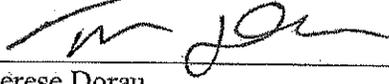
  
\_\_\_\_\_  
David Relos

  
\_\_\_\_\_

James Mueller

  
\_\_\_\_\_

Elizabeth Maradik

  
\_\_\_\_\_

Therese Dorau

ATTEST:

  
\_\_\_\_\_

Linda Martin, Clerk

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



Bill No. 06-16

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

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

January 5, 2016

Tim Scott, Council President  
Common Council of the City of South Bend  
227 West Jefferson Blvd. • Suite 400 S  
South Bend, Indiana 46601

The Department of Code Enforcement respectfully requests that the Council consider this ordinance to raise the fees associated to demolitions that are completed by the Department. The current increases reflect an 11.5 percent increase from the last increase in 2008. I have also revised some of the charges to be accurate with our current processes including the cost associated with testing for asbestos. This was not charged in the past. It is important to point out this is not a request for a budget increase; this is a cost of service fee for the Department for property owners that do not comply with the Indiana Unsafe Building Law. I will be available as the presenter on behalf of the Department.

The costs of securing property and/or removing structures upon unsafe premises include the costs of providing notice, the use of labor and equipment, and administrative costs. A schedule of fees for these services was last implemented in 2008, but the costs have increased since that time and now require adjustment.

We presented this to the South Bend Board of Public Works on November 24, 2015 at a public hearing and received information on the current costs of securing property or removing structures at an unsafe premises, and by Resolution No. 68-2015, it recommended for Common Council approval a schedule of fees for costs involved in the demolition of real property and in the securing of real property, which is attached hereto and incorporated herein.

The Indiana Unsafe Building Law, Ind. Code 36-7-9-1, which is incorporated into the South Bend Municipal Code (the Code) in full and by reference at Chapter 6, Article 8, Section 6-37, authorizes the City of South Bend through its Department of Code Enforcement to enter into and secure an owner's property or remove structures at an unsafe premises at the owner's expense if the City has complied with statutory procedures and given the owner proper notice, but the owner has failed to comply with the notice.

OK  
AW

The Council finds that the Schedule of Fees recommended for approval by the Board of Public Works in its Resolution No. 68-2015 attached hereto reflect the current and actual costs for performing the specific services and should be approved.

On behalf of the Department of Code Enforcement, it is my belief that this ordinance is in the best interest of the citizens of the City of South Bend.

Respectfully,

  
\_\_\_\_\_

Randy Wilkerson

Director of Code Enforcement

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

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, APPROVING FEES FOR SECURING AND DEMOLISHING STRUCTURES  
PURSUANT TO THE INDIANA UNSAFE BUILDING LAW**

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**STATEMENT OF PURPOSE AND INTENT**

---

The Indiana Unsafe Building Law, Ind. Code 36-7-9-1, which is incorporated into the *South Bend Municipal Code* (the Code) in full and by reference at Chapter 6, Article 8, Section 6-37, authorizes the City of South Bend through its Department of Code Enforcement to enter into and secure an owner's property or remove structures at an unsafe premises at the owner's expense if the City has complied with statutory procedures and given the owner proper notice, but the owner has failed to comply with the notice.

The costs of securing property and/or removing structures upon unsafe premises include the costs of providing notice, the use of labor and equipment, and administrative costs. A schedule of fees for these services was last implemented in 2008, but the costs have increased since that time and now require adjustment.

At its meeting held on November 24, 2015, the South Bend Board of Public Works conducted a public hearing and received information on the current costs of securing property or removing structures at an unsafe premises, and by Resolution No. 68-2015, it recommended for Common Council approval a schedule of fees for costs involved in the demolition of real property and in the securing of real property, which is attached hereto and incorporated herein.

The Council finds that the Schedule of Fees recommended for approval by the Board of Public Works in its Resolution No. 68-2015 attached hereto reflect the current and actual costs for performing the specific services and should be approved.

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

Section I. The Schedule of Fees for the Department of Code Enforcement's processing of orders for demolition of structures and for securing structures as set out specifically in Sections II and III of the Board of Public Works Resolution No. 68-2015 attached hereto and incorporated herein is approved and confirmed.

Section II. A copy of the Schedule of Fees approved by this Resolution shall be on file for public inspection in the office of the City Clerk, the office of the Clerk of the Board of Public Works, and shall be posted on the City of South Bend's website.

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.

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

Attest:

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

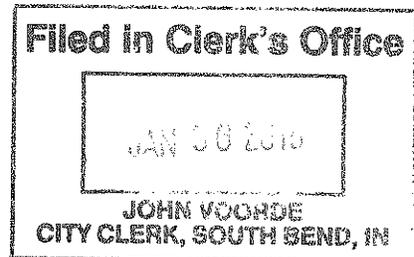
Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, at \_\_\_\_\_ o'clock \_\_\_\_\_ m.

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

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_ m.

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

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
REFERRED  
PASSED



**ATTACHMENT**

Board of Public Works Resolution No. 68-2015 enacted on November 24, 2015

(Remainder of Page left intentionally blank)

**RESOLUTION NO. 68-2015**

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE CITY OF SOUTH BEND, INDIANA, ADJUSTING THE FEES FOR SERVICES RELATED TO SECURING AND DEMOLISHING STRUCTURES PURSUANT TO THE INDIANA UNSAFE BUILDING LAW, INDIANA CODE 36-7-9 AND SOUTH BEND MUNICIPAL CODE CHAPTER 6, ARTICLE 8, SECTIONS 37 AND 37.1**

WHEREAS, the Board of Public Works is the Board with control over the Department of Code Enforcement for purposes of setting performance bonds and processing expenses provided under the Unsafe Building Law, and has the responsibility for fixing the average processing expenses and a schedule of performance bonds as provided in the Unsafe Building Law, Indiana Code 36-7-9-1 et seq., and South Bend Municipal Code Chapter 6, Article 8; and

WHEREAS, the Department of Code Enforcement or an entity acting on its behalf may, after giving notice to the owner, enter onto and secure property at the owner's expense, pursuant to South Bend Municipal Code Chapter 6, Article 8 and the Unsafe Building Law; and

WHEREAS, the Department of Code Enforcement or an entity acting on its behalf may, pursuant to the procedures set forth in the Unsafe Building Law and after giving notice to the owner, remove structures from unsafe premises at the owner's expense; and

WHEREAS, the Board of Public Works has the expertise to determine the costs of securing and removing structures upon unsafe premises, including the cost of providing notice, use of equipment and labor, and administrative costs; and

WHEREAS, the Board of Public Works determines that the fees imposed for securing and removing structures should be adjusted from the 2008 schedule to reflect the current cost the City of South Bend incurs providing such services.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF SOUTH BEND, INDIANA, AS FOLLOWS:

Section I. The Board of Public Works hereby sets forth administrative and service fees related to securing and removing structures upon unsafe premises pursuant to the Unsafe Building Law and South Bend Municipal Code Chapter 6, Article 8.

Section II. The following fees reflect the average expenses which are incurred by the Department of Code Enforcement in processing orders for demolition of structures, and shall be charged in addition to the costs of the demolition contractor for each demolition order issued:

Inspections – average of 8	\$203.00
Legal notices, recording fees	\$113.00
Title search	\$ 27.00
Forms, letters, postage	\$100.00
Supplies	\$ 8.00
Legal services and hearing officer	\$200.00
Clerical staff	\$ 76.00
Management staff	\$200.00
Technology and software	\$ 10.00

**TOTAL DEMOLITION COST** **\$937.00**

Asbestos Testing for Demolition, if Applicable

First Inspection –prelim testing requires 2 inspectors  
at 1.5 hours/inspector \$ 87.00

Second Inspection—testing and completion of  
papers requires 2 inspectors at 1.5/inspector \$ 87.00

Tools, supplies, and safety costs \$ 22.00

Test 10 samples at \$8.00/sample (average) \$ 80.00

**TOTAL ASBESTOS COST** **\$276.00**

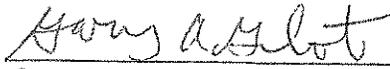
Section III. The following fees reflect the average expenses which are incurred by the Department of Code Enforcement in processing orders to secure structures, and which shall be charged in addition to the costs of the contractor for each order to secure issued:

Inspections – average of 3	\$ 87.00
Forms, letters, postage	\$ 7.00
Clerical staff	\$ 23.00
Management staff	\$ 35.00
Technology and software	\$ 10.00

**TOTAL COST TO SECURE** **\$162.00**

Adopted on the 24 day of November, 2015, by the Board of Public Works of the City of South Bend, Indiana.

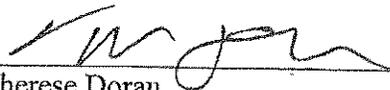
BOARD OF PUBLIC WORKS OF THE  
CITY OF SOUTH BEND, INDIANA

  
\_\_\_\_\_  
Gary Gilot

  
\_\_\_\_\_  
David Relos

  
\_\_\_\_\_  
James Mueller

  
Elizabeth Maradik

  
Therese Dorau

ATTEST:

  
Linda Martin, Clerk





AREA BOARD OF ZONING APPEALS

125 S. Lafayette Blvd.  
Suite 100  
South Bend, Indiana 46601  
(574)235-9554  
FAX: (574)235-5541

January 7, 2016

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

RE: Petition for Special Exception  
Pokagon Band of Potawatomi Indians  
01/06/2016

Dear Council Members:

The above referenced petition of Pokagon Band of Potawatomi Indians was legally advertised on December 17, 2015. The Area Board of Zoning Appeals gave it a public hearing on January 6, 2016, at which time the following action was taken:

Upon a motion by Mr. Phipps, being seconded by Ms. Schuth and by a unanimous vote, the petition for Special Exception to allow a Police sub-station in a "SF1" District, on property located at 2906 Prairie Ave., Portage Township, is sent to the Common Council with a **Favorable Recommendation**.

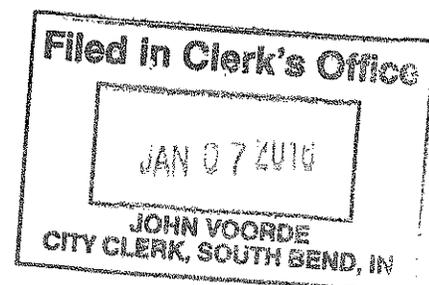
The deliberations of the Area Board of Zoning Appeals and points considered in arriving at the above decision as shown in the Minutes of the Public Hearing, and will be forwarded to you at a later date, to be made part of this report.

Sincerely,



Charles C. Bulot, C.B.O. Building  
Commissioner

CCB/cah



PETITION

SPECIAL EXCEPTION PURSUANT 21-09.3(D)  
AREA BOARD OF ZONING APPEALS

**POKAGON BAND**

FINDINGS OF FACT

1. THE PROPOSED *USE* WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, COMFORT, COMMUNITY MORAL STANDARDS, CONVENIENCE OR GENERAL WELFARE BECAUSE:

A. Development and use as presented will comply with all building, fire safety, traffic, and parking regulations as to not being injurious to the public health, safety, morals, and general welfare of the community.

2. THE PROPOSED *USE* WILL NOT INJURE OR ADVERSELY AFFECT THE *USE* OF THE ADJACENT AREA OR PROPERTY VALUES THEREIN BECAUSE:

A. The variance or use shall improve the appearance of the neighborhood and will not devalue the surrounding properties.

3. THE PROPOSED *USE* WILL BE CONSISTENT WITH THE CHARACTER OF THE *DISTRICT* IN WHICH IT IS LOCATED AND THE LAND USES AUTHORIZED THEREIN BECAUSE:

A. Conditions on the property predate the Zoning Ordinance, which creates a different condition for this property.

4. THE PROPOSED *USE* IS COMPATIBLE WITH THE RECOMMENDATIONS OF THE CITY OF SOUTH BEND *COMPREHENSIVE PLAN* BECAUSE:

A. It is the feeling of the Board that the variance is blending into the overall Comprehensive Plan and is not deviating from its intent.

CONDITIONS OR REVISIONS:

DECISION

IT IS THEREFORE the decision of the Board that this request for Special Exception shall be passed onto the City of South Bend Common Council with a:

**FAVORABLE RECOMMENDATION**

ADOPTED this 6 Day of January, 2016.

<u>MOTION</u>	<u>SECOND</u>	<u>RECUSED</u>	<u>ABSENT</u>	<u>YES</u>	<u>NO</u>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MICHAEL URBANSKI
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RANDALL MATTHYS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KATHY SCHUTH
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	GERALD PHIPPS
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	JACK YOUNG
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	ROBERT HAWLEY
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BRENDAN CRUMLISH

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

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

2906 Prairie Avenue, South Bend, IN

**WHEREAS**, Indiana Code Section 36-7-4-918.6, requires the Common Council to give notice pursuant to Indiana Code Section 5-14-1.5-5, of its intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval; and

**WHEREAS**, the Common Council must take action within sixty (60) days after the Board of Zoning Appeals makes its recommendation to the Council; and

**WHEREAS**, the Common Council is required to make a determination in writing on such requests pursuant to Indiana Code Section 36-7-4-918.4, and

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

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

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

2906 Prairie Avenue, South Bend, IN

in order to permit

a Tribal Police Sub-Station for the Pokagon Band of Potawatomi Indians.

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

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

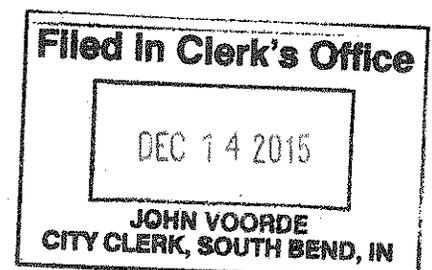
1. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;
2. The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;
3. The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;
4. The proposed use is compatible with the recommendations of the City of South Bend Comprehensive plan;

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

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

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

PRESENTED  
NOT APPROVED  
ADOPTED



NOTICE OF PUBLIC HEARING

Notice is hereby given to all interested persons that the Area Board of Zoning Appeals will hold a public hearing in the Council Chambers on the 4th Floor of the County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana on the 6th day of January, 2016, at 1:30 p.m. or as soon thereafter as the matter can be heard. This hearing is for the purpose of considering a petition that was

Filed by: the Pokagon Band of Potawatomi Indians

Seeking: \_\_\_\_\_

A Special Exception for a Police Sub-Station for the Tribal Police of the Pokagon Band of Potawatomi Indians, a Federally recognized Native American Tribe with a service area in the State of Indiana. T/A A "SFI" DISTRICT

On real estate commonly described as:  
2906 Prairie Avenue, South Bend, IN 46614

and is legally described as follows:

See attached Legal Description (Exhibit "A")

Dated this 14th day of December, 2015.

Area Board of Zoning Appeals

Carolyn A. Henry  
Carolyn A. Henry  
Secretary to the Board

AREA BOARD OF ZONING APPEALS  
FILED  
Date: 12/14/15

**TO THE PETITIONER:** It is your responsibility to complete this form correctly and deliver it to the Secretary of the Board of Zoning Appeals with the other papers at the time of original filing. Once it is signed by the Secretary, then it is your responsibility to make arrangements to have publication of notice made in a local newspaper having general circulation in St. Joseph County. Such notice must be published one (1) time, being at least ten (10) days prior to the date on which the public hearing is to be held. Proof of publication must be presented to the Board at the time of public hearing.

**AREA BOARD OF ZONING APPEALS**

125 S. Lafayette Blvd.  
Suite 100  
South Bend, Indiana 46601  
574/235-9554  
574/235-5541-Fax

**NOTICE TO ADJACENT PROPERTY OWNERS:**

You are hereby notified that a public hearing will be held by the Area Board of Zoning Appeals on Wednesday, the 6th day of January, 2016, at 1:30 p.m. in the Council Chambers on the 4<sup>th</sup> Floor of the County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana.

A petition is on file by the Pokagon Band of Potawatomi Indians

**Seeking:**

A Special Exception for a Police Sub-Station for the Tribal Police of the Pokagon Band of Potawatomi Indians, a Federally recognized Native American Tribe with a service area in the State of Indiana.

**On property commonly described as:**

2906 Prairie Avenue, South Bend, IN 46614

Said public hearing will be held as authorized by the applicable Zoning Ordinance and Chapter 138, Acts of 1957 of the General Assembly of the State of Indiana.

As a property owner within the immediate appeal area, this notice is sent to you as a courtesy. Sometimes, for reasons beyond our control, property owners within the immediate area of the subject property will not receive a copy of this notice. If you know of someone who should have received notice but didn't, please inform them of this hearing. Any persons desiring to oppose or support this petition will be heard at the time of the hearing.

**AREA BOARD OF ZONING APPEALS**

*Carolyn A. Henry*

\_\_\_\_\_  
Carolyn A. Henry  
Secretary to the Board

Exhibit "A"

File No. 511503234

PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 37 NORTH, RANGE 2 EAST DESCRIBED AS BEGINNING AT A POINT 834.1 FEET EAST OF THE WEST QUARTER CORNER OF SAID SECTION 22, RUNNING THENCE NORTH 949.39 FEET TO THE CENTER LINE OF PRAIRIE AVENUE; THENCE NORTHEASTERLY 200 FEET ALONG SAID CENTER LINE OF PRAIRIE AVENUE; THENCE SOUTH 1052.11 FEET TO THE EAST AND WEST CENTER LINE OF SAID SECTION; THENCE WEST 169.8 FEET TO THE PLACE OF BEGINNING, EXCEPTING THEREFROM A TRACT OF LAND 40 FEET IN WIDTH, NORTH AND SOUTH, TAKEN OFF OF AND FROM THE ENTIRE SOUTH END FOR DONMOYER AVENUE; ALSO EXCEPTING THEREFROM A TRACT OF LAND 40 FEET AT RIGHT ANGLES WITH THE CENTER LINE OF PRAIRIE AVENUE, OF THE ALREADY ESTABLISHED HIGHWAY KNOWN AS PRAIRIE AVENUE, CONTAINING 3.90 ACRES, MORE OR LESS.

LESS AND EXCEPTING THEREFROM THE FOLLOWING:

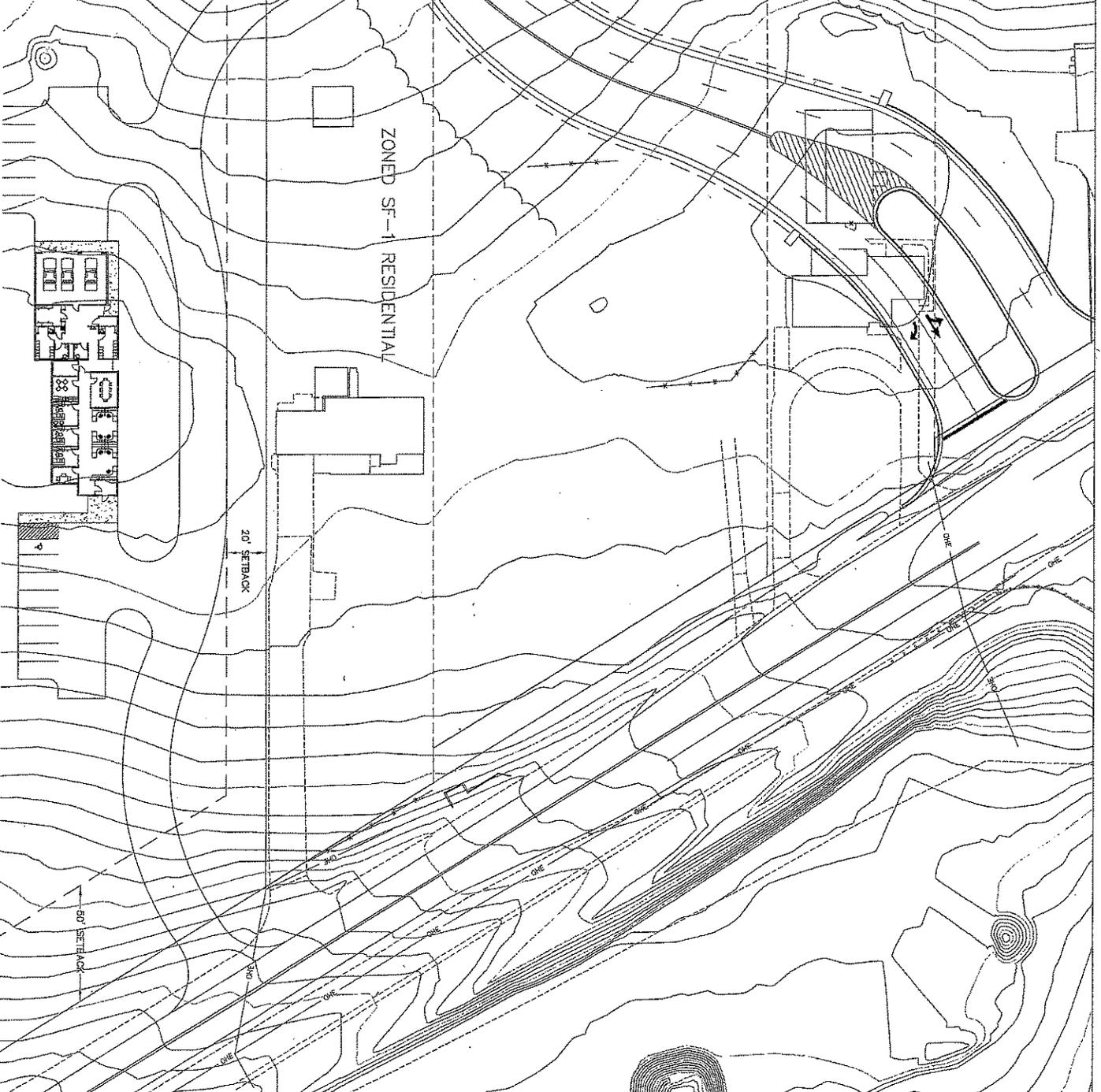
A TRACT OF LAND 40 FEET IN WIDTH, NORTH AND SOUTH, TAKEN OFF OF AND FROM THE ENTIRE SOUTH END (FOR DONMOYER AVENUE) OF THE AFOREMENTIONED TRACT.

NOW BEING DESCRIBED AS FOLLOWS:

THAT PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 37 NORTH, RANGE 2 EAST, CITY OF SOUTH BEND, PORTAGE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS:

COMMENCING AT A HARRISON MONUMENT MARKING THE LOCATION OF THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 22; THENCE NORTH 89°20'04" EAST ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 22 A DISTANCE OF 834.81 FEET (DEEDED EAST 834.1 FEET) TO A FOUND IRON PIPE; THENCE NORTH 00°03'03" WEST (DEEDED NORTH) 40.00 FEET TO A FOUND IRON WITH CAP NUMBER "22436" AND THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED; THENCE CONTINUING NORTH 00°03'03" WEST (DEEDED NORTH) 862.11 FEET TO A FOUND "PINCH" PIPE ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF PRAIRIE AVENUE (STATE ROAD 23); THENCE NORTH 58°20'40" EAST ON SAID SOUTHEASTERLY RIGHT OF WAY LINE 199.36 FEET; THENCE SOUTH 00°03'03" EAST (DEEDED SOUTH) 964.76 FEET TO A FOUND 5/8 INCH REBAR WITH CAP NUMBER "208000148"; THENCE SOUTH 89°20'04" WEST PARALLEL WITH AND 40.00 FEET NORTH OF SAID SOUTH LINE 169.80 FEET TO THE POINT OF BEGINNING, CONTAINING 3.560 ACRES MORE OR LESS.





**SITE INFORMATION**  
 SITE ADDRESS: 2906 PRAIRIE AVENUE  
 SOUTH BEND, INDIANA 46814  
 SITE AREA = 3.58 ACRES  
 BUILDING AREA = 4359 SF  
 ZONING DISTRICT = SF1  
 SETBACKS:

FRONT YARD SETBACK = 50 FEET  
 SIDE YARD SETBACK = 20 FEET  
 REAR YARD SETBACK = 25 FEET  
 PROPOSED USE: POLICE STATION  
 A POLICE STATION IS A SPECIAL  
 EXCEPTION USE IN THE SF1 ZONING  
 DISTRICT.

MAXIMUM LOT COVERAGE = 40%  
 ACTUAL LOT COVERAGE = 10%  
 MAXIMUM BUILDING HEIGHT = 36 FEET  
 ACTUAL BUILDING HEIGHT = 17 FEET  
 NO ACCESSORY BUILDINGS ARE PLANNED

**PARKING CALCULATIONS**  
 ZONING DISTRICT = SF1  
 CLOSEST USE = OFFICE SPACE  
 REQUIRED PARKING REQUIREMENT:  
 3.3 SPACES PER 1000 SF OF THE  
 GROSS FLOOR AREA

GROSS FLOOR AREA:  
 FIRST FLOOR = 3382 SF  
 BASEMENT AREA = 1316 SF  
 TOTAL GROSS FLOOR AREA = 4698 SF  
 THE GROSS FLOOR AREA DOES NOT  
 INCLUDE THE GARAGE = 977 SF

REQUIRED PARKING:  
 4698 SF / 1000 SF = 4.698  
 4.698 \* 3.3 = 17 SPACES REQUIRED  
 PROPOSED PARKING:  
 3 SPACES IN THE GARAGE PLUS  
 14 EXTERIOR SPACES = 17 SPACES  
 13 SPACES 8'x20'

1 VAN ACCESSIBLE SPACE 16' \* 20'  
 MANEUVERING AISLE = 24 FEET MINIMUM  
 EMERGENCY VEHICLE  
 REQUIRED DRIVE LANE = 20 FEET  
 PROPOSED = 24 WIDE DRIVEWAY

# POLICE SUBSTATION

## POKAGON BAND OF POTAWATOMIE INDIANS

58620 SINK ROAD  
 DOWAGIAC, MICHIGAN 49047

**ISSUE DATE:**  
 12-15-15

**REVISIONS**

**JOB NUMBER:**  
 215063

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ParcelID	County	PropAddress	PropCity	PropSt	PropZIP	OwnerName	OwnerAddress	OwnerCity	OwnerZIP
018-8153-5509		2906 PRAIRIE	South Bend	IN	46614	CHINODIN CORP	58620 Sink Rd	Dowagiac	MI 49047
018-8153-5503		2932 PRAIRIE	South Bend	IN	46615	WJC HOLDINGS LLC	PO BOX 180	Dowagiac	MI 49047
018-8153-5508		2924 PRAIRIE	South Bend	IN	46614	WJC HOLDINGS LLC	PO BOX 180	Dowagiac	MI 49047
018-1013-032501		2835 STATE ROAD 23	SOUTH BEND	IN	46619	PRAIRIE E Z STORAGE LLC	133 S Taylor St	South Bend	IN 46601
018-8153-551403		2630 2-101 PRAIRIE	SOUTH BEND	IN	46614	PRAIRIE APARTMENTS HOUSING PARTNERS LP	12557 BRANFORD ST	Carmel	IN 46032
018-8153-551405		2610 PRAIRIE	South Bend	IN	46613	PRAIRIE APARTMENTS HOUSING PARTNERS II LP	4000 W. 106th St Ste 125	Carmel	IN 46032
018-8153-5506		3010 PRAIRIE	South Bend	IN	46614	WJC HOLDINGS LLC	PO BOX 180	Dowagiac	MI 49047
018-8155-5574		22027 PRAIRIE	South Bend	IN	46619	WJC HOLDINGS LLC	PO BOX 180	Dowagiac	MI 49047
018-8153-5510		2822 PRAIRIE	South Bend	IN	46614	MICINSKI KEITH AND ANGELA M	2822 Prairie Ave	South Bend	IN 46614
018-1013-0325		3031 STATE ROAD 23	SOUTH BEND	IN	46619	YOUNGS KURT D & MARY F	P. o. Box 2766	South Bend	IN 46680
018-8153-551001						WJC HOLDINGS LLC	58620 Sink Rd	Dowagiac	MI 49047
018-8153-550901						WJC HOLDINGS LLC	58620 Sink Rd	Dowagiac	MI 49047

*duplicate*

*duplicate*

*duplicate*

*duplicate*



AREA BOARD OF ZONING APPEALS

125 S. Lafayette Blvd.  
Suite 100  
South Bend, Indiana 46601  
(574)235-9554  
FAX: (574)235-5541

January 7, 2016

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

RE: Petition for Special Exception  
R & B Car Company  
01/06/2016

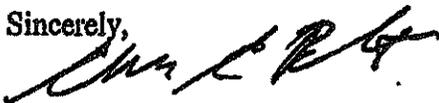
Dear Council Members:

The above referenced petition of R & B Car Company was legally advertised on December 24, 2015. The Area Board of Zoning Appeals gave it a public hearing on January 6, 2016, at which time the following action was taken:

Upon a motion by Mr. Phipps, being seconded by Mr. Young and by a unanimous vote, the petition for Special Exception to allow automobile sales in a "CB" Community Business District, on property located at 3939 S. Michigan Street, Portage Township, is sent to the Common Council with a **Favorable Recommendation.**

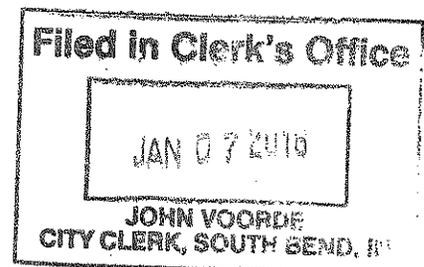
The deliberations of the Area Board of Zoning Appeals and points considered in arriving at the above decision as shown in the Minutes of the Public Hearing, and will be forwarded to you at a later date, to be made part of this report.

Sincerely,



Charles C. Bulot, C.B.O. Building  
Commissioner

CCB/cah



PETITION

SPECIAL EXCEPTION PURSUANT 21-09.3(D)  
AREA BOARD OF ZONING APPEALS

**R&B CAR COMPANY**

FINDINGS OF FACT

1. THE PROPOSED USE WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, COMFORT, COMMUNITY MORAL STANDARDS, CONVENIENCE OR GENERAL WELFARE BECAUSE:

A. Development and use as presented will comply with all building, fire safety, traffic, and parking regulations as to not being injurious to the public health, safety, morals, and general welfare of the community.

2. THE PROPOSED USE WILL NOT INJURE OR ADVERSELY AFFECT THE USE OF THE ADJACENT AREA OR PROPERTY VALUES THEREIN BECAUSE:

A. The variance or use shall improve the appearance of the neighborhood and will not devalue the surrounding properties.

3. THE PROPOSED USE WILL BE CONSISTENT WITH THE CHARACTER OF THE DISTRICT IN WHICH IT IS LOCATED AND THE LAND USES AUTHORIZED THEREIN BECAUSE:

A. Conditions on the property predate the Zoning Ordinance, which creates a different condition for this property.

4. THE PROPOSED USE IS COMPATIBLE WITH THE RECOMMENDATIONS OF THE CITY OF SOUTH BEND COMPREHENSIVE PLAN BECAUSE:

A. It is the feeling of the Board that the variance is blending into the overall Comprehensive Plan and is not deviating from its intent.

CONDITIONS OR REVISIONS:

DECISION

IT IS THEREFORE the decision of the Board that this request for Special Exception shall be passed onto the City of South Bend Common Council with a:

**FAVORABLE RECOMMENDATION**

ADOPTED this 6 Day of January, 2016.

<u>MOTION</u>	<u>SECOND</u>	<u>RECUSED</u>	<u>ABSENT</u>	<u>YES</u>	<u>NO</u>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MICHAEL URBANSKI
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RANDALL MATTHYS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KATHY SCHUTH
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	GERALD PHIPPS
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	JACK YOUNG
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	ROBERT HAWLEY
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BRENDAN CRUMLISH

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

**A RESOLUTION OF THE COMMON COUNCIL OF THE  
CITY OF SOUTH BEND, INDIANA,  
APPROVING A PETITION OF THE AREA  
BOARD OF ZONING APPEALS  
FOR THE PROPERTY LOCATED AT  
3939 SOUTH MICHIGAN STREET, SOUTH BEND, INDIANA**

**WHEREAS**, Indiana Code Section 36-7-4-918.6, requires the Common Council to give notice pursuant to Indiana Code Section 5-14-1.5-5, of its intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval; and

**WHEREAS**, the Common Council must take action within sixty (60) days after the Board of Zoning Appeals makes its recommendation to the Council; and

**WHEREAS**, the Common Council is required to make a determination in writing on such requests pursuant to Indiana Code Section 36-7-4-918.4, and

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

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

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

3939 South Michigan Street, South Bend, Indiana

in order to permit automobile sales use within the CB Community Business District

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

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

1. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;
2. The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;
3. The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;
4. The proposed use is compatible with the recommendations of the City of South Bend Comprehensive plan;

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

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

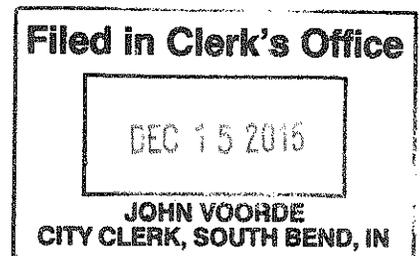
---

Member of the Common Council

~~PRESENTED~~

~~NOT APPROVED~~

ADOPTED ✓



**AREA BOARD OF ZONING APPEALS**

125 South Lafayette Boulevard

Suite 100

South Bend, Indiana 46601

574/235-9554

574/235-5541 fax

**NOTICE TO ADJACENT PROPERTY OWNERS:**

You are hereby notified that a public hearing will be held by the Area Board of Zoning Appeals on Wednesday, the 6<sup>th</sup> day of January, 2016 at 1:30 p.m. in the Council Chambers on the 4th Floor of the County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana.

A Petition is on file by: R&B Car Company

**SEEKING THE FOLLOWING VARIANCES:**

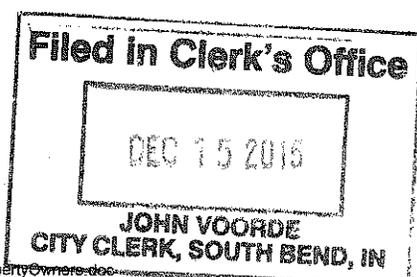
- A Special Use Variance to allow automobile sales with the CB Community Business District;
- From the required 30' front setback along Michigan Street to 4.5';
- To allow a trash enclosure between the front façade and the front lot line along Main Street;
- From the required landscaping of a trash enclosure to none;
- From the required bicycle rack to none;
- From the required foundation landscaping to none;
- From the required interior off-street parking area landscaping;
- From the required residential landscape screening along the east line to none;
- From the required 24' maneuvering aisles to 18';
- From the required perimeter landscaping to none;
- From the required 10' side yard setback to zero, and therefore allowing
- From Section 21-03.05(B)(II)(C)(iv) to allow automobile display within a zero side yard

**ON PROPERTY COMMONLY DESCRIBED AS: 3939 South Michigan Street**

Said public hearing will be held as authorized by the applicable Zoning Ordinance and Chapter 138, Acts of 1957 of the General Assembly of the State of Indiana.

As a property owner within the immediate appeal area, this notice is sent to you as a courtesy. Sometimes, for reasons beyond our control, property owners within the immediate area of the subject property will not receive a copy of this notice. If you know of someone who should have received notice but didn't, please inform them of this hearing. Any persons desiring to oppose or support said petition will be heard at this time.

AREA BOARD OF ZONING APPEALS



*Carolyn A. Henry*  
Carolyn A. Henry, Secretary to the Board

## NOTICE OF PUBLIC HEARING

Notice is hereby given to all interested persons that the Area Board of Zoning Appeals will hold a public hearing in the Council Chambers on the 4th Floor of the County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana on the 6th of January, 2016 at 1:30 p.m. or as soon thereafter as the matter can be heard.

This Hearing is for the purpose of considering a petition that was filed by:

R & B Car Company

### SEEKING THE FOLLOWING VARIANCES:

- A Special Use Variance to allow automobile sales with the CB Community Business District;
- From the required 30' front setback along Michigan Street to 4.5';
- To allow a trash enclosure between the front façade and the front lot line along Main Street;
- From the required landscaping of a trash enclosure to none;
- From the required bicycle rack to none;
- From the required foundation landscaping to none;
- From the required interior off-street parking area landscaping;
- From the required residential landscape screening along the east line to none;
- From the required 24' maneuvering aisles to 18';
- From the required perimeter landscaping to none;
- From the required 10' side yard setback to zero, and therefore allowing
- From Section 21-03.05(B)(II)(C)(iv) to allow automobile display within a zero side yard.

on a certain real estate in St. Joseph County Indiana.

### THIS REAL ESTATE IS COMMONLY DESCRIBED AS

3939 South Michigan Street, South Bend, Indiana

### AND IS LEGALLY DESCRIBED AS FOLLOWS:

Lot B as shown on the recorded plat of J. & J.'s Replat of Lot 2 Chippewa Minor Subdivision in the office of the Recorder of St. Joseph County, Indiana as Instrument No. 7902055

Dated this 15th day of December, 2015.

Area Board of Zoning Appeals of  
St. Joseph County, Indiana

---

Carolyn A. Henry



**LANG, FEENEY and ASSOCIATES, INC.**  
**LAND SURVEYING – CONSTRUCTION ENGINEERING**

715 SOUTH MICHIGAN STREET • SOUTH BEND, INDIANA 46601

TELEPHONE 574/233-1841 • FACSIMILE 574/674-0374

INDOT PREQUALIFIED:

5.4 ECOLOGICAL SURVEYS

5.5 WETLAND MITIGATION

6.1 TOPOGRAPHIC SURVEY DATA

WILLIAM D. LANG, PRES.

JOHN B. FEENEY, L.S.

TERANCE D. LANG, L.S.

SUB-DIVISIONS

BOUNDARY SURVEYS

CONSTRUCTION SURVEYS

PUBLIC WORKS PREQUALIFIED

Area Board of Zoning Appeals  
 125 South Lafayette Blvd. Suite 100  
 South Bend, Indiana 46601

Re: Variance Petition By: R&B Car Company c/o Brandon Cretacci  
 3711 S. Michigan Street  
 South Bend, Indiana 46614

To the Honorable Board,

This petitioned parcel is located at 3939 Michigan Street. The building is commonly known as the former Honker's Restaurant on South Michigan Street. It is currently zoned CB Community Business and contains one building with an asphalt parking lot. This site has an interior access drive, adjacent to Michigan Street, which serves five adjacent businesses. R&B Car Company being one of those businesses, located north of the petitioned site along Chippewa Street. It is know that the City of South Bend is in the process of designing a roundabout intersection at Chippewa and South Michigan Street. This new layout will have an affect on the auto lot's current location. R&B Car Company is in the process of purchasing the former restaurant and wanting to relocate there. Due to short time restraints, in reference to the roundabout construction, R&B would like to utilize the site in its current configuration. At a future date, they plan to demolish the existing building and construct a new sales office and re-design the auto sales area. At the time of new construction the landscape shall conform to all requirements outline in the ordinance. In the mean time R&B would like to move forward utilize the existing site for their automobile sales. In order for R&B Car Company to proceed with their plan, we request the following variances:

- A Special Use Variance to allow automobile sales with the CB Community Business District;
- From the required 30' front setback along Michigan Street to 4.5';
- To allow a trash enclosure between the front façade and the front lot line along Main Street;
- From the required landscaping of a trash enclosure to none;
- From the required bicycle rack to none;
- From the required foundation landscaping to none;
- From the required interior off-street parking area landscaping;
- From the required residential landscape screening along the east line to none;
- From the required 24' maneuvering aisles to 18';
- From the required perimeter landscaping to none;
- From the required 10' side yard setback to zero, and therefore allowing
- From Section 21-03.05(B)(II)(C)(iv) to allow automobile display within a zero side yard.

The approval of this variance will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare of the community. All construction shall comply with required standards. The proposed use will not injure or adversely affect the use of the adjacent area or property values therein. R&B currently resides within the neighborhood and operates effectively. The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein. The construction of a new building shall help facilitate this area, which has gone under recent updates and improvements. The proposed use is compatible with the recommendations of the City of South Bend Comprehensive Plan. If there are any questions regarding the above, please contact our office at your earliest convenience.

Sincerely,

Terance D. Lang

18-7148-5282  
Sharkey LLC  
201 N Yates Lane  
Mt. Prospect, IL 60056

18-7148-5281  
Mary & Jerry Watkins  
3906 S Michigan Street  
South Bend, Indiana 46614

18-8019-080002  
Frick LLC  
61500 Ironwood Drive  
South Bend, Indiana 46614

18-8019-080004  
Halle Properties  
20225 N Scottsdale Road  
Scottsdale, AR 85255

18-7148-5286  
Robert & Mary Hively  
4002 S Michigan Street  
South Bend, Indiana 46614

18-7148-5285  
Dorothy Randall  
4000 S Michigan Street  
South Bend, Indiana 46614

18-8019-080104  
Morris Group LLC  
PO Box 2288  
South Bend, Indiana 46680

23-1025-1374  
South Gateway Properties LLC  
PO Box 2736  
South Bend, Indiana 46680

23-1025-1437  
Jim Chaney, Jacquelyn Chaney &  
Rhonda Chaney  
4020 S Michigan Street  
South Bend, Indiana 46614

18-8019-080102  
Richard & Kathleen Anagnos  
8228 S Mason Avenue  
Burbank, IL 60459

23-1025-1436  
Life Estate for Stephens & Bessie Elton  
4016 S Michigan Street  
South Bend, Indiana 46614

23-1025-1416  
United States of America  
Post Office Dept Room 3233  
Washington DC 20260

23-1025-1373, 18-8019-080005  
Patricia Moore Properties LLC  
4011 South Michigan Street  
South Bend, In 46614

23-1025-1435, 18-7148-5288,5287  
Arron Frazee & Sandra Ginter  
4004 S Michigan Street  
South Bend, In 46614

18-7148-5277  
Hiroshi Bowman & Marag Fulton  
3818 S Michigan Street  
South Bend, In 46614

18-7148-5283  
Donald & Carol Heilman  
3918 S Michigan Street  
South, Indiana 46614

18-8019-080001  
Daniel Green  
4115 W Wallen Road  
Fort Wayne, In 46818

18-8019-080103  
B & N Enterprises  
21486 Edgefield Court  
Bristol, In 46507

18-7148-5275  
Sandra Case  
3814 S Michigan Street  
South Bend, Indiana 46614

18-8019-0801  
PWS Investment Property LLC  
3801 S Main Street  
South Bend, Indiana 46614

18-7148-5284  
Donald & Carol Heilman  
3918 S Michigan Street  
South Bend, Indiana 46614

18-7148-5278  
Juan & Margarita Macias  
3820 Michigan Street  
South Bend, Indiana 46614



**Legend**

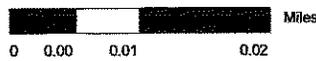
-  SJG Parcels
-  ELK Parcels
-  SJG Street
-  ELK Street
- Major Roads**
-  1
-  10
-  Primary Roads
-  Secondary Roads
-  Local Roads
-  Rivers

**Michiana Regional GIS Website**

Map Generated By: Public  
 Date Printed: 12/15/2015

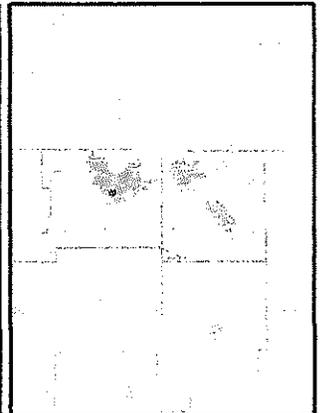
1 inch = 90.16 feet

Indiana Area Council of Governments Geographic Information System  
 (East and West Central)



Coordinate grid is based on Indiana East State Plane Coordinate System 1983 North American Datum.

Information shown on this map is not warranted for accuracy or merchantability.  
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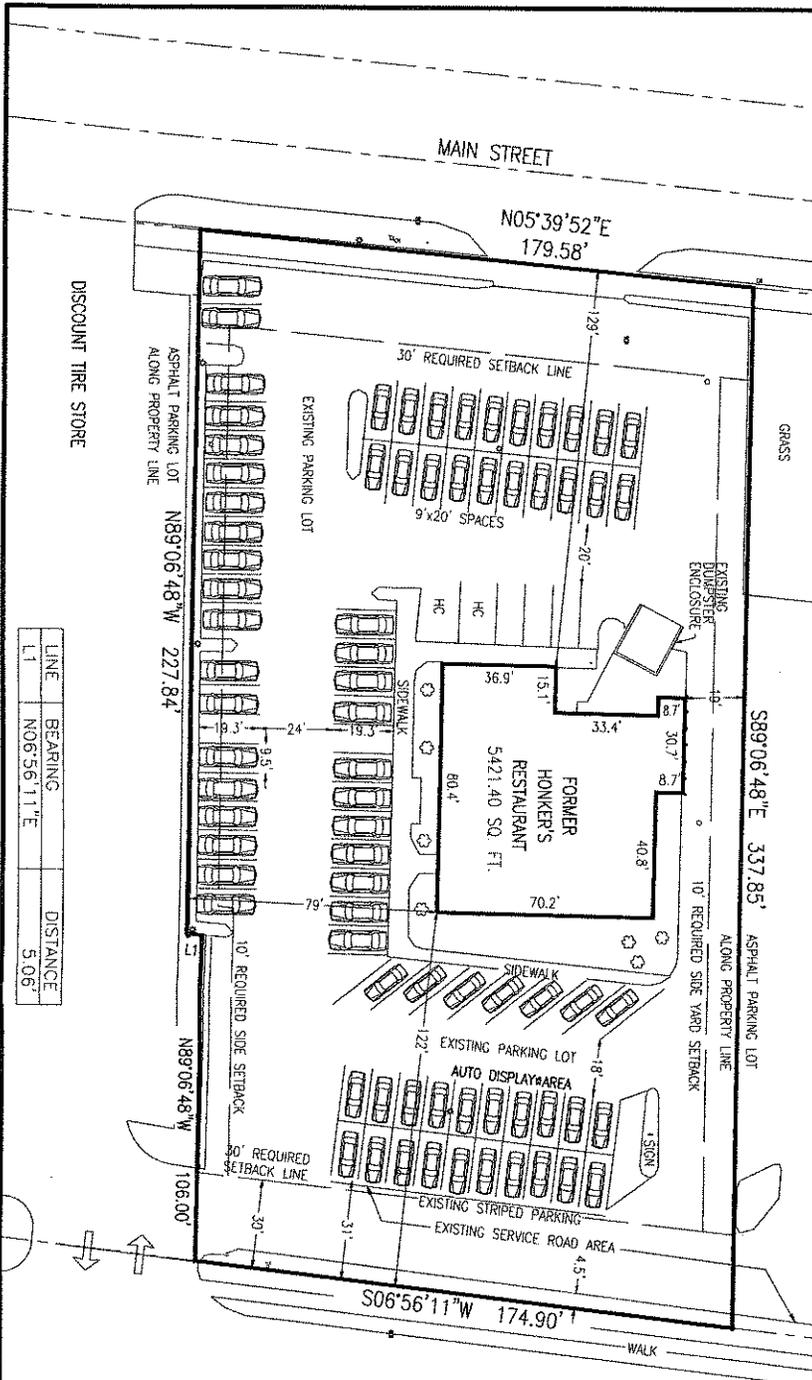


R&B CAR COMPANY

# AREA BOARD OF ZONING APPEALS SITE PLAN

PART OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 37 NORTH, RANGE 3 EAST, CENTRE TOWNSHIP, CITY OF SOUTH BEND, ST. JOSEPH COUNTY, INDIANA.

DAIRY QUEEN RESTAURANT



LINE	BEARING	DISTANCE
L1	N06°56'11"E	5.06'

**CURRENT ZONING:**  
CB COMMUNITY BUSINESS DISTRICT

**TOTAL AREA:**  
59568.72 SF = 1.37 ACRES

**CURRENT USE:**  
VACANT RESTAURANT

**PROPOSED USE:**  
AUTOMOBILE SALES

**PARKING REQUIREMENTS:**  
1 SPACE PER 300 SF OF SALES FLOOR AREA IN EXCESS OF 1000 SF.  
5421.40 - 1000 / 300 = 13 SPACES REQUIRED  
1 SPACE PER 2000 SF OF OPEN AREA  
59568.72 - 5421.40 / 2000 = 28 SPACES REQUIRED  
TOTAL PARKING SPACES REQUIRED: 43  
TOTAL EXISTING PARKING SPACES: 84

**LEGEND**  
○ LIGHT  
□ INLET  
● MANHOLE



**LFA**

Lang, Feeney & Associates, Inc.  
715 S. Michigan Street  
South Bend, Indiana 46601  
Phone (574) 233-1841

Land Surveyors • Soil Scientists

Scale: 1" = 40'  
Date: 12-11-15  
Drawn: JMS  
Job Name: R&B-CO-SOUTHBEND BZA



NEMETH, FEENEY, MASTERS & CAMPITI, P.C.

ATTORNEYS AT LAW

Bill No. 16-04

PETER J. NEMETH, of counsel

JAMES A. MASTERS  
VINCENT M. CAMPITI

A. ROBERT MASTERS  
also admitted in Illinois

REINHOLD SCHROEDER, of counsel  
also admitted in Michigan

PETER S. NEMETH, of counsel

NOW LOCATED AT  
350 COLUMBIA STREET  
SOUTH BEND, INDIANA 46601

TELEPHONE: (574) 234-0121  
(574) 233-9449  
TELEFAX: (574) 234-3141  
www.nfmlaw.com

NEW CARLISLE OFFICE:  
109 EAST MICHIGAN STREET  
P.O. BOX 259  
NEW CARLISLE, INDIANA 46552  
TELEPHONE: (574) 654-3722

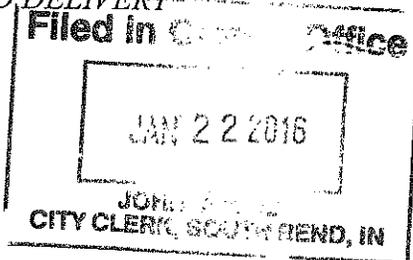
PETER F. NEMETH (1915-1995)  
F. GERARD FEENEY (1918-2004)  
DEVERE D. GOHEEN (1912-2000)

January 22, 2016

The Honorable Tim Scott, President and 1st District Council Member  
The Honorable Regina Williams-Preston, 2nd District Council Member  
The Honorable Randy Kelly, 3rd District Council Member  
The Honorable Jo M. Broden, 4th District Council Member  
The Honorable Dr. David Varner, 5th District Council Member  
The Honorable Oliver J. Davis, Chair of the Zoning & Annexation Committee and 6th District Council Member  
The Honorable Gavin Ferlic, Council Member At Large  
The Honorable Karen L. White, Council Member At Large  
The Honorable John Voorde, Council Member At Large

Objection  
Withdrawn

VIA HAND DELIVERY



RE: **Bill No. 16-04: Concerning a Petition of the Area Board of Zoning Appeals for the Property Located at 3939 South Michigan Street**

**Objection of Frick LLC,  
Owner of 3907 South Michigan Street**

Dear President Scott, Chairman Davis, and  
Members of the South Bend Common Council:

We represent Frick LLC. Frick LLC is the owner of 3907 South Michigan Street. The purpose of this letter is to express Frick LLC's objection to Bill No. 16-04 which will come before you on January 25, 2016.

Bill No. 16-04 concerns a special use exception request from R&B Car Company. R&B Car Company is the owner of 3939 South Michigan, the lot immediately adjacent to Frick LLC's property. R&B's lot is the site of the former Honker's Restaurant on the south side of South Bend. R&B is seeking a special use exception to allow it to conduct automobile sales in a CB: Community Business District zoning area.

Frick LLC's lot is the site of the family-owned Frick's Dairy Queen. The Frick Family has run Frick's Dairy Queen for almost 30 years. Frick LLC is concerned that R&B's plans for 3939 South Michigan will adversely affect Frick's Dairy Queen. In particular, R&B's plans could potentially block-off the only two points of access to Frick's Dairy Queen.

NEMETH, FEENEY, MASTERS & CAMPITI, P.C.  
ATTORNEYS AT LAW

The Honorable Tim Scott, President and 1st District Council Member  
The Honorable Regina Williams-Preston, 2nd District Council Member  
The Honorable Randy Kelly, 3rd District Council Member  
The Honorable Jo M. Broden, 4th District Council Member  
The Honorable Dr. David Varner, 5th District Council Member  
The Honorable Oliver J. Davis, Chair of the Zoning & Annexation Committee and 6th District Council Member  
The Honorable Gavin Ferlic, Council Member At Large  
The Honorable Karen L. White, Council Member At Large  
The Honorable John Voorde, Council Member At Large  
January 22, 2016  
Page Two

To illustrate the problem, enclosed, please find a copy of the subdivision plat map which shows the location of R&B's lot, Frick's Dairy Queen, and a Discount Tire Store. Running along the edges of each property are 25 foot easements for ingress and egress facing Michigan and Main Streets, respectively. The Michigan and Main Street easements are the only ways in and out of Frick's Dairy Queen. A customer going to the Dairy Queen from Michigan Street turns right off of Michigan and enters Frick's Dairy Queen through the Michigan Street easement. A customer coming to Frick's Dairy Queen from Main Street turns left off of Main Street and enters Dairy Queen through the Main Street easement.

When R&B was before the Area Board of Zoning Appeals on January 6th, Frick LLC expressed its concern that R&B's plans for 3939 South Michigan Street would allow R&B to block the Michigan and Main Street easements. Specifically, the setback variances R&B requested potentially allow R&B to display cars for sale within the Michigan and Main Street easement areas, park employee and customer cars in the easement areas, or even install permanent structures in the easement areas. Any of these activities would block Frick's Dairy Queen customers from entering or exiting the Dairy Queen.

In response to Frick LLC's concerns, R&B orally represented to the ABZA that R&B had no intention of blocking the Michigan and Main Street easement areas. While Frick LLC takes R&B at its word, Frick LLC requested that R&B place its oral commitments in writing and record the commitments for record. The reason being, R&B's oral commitments before the ABZA are not binding on any future owners of 3939 South Michigan. See the Indiana Supreme Court decision *Story Bed & Breakfast, LLP v. Brown County Area Plan Com'n*, 819 N.E.2d 55, 60 - 61 (Ind. 2004) (written and recorded commitments bind future owners of property). Consequently, were R&B to sell 3939 South Michigan some day, the new owners would be under no obligation to keep R&B's word to Frick LLC and, instead, would be free to block-off the Michigan and Main Street easements under variances approved by the ABZA.

The way to proscribe future owners of 3939 South Michigan from interfering with the Michigan and Main Street easement areas would be for R&B to make its oral commitments into written commitments and then record the written commitments in 3939 South Michigan's chain-of-title. That way, future owners of 3939 South Michigan would have notice that the Michigan and Main Street easement areas are "off limits" for displaying cars, parking cars, or installing structures. Written commitments confirming that R&B will not interfere with the Michigan and Main Street easements would assuage Frick LLC's concerns about R&B's plans and would resolve Frick LLC's objection to Bill No. 16-04.

NEMETH, FEENEY, MASTERS & CAMPITI, P.C.  
ATTORNEYS AT LAW

The Honorable Tim Scott, President and 1st District Council Member  
The Honorable Regina Williams-Preston, 2nd District Council Member  
The Honorable Randy Kelly, 3rd District Council Member  
The Honorable Jo M. Broden, 4th District Council Member  
The Honorable Dr. David Varner, 5th District Council Member  
The Honorable Oliver J. Davis, Chair of the Zoning & Annexation Committee and 6th District Council Member  
The Honorable Gavin Ferlic, Council Member At Large  
The Honorable Karen L. White, Council Member At Large  
The Honorable John Voorde, Council Member At Large

January 22, 2016

Page Three

In the interest of resolving this dispute, on January 7th, we provided R&B's representative, Terry Lang, with a draft of written commitments for R&B's consideration. Unfortunately, Mr. Lang has never responded to the draft, nor responded to three letters and four phone calls from us about the proposed written commitments. Consequently, Frick LLC brings its objection to you.

To be clear, Frick LLC does not wish to stand in the way of progress. But, neither can Frick LLC risk the future of its business. Without meaningful commitments from R&B which would bind future owners of 3939 South Michigan from interfering with customers' access to Frick's Dairy Queen, Frick LLC is faced with the real possibility of permanent and serious damage to its business.

We respectfully ask that you table Bill 16-04 until Frick LLC and R&B Car Company can enter into written commitments which will protect Frick's Dairy Queen. Thank you for your consideration.

Very Truly Yours,



A. Robert Masters

Enclosure

cc: Mr. Brian Frick  
Mr. Terry Lang  
Kareemah Fowler, South Bend City Clerk



NEMETH, FEENEY, MASTERS & CAMPITI, P.C.

ATTORNEYS AT LAW

PETER J. NEMETH, *of counsel*

JAMES A. MASTERS  
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*also admitted in Illinois*

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TELEPHONE: (574) 654-3722

PETER F. NEMETH (1915-1995)  
F. GERARD FEENEY (1918-2004)  
DEVERE D. GOHEEN (1912-2000)

January 25, 2016

The Honorable Tim Scott, President and 1st District Council Member  
The Honorable Regina Williams-Preston, 2nd District Council Member  
The Honorable Randy Kelly, 3rd District Council Member  
The Honorable Jo M. Broden, 4th District Council Member  
The Honorable Dr. David Varner, 5th District Council Member  
The Honorable Oliver J. Davis, Chair of the Zoning & Annexation Committee and 6th District Council Member  
The Honorable Gavin Ferlic, Council Member At Large  
The Honorable Karen L. White, Council Member At Large  
The Honorable John Voorde, Council Member At Large

*VIA HAND DELIVERY*

**RE: Bill No. 16-04: Concerning a Petition of the  
Area Board of Zoning Appeals for the Property  
Located at 3939 South Michigan Street**

**Resolution of Objection of Frick LLC,  
Owner of 3907 South Michigan Street**

Dear President Scott, Chairman Davis, and  
Members of the South Bend Common Council:

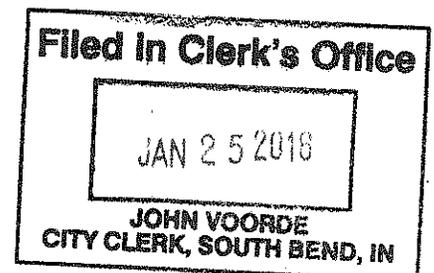
On behalf our client, Frick LLC, we write to inform you that Frick LLC and R&B Car Company have fully resolved Frick LLC's objection to Bill No. 16-04 which will come before you tonight. Accordingly, Frick LLC withdraws its objection to Bill No. 16-04. Thank you for your time and attention.

Very Truly Yours,



A. Robert Masters

cc: Mr. Brian Frick  
Mr. Terry Lang  
Kareemah Fowler, South Bend City Clerk  
R&B Car Company



*sd rectme*

*3/1*



HOLD FOR: MERIDIAN TITLE CO??

*Com-South Bend*

This instrument was prepared by and should be returned to:

J. Richard Ransel, Esq.  
THORNE • GRODNIK, LLP  
228 W. High Street  
Elkhart, IN 46514

Transfer 8112  
Taxing Unit SB  
Date 12-31-15

1534946  
RECORDED AS PRESENTED ON  
12/31/2015 11:55:50AM  
PHILLIP G. DOTSON  
ST. JOSEPH COUNTY  
RECORDER  
PGS: 3 FEES: \$21.00

*Parcel: 18-8019-080003*  
*71-08-25-102-003.000-026*

**TRUSTEE'S DEED**

THIS TRUSTEE'S DEED is made and executed this 23rd day of December, 2015, by J. Richard Ransel, Chapter 7 Trustee in Case No. 15-32458 of the United States Bankruptcy Court for the Northern District of Indiana, South Bend Division, Chapter 7, In Re: Jeffrey Lamar and Judy Marie Nickerson, whose mailing address is 228 West High Street, Elkhart, Indiana 46516 (hereinafter called the "Grantor"), to and in favor of R & B Car Company, Inc., of St. Joseph County, Indiana (hereinafter called the "Grantee"):

**WITNESSETH:**

That Grantor, pursuant to Order Approving Amended Stipulation to Sell Real Estate Free and Clear of Liens, dated December 22 2015, a copy of which is attached hereto, for and in consideration of the sum of \$10.00, in hand paid by the Grantee, the receipt of which is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, the following described property: *\* AS 'Exhibit A'*

Lot Lettered "B" as shown on the recorded Plat of J. & J.'s Replat of Lot Numbered Two (2) Chippewa Minor Subdivision, recorded September 14, 1978 in the Office of the Recorder of St. Joseph County, Indiana, as Instrument No. 7819811 and re-recorded February 1, 1979 as Document Number 7902055,

EXCEPT the West Ten (10) feet thereof.

Subject property is not the homestead of the Grantor, nor is it contiguous thereto. Grantor's address is 228 W. High Street, Elkhart, Indiana 46516.

Subject to taxes for the year 2015 and thereafter, and to easements, restrictions, and reservations of record, if any; this reference to such easements, restrictions and reservations shall not operate to reimpose the same.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

DULY ENTERED FOR TAXATION  
ST. JOSEPH CO. INDIANA

*15-31704*

Filed in Clerk's Office  
JAN 20 2016  
JOHN VOORDE  
CITY CLERK, SOUTH BEND, IN

TO HAVE AND TO HOLD, the same in fee simple forever.

IN WITNESS WHEREOF, the Grantor has executed these presents as of the day and year first above written.

*Richard Ransel, Trustee*  
Richard Ransel, Chapter 7 Trustee

in Case No. 15-32458 of the United States  
Bankruptcy Court for the Northern District of  
Indiana, South Bend Division, Chapter 7  
In Re: Jeffrey Lamar and Judy Marie Nickerson

Address: 228 W. High Street, Elkhart, IN 46516

STATE OF INDIANA )  
  )SS:  
COUNTY OF ELKHART )

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of December, 2015, by J. Richard Ransel, as Chapter 7 Trustee in Case No. 15-32458 of the United States Bankruptcy Court for the Northern District of Indiana, South Bend Division, Chapter 7, In Re: Jeffrey Lamar and Judy Marie Nickerson, who is personally known to me.



*Matthew A. Obermeyer*  
\_\_\_\_\_, Notary Public  
Residing in \_\_\_\_\_ County, Indiana

My Commission Expires \_\_\_\_\_

This deed prepared by: J. Richard Ransel, Thorne Grodnik, 228 W. High Street, Elkhart, Indiana 46516.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

Name Beverly Corbali

*Grantee & mail taxes  
3811 S. Michigan St.  
So. Bend, IN 46614*

*"Exhibit A"*

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

IN RE:  
JEFFREY LAMAR NICKERSON  
JUDY MARIE NICKERSON  
Debtor(s).

CASE NO. 15-32458  
CHAPTER 7

8

ORDER APPROVING AMENDED STIPULATION TO  
SELL REAL ESTATE FREE AND CLEAR OF LIENS

At South Bend, Indiana, in said District, on: December 22, 2015

Upon the filing of an Amended Stipulation to Sell Real Estate Free and Clear of Liens by J. Richard Ransel, duly appointed trustee herein, and respective counsel for M&T Bank, United States of America, Internal Revenue Service, Indiana Department of Revenue and the debtors and it appearing notice of said Stipulation was served upon all creditors and parties in interest and no objection thereto having been filed by the deadline to file same, and the Court being duly advised in the premises, it is hereby ORDERED that said Amended Stipulation is in all respects approved and it is further

ORDERED that the trustee is authorized to sell the real estate commonly known as 3939 S. Michigan Street, South Bend, Indiana 46614, the legal description of said real estate being as follows:

Lot Lettered "B" as shown on the recorded Plat of J. & J.'s Replat of Lot Numbered Two (2) Chippewa Minor Subdivision, recorded September 14, 1978 in the Office of the Recorder of St. Joseph County, Indiana, as Instrument No. 7819811 and re-recorded February 1, 1979 as Document Number 7902055.

EXCEPT the West Ten (10) feet thereof.

To R & B Car Company, Inc., for \$365,000.00 free and clear of liens with liens to attach to the proceeds of sale and with the proceeds of sale to be distributed in the priority specified in said Stipulation.

SO ORDERED.

Filed in Clerk's Office  
JAN 28 2016  
JOHN VOORDE  
CITY CLERK, SOUTH BEND, IN

*H.C. Dees, Jr.*  
\_\_\_\_\_  
Harry C. Dees, Jr., Judge  
United States Bankruptcy Court

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE  
MADE IN CONNECTION WITH A SPECIAL EXCEPTION OR A  
VARIANCE GRANT FROM THE TERMS OF  
THE CITY OF SOUTH BEND ZONING ORDINANCE**

**R&B Car Company, Inc.**, an Indiana corporation, owner of the real estate located in St. Joseph County, Indiana described herein ("Owner"), in accordance with and pursuant to Section 21-09.03(f) of the Zoning Ordinance of the City of South Bend, Indiana, makes the following **COMMITMENTS** concerning the use and the development of the following described parcel of real estate:

**Real Estate**

1. The commitments herein described apply to and govern the following real estate:

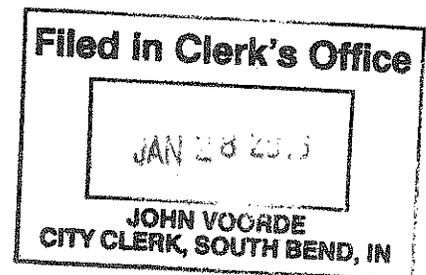
Lot Lettered "B" as shown on the recorded plat of J. & J.'s Replat of Lot Numbered Two (2) Chippewa Minor Subdivision, recorded September 14, 1978 in the Office of the Recorder of St. Joseph County, Indiana, as Instrument No. 7819811 and re-recorded February 1, 1979 as Document Number 7902055.

Tax ID: 018-8019-080003

State Parcel No: 71-08-25-102-003.000-026

Commonly Known As: 3939 South Michigan Street

which is herein referred to as the "Real Estate."



### **Ingress and Egress Easements**

2. The Real Estate is bordered on the east side by Michigan Street and on the west side by Main Street. A 25 foot wide ingress and egress easement runs along the east side of the Real Estate abutting Michigan Street. A similar 25 foot wide ingress and egress easement runs along the west side of the Real Estate abutting Main Street. The easements were created by the subdivision plat which created the lots commonly known as 3939, 3907, and 4005 South Michigan Streets.

3. The purpose of these easements is to allow the Owner of the Real Estate and the owners of the lots adjacent to the Real Estate, 3907 and 4005 South Michigan Streets, and their customers, to access the Real Estate and the adjacent lots. These easements are referred to herein, collectively, as the "Easement Areas."

### **Statement of Commitments**

4. Owner commits that:
  - A. No cars may be parked or displayed within Easement Areas;
  - B. No structures, whether permanent or impermanent, may be erected or placed within the Easement Areas; And
  - C. Owner will not cause, permit, or allow a use of any kind of the Easement Areas which would interfere with the ingress and egress of vehicular or pedestrian traffic through the Easement Areas.

These commitments are referred to herein, collectively, as the "Commitments."

#### **Duration of Commitments**

5. The Commitments shall run with the land, the above-described Real Estate, and be binding on the Owner, subsequent owners of the above-described Real Estate, and other persons acquiring an interest in the above-described Real Estate.

6. The Commitments contained in this instrument shall be effective upon their execution by Owner.

#### **Enforcement**

7. These Commitments may be enforced jointly or severally by:
- A. The City of South Bend, Indiana;
  - B. Owners of all parcels of land adjoining the Real Estate within three-hundred (300) feet from the subject property; And
  - C. The owners of Lots Lettered A, B, and C, as shown on the recorded plat of J. & J.'s Replat of Lot Numbered Two (2) Chippewa Minor Subdivision, recorded September 14, 1978 in the Office of the Recorder of St. Joseph County, Indiana, as Instrument No. 7819811 and re-recorded February 1, 1979 as Document Number 7902055.

**Recording**

8. The undersigned Owner hereby authorizes A. Robert Masters, attorney for remonstrator Frick LLC to record this instrument in the office of the Recorder of St. Joseph County, Indiana, upon execution of the instrument by Owner.

**IN WITNESS WHEREOF**, the Owner has executed this instrument this 25th day of January, 2016.

**R&B Car Company, Inc.**  
An Indiana Corporation, Owner

By:

  
\_\_\_\_\_  
Brandon Cretacci, President

[ Notary Signature to Follow on Next Page ]

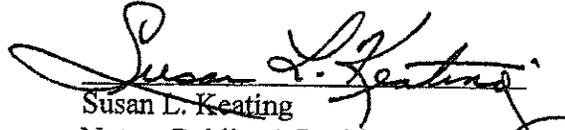
STATE OF INDIANA        )  
                                  ) SS:  
ST. JOSEPH COUNTY     )

Before me, a Notary Public in and for said County and State, personally **Brandon Cretacci**, President of **R&B Car Company, Inc.**, an Indiana corporation, who, having been duly sworn, executed and acknowledged execution of the foregoing Commitments as a voluntary act and deed binding upon the corporation in all respects and that any representation contained therein are true.

In Witness Whereof, I have hereunto set my hand and official seal this January 25, 2016.

My Commission Expires:  
September 17, 2017



  
Susan L. Keating  
Notary Public, A Resident of  
St. Joseph County, Indiana

Owner's Address/Tax Bill Address:  
3811 South Michigan Street  
South Bend, Indiana 46614

This instrument prepared by A. Robert Masters (#30015-71), NEMETH, FEENEY, MASTERS & CAMPITI, P.C., 350 Columbia Street, South Bend, Indiana 46601; Telephone: (574) 234-0121.

I affirm under the penalties for perjury that I have taken reasonable care to redact each Social Security number in this document unless required by law. /s/ A. Robert Masters





**The South Bend Common Council**

4<sup>th</sup> Floor County-City Building  
227 West Jefferson Boulevard  
South Bend, Indiana 46601-1830  
274.235.9321

Fax: 574.235.9173

TDD: 574.235.5567

February 2, 2016

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

**Re: Special Elbel Advisory Committee**

Dear Council Members:

In the interest of assuring the residents and business owners of the City of South Bend, we believe that a special advisory committee should be established to discuss all viable options for the 313 acres on which Elbel Golf Course is located.

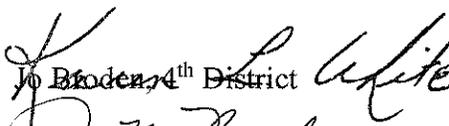
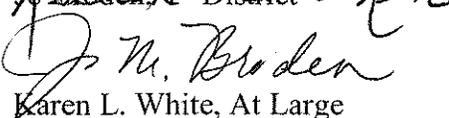
The final decision on the future of this land should be based on which uses are in the best interest of our city. It should be based on a review of all relevant facts and provide opportunities for the public to have their voices heard. Transparency and engagement in government builds strong and more vibrant partnerships.

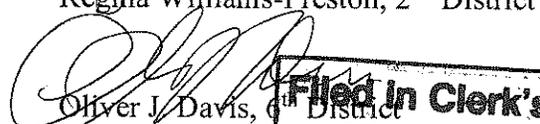
We believe that the attached proposed Resolution would be a step toward carrying out the Common Council's Mission:

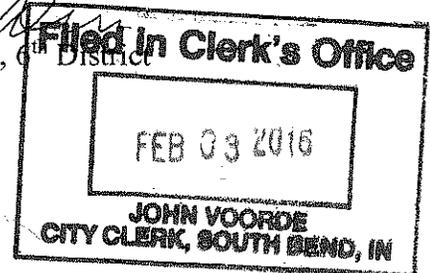
*"To make certain that our City Government is always responsive to the needs of our residents and that the betterment of South Bend is always our highest priority".*

We recommend that the Council's Parks, Recreation, Cultural Arts & Entertainment Committee hear our proposal next Monday. We look forward to discussing this important topic with you.

Most sincerely,

  
Jo Broden, 4<sup>th</sup> District  
  
Karen L. White, At Large

  
Regina Williams-Preston, 2<sup>nd</sup> District  
  
Oliver J. Davis, 6<sup>th</sup> District



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

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, ESTABLISHING A 5-MEMBER ADVISORY SPECIAL COMMITTEE TO STUDY  
AND RECOMMEND ALL REASONABLE AND VIABLE OPTIONS FOR THE PROPERTY  
KNOWN AS THE ELBEL GOLF COURSE AS A SHORT AND LONG TERM ASSET OF THE  
CITY OF SOUTH BEND, INDIANA**

*Whereas*, the South Bend Common Council recognizes that approximately 313 acres of land have been developed into the Elbel Golf Course, named after Robert Elbel, who served on the City's Board of Park Commissioners from 1910 to 1937, was opened to the public in 1965; and

*Whereas*, in 2014, the South Bend Board of Park Commissioners approved the City of South Bend 5-Year mast Plan 2014-2018 which did not list Elbel Golf Course among the "possible candidates of property reduction" listed on page 127 of the Plan under the title "Analysis of the Department Facilities and Programs in Relationship to the Project Funds to make the Department a Sustainable Entity; and

*Whereas*, on December 16, 2015, the City's Board of Park Commissioners adopted Resolution No. 003-2015 which included the following provisions:

- "1. The Park Board hereby deems Elbel as not required for the future operation of the Parks Department; and
2. The Park Board accepts the average redevelopment appraised value of Elbel as \$1,295,000.00; and
3. The Park Board accepts the average golf course appraised value of Elbel as \$747,500.00; and
4. The Park Board hereby recommends to Council the sale of Elbel and shall act only upon Council's approval of the sale of Elbel"; and

*Whereas*, Park Board Resolution No. 003-2015 was filed as an attachment to a 2-page Bill, and 2-page cover letter with the Office of the City Clerk on January 6, 2015, which contained the following title:

"An Ordinance of the Common Council of the City of South Bend, Indiana,  
Approving the Disposition of Real Property Located at 26595 Auten Road,  
South Bend, Indiana 46628"

and was assigned by the Clerk's Office Bill No. 01-16; and

*Whereas*, Bill No. 01-16 had first reading before the South Bend Common Council on January 11, 2016, and was referred to the Council's Parks, Recreation, Cultural Arts & Entertainment Committee and set for public hearing on February 8, 2016; and

*Whereas*, the Council's Parks, Recreation, Cultural Arts & Entertainment Committee scheduled a Committee meeting on Bill No. 01-16 on January 25, 2016, which began at 4:40 p.m. where following the formal presentation by a representative of the City Administration, one (1) person spoke in favor and twenty-three (23) persons spoke in opposition, with the Committee meeting being adjourned at

6:26 p.m., in light of the Council's regularly scheduled Common Council meeting beginning at 7:00 p.m.; and

*Whereas*, under Unfinished Business at the January 25, 2016 South Bend Common Council meeting, a motion was properly made, seconded and carried that Bill No. 01-16 previously set for public hearing for February 8, 2016, be reset to February 22, 2016; with six (6) members of the public speaking under Privilege of the Floor regarding their Elbel Golf Course concerns: and

*Whereas*, members of the South Bend Common Council have been contacted by many members of the public inquiring about the proposed disposition of Elbel Golf Course, who along with members of the Common Council have requested information from the City Administration on this proposed real estate transaction; and

*Whereas*, in 1982, the South Bend Common Council passed Ordinance No. 7108-82 which included in Section 6 that:

“The Public Parks Department shall operate under provisions of IC 36-10-4, pursuant to IC 36-10-4-1(a)”

which has been codified into the *South Bend Municipal Code* as Sec. 2-137; and

*Whereas*, *Indiana Code* § 36-10-4 referenced above is entitled “Parks Department in Certain Cities” with *Indiana Code* § 36-10-4-9 setting forth various duties and responsibilities of the Board of Park Commissioners and *Indiana Code* § 36-10-4-18 sets forth duties and responsibilities of the Board and the “city legislative body”.

*Now, Therefore, be it resolved, by the Common Council of the City of South Bend, Indiana, as follows:*

Section I. The Common Council welcomes public input and transparency in government, especially with regard to public assets which are dedicated to the public good.

Section II. The Common Council establishes a 5-member Special Elbel Advisory Committee whose membership shall be established no later than Monday, February 15, 2016, and shall be governed by the following regulations:

A. Membership:

1. One (1) current member of the City's Board of Park Commissioners;
2. One (1) current City Administrator selected by the Mayor; and
3. Three (3) members from the South Bend Common Council, with at least one (1) being a current member of the Parks, Recreation, Cultural Arts & Entertainment Committee.

B. Quorum:

Three (3) members of the Committee shall constitute a quorum.

C. Duties/Responsibilities:

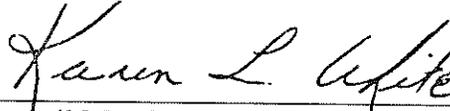
- a. Hold meetings consistent with the Indiana Open Door Law [*Indiana Code 5-14-1.5*].
  - b. Develop strategies and action plans based on verifiable data addressing all reasonable and viable short and long-term options on the feasibility of the 313 acres currently used as Elbel Golf Course.
  - c. Receive input from the public, from resource persons who may be experienced in financial, real estate and fund-development projects, private and/or sector golf operations with present or past experience, health/wellness, ecology, and from other interested parties such as “Elbel for Everyone”.
  - d. Develop such information in a format which is sent to the Office of the City Clerk for simultaneous distribution to the Common Council, the Board of Park Commissioners and the Mayor within forty-five (45) days of their first meeting as an advisory committee, and then posted on the City of South Bend’s governmental website.
  - e. Share any other additional relevant data and relevant information which supports each advisory recommendation.
  - f. Send representative(s) of the Special Elbel Advisory Committee to any public meeting of the Board of Park Commissioners and the South Bend Common Council to discuss their advisory recommendations in a timely and well-documented manner.
- D. Support Staff: The Office of the City Clerk shall provide needed clerical services to the Special Elbel Advisory Committee, including but not limited to preparing and sending notices of all meetings of the Committee, taking meeting minutes and making such minutes and any document and/or handouts discussed at such meetings publicly available, making copies of documents needed by the Committee, and other related clerical support.

Section III. Upon the approval of this Resolution by the Common Council and during the forty-five (45) day period referenced in Section II of this Resolution, neither the Board of Park Commissioners nor the South Bend Common Council shall take any formal action affecting the disposition of property commonly known as Elbel Golf Course.

Section IV. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.



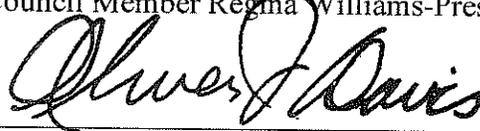
\_\_\_\_\_  
Council Member Jo Broden, 4<sup>th</sup> District Council Member



\_\_\_\_\_  
Council Member Karen L. White, Council Member at Large



\_\_\_\_\_  
Council Member Regina Williams-Preston, 2<sup>nd</sup> District

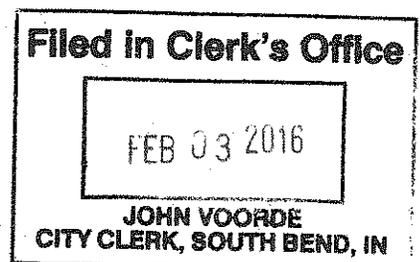


\_\_\_\_\_  
Council Member Oliver J. Davis, 6<sup>th</sup> District Council Member

PRESENTED

NOT APPROVED

ADOPTED





**Construction Services**

*Architectural & General Contracting Specialists*

Bus 219-465-7555  
Fax 219-464-2562  
[www.chesterinc.com](http://www.chesterinc.com)

January 21, 2016

City of South Bend  
Common Council  
227 West Jefferson Boulevard  
South Bend, IN 46601

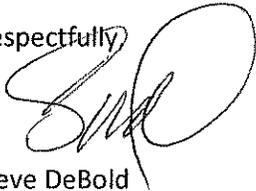
RE: Alley Vacation, 2910 Mishawaka Avenue

Common Council Members:

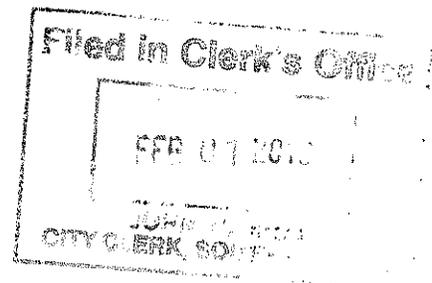
The alley to be vacated is the first north/south alley west of 29<sup>th</sup> Street from Mishawaka Avenue to the first East/West alley for a distance of 130 feet and a width of 16 feet. Said alley being part of Eggleston's 1<sup>st</sup> Addition, City of South Bend, Portage Township, St. Joseph County, Indiana.

The purpose of the vacation of the real property is to increase the onsite parking and also to interconnect the east property which is parking to the west property which is the business in which it will serve.

Respectfully



Steve DeBold



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

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

The alley to be vacated is the first North/South alley West of 29<sup>th</sup> Street from Mishawaka Avenue to the first East/West alley for a distance of 130 feet and a width of 16 feet. Said alley being a part of Eggleston's 1<sup>st</sup> Addition, City of South Bend, Portage Township, St. Joseph County, Indiana.

**STATEMENT OF PURPOSE AND INTENT**

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

The following Ordinance vacates the above described public property.

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

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

The alley to be vacated is the first North/South alley West of 29<sup>th</sup> Street from Mishawaka Avenue to the first East/West alley for a distance of 130 feet and a width of 16 feet. Said alley being a part of Eggleston's 1<sup>st</sup> Addition, City of South Bend, Portage Township, St. Joseph County, Indiana.

hereby determines that it is desirable to vacate said property.

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

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

71-09-17-201-001.000-026, 71-09-17-128-005.000-026

SECTION IV. The purpose of the vacation of the real property is to increase the onsite parking and also to interconnect the east property which is parking to the west property which is the business in which it will serve.

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

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

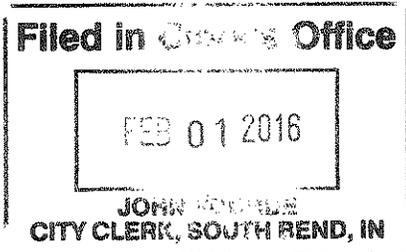
Attest:

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

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

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

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



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

15  
PUBLIC HEARING  
3RD READING  
NOT APPROVED  
REFERRED  
PASSED *[initials]*

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

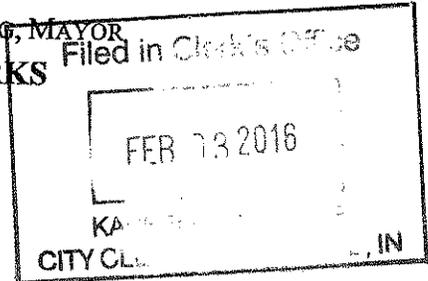


PHONE 574/235-9251  
FAX 574/235-9171

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR  
**BOARD OF PUBLIC WORKS** Filed in Clerk's Office

October 13, 2015

Chester Arch  
Family Pet Health Center  
2910 Mishawaka Ave  
South Bend, IN 46615



RE: Alley Vacation – First North/South Alley South of Mishawaka Avenue to the First East/West Alley between 28<sup>th</sup> and 29<sup>th</sup> Street (Preliminary Review)

Dear Mr. Arch:

The Board of Public Works, at its October 13, 2015, meeting, reviewed comments by the Engineering Division, Area Plan Commission, Community Investment, Fire Department, Police Department, and the Solid Waste Division regarding your request to vacate the above alley. The following comments and recommendations were submitted:

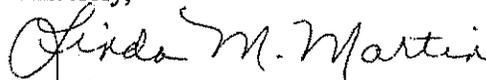
Area Plan stated that the vacation would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous. The vacation would not make access to the lands of the aggrieved person by means of public way difficult or inconvenient. The vacation 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. Solid Waste stated the vacation would hinder trash collection in the alley. Engineering stated the request is to vacate a 16' wide alley, which would terminate the alley at a 12' wide perpendicular section, but 14' is the narrowest alley Engineering will recommend. They recommended that the requestor provide for vehicular turning by increasing the width of the perpendicular alley circuit.

Therefore, the Board of Public Works submitted a favorable recommendation for the vacation of this alley subject to working out the turning radius issues with the City Engineering Department.

**\*\*You will need an executed Cross Access Agreement with your neighbors.**

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

Sincerely,

  
Linda M. Martin, Clerk



**INTER-OFFICE MEMORANDUM  
BOARD OF PUBLIC WORKS**

**DATE SENT: 9/24/2015**

**TO:** Pete Kaminski, Street Department  
✓ Mike Bronstetter, Solid Waste  
✓ Corbitt Kerr, Engineering Department  
Jitin Kain, Community Investment  
✓ Federico Rodriguez, Fire Department  
✓ Larry Magliozzi, Area Plan Commission ([lmagloz@co.st-joseph.in.us](mailto:lmagloz@co.st-joseph.in.us) or 235-9813 fax)  
✓ Gene Eyster, Police Department  
Phil Griffin, NIPSCO ([pmgriffin@nisource.com](mailto:pmgriffin@nisource.com)) (FYI Only)  
Linda M. Martin, Clerk *LM*

**FROM:**

**SUBJECT:** **REQUEST FOR RECOMMENDATION – ALLEY VACATION**

---

**APPLICANT:** **Family Pet Health Center**

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**LOCATION:** **First N/S Alley South of Mishawaka Avenue to the first E/W Alley between 28<sup>th</sup> and 29<sup>th</sup> St.**

---

**DATE DUE:** **October 6, 2015**

---

**FAX OR E-MAIL TO:** **235-9171 / [lmartin@southbendin.gov](mailto:lmartin@southbendin.gov)**

**PLEASE MAKE YOUR RECOMMENDATIONS BASED ON THE FOLLOWING  
IC 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.

**COMMENTS:**

---

By \_\_\_\_\_ Date \_\_\_\_\_



## Elizabeth Horvath

---

**From:** Eugene Eyster  
**Sent:** Thursday, September 24, 2015 3:56 PM  
**To:** Elizabeth Horvath; Pete Kaminski; Michael Bronstetter; Patrick C. Kerr; Jitin Kain; Federico Rodriguez; Larry Magliozzi  
**Subject:** RE: Alley Vacation - Family Pet Health Center

Ms. Horvath,  
The Police Department would have no objection to this request.

Lt. E. Eyster

**From:** Elizabeth Horvath  
**Sent:** Thursday, September 24, 2015 3:12 PM  
**To:** Pete Kaminski <pkaminsk@southbendin.gov>; Michael Bronstetter <mbronste@southbendin.gov>; Patrick C. Kerr <pckerr@southbendin.gov>; Jitin Kain <jkain@southbendin.gov>; Federico Rodriguez <frodrigu@southbendin.gov>; Larry Magliozzi <LMAGLIOZ@co.st-joseph.in.us>; Eugene Eyster <eeyster@southbendin.gov>  
**Subject:** Alley Vacation - Family Pet Health Center

Please provide your recommendations.

*Lizzy Horvath*

Secretary

Department of Public Works

227 W. Jefferson Blvd., Suite 1316

South Bend, IN 46601

574-235-3168

[lhovath@southbendin.gov](mailto:lhovath@southbendin.gov)



## Elizabeth Horvath

---

**From:** Federico Rodriguez  
**Sent:** Friday, September 25, 2015 9:38 AM  
**To:** Elizabeth Horvath  
**Subject:** RE: Alley Vacation - Family Pet Health Center

Favorable S.B.F.D.



**Federico (Chico) Rodriguez**  
Fire Marshal  
**Office: (574) 235-7564**  
**Mobile: (574) 876-6734**  
1222 S. Michigan Street  
City of South Bend, In 46601  
[frodrigu@southbendin.gov](mailto:frodrigu@southbendin.gov)

**From:** Elizabeth Horvath  
**Sent:** Thursday, September 24, 2015 3:12 PM  
**To:** Pete Kaminski <[pkaminsk@southbendin.gov](mailto:pkaminsk@southbendin.gov)>; Michael Bronstetter <[mbronste@southbendin.gov](mailto:mbronste@southbendin.gov)>; Patrick C. Kerr <[pckerr@southbendin.gov](mailto:pckerr@southbendin.gov)>; Jitin Kain <[jkain@southbendin.gov](mailto:jkain@southbendin.gov)>; Federico Rodriguez <[frodrigu@southbendin.gov](mailto:frodrigu@southbendin.gov)>; Larry Magliozzi <[LMAGLIOZ@co.st-joseph.in.us](mailto:LMAGLIOZ@co.st-joseph.in.us)>; Eugene Eyster <[eeyster@southbendin.gov](mailto:eeyster@southbendin.gov)>  
**Subject:** Alley Vacation - Family Pet Health Center

Please provide your recommendations.

*Lizzy Horvath*

Secretary

Department of Public Works

227 W. Jefferson Blvd., Suite 1316

South Bend, IN 46601

574-235-3168

[lhovath@southbendin.gov](mailto:lhovath@southbendin.gov)



**Elizabeth Horvath**

---

**From:** Matthew Chappuies <mchappui@co.st-joseph.in.us>  
**Sent:** Friday, September 25, 2015 9:44 AM  
**To:** Elizabeth Horvath  
**Subject:** Alley Vacation  
**Attachments:** Alley Vacation - Family Pet Health Center.pdf

Lizzy,

APC recommends favorably.

Sincerely,

Matthew P. Chappuies, Planner  
Area Plan Commission  
(574) 235-9571



INTER-OFFICE MEMORANDUM  
BOARD OF PUBLIC WORKS

TO: Pete Kaminski, Street Department  
Mike Bronstetter, Solid Waste  
Corbitt Kerr, Engineering Department  
Jitin Kain, Community Investment  
Federico Rodriguez, Fire Department  
Larry Magliozzi, Area Plan Commission ([lmaglioz@co.st-joseph.in.us](mailto:lmaglioz@co.st-joseph.in.us) or 235-9813 fax)  
Gene Eyster, Police Department  
Phil Griffin, NIPSCO ([pmgriffin@nisource.com](mailto:pmgriffin@nisource.com)) (FYI Only)  
Linda M. Martin, Clerk *LM*

DATE SENT: 9/24/2015

FROM: REQUEST FOR RECOMMENDATION – ALLEY VACATION

SUBJECT: Family Pet Health Center

APPLICANT: First N/S Alley South of Mishawaka Avenue to the first E/W Alley between 28<sup>th</sup> and 29<sup>th</sup> St.

LOCATION: October 6, 2015

DATE DUE: 235-9171 / [lmartin@southbendin.gov](mailto:lmartin@southbendin.gov)

FAX OR E-MAIL TO:

PLEASE MAKE YOUR RECOMMENDATIONS BASED ON THE FOLLOWING  
IC 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.

COMMENTS:

THIS VACATION WOULD HINDER SOLID WASTE FROM ALLEY COLLECTION IN THE ALLEY BETWEEN 28TH AND 29TH

By *Mike Bronstetter*

Date 9/28/15

## **Elizabeth Horvath**

---

**From:** Patrick C. Kerr  
**Sent:** Sunday, October 04, 2015 8:46 PM  
**To:** Elizabeth Horvath; Tony Molnar; Carl Littrell  
**Subject:** RE: Alley Vacation - Family Pet Health Center

The requestor is asking to vacate a 16' wide alley, which would terminate the alley at a 12' wide perpendicular alley section. Engineering recommends against vacating this alley unless the requestor can provide for vehicular turning and account for the change in width to the narrower alley. 14' is the narrowest alley Engineering will recommend, so it recommends that the requestor increase the width of the perpendicular alley circuit.

**From:** Elizabeth Horvath  
**Sent:** Thursday, September 24, 2015 3:12 PM  
**To:** Pete Kaminski <pkaminsk@southbendin.gov>; Michael Bronstetter <mbronste@southbendin.gov>; Patrick C. Kerr <pckerr@southbendin.gov>; Jitin Kain <jkain@southbendin.gov>; Federico Rodriguez <frodrigu@southbendin.gov>; Larry Magliozzi <LMAGLIOZ@co.st-joseph.in.us>; Eugene Eyster <eeyster@southbendin.gov>  
**Subject:** Alley Vacation - Family Pet Health Center

Please provide your recommendations.

*Lizzy Horvath*

Secretary

Department of Public Works

227 W. Jefferson Blvd., Suite 1316

South Bend, IN 46601

574-235-3168

[lhovath@southbendin.gov](mailto:lhovath@southbendin.gov)

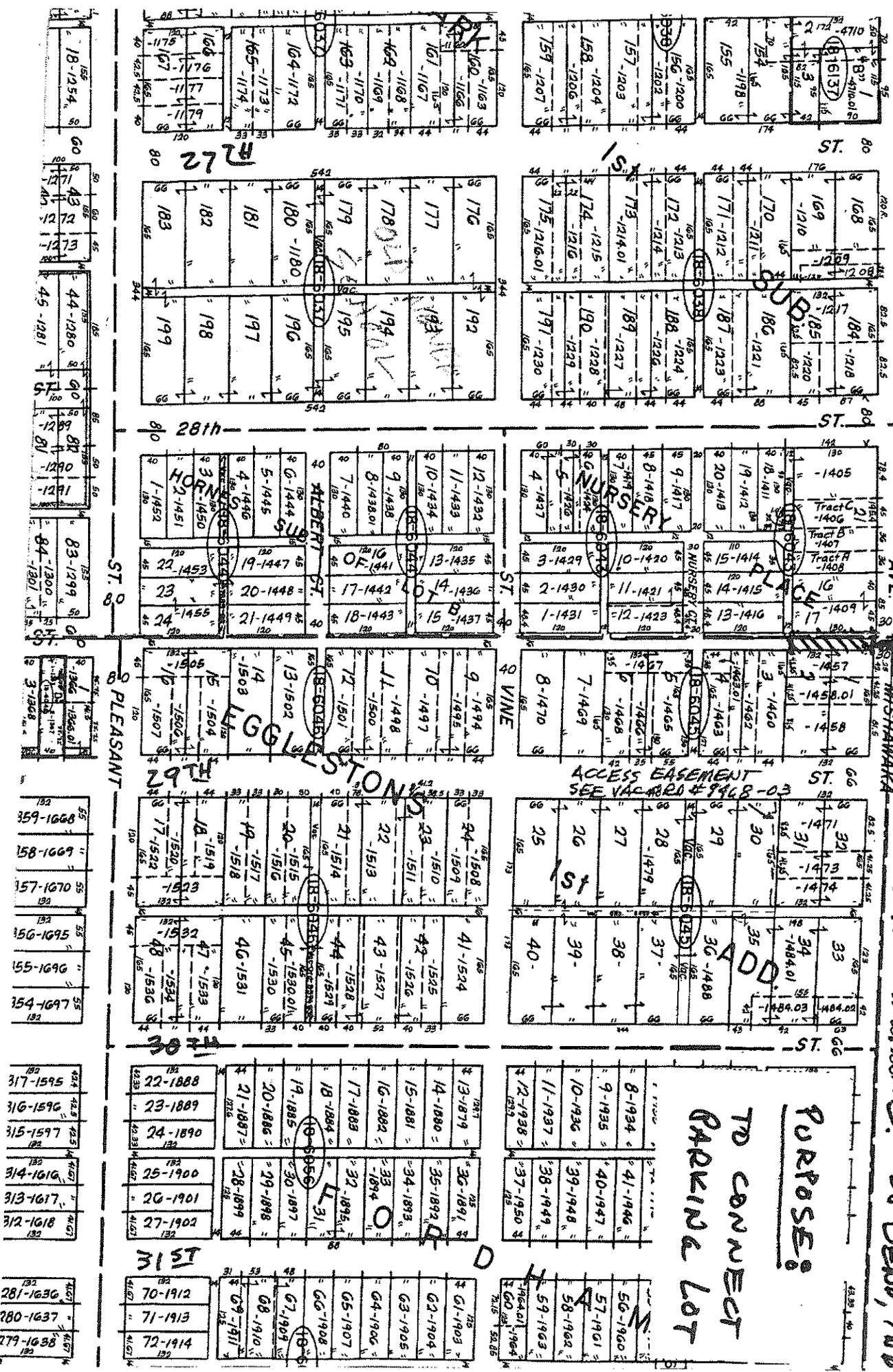


**CONTACT:**  
**CHESTER ARCH LUCEY TO BE LOCATED**  
**219-4652-9555**

**PETITIONER:**  
**FAMILY PET HEALTH CENTER / 2910 MISHAWANCA - 50 BEND, 110**

**OLD RIVER PARK FUTURE**

**PURPOSE:**  
**TRD CONNECT**  
**PARKING LOT**



272

281h

29th

30th

31st

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

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

DATE: 1/21/2016

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

A. THE ALLEY DESCRIBED AS:

NORTH/SOUTH ALLEY WEST OF 29th St. FROM MISHAWAKA AVE. TO THE FIRST  
EAST/WEST ALLEY FOR A DISTANCE OF 130 FEET AND A WIDTH OF 16 FEET.  
SAID ALLEY BEING A PART OF EGGLESTON'S 1st ADDITION, CITY OF  
SOUTH BEND, PORTAGE TOWNSHIP, St. JOSEPH COUNTY, INDIANA.

B. THE STREET DESCRIBED AS:

N/A

NAME (signed & printed)

ADDRESS

LOT #

JOHN BOGNAR  
WENDY BOGNAR

2910 MISHAWAKA AVENUE

~~16 & 17~~  
16 & 17  
71-09-17-128-005.000-  
026

2920 MISHAWAKA AVENUE

1 & 2

71-09-17-201-001.000-026

CONTACT PERSON (S)

NAME:

STEVE DEBOLD - CHESTER, INC.

ADDRESS:

555 EASTPORT CENTRE DR.

PO BOX 2237

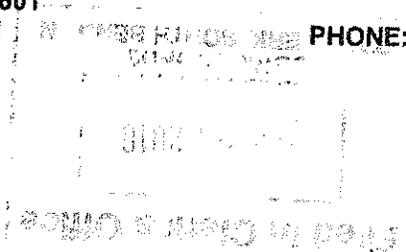
VALPARAISO, IN 46384

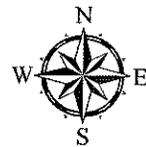
219-465-7555

RETURN TO:

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

PHONE:





Alley Vacation  
2910 Mishawaka Avenue

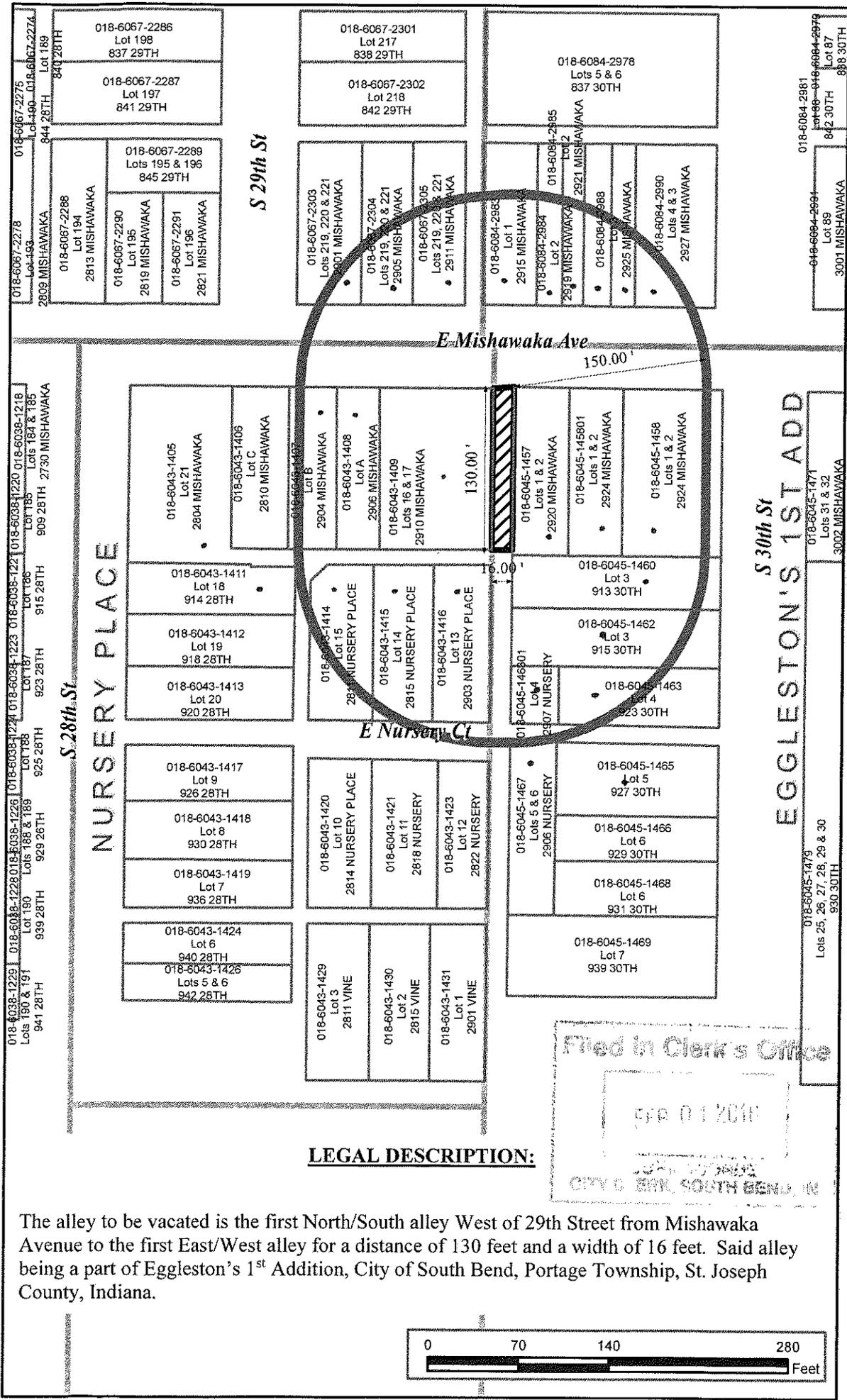
City of South Bend  
Dept. of Public Works  
227 W Jefferson Blvd. #1316  
South Bend, IN 46601  
Phone: (574) 235-9251  
Fax: (574) 235-9171



Project No.

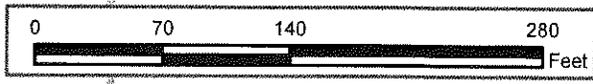
Page No.

Date



**LEGAL DESCRIPTION:**

The alley to be vacated is the first North/South alley West of 29th Street from Mishawaka Avenue to the first East/West alley for a distance of 130 feet and a width of 16 feet. Said alley being a part of Eggleston's 1<sup>st</sup> Addition, City of South Bend, Portage Township, St. Joseph County, Indiana.



Filed in Clerk's Office  
CITY OF SOUTH BEND, INDIANA





LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

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

February 3, 2016

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

RE: APC#2744-16 – Rezoning and annexation for 22027 S.R. 23

Dear Council Members:

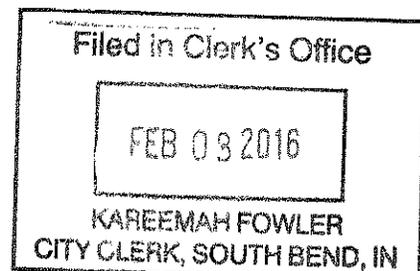
Enclosed is an Ordinance for the proposed Zone Map Amendment at the above referenced location. Please include the attached Ordinance on the Council agenda for first reading at your February 8 Council meeting, and set it for public hearing at your April 11 Council meeting. The petition is tentatively scheduled for public hearing at the March 15 Area Plan Commission meeting. The recommendation of the Area Plan Commission will be forwarded to your office by noon on the day following the public hearing.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Chappuies'.

Matthew P. Chappuies  
Planner



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

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 IN PORTAGE TOWNSHIP, CONTIGUOUS THEREWITH; COUNCILMANIC DISTRICT NO. 6, FOR 22027 STATE ROAD 23, SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

PETITIONER SEEKING TO ANNEX AND REZONE PROPERTY FROM A: AGRICULTURAL DISTRICT IN UNINCORPORATED ST. JOSEPH COUNTY TO CB COMMUNITY BUSINESS DISTRICT WITHIN THE CITY OF SOUTH BEND FOR A GAS STATION, CONVENIENCE STORE, AND CB USES.

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

SECTION 1. That the following described real estate 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 THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 37 NORTH, RANGE 2 EAST, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 21, 421.68 FEET NORTH OF THE CENTERLINE OF STATE ROAD 23; THENCE SOUTH 88°24' WEST, 768.80 FEET; THENCE SOUTH, 795.81 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 23; THENCE SOUTHEASTERLY, 175 FEET, MORE OR LESS TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF STATE ROAD 23; THENCE NORTHEASTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY, 794 FEET, MORE OR LESS, TO A POINT ON THE EAST LINE OF SAID EAST HALF; THENCE NORTH ALONG SAID EAST LINE, 470 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 12.8 ACRES, MORE OR LESS AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT-OF-WAY 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. 9495-04, as amended which ordinance is commonly known as the Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby is amended in order that the zoning classification of the above described real estate, with the exception of all adjacent right-of-ways, in the City of South Bend, St. Joseph County, Indiana be and the same is hereby established as CB COMMUNITY BUSINESS DISTRICT, provided, however, that the required established, and stated procedures for review of such zoning classification by the Area Plan Commission have been fully satisfied.

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.

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

Attest:

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

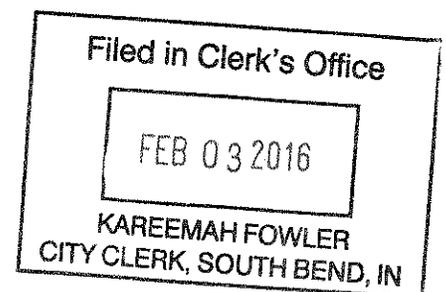
Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

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

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

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

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



PETITION FOR ANNEXATION AND ZONE MAP AMENDMENT  
City of South Bend, Indiana

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

- 1) The property sought to be rezoned is located at:  
*22027 State Road 23  
South Bend, IN 46619*
- 2) The property Tax Key Number(s) is/are: *017-1012-0310*
- 3) Legal Descriptions: *E Ne Ex S Of Hwy & Ex Ne Cor & Ex Pt Sold Cont 10 Ac More Or Less Sec 21 37 2e*
- 4) Total Site Area: *9.67 acres +/-*
- 5) Name and address of property owner(s) of the petition site:  
*Bruno Cataldo and Rosa Cataldo  
22027 Liberty Highway(SR 23)  
South Bend, IN46619  
574-532-0762  
johnbrunospizza@gmail.com*

Name and address of additional property owners, if applicable: *N/A*

- 6) Name and address of contingent purchaser(s), if applicable:  
*N/A*

Name and address of additional property owners, if applicable: *N/A*

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

From: *A: Agricultural District (County)* Additional zoning district, if applicable

To: *CB Community Business District*

- 8) This rezoning is requested to allow the following use(s): *Gas Station with C-Store and Community Business Uses*

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

- 1) *List each variance being requested. Contact Commission Staff if you need assistance.*
- 2) A statement on how each of the following standards for the granting of variances is met:
  - (a) The approval will not be injurious to the public health, safety, morals and general welfare of the community: *N/A*
  - (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: *N/A*
  - (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: *N/A*

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

- 1) A detailed description and purpose of the Special Use(s) being requested : *None*
  
- 2) A statement on how each of the following standards for the granting of a Special Use is met:
  - (a) The proposed *use* will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare: *N/A*
  
  - (b) The proposed *use* will not injure or adversely affect the *use* of the adjacent area or property values therein: *N/A*
  
  - (c) The proposed *use* will be consistent with the character of the *district* in which it is located and the land uses authorized therein; and: *N/A*
  
  - (d) The proposed use is compatible with the recommendations of the City of South Bend Comprehensive Plan. *N/A*

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

CONTACT PERSON:

*Brian McMorrow*  
*Abonmarche Consultants, Inc. - 750 Lincoln Way East*  
*South Bend, IN 46601*  
*574-232-8700 ext 22*  
*bmcorrow@abonmarche.com*

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

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

*Proza Catala*

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ATTACHMENT - PETITION FOR ZONE MAP AMENDMENT and ANNEXATION

22027 LIBERTY HIGHWAY (SR 23) - PARCEL NO. 017-1012—0310 (9.67 ACRES +/-)

- (a) The proposed zone change will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare because:
  - a. Local ordinances regulate the development of real property and the use of property in manner which is consistent with sound planning and design principles and in a harmonious way with its neighbors. The City will have an opportunity to review detailed designs at the time an application is made for site plan approval.
- (b) The proposed zone change will not injure or adversely affect the use of the adjacent area or property values therein because:
  - a. The area is about to evolve from rural and agricultural in character to one that is economically vibrant.
- (c) The proposed zone change will be consistent with the character of the district in which it is located and the land uses authorized therein because:
  - a. The proposed uses are compatible with adjacent industrial uses along New Energy Drive and the new economic real estate development being planned by the Pokagon Band of Potawatomi Indians and supported by the City of South Bend Common Council on April 13, 2015 (Resolution No. 15-22).
- (d) The proposed zone change is compatible with the recommendations of the City of South Bend Comprehensive Plan because:
  - a. The Plan recognized that there was untapped land capacity available for development in areas just outside the city limits (Map 3.2, page 21).
  - b. The Plan recognized that the Southwest Quadrant had already seen development for economic activity on lands formerly agricultural land like (page 24) and, as illustrated on Map 3.2, the conversion of the subject property from agricultural land to developed land was envisioned.



Department of  
**Community Investment**

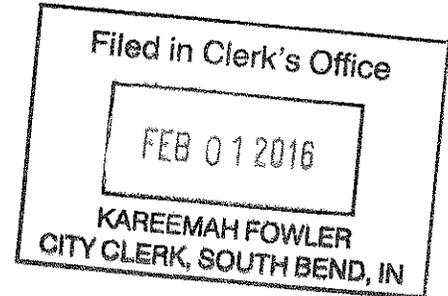
**Memorandum**

Monday, February 1, 2016

**TO:** Mike Bronstetter, Environmental Services (Solid Waste)  
Aladean DeRose, Legal  
Ed Herman, Water Works  
Corbitt Kerr, Engineering  
Larry Magliozzi, Area Plan Commission  
John Murphy, Administration & Finance  
Federico Rodriguez, Fire  
Lt. Christopher Voros, Police  
Randy Wilkerson, Code Enforcement

**FROM:** Michael Divita, Planner

**SUBJECT:** Request for Service Reports  
**Cataldo Annexation Area**  
(100% Voluntary Annexation of Contiguous Property)



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A petition for voluntary annexation of the Cataldo Annexation Area has been received by the City and will receive First Reading on February 8, 2016.

The proposed Annexation Area consists of one parcel (22027 Liberty Highway/State Road 23) and adjacent right-of-way totaling 12.8 acres and is located on the northwest side of State Road 23 northeast of the St. Joseph Valley Parkway. The area currently contains one house on a large wooded lot and is zoned agricultural in the County. With the annexation, the petitioner seeks rezoning to "CB" Community Business District to permit a gas station with a convenience store and other commercial uses.

**Please complete the Service Report** addressing how your Department will or can provide City services to the proposed Annexation Area, and return it to me **by February 10, 2016**. This deadline must be met so that the Legal Department can prepare the necessary resolutions in time to be considered by the Board of Public Works and the Board of Public Safety. A fact sheet, map, and an annexation schedule are attached to assist you in your review.

If you have any questions, please contact me at 235-5843 or [mdivita@southbendin.gov](mailto:mdivita@southbendin.gov).

**cc:** Mayor Pete Buttigieg  
James Mueller, Chief of Staff, Office of the Mayor  
Members, South Bend Common Council  
Kathy Cekanski-Farrand, Attorney for the Common Council  
Scott Ford, Executive Director, Community Investment  
Kareemah Fowler, City Clerk  
Alkeyna Aldridge, Deputy City Clerk  
John McNamara, County Surveyor



A. Annexation Criteria (Minimum)	Analysis	Criteria Met?
1. Contiguity: At least 1/8 (12.5%) <i>and</i>	28.8%	Yes
2. 100% of owners signed petition <i>and</i>	100%	Yes
3. a. essential City services are/can be provided		Yes
b. City is able to provide services		Yes
c. territory is contiguous		Yes

**B. General**

Location: Northwest of State Road 23, about 1500' northeast of the St. Joseph Valley Parkway

Address(es): 22027 Liberty Highway (State Road 23)

Tax Key Number(s): 17-1012-0310

Subdivision(s) of Record: None

Acres: 12.8

Current Net Assessment: \$189,100

Current Population: Unknown  
Proposed Population: 0

Current Land Use: Single-Family Residential  
Proposed Land Use: Gas Station with Convenience Store, Other Commercial

Current Zoning: "A" Agricultural District, St. Joseph County  
Proposed Zoning: "CB" Community Business District, City of South Bend

Council District: 6<sup>th</sup> Council District

Scheduled Effective Date: June 5, 2016

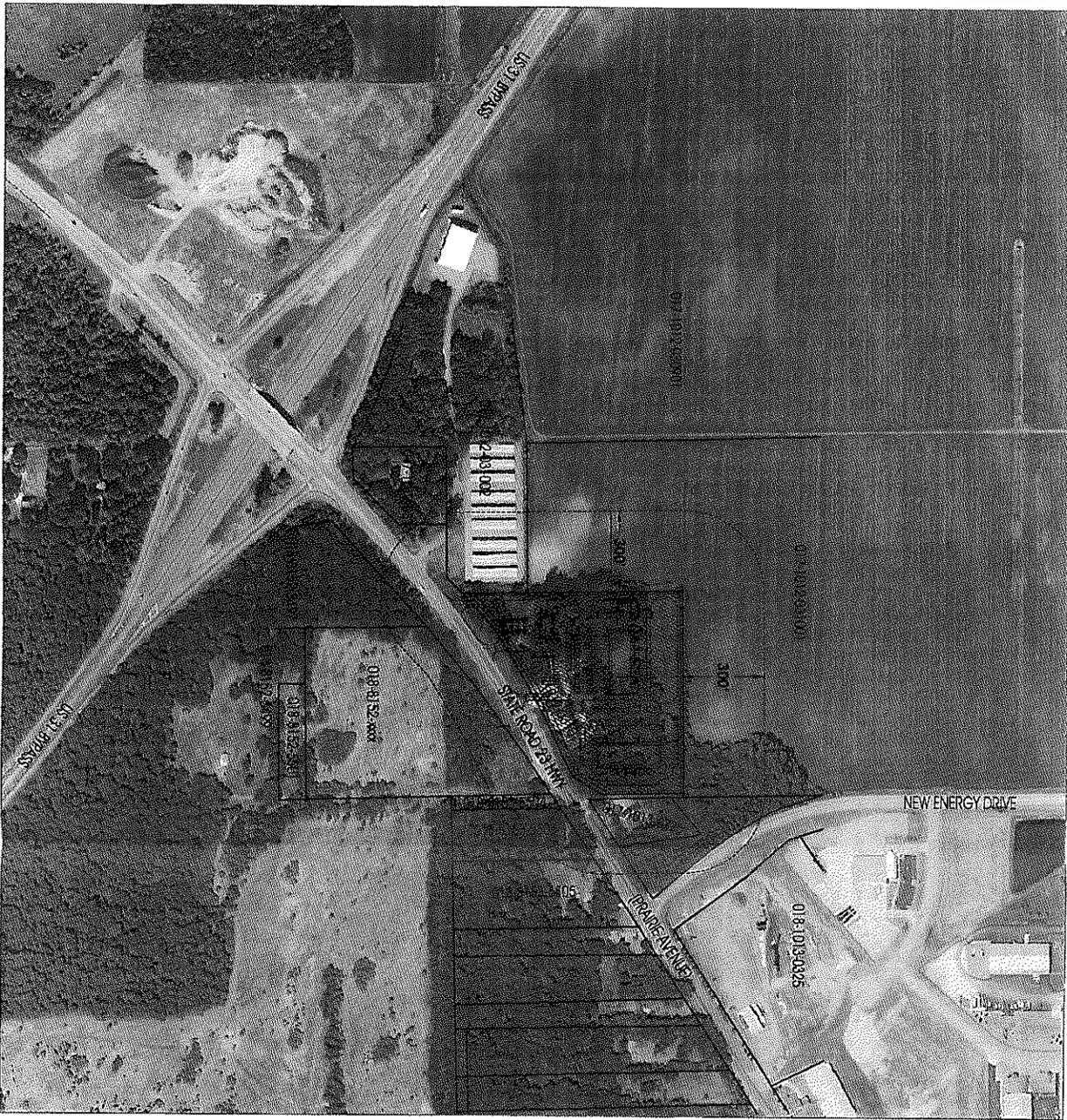
Comments: Proposed Annexation Area includes the adjacent portion of the State Road 23 right-of-way.

## Legal Description

A part of the East Half of the Northeast Quarter of Section 21, Township 37 North, Range 2 East, described as follows: Beginning at a point on the East Line of the East Half of the Northeast Quarter of Section 21, 421.68 feet North of the Centerline of State Road 23; thence South 88° 24' West, 768.80 feet; thence South, 795.81 feet to the Northwesternly right-of-way line of State Road 23; thence Southeasterly, 175 feet, more or less to a point on the Southerly right-of-way of State Road 23; thence Northeasterly along said Southerly right-of-way, 794 feet, more or less, to a point on the East Line of Said East Half; thence North along Said East Line, 470 feet, more or less, to the point of beginning, containing 12.8 acres, more or less and subject to easements, covenants, and right-of-way of record.

## Proposed Schedule for Cataldo Annexation Area

Fiscal Plan Request Sent	2/1/16
File Date	2/3/16
Council 1st Reading	2/8/16
Fiscal Plan Request Due	2/10/16
Fiscal Plan Done	2/24/16
Board of Public Works Agenda Session	3/3/16
Board of Public Works Hearing	3/8/16
Area Plan Commission Public Hearing	3/15/16
Board of Public Safety	3/16/16
Council Advertisement	3/18/16
Fiscal Plan Resolution to Clerk	4/6/16
Council 2nd Reading	4/11/16
Council 3rd Reading	4/25/16
Ordinance Advertised	5/6/16
Appeal Period Start	5/6/16
Appeal Period End	6/5/16



**LEGEND**  
 [ ] SUBJECT PROPERTY  
 (#017-1012-0310) (9.87 ACRES)



15-0964

**SITE DEVELOPMENT PLAN**

**CATALDO PROPERTY**  
 22027 STATE ROAD 23 HWY  
 CITY OF SOUTH BEND,  
 ST. JOSEPH CO., INDIANA

**ABONMARCHE**  
 2000 University Blvd  
 South Bend, IN 46601  
 317-331-4444  
 317-331-4444

DATE	11.04.14
PROJECT	22027 STATE ROAD 23 HWY
CLIENT	CATALDO PROPERTY
DESIGNER	ABONMARCHE
SCALE	AS SHOWN
DATE	11.04.14
PROJECT	22027 STATE ROAD 23 HWY
CLIENT	CATALDO PROPERTY
DESIGNER	ABONMARCHE
SCALE	AS SHOWN



**GENERAL NOTES**

1. Total Area: 9.67 acres (Parcel 017-101-010)
2. Current Zoning: Bure & Res Ordinance
3. Proposed Zoning: 08 Community Business District
4. Existing Land Use: Residential
5. Proposed Land Use: Community Business District (single)
6. Maximum Building Height: 50 feet
7. Building setbacks (Commercial District):  
 Side: 10' (Adjacent to Residential: 20')  
 Rear: 10' (Adjacent to Residential: 20')  
 Front: 15'
8. Parking Schedule:  
 Side: 0' (Adjacent to Residential: 20')  
 Rear: 0' (Adjacent to Residential: 20')
9. The building shall be serviced by City of South Bend municipal water and sewer.
10. Storm water drainage shall be managed onsite in accordance with the City of South Bend Drainage Standards.
11. All landscaping, lighting, fencing and signage shall be in accordance with the City of South Bend Zoning Ordinance unless the appropriate variance is obtained.
12. The proposed site improvements are approximate and subject to change after a boundary survey is performed and final site engineering is complete.

**PARKING CALCULATIONS**

**Required Parking**

Gas Station with Convenience Store:

Gas Station: 1 space per employee  
 Convenience Store: 3 Employees = 3 spaces

Restaurant: 1 space per 3 seats + 1 space per employee

Restaurants: 100 seats / 3 = 34 spaces  
 + Employees: 20 = 20 spaces  
 54 spaces

Integrated Retail: 1.0 spaces per 1000 SF Gross Floor Area

Integrated Retail: Total Gross Floor Area (Retail): 48,140 SF  
 4.0 x (48,140 SF / 1000) = 197 spaces

Total Required Parking: 3113+54+197 = 3377 spaces

Proposed Parking: 402 spaces (includes 14 ADA spaces)

Note: Other permitted Community Business users require less than or equivalent to the "Integrated Retail" standard. Permitted Community Business users include:

1. Clothing Services
2. Educational Users
3. Food Sales and Services
4. Governmental Use
5. Office / Professional Services
6. Retail
7. Recreation
8. Retail



GRAPHIC SCALE  
 1" = 50 FT

**SITE DEVELOPMENT PLAN**

**CATALDO PROPERTY**  
 22027 STATE ROAD 23 HWY  
 CITY OF SOUTH BEND,  
 ST. JOSEPH CO., INDIANA

**ABONMARCHÉ**  
 ARCHITECTS  
 240 South Main Street  
 South Bend, IN 46601  
 Phone: 765.221.2222  
 Fax: 765.221.2222

PROJECT: \_\_\_\_\_  
 SHEET NO: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 SCALE: \_\_\_\_\_  
 NORTH: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_  
 CHECKED BY: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 PROJECT NO: 15-09644



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



PHONE 574.235.9216  
FAX 574.235.9928

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR  
**DEPARTMENT OF ADMINISTRATION AND FINANCE**

February 3, 2016

Mr. Tim Scott, President  
City of South Bend Common Council  
227 W. Jefferson Boulevard, 4<sup>th</sup> Floor  
South Bend, Indiana 46601

RE: February 2016 Appropriation Ordinance – Elbel Golf Course – Parks Nonreverting Fund

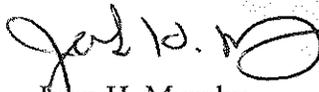
Dear President Scott,

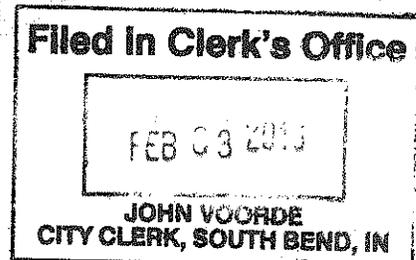
The City Administration is requesting an additional appropriation of \$68,000 for equipment and repairs at the Elbel Golf Course in order to prepare the course for the current year. As you may know, there has been conservative capital spending at the course over the past two years, as discussions have been taking place regarding the possible sale of the course. In order to keep the option of opening the course under the Parks direction, we feel this appropriation is needed to improve the condition of the course.

Aaron Perri, Parks & Recreation Director, will present this bill to the Common Council at the appropriate committee and council meetings. It is requested that this bill be filed for 1<sup>st</sup> reading on February 8, 2016 with 2<sup>nd</sup> reading, public hearing and 3<sup>rd</sup> reading scheduled for February 22, 2016.

Thank you for your attention to this request. If you should have any questions, please feel to contact me at 574-235-7678.

Regards,

  
John H. Murphy  
City Controller



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

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN  
DEPARTMENTAL AND CITY SERVICES OPERATIONS IN 2016 OF \$68,000  
FROM PARK NONREVERTING CAPITAL FUND (#405).

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STATEMENT OF PURPOSE AND INTENT

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The Common Council passed the City's 2016 operating and capital budgets in 2015 (Ordinances #10388-15 passed on October 12, 2015) which included expenditures for various City operations. It is now necessary to appropriate additional funds for operational and capital expenditures necessary for the City to effect provision of services to its citizens which were not anticipated at the time the City budget was adopted.

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

Section I. The following amounts are hereby appropriated in fiscal year 2016 and set apart within the following designated funds for expenditures as follows:

<u>Fund</u>	<u>Amount</u>
Park Nonreverting Capital Fund (#405)	<b>\$68,000</b>

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

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Member of the Common Council

Attest:

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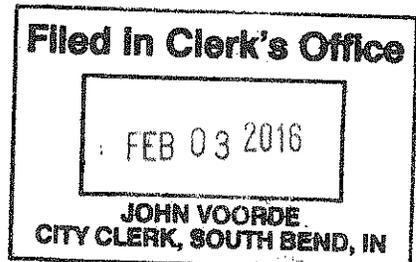
City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana, on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2016 at \_\_\_\_\_ o'clock \_\_\_\_ . m.

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

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2016 at  
\_\_\_\_\_ o'clock \_\_\_\_ . m.

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



City of South Bend, Indiana  
 February 2016 Additional Appropriation Requests - Civil City Funds  
 (Increase or decrease in total fund expenditures)  
 February 8, 2016

Fund Name	Department Name	Account Name	Fiscal Officer/Contact Name	Account Number	Project Number	Budget Increase/Decrease	Justification
Park Nonreverting Capital	Golf Division-Eibel	Contract Services	Ron O'Connor	405-1102-452-39-89		35,000	Repair of greens and tee boxes
Park Nonreverting Capital	Golf Division-Eibel	Park Equipment	Ron O'Connor	405-1102-452-43-07		14,000	Tee Mower
Park Nonreverting Capital	Golf Division-Eibel	Park Equipment	Ron O'Connor	405-1102-452-43-07		10,000	Utility Cart
Park Nonreverting Capital	Golf Division-Eibel	Contract Services	Ron O'Connor	405-1102-452-39-89		9,000	Other repairs and small equipment
				<b>Grand Total</b>		<b>68,000</b>	

**Filed in Clerk's Office**

FEB 03 2016

**JOHN VOORDE**  
 CITY CLERK, SOUTH BEND, IN



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



**Bill No. 01-16**

PHONE 574/235-9241  
FAX 574/235-7670  
TTY 574/235-5567

CITY OF SOUTH BEND      PETE BUTTIGIEG, MAYOR

**DEPARTMENT OF LAW**

CRISTAL C. BRISCO  
CORPORATION COUNSEL

ALADEAN M. DEROSE  
CITY ATTORNEY

February 2, 2016

Mr. Tim Scott  
President, South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

Re: Bill No. 01-16—Withdrawal of Elbel Sale Ordinance

Dear Council President Scott:

Pursuant to recent discussions between the City administration and the Common Council, this letter constitutes formal notice and a request to withdraw from Council consideration Bill No. 01-16. That ordinance had requested the Council's approval of a proposed sale of the Elbel golf course to a private entity which would have operated the property as a golf course for at least five years.

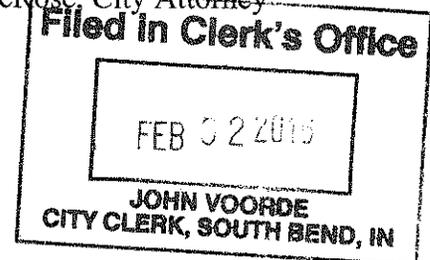
Accordingly, please cancel any scheduled hearings on Bill No. 01-16 and eliminate this Bill from any further Common Council consideration.

Thank you for your assistance.

Sincerely,

Aladean M. DeRose, City Attorney

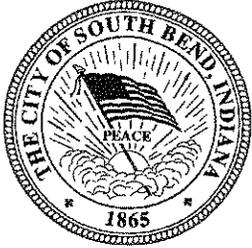
c: James Mueller, Mayoral Chief of Staff  
Corporation Counsel Cristal Brisco  
Council Attorney Kathleen Cekanski Farrand



ELLIOT A. ANDERSON  
TASHA REED OUTLAW

BENJAMIN J. DOUGHERTY  
MICHAEL J. SCHMIDT

ANDREA HUNTINGTON  
STEPHANIE STEELE



Pete Buttigieg, Mayor

# SOUTH BEND PARKS AND RECREATION

Executive Director  
Phillip L. St. Clair

Mr. Tim Scott, President  
South Bend Common Council  
4<sup>th</sup> Floor County-City Building  
South Bend, IN 46601

RE: Ordinance approving the sale of Elbel Golf Course, 26595 Auten Road

Dear President Scott:

Please find, attached for the Common Council's consideration, an ordinance supporting the South Bend Parks Board Resolution 03-2015 for the disposition of Elbel Golf Course (Elbel). The Parks Department has taken the necessary steps to survey and subdivide the property to maximize Elbel's potential value to the city. All proceeds from the sale of Elbel would be deposited into the Parks Department's funds to be used for improvements at other Parks facilities throughout the City.

As you know, Elbel has been owned and operated by the City of South Bend Parks Department for over 50 years, even though it has remained beyond city limits. As golf trends have continued to decline nationwide and in South Bend, Elbel has operated at a net loss over the past 5 years, with some years as high as \$92,000 of taxpayer subsidy. This operating loss does not include the capital investments necessary to maintain the course. However, simply comparing what \$92,000 could provide the department is useful. The Department could provide up to 3 basketball courts or one large new splash pad with that \$92,000.

To better serve the community and invest taxpayer dollars more effectively, the Parks Department hopes to move on a swift timeline to complete the transition from public to private ownership before the 2016 golf season begins in earnest. In response to concerns from the golfing and conservation communities, the Parks Department will require that Elbel be maintained as a golf course for 5 years and that potential bidders outline their environmental conservation history, as well as their wetland preservation / protection plan for the property and surrounding wetlands. This will limit any adverse impacts on the local golfing community or to the wetlands surrounding the course.

Informed by an appraisal process in 2015, the Parks Department will list the minimum bid for Elbel at \$750,000.00. Receiving bids in early March of 2016, it plans to close the transaction by mid-May 2016, just in time for the primary golf season to start. During the process, staff considered many potential uses for Elbel. While bids for alternative uses of the 300 acre site could be higher, the total value to the city and public would likely be lower due to the costs



OK  
ATD

associated with the potential City infrastructure necessary for these uses and the risk of damage to the surrounding wetland areas.

Transitioning Elbel to a private golf course would maximize the total value to the city that includes substantial revenue to reinvest in parks throughout the city, continued protection of the surrounding wetlands, and avoided maintenance costs from the extension of city infrastructure. This ownership change from public to private would also unlock an infusion of much needed private capital for Elbel that would enhance golfers' experience.

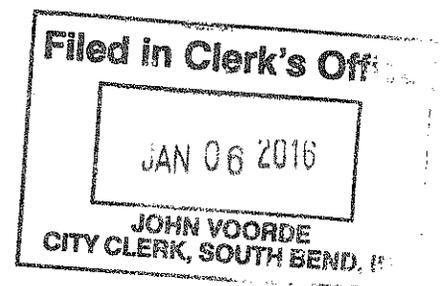
On December 16, 2015 the Parks Board held a public meeting to elicit public comments on whether the property should be sold and approved the sale of this property as part of their Resolution No. 03-2015. State statute requires the approval of the Common Council for the property to continue the disposition process.

Thank you for your attention to this important issue. Brock Zeeb and others will be in attendance at the January 25, 2016 Committee and Council meetings to present this ordinance and answer any questions you or other councilmembers may have. In addition to this memorandum a presentation with further information will be shared before the Council meeting to assist your evaluation of the ordinance.

Regards,



Susan O'Connor, Deputy Director  
South Bend Parks & Recreation Department  
City of South Bend



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

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY  
OF SOUTH BEND, INDIANA, APPROVING THE DISPOSITION OF REAL  
PROPERTY LOCATED AT 26595 AUTEN ROAD, SOUTH BEND, INDIANA 46628**

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**STATEMENT OF PURPOSE AND INTENT**

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Real estate which is under the control of the City Parks and Recreation Department may be sold if the Parks and Recreation Board of Commissioners (Board) determines, pursuant to Ind. Code 36-10-1-9(c) (8), that the property is unnecessary for the operation of the City's Parks and Recreation Department.

The Board held a public hearing on December 16, 2015 regarding the sale of property located at 26595 Auten Road, South Bend, IN 46628, South Bend, Indiana, commonly known as El Bel Golf Course (the "Property"), and determined that the Property should be sold. During that meeting, the public remained silent during the discussion of the proposed sale of the Property and during the opportunity for public feedback on the proposal. At the conclusion of the public hearing, the Board passed Resolution No. 3-2015, attached hereto, supporting the proposed sale of the Property and seeking approval from the City's Executive consistent with the requirements of IC 36-1-11-3.

Furthermore, pursuant to IC 36-1-11-4, the Board sought and received two appraisals for the Property which value is greater than \$50,000.00, and, therefore, Common Council approval of the sale is also required under Ind. Code 36-1-11-3(c) and by IC 36-10-4-18.

The Common Council of the City of South Bend, Indiana, believes that the City no longer has a need for the Property; that sale of the Property is in the best interests of the City of South Bend and its residents; and that sale of the Property should be awarded to the best bidder who is also willing to maintain the Property as a golf course for not less than five (5) years.

It is further determined that the Parks and Recreation Board of Commissioners of the City of South Bend, Indiana is the appropriate entity to dispose of the Property pursuant to the terms of Ind. Code 36-1-11-4.

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

**Section I.** Because it is not necessary for the operations of the City's Parks and Recreation Department, the property located at 26595 Auten Road, South Bend, Indiana 46628, South Bend, Indiana should be sold, and the South Bend Common Council hereby authorizes the South Bend Parks and Recreation Board of Commissioners to take any and all lawful steps necessary to dispose of the Property pursuant to and in accordance with the terms of Ind. Code

36-1-11-4, and with the condition that sale be awarded to the best bidder who is also willing to maintain the Property as a golf course for not less than five (5) years.

**Section II.** Proceeds from sale of the Property shall be expended for the improvement of the remaining park land or for the purchase of other land for park purposes, as the Board considers best for the City of South Bend.

**Section III.** The Common Council hereby confirms the following persons to execute and accept, and to witness the execution and acceptance, respectively, those documents necessary for the consummation of the transaction contemplated by this Resolution.

Party to Execute Documents:

Aaron Perri, South Bend Parks and Recreation Superintendent

Party to Attest to the Execution of Documents:

Linda Martin, Clerk  
Board of Public Works

**Section IV.** This Ordinance shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

\_\_\_\_\_  
Member, South Bend Common Council

Attest:

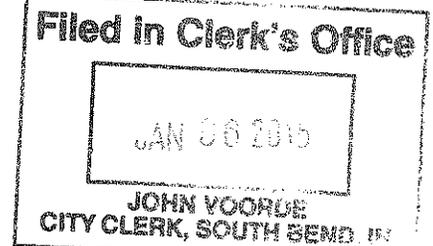
\_\_\_\_\_  
City Clerk

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

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

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

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
REFERRED  
PASSED



**ATTACHMENT**

South Bend Board of Park Commissioners Resolution No. 3-2015

(Remainder of this page left intentionally blank.)

RESOLUTION NO. 0003 - 2015

A RESOLUTION OF THE BOARD OF PARK COMMISSIONERS  
OF THE CITY OF SOUTH BEND, INDIANA  
APPROVING THE SALE OF ELBEL GOLF COURSE

---

WHEREAS, the Board of Park Commissioners of the City of South Bend ("Park Board") is authorized under I.C. 36-10-3 to administer park property for the City of South Bend; and

WHEREAS, the Park Board is authorized to acquire and dispose of real and personal property under I.C. 36-10-3-11; and

WHEREAS, Elbel Golf Course ("Elbel") is a golf course owned and operated by the City of South Bend Parks Department ("Parks Department"); and

WHEREAS, the Park Board, upon the recommendation of the Parks Department, has determined that Elbel is no longer required for parks purposes; and

WHEREAS, the Park Board hereby accepts the appraised value of Elbel as presented to it on this date; and

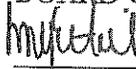
WHEREAS, the Park Board hereby recommends and authorizes the Parks Department, or its designee, to prepare an ordinance authorizing the sale of Elbel and submit the same to the South Bend Common Council ("Council"); and

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF PARK COMMISSIONERS OF THE CIVIL CITY OF SOUTH BEND, INDIANA that:

1. The Park Board hereby deems Elbel as not required for the future operation of the Parks Department; and
2. The Park Board accepts the average redevelopment appraised value of Elbel as \$1,295,000.00; and
3. The Park Board accepts the average golf course appraised value of Elbel as \$747,500.00; and
4. The Park Board hereby recommends to Council the sale of Elbel and shall act only upon Council's formal approval of the sale of Elbel.

Dated this 16th day of December, 2015

CITY OF SOUTH BEND  
BOARD OF PARK COMMISSIONERS



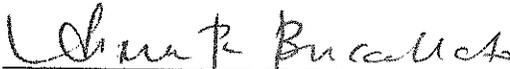
\_\_\_\_\_  
Amy Hill, President



\_\_\_\_\_  
Mark Neal



\_\_\_\_\_  
Dan Farrell



\_\_\_\_\_  
Aimee Buccellato

ATTEST:



\_\_\_\_\_  
Ron O'Connor  
Executive Secretary



AREA BOARD OF ZONING APPEALS

125 S. Lafayette Blvd.  
Suite 100  
South Bend, Indiana 46601  
(574)235-9554  
FAX: (574)235-5541

January 7, 2016

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

RE: Petition for Special Exception  
Bruno and Rose Cataldo  
02/03/16

Dear Council Members:

The above referenced petition of Bruno and Rose Cataldo was legally advertised on January 14, 2016. The Area Board of Zoning Appeals gave it a public hearing on February 3, 2016, at which time the following action was taken:

Upon a motion by Mr. Phipps, being seconded by Mr. Matthys and by a unanimous vote, the petition for Special Exception to allow a Fast Casual Restaurant with a drive through window in a "LB" Local Business District, on property located at 2906 Prairie Avenue, Portage Township, is sent to the Common Council with a **Favorable Recommendation**.

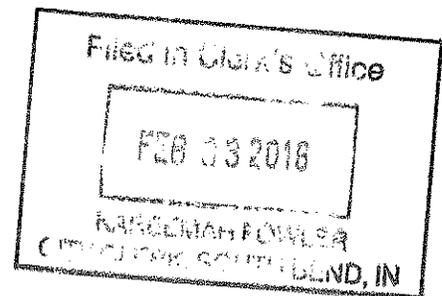
The deliberations of the Area Board of Zoning Appeals and points considered in arriving at the above decision as shown in the Minutes of the Public Hearing, and will be forwarded to you at a later date, to be made part of this report.

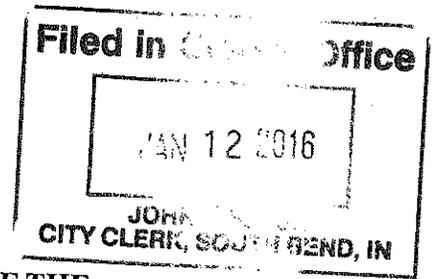
Sincerely,



Charles C. Bulot, C.B.O. Building  
Commissioner

CCB/cah





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

**A RESOLUTION OF THE COMMON COUNCIL OF THE  
CITY OF SOUTH BEND, INDIANA,  
APPROVING A PETITION OF THE AREA  
BOARD OF ZONING APPEALS  
FOR THE PROPERTY LOCATED AT  
2610 Prairie Avenue**

**WHEREAS**, Indiana Code Section 36-7-4-918.6, requires the Common Council to give notice pursuant to Indiana Code Section 5-14-1.5-5, of its intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval; and

**WHEREAS**, the Common Council must take action within sixty (60) days after the Board of Zoning Appeals makes its recommendation to the Council; and

**WHEREAS**, the Common Council is required to make a determination in writing on such requests pursuant to Indiana Code Section 36-7-4-918.4, and

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

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

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

2610 Prairie Avenue

in order to permit

Fast Casual Restaurant with drive-thru/pick-up window(s)

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

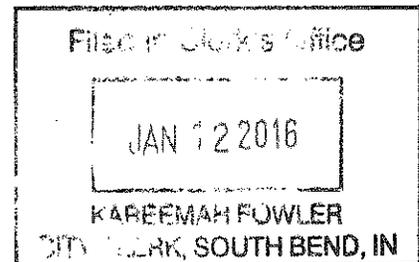
**SECTION III.** The Common Council of the City of South Bend, Indiana, hereby finds that:

1. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;
2. The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;
3. The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;
4. The proposed use is compatible with the recommendations of the City of South Bend Comprehensive plan;

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

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

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



PRESENTED

NOT APPROVED

EXPIRED

PETITION

SPECIAL EXCEPTION PURSUANT 21-09.3(D)  
AREA BOARD OF ZONING APPEALS

**CATALDO**

FINDINGS OF FACT

1. THE PROPOSED *USE* WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, COMFORT, COMMUNITY MORAL STANDARDS, CONVENIENCE OR GENERAL WELFARE BECAUSE:

A. Development and use as presented will comply with all building, fire safety, traffic, and parking-regulations as to not being injurious to the public health, safety, morals, and general welfare of the community.

2. THE PROPOSED *USE* WILL NOT INJURE OR ADVERSELY AFFECT THE *USE* OF THE ADJACENT AREA OR PROPERTY VALUES THEREIN BECAUSE:

A. The variance or use shall improve the appearance of the neighborhood and will not devalue the surrounding properties.

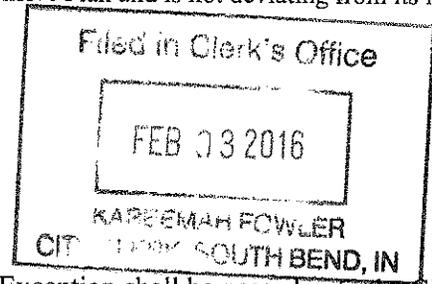
3. THE PROPOSED *USE* WILL BE CONSISTENT WITH THE CHARACTER OF THE *DISTRICT* IN WHICH IT IS LOCATED AND THE LAND USES AUTHORIZED THEREIN BECAUSE:

A. Conditions on the property predate the Zoning Ordinance, which creates a different condition for this property.

4. THE PROPOSED *USE* IS COMPATIBLE WITH THE RECOMMENDATIONS OF THE CITY OF SOUTH BEND *COMPREHENSIVE PLAN* BECAUSE:

A. It is the feeling of the Board that the variance is blending into the overall Comprehensive Plan and is not deviating from its intent.

CONDITIONS OR REVISIONS:



DECISION

IT IS THEREFORE the decision of the Board that this request for Special Exception shall be passed onto the City of South Bend Common Council with a:

**FAVORABLE RECOMMENDATION**

ADOPTED this 3 Day of February, 2016.

<u>MOTION</u>	<u>SECOND</u>	<u>RECUSED</u>	<u>ABSENT</u>	<u>YES</u>	<u>NO</u>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MICHAEL URBANSKI
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RANDALL MATTHYS
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KATHY SCHUTH
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	GERALD PHIPPS
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	JACK YOUNG
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	ROBERT HAWLEY
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BRENDAN CRUMLISH

NOTICE OF PUBLIC HEARING

Notice is hereby given to all interested persons that the Area Board of Zoning Appeals will hold a public hearing in the Council Chambers on the 4th Floor of the County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana on the 3rd day of February, 2016, at 1:30 p.m. or as soon thereafter as the matter can be heard. This hearing is for the purpose of considering a petition that was

Filed by: Bruno and Rosa Cataldo

Seeking:

Permission to construct a Fast Casual Restaurant with drive-thru/pick-up window.

On real estate commonly described as:

2610 Prairie Avenue, South Bend, IN 46614

and is legally described as follows:

Lot 2 in Hollingsworth Prairie Avenue Minor Subdivision as recorded December 26, 2006 under Instrument Number 0654912 in the Office of the Recorder of St. Joseph County, Indiana.

Dated this 12th day of January, 2016.

Area Board of Zoning Appeals

Carolyn A. Henry

Carolyn A. Henry  
Secretary to the Board

AREA BOARD OF ZONING APPEALS  
FILED  
Date: 1/12/16

**TO THE PETITIONER:** It is your responsibility to complete this form correctly and deliver it to the Secretary of the Board of Zoning Appeals with the other papers at the time of original filing. Once it is signed by the Secretary, then it is your responsibility to make arrangements to have publication of notice made in a local newspaper having general circulation in St. Joseph County. Such notice must be published one (1) time, being at least ten (10) days prior to the date on which the public hearing is to be held. Proof of publication must be presented to the Board at the time of public hearing.

## PETITION FOR SPECIAL EXCEPTION

2610 PRAIRIE AVENUE - PARCEL NO. 018-8153-551401(2.75 ACRES +/-)

CURRENT ZONING CLASSIFICATION: "LB" – Local Business District, City of South Bend

PETITIONER: Bruno and Rosa Cataldo, 22027 Liberty Highway, South Bend, IN, Tel: 574-532-0762,  
[johnbrunoospizza@gmail.com](mailto:johnbrunoospizza@gmail.com)

PRESENTED BY: Brian McMorrow, Abonmarche Consultants, Inc., 750 Lincoln Way East, South Bend,  
IN 46601, Tel: 574-232-8700 ext 22, [bmcorrow@abonmarche.com](mailto:bmcorrow@abonmarche.com)

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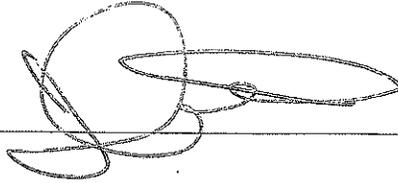
Petitioners seek permission to construct a Fast Casual Restaurant with drive-thru/pick-up window on the subject vacant parcel.

- (a) The proposed special exception use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare because:
  - a. Only one (1) ingress and egress drive is proposed along Prairie Avenue where only one (1) would otherwise be permitted anyway, thus not increasing potential for vehicular conflicts or vehicular-pedestrian conflicts.
  - b. Site will be illuminated at night at levels which are consistent with published standards of the City of South Bend and industry standards, thus providing a safe environment at night.
  - c. The option of a pick-up window for meals is a welcome convenience for many motorists, especially those with children, the elderly, or disabled.
- (b) The proposed special exception use will not injure or adversely affect the use of the adjacent area or property values therein because:
  - a. The Local Business District already includes among its permitted uses "Restaurants – Fast Food" (but without drive-in or drive-thru service), "Restaurant – Family", "Restaurant – Family, with Lounge or Tavern". By permitting a Special Exception to allow drive-thru/pick-up option for restaurants known in the industry as "Fast Casual" (rather than "Quick Serve Restaurants" which have limited table seating), the site may be more attractive to restaurants which are popular with families and seniors – an compatible with both the Local Business District of its adjacent properties on the same side as Prairie Avenue and compatible with dining preferences of the residents of properties on both the opposite side (single family detached dwellings) and same side of Prairie Avenue (multi-family dwellings).
- (c) The proposed special exception use will be consistent with the character of the district in which it is located and the land uses authorized therein because:
  - a. The exterior design of the proposed use will be consistent with Restaurants which are already permitted in the district.
  - b. The proposed use will contribute to meeting the daily needs of nearby residential neighborhoods.

(d) Strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- a. The public expects the option of drive-through/pick-up service for restaurants that cater to families and seniors. The inability of the Petitioner to offer this option will compromise the economic viability of prospective business.

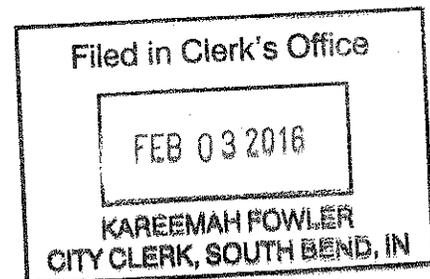
Signed by PETITIONER:



PRESENTED by:



Brian McMorrow, Abonmarche Consultants, Inc.







DATE:	01-24-14
SCALE:	AS SHOWN
PROJECT:	2610 PRAIRIE AVENUE
PREPARED BY:	ABONMARCHÉ
DATE:	01-24-14
SCALE:	AS SHOWN
PROJECT:	2610 PRAIRIE AVENUE
PREPARED BY:	ABONMARCHÉ
DATE:	01-24-14

SCALE:	1" = 40'
DATE:	N/A
PROJECT:	15-0963
SHEET NO.:	2 of 2

**GENERAL NOTES**

- Total Area: 2.75 acres
- Current Zoning: CB, Community Business District  
(Permit 018-053-551401)
- Existing Land Use: Vacant Land  
Proposed Land Use: Quick-Serve Restaurant  
(with Drive-Through Service)  
Building shall be less than 30' in height.
- Building Setbacks:  
Side: 10' (Adjacent to Residential: 20')  
Rear: 10' (Adjacent to Residential: 20')
- Parking Setbacks:  
Side: 0' (Adjacent to Residential: 20')  
Rear: 0' (Adjacent to Residential: 20')
- The building shall be serviced by City of South Bend municipal water and sewer.
- Storm water discharge shall be managed onsite in accordance with the City of South Bend Drainage Standards.
- All landscaping, lighting, fencing, and signage shall be in accordance with the City of South Bend Zoning Ordinance unless the appropriate variance is obtained.
- The proposed site improvements are approximate and subject to change after a boundary survey is performed and final site engineering design.

**PARKING CALCULATIONS**

**Required Parking**  
 Restaurants: 1 space per 3 seats + 1 space per employee  
 Restaurant: 88 seats (Indoor) + 24 seats (Outdoor)  
 104 seats / 3 = 35 spaces  
 + Employees: 10 = 10 spaces  
 45 spaces  
**Total Required Parking: 35+10=45 spaces**  
 Proposed Parking: 50 spaces (includes 2 ADA spaces)

