



## **SOUTH BEND COMMON COUNCIL**

---

### **MEETING AGENDA**

Monday, February 22, 2016

7:00 P.M.

1. **INVOCATION-** REV. MARIANNE CHALSTROM, RETIRED DISTRICT SUPERINTENDENT OF THE INDIANA CONFERENCE OF THE UNITED METHODIST CHURCH
2. **PLEDGE TO THE FLAG**
3. **ROLL CALL**
4. **REPORT FROM THE SUB-COMMITTEE ON MINUTES**
5. **SPECIAL BUSINESS**

BILL NO.

16-11            A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA PUBLICLY HONORING AND COMMENDING THE SALVATION ARMY RAY AND JOAN KROC CORPS COMMUNITY CENTER FOR SPONSORING ANOTHER VERY SUCCESSFUL RED KETTLE CAMPAIGN WHICH CONTINUES TO BENEFIT MANY IN OUR COMMUNITY

16-12            A RESOLUTION OF COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA PUBLICLY THANKING ALL OF THE SOUTH BEND POLICE DEPARTMENT VIPS VOLUNTEERS FOR THEIR SERVICE TO OUR COMMUNITY

6. **REPORTS FROM CITY OFFICES**

7. **COMMITTEE OF THE WHOLE**

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

BILL NO.

[03-16](#)            PUBLIC HEARING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 3620 DEAHL COURT, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

[04-16](#)            PUBLIC HEARING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 3101 AND 3113

LINCOLNWAY WEST, COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA

08-16 PUBLIC HEARING 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

10-16 PUBLIC HEARING 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 NON-REVERTING CAPITAL FUND (#405)

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.

03-16 THIRD READING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 3620 DEAHL COURT, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

04-16 THIRD READING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 3101 AND 3113 LINCOLNWAY WEST, COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA

08-16 THIRD 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

- 10-16 THIRD 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 NON-REVERTING CAPITAL FUND (#405)
- 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.

- [16-09](#) 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
- [16-07](#) A RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING A CERTAIN AREA WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 6741 LUTZ DRIVE, SOUTH BEND, IN 46614 AS A RESIDENTIALLY DISTRESSED AREA FOR PURPOSES OF A (5) FIVE-YEAR RESIDENTIAL REAL PROPERTY TAX ABATEMENT FOR JEFFREY SZALAY AND AMBER O'BRIEN
- [16-10](#) A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, SUPPORTING ADDITIONAL RESEARCH INTO A POTENTIAL FOOD AND BEVERAGE TAX IN ST. JOSEPH COUNTY, INDIANA

## 10. BILLS ON FIRST READING

**11. UNFINISHED BUSINESS**

*PENDING INACTIVE/DORMANT AREA PLAN COMMISSION (APC) PROPOSED BILLS*

BILL NO.

- 02-94 AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 2101 IRONWOOD ROAD IN THE CITY OF SOUTH BEND, INDIANA
  
- 22-95 AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT TOPSFIELD ROAD AT THE ENTRANCE TO TOPSFIELD CONDOMINIUMS IN THE CITY OF SOUTH BEND, INDIANA
  
- 19-97 AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT THE SOUTH SIDE OF 900 BLOCK OF EAST MADISON STREET—ST. JOSEPH’S MEDICAL CENTER
  
- 69-97 AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA AMENDING CHAPTER 21 OF THE MUNICIPAL CODE TO DEFINE AN ADULT CARE HOME AND CREATE AN EXCEPTION TO THE ZONING DISTRICT REGULATIONS TO ALLOW ADULT CARE HOMES WITHIN RESIDENTIAL DISTRICTS UPON APPROVAL OF THE BOARD OF ZONING APPEALS
  
- 29-98 AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 4215 & 4227 S. MICHIGAN
  
- 39-06 AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 1921 GREENOCK, 1927 GREENOCK, 1931 GREENOCK, 1935 GREENOCK
  
- 28-15 AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 742 EAST IRELAND ROAD, CITY OF SOUTH BEND, INDIANA, COUNCILMANIC DISTRICT NO. 5 IN THE CITY OF SOUTH BEND, INDIANA

**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.*





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, February 17, 2016

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

RE: A proposed ordinance of Corvilla, Inc. to zone from LI Light Industrial District to MU Mixed Use District, property located at 3620 Deahl Court, City of South Bend - APC# 2772-16.

Dear Council Members:

I hereby Certify that the above referenced ordinance of Corvilla, Inc. was legally advertised on Thursday, February 04, 2016 and that the Area Plan Commission at its public hearing on Tuesday, February 16, 2016 took the following action:

Upon a motion by John DeLee, being seconded by Phil Sutton and unanimously carried, the proposed ordinance of Corvilla, Inc. to zone from LI Light Industrial District to MU Mixed Use District, property located at 3620 Deahl Court, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. Zoning this secluded and heavily-wooded parcel to allow an adult day care center or other permissible uses within the MU Mixed Use District will allow the site to be utilized to a greater potential without impacting adjacent properties.

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.

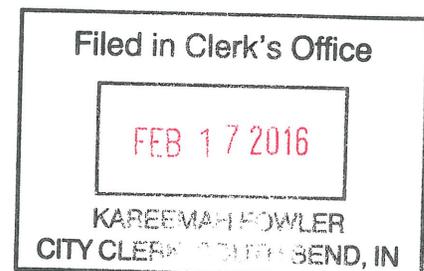
Sincerely,

Lawrence P. Magliozzi

Attachment

CC: Corvilla, Inc.

Kil Atchitecture Attn: Gregory A. Kil, NCARB, AIA Architect



**Staff Report**

2/5/2016

APC # 2772-16  
Owner: Corvilla, Inc.  
Location: 3620 Deahl Court  
Jurisdiction: City of South Bend  
Public Hearing Date: 2/16/2016

**Requested Action:**

The petitioner is requesting a zone change from LI Light Industrial District to MU Mixed Use District.

**Land Uses and Zoning:**

- On site: On site is an existing institutional building.
- North: To the north are industrial buildings zoned LI Light Industrial District.
- East: To the east is a retail store zoned CB Community Business District.
- South: To the south is a truck sales lot and an industrial building zoned LI Light Industrial District.
- West: To the west is a manufacturing facility zoned LI Light Industrial District.

**District Uses and Development Standards:**

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

**Site Plan Description:**

On this 17.19 acre site, only the southeast corner is developed. The existing 12,348 square foot building is being internally retrofitted to accommodate an adult day center and offices. The existing parking area provides 59 spaces and is screened from adjacent properties by existing mature vegetation. A future 2,400 square foot maintenance building is proposed, along with an expansion to an existing pavilion on the east side of the site. No other site modifications are proposed.

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

This property has been zoned industrial since it was annexed into the city in 1990. This area was rezoned from residential to manufacturing in 1985 to accommodate an industrial park.

**Traffic and Transportation Considerations:**

Deahl Court has two lanes and ends in a cul-de-sac in front of this property.

**Utilities:**

This site will continue to be served by municipal sewer and water.

**Agency Comments:**

County Surveyor and the Department of Community Investment recommend approval. City Engineer recommends approval, subject to the approval of a drainage plan. IDEM has not yet made comment.

**Commitments:**

The petitioner is not proposing any written commitments.

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

**1. Comprehensive Plan:**

**Policy Plan:**

This petition is consistent with City Plan, South Bend Comprehensive Plan (November, 2006); Policy PF 7.3.3: Encourage the establishment of health and wellness centers.

**Land Use Plan:**

The future land use map identifies this area as light industrial.

**Plan Implementation/Other Plans:**

There are no other plans in effect for this area.

**2. Current Conditions and Character:**

Cleveland Road, east of the interchange with the US-31 Bypass has developed to serve predominately industrial and office users.

**3. Most Desirable Use:**

The most desirable use for this property is one compatible with the office and industrial uses in the area.

**4. Conservation of Property Values:**

Surrounding industrial and heavy commercial properties should not be adversely impacted by the zoning change.

**5. Responsible Development And Growth:**

It is responsible growth and development to allow a suitable re-adaptation of an industrial building that will not impact the use of adjacent properties.

**Staff Comments:**

The staff has no additional comments.

**Recommendation:**

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

**Analysis:**

Zoning this secluded and heavily-wooded parcel to allow an adult day care center or other permissible uses within the MU Mixed Use District will allow the site to be utilized to a greater potential without impacting adjacent properties.

REZONING  
#2772-16

William Richardson

Ralph Jones

Polase

Cleveland

SOUTH BEND

Dea III

130

Filed in Clerk's Office



KAP...LER  
CITY CL... BEND, IN

F.J. Nintz

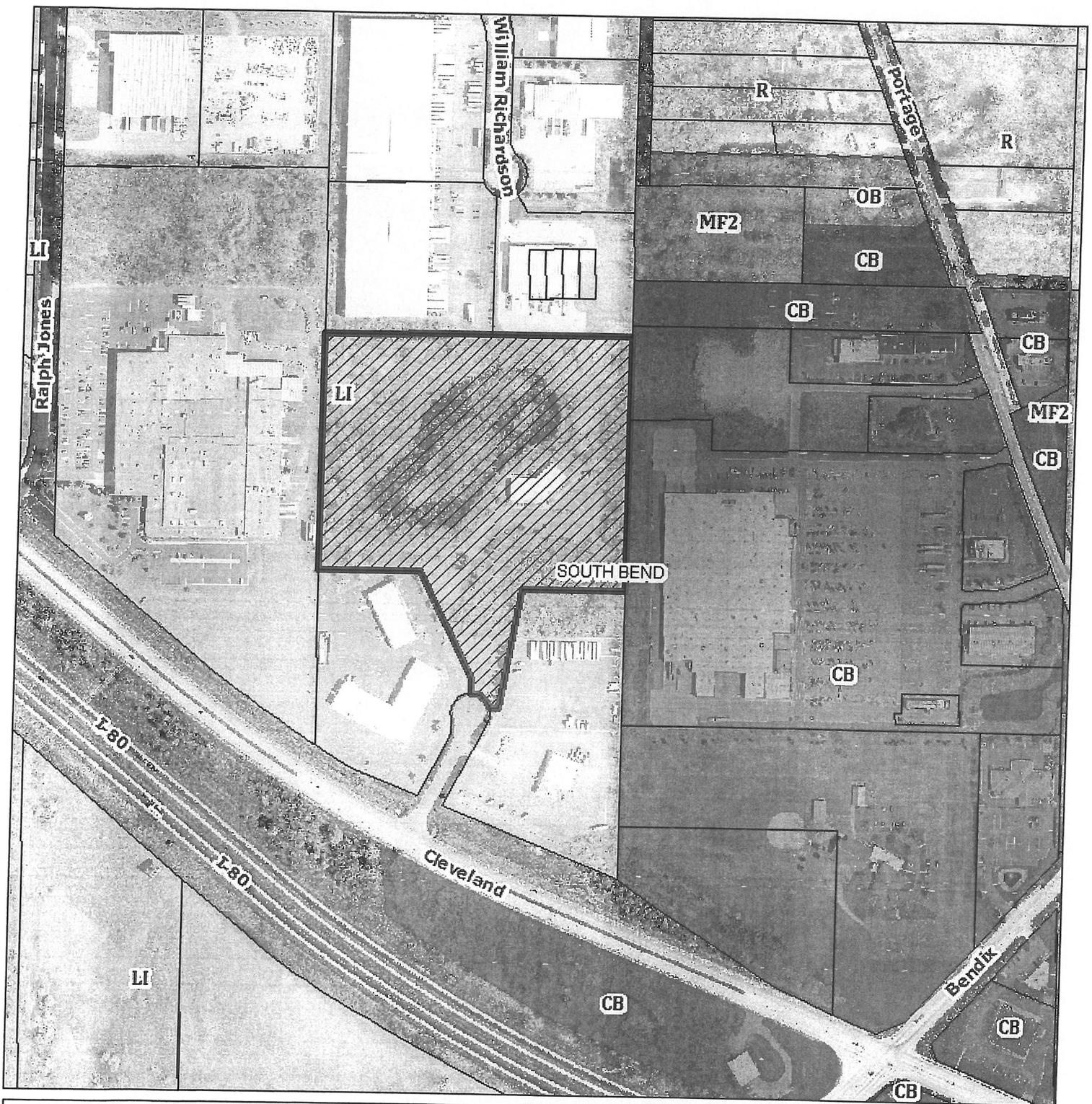
Kearmore

1 inch = 400 feet

GERMAN TOWNSHIP



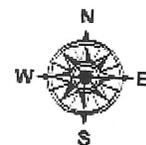
Ash Maps



**Rezoning from: CITY OF SOUTH BEND  
"LI" LIGHT INDUSTRIAL DISTRICT to  
"MU" MIXED USE DISTRICT**

**MASTER ZONING KEY**

- COUNTY "R" SINGLE FAMILY DISTRICT
- SOUTH BEND "SF1" SINGLE FAMILY AND TWO FAMILY DISTRICT
- SOUTH BEND "MF2" HIGH-DENSITY MULTIFAMILY DISTRICT
- SOUTH BEND "OB" OFFICE BUFFER DISTRICT
-  SOUTH BEND "CB" COMMUNITY BUSINESS DISTRICT
- SOUTH BEND "LI" LIGHT INDUSTRIAL DISTRICT



1 inch = 400 feet

**APC # 2772-16**



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

January 6, 2016

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

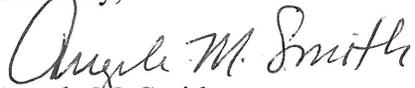
RE: APC#2772-16 – Rezoning for property located at 3620 Deahl Ct.

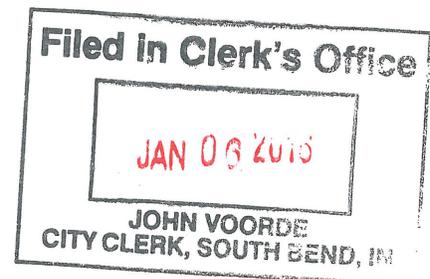
Dear Council Members:

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 January 11, 2016 Council meeting, and set it for public hearing at your February 22, 2016 Council meeting. The petition is tentatively scheduled for public hearing at the February 16, 2016 Area Plan Commission meeting. The recommendation of the Area Plan Commission will be forwarded to your office by noon on the day following the public hearing.

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

Sincerely,

  
Angela M. Smith  
Deputy Director



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

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 3620 DEAHL COURT, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

Petitioners desire to rezone the property from LI Light Industrial to MU Mixed Use to allow an adult day center and offices.

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

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

Lot numbered two as shown on the recorded plat of the Gainey Minor Subdivision.

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

be and the same is hereby established as MU Mixed Use 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

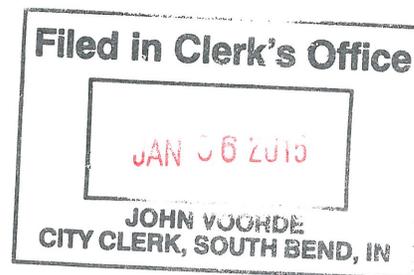
Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

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

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

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

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



PETITION FOR ZONE MAP AMENDMENT  
City of South Bend, Indiana

03-16

**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:

3620 DEAHL CT  
SOUTH BEND, INDIANA 46628

2) The property Tax Key Number(s) is/are: KEY: 025-1013-022002

3) Legal Descriptions: LOT NUMBERED TWO AS SHOWN ON THE RECORDED PLAT OF THE GAINNEY MINOR SUBDIVISION, RECORDED ON JUNE 18, 1999, AS DOCUMENT NO. 9927999 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA

4) Total Site Area: 17.19 ACRES

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

CORVILLA, INC.  
3231 SUGAR MAPLE BUSINESS CT.  
SOUTH BEND, INDIANA, 46625  
574-289-9779  
RTHOMPSON@CORVILLA.ORG

Name and address of additional property owners, if applicable:

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

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

Name and address of additional property owners, if applicable:

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

From: LI Light Industrial District

To: MU Mixed Use District

8) This rezoning is requested to allow the following use(s): OFFICES, GROUP RESIDENTIAL, ADULT DAYCARE

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: *Insert text*

(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: *Insert text*

(c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: *Insert text*

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

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

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

CONTACT PERSON:

GREGORY A KIL, NCARB, AIA ARCHITECT  
1126 LINCOLN WAY EAST  
SOUTH BEND, INDIANA, 46601  
574-288-2654  
GKIL@KILARCHITECTURE.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):

---

---

---

---

mailingadd	mailingcit	mailingsta	mailingzip	mailingzip_name_1
9740 E 148th St	Noblesville	IN	46060	GUINNESS REALTY LLC
13735 Lakefront Dr	Earth City	MO	63045	WESTBIC
303 S Main St Ste 209	Mishawaka	IN	46544	STARBEST HOTELS LLC ATTN: DR CHAUDHRY
3231 Sugar Maple Business Ct	South Bend	IN	46628	CORVILLA INC
251 W Garfield Rd Ste 287	Aurora	OH	44202	AE PISTONS INC C/O AVTI
9740 E 148th St	Noblesville	IN	46060	GUINNESS REALTY LLC
21941 Cleveland Rd	South Bend	IN	46628	CALVARY BAPTIST CHURCH
P.o. Box 1815	Murfreesboro	TN	37133	GAST THOMAS J & GAST JOSEPH M JT W/SURVIVORSHIP
PO Box 447	Brush Prairie	WA	98606	MALSTAFF LINDA EVELYN TRUST AND AS TRUSTEE W LIFE EST
202 South Michigan Street	South Bend	IN	46601	DFZ PORTAGE PROPERTIES LLC
One Federal Street	Boston	MA	2110	STAG SOUTH BEND LLC
52447 Portage Rd	South Bend	IN	46628	HILAL SALAH M & CYNTHIA A
PO BOX 8031	Bentonville	AR	72712	WAL MART REAL ESTATE BUSINESS TRUST #2680 PROPERTY TAX DEPT#0555

**LEGAL DESCRIPTION**

LOT NUMBERED TWO AS SHOWN ON THE RECORDED PLAT OF THE GAINEY MINOR SUBDIVISION, RECORDED ON JUNE 18, 1999, AS DOCUMENT NO. 9927999 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

**TABULATED DATA - PARCEL 025-1013-022002**

1).	SITE ACREAGE.....	17.19 ACRES
2).	EXISTING LAND USE:	
	A). LIGHT INDUSTRIAL/OFFICES	
3).	EXISTING LAND COVERAGE:	
	A). BUILDINGS.....	12,348 SQ.FT 1.75
	B). PAVED PARKING, DRIVES.....	44,589 SQ.FT 5.95
	C). OPEN SPACE.....	691,859 SQ.FT 92.3
	<b>TOTAL</b>	<b>748,796 SQ.FT 100</b>
4).	EXISTING BUILDING USES:	
	A). OFFICES.....	7,372 SQ. FT .80
	B). ADULT DAY CENTER.....	4,976 SQ. FT .40
	<b>TOTAL</b>	<b>12,348 SQ. FT 1.75</b>

**5). PARKING RATIO REQUIRED BY ORDINANCE**

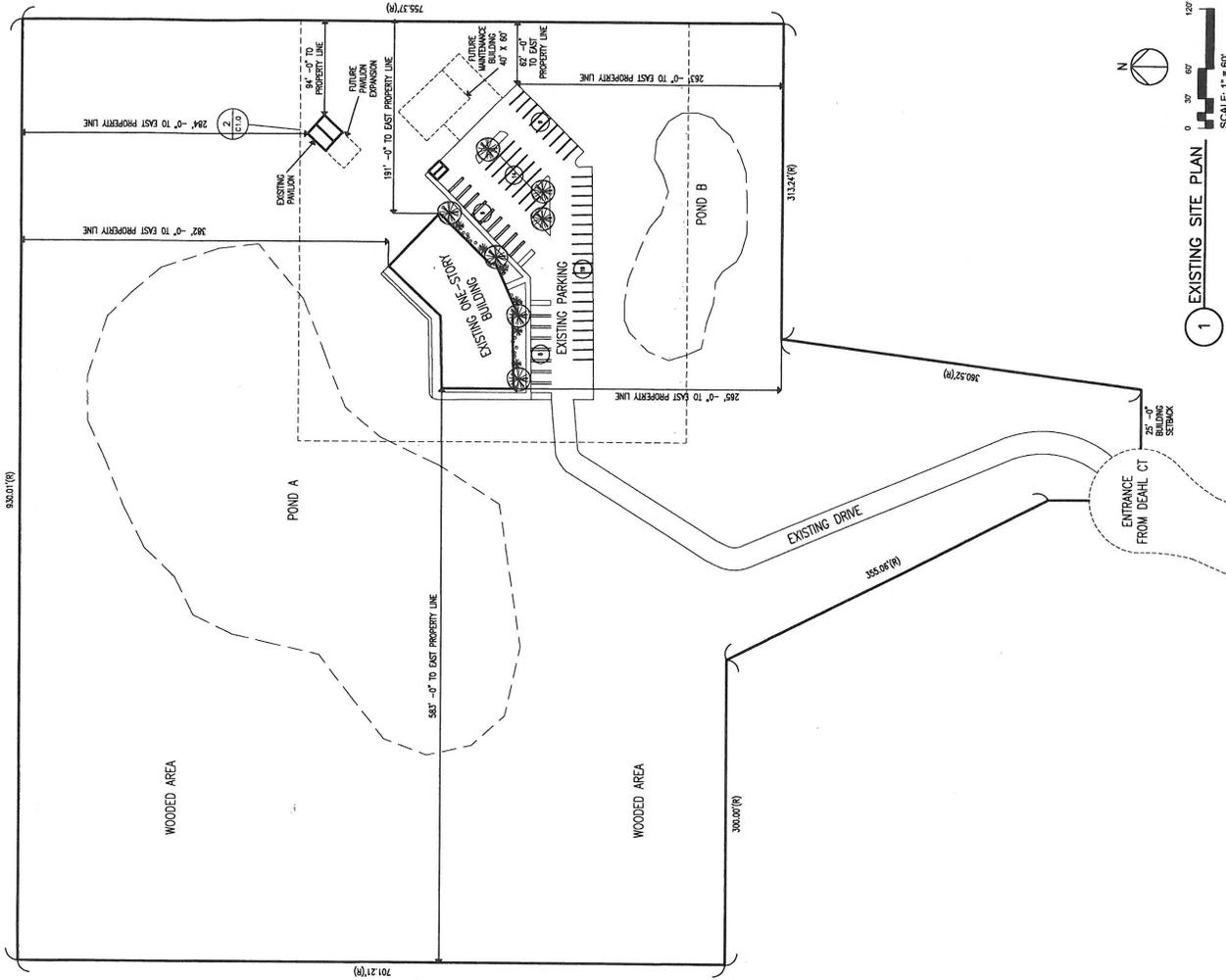
A.	OFFICE USE: 3 SPACE PER 1,000 SQ.FT OF FLOOR AREA	.....35 SPACES
	NUMBER OF SPACES REQUIRED FOR 11,560 SQ.FT OF FLOOR AREA.....	.....59 SPACES

6). ALL PARKING SPACES ARE 9'X20' AND ALL HANDICAP SPACES SHALL MEET REQUIRED ADA STANDARDS. BUILDING ENTRANCE IS ADA ACCESSIBLE.

7). PARKING LOT IS AN EXISTING PARKING LOT. ALL SURFACE DRAINAGE IS HANDLED ON-SITE AS REQUIRED BY CITY ENGINEERING DEPARTMENT WITH SURFACE SHEET DRAINING TO POND B.

8). THE BUILDING IS CONNECTED TO CITY WATER AND MUNICIPAL SEWAGE FACILITIES.

9). DRIVEWAY SHOWN IS EXISTING.



1 EXISTING SITE PLAN

**KIL ARCHITECTURE**  
 ARCHITECTS  
 128 LINCOLNWAY EAST  
 SOUTH BEND, IN 46601  
 GREGORY A. KIL  
 ARCHITECT  
 774.298.2954  
 www.kilarchitecture.com

**ProDeComm Engineering LLC.**  
 Professional Design & Consulting Services  
 17100 E. 10th Ave., Suite 200  
 South Bend, IN 46615  
 774.298.2954

**PRELIMINARY CONSTRUCTION**

**CORVILLA, INC.**  
 3620 DEAHL CT  
 SOUTH BEND, INDIANA  
 46628

**SITE REZONING**

DATE: JANUARY 6TH, 2016  
 FOR REZONING

REVISED:

REVISIONS:

**C1.1**  
 © COPYRIGHT 2015  
 KIL ARCHITECTURE/PLANNING





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, February 17, 2016

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

RE: A proposed ordinance of Kuert Concrete Inc. to zone from CB Community Business District to GI General Industrial District property located at 3101-3113 Lincolnway West, City of South Bend - APC# 2773-16.

Dear Council Members:

I hereby Certify that the above referenced ordinance of Kuert Concrete Inc. was legally advertised on Thursday, February 04, 2016 and that the Area Plan Commission at its public hearing on Tuesday, February 16, 2016 took the following action:

Upon a motion by John DeLee, being seconded by Jerry Thacker and unanimously carried, a proposed ordinance of Kuert Concrete Inc. to zone from CB Community Business District to GI General Industrial District , property located at 3101-3113 Lincolnway West, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. This rezoning will allow for the extension of an existing business. The addition of the fencing and a monument sign, along with the landscaping will increase the site's curb appeal and enhance and support the City's efforts to improve the Lincolnway West Corridor, a gateway into the city.

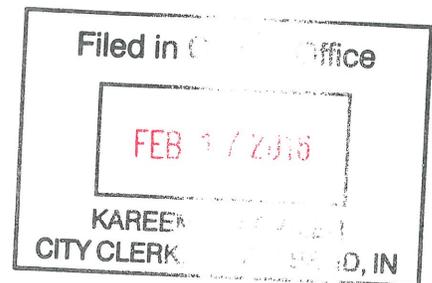
The deliberations of the Area Plan Commission and points considered in arriving at the above decision are shown in the minutes of the public hearing, and will be forwarded to you at a later date to be made a part of this report.

Sincerely,

Lawrence P. Magliozzi

Attachment

CC: Kuert Concrete Inc.



**Staff Report**

2/5/2016

APC # 2773-16  
Owner: Kuert Concrete Inc.  
Location: 3101-3113 Lincolnway West  
Jurisdiction: City of South Bend  
Public Hearing Date: 2/16/2016

**Requested Action:**

The petitioner is requesting a zone change from CB Community Business District to GI General Industrial District, and seeking 5 variances from the development standards.

**Land Uses and Zoning:**

- On site: On site is an outdoor display and storage area for concrete products.
- North: To the north is a concrete manufacturing facility zoned GI General Industrial District.
- East: To the east across Terrace Avenue is a vacant lot zoned MU Mixed Use District and single family homes zoned SF2 Single Family & Two Family District.
- South: To the south across Lincolnway West is an auto parts store zoned CB Community Business District.
- West: To the west across Bendix Drive is an auto parts store zoned CB Community Business District.

**District Uses and Development Standards:**

The GI General Industrial District is established to provide for development of manufacturing and processing facilities or facilities which may require substantial amounts of outdoor storage or outdoor operations. Permitted uses in this district tend to generate heavy traffic and require extensive community facilities. Permitted uses in this district may require extensive amounts of outdoor storage or outdoor operations. The permitted uses provided for in this district should be separated from residential districts or low intensity commercial / mixed use districts by less intense industrial districts.

**Site Plan Description:**

This site consists of two lots, totaling 0.71 acres. Existing on site is an outdoor merchandise display area and parking owned by, and associated with, the larger property to the north. The site plan proposes a 6' high vinyl fence along Terrace Avenue. The fence along Lincolnway is proposed at a height of 6', from Terrace Avenue heading northwest for approximately 50', then steps down to a 4' for the remainder. A 78 square foot monument sign is proposed along Lincolnway West. No buildings or structures are proposed.

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

This property has been zoned commercial since prior to 1999.

**Traffic and Transportation Considerations:**

Bendix Drive and Lincolnway West have four lanes with a center turn lane.

**Utilities:**

This site does not propose to utilize sewer or water.

**Staff Report**

2/5/2016

**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:**

This petition is not consistent with the West Side Main Streets Revitalization Plan. However, this site is an extension of a long established use at this location.

**Land Use Plan:**

The future land use map identifies this area as a Mixed-Use Node.

**Plan Implementation/Other Plans:**

No other plans exist for this area.

**2. Current Conditions and Character:**

The intersection of Lincolnway West with Bendix Drive has developed as a commercial node with a mixture of retail, service, and industrial uses.

**3. Most Desirable Use:**

The most desirable use is one that enhances the aesthetic nature of Lincolnway West as a "gateway" into the city, while also providing economic and service benefits to the area.

**4. Conservation of Property Values:**

Due to the fact that there is already an existing concrete plant at this intersection, allowing it to be properly zoned should not negatively impact the surrounding property values.

**5. Responsible Development And Growth:**

It is responsible growth and development to allow this site to develop as a buffer between the industrial use to the north and the other commercial uses along the corridor.

**Staff Comments:**

This is a combined public hearing procedure, which includes a rezoning and 5 variances from the development standards. The Commission will forward the rezoning to the Common Council with or without a recommendation and either approve or deny the variances.

The Variances are as follows:

- 1) From the required 30' front yard setback for outdoor storage to 0' along Terrace Avenue and to 5' along Lincolnway West;
- 2) From the required Type B: Partial Screening landscaping of outdoor storage to none;
- 3) From the required minimum 6' height of a required screening fence for outdoor storage to 4' on the south property line and to no fence on the west side of outdoor storage area;
- 4) From the required landscaping of required perimeter yards to none; and
- 5) From the maximum allowable sign surface area of 64 square feet for a monument sign to 78 square feet.

State statutes and the South Bend Zoning Ordinance require that certain standards must be met before a variance can be approved.

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

-Public safety will not be impacted by the location of the fence within the established setbacks, since it will still be outside of all clear sight triangles.

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

-Installing a vinyl fence to screen the concrete materials will improve the appearance of the property from the street. If installed, landscaping along Lincolnway West will add to the appearance and help protect surrounding property values.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

-The strict application will limit this site's ability to continue functioning as a display and storage area for concrete products. While the use requires industrial zoning, the setbacks along Lincolnway are generally much less than required by code.

The staff notes that any material being stored on the property may not extend higher than the lowest section of fence (4'). The staff would like to encourage the continuation of the 4' fence along the western portion of the storage area to provide better screening. The staff sees no practical difficulty which would limit the owner from installing perimeter trees along Lincolnway West, as required by the ordinance, and therefore recommends against that portion of variance 4.

**Recommendation:**

Based on information available prior to the public hearing, staff recommends that this rezoning petition be sent to the Common Council with a favorable recommendation. The staff recommends approval of the variances subject to installing the 4' fence along the west side of the outdoor storage area and providing perimeter landscaping on Lincolnway West.

**Analysis:**

This rezoning will allow for the extension of an existing business. The addition of the fencing and a monument sign, along with the landscaping will increase the site's curb appeal and enhance and support the City's efforts to improve the Lincolnway West Corridor, a gateway into the city.

REZONING  
#2773-16

Elwood

Elwood

Bandix

Goodland

Elliott

Calhoun

SOUTH BEND

Terrace

Lincolnway West

Humboldt

Kentucky

Ardmore

Goodland

Elliott

Greens

1 inch = 200 feet  
PORTAGE TOWNSHIP

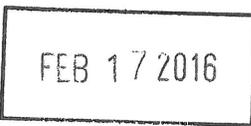


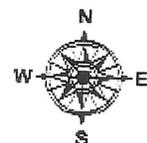


**Rezoning from: CITY OF SOUTH BEND  
"CB" COMMUNITY BUSINESS DISTRICT to  
"GI" GENERAL INDUSTRIAL DISTRICT**

**MASTER ZONING KEY**

-  SOUTH BEND "SF2" SINGLE FAMILY AND TWO FAMILY DISTRICT
-  SOUTH BEND "MU" MIXED USE DISTRICT
-  SOUTH BEND "LB" LOCAL BUSINESS DISTRICT
-  SOUTH BEND "CB" COMMUNITY BUSINESS DISTRICT
-  SOUTH BEND "LI" LIGHT INDUSTRIAL DISTRICT
-  SOUTH BEND "GI" GENERAL INDUSTRIAL DISTRICT

Filed in Clerk's Office  
  
 KAREEM S FOWLER  
 CITY CLERK, SOUTH BEND, IN



1 inch = 200 feet

**APC # 2773-16**



AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

---

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

January 6, 2016

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

RE: APC#2773-16 – Rezoning for property located at 3101-3113 Lincolnway.

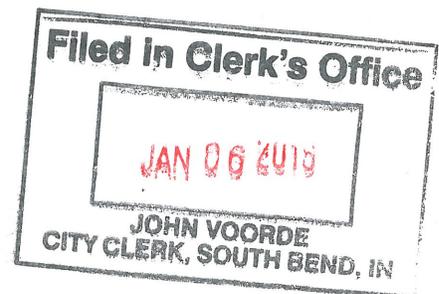
Dear Council Members:

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 January 11, 2016 Council meeting, and set it for public hearing at your February 22, 2016 Council meeting. The petition is tentatively scheduled for public hearing at the February 16, 2016 Area Plan Commission meeting. The recommendation of the Area Plan Commission will be forwarded to your office by noon on the day following the public hearing.

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

Sincerely,

  
Angela M. Smith  
Deputy Director



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

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 3101 and 3113 LINCOLNWAY WEST, COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

Petitioner desires to rezone the property in order to allow for the continuation and expansion of the industrial property to the north.

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

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

Lots 229, 230, 231, 232, 233 of Lincoln Terrace Addition and the south half of the vacated alley north of and adjacent to Lots 229-233 of Lincoln Terrace Addition

be and the same is hereby established as GI General 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

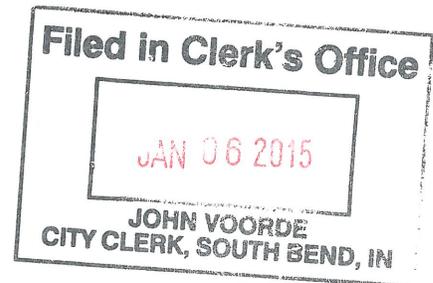
Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

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

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

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

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



PETITION FOR ZONE MAP AMENDMENT  
City of South Bend, Indiana

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

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

*3101-3113 Lincolnway West  
South Bend, IN 46628*

2) The property Tax Key Number(s) is/are: *018-2042-145301, 018-2042-145302, 018-2042-1450*

3) Legal Descriptions: *Lots 229, 230, 231, 232, 233 of Lincoln Terrace Addition and the south half of the vacated alley north of and adjacent to Lots 229-233 of Lincoln Terrace Addition and the triangle parcel on the north end of lot 229*

4) Total Site Area: *Enter total acreage being rezoned*

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

*Kuert Concrete Inc  
3402 Lincolnway West  
South Bend, IN 46628  
574-232-9911  
brad.webb@kuert.com*

Name and address of additional property owners, if applicable:

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

*N/A*

Name and address of additional property owners, if applicable:

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

From: *CB Community Business District*      *N/A*

To: *GI General Industrial District*

8) This rezoning is requested to allow the following use(s): *Outdoor storage, outdoor display*

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: *See attached document*

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: *See attached document*

(c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: *See attached document*

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

- 1) A detailed description and purpose of the Special Exception Use(s) being requested: *N/A*
  
- 2) A statement on how each of the following standards for the granting of a Special Exception Use is met:
  - (a) The proposed *use* will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare: *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 Exception Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

CONTACT PERSON:

*Brad Webb*  
*3402 Lincolnway West*  
*South Bend, IN 46628*  
*574-232-9911*  
*brad.webb@kuert.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):

*Stephen L. Fidler*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### List of Requested Variances

1. From the required thirty (30) feet front yard setback for outdoor storage to zero (0) feet along Terrace Ave and five (5) feet along Lincolnway West.
2. From the required Type B Partial Screening landscaping of outdoor storage to no landscaping.
3. From the required minimum height of a screening fence for outdoor storage of six (6) feet to a height of four (4) feet on the south and no fence on the west side of outdoor storage area.
4. From the maximum sign surface area of sixty-four (64) square feet for a monument sign to seventy-eight (78) square feet.
5. From the required landscaping of required perimeter yards to no landscaping.

### Statements on how the following standards for the granting of variances are met:

- a) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*
- 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.*
- c) *The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property.*

### Requested Variance #1

- a) The property has been used exclusively for outdoor storage since the demolition of the structure on Lot 229 in 2013. Continued outdoor storage within the required setback areas will have no negative impact on community welfare.
- b) The use and value of the area adjacent to the properties would not be impacted by the continued outdoor storage within the setback areas.
- c) Adherence to the setback requirements for outdoor storage would considerably limit the intended utilization of the property for outdoor storage.

### Requested Variance #2

- a) The absence of the required landscaping to supplement the fencing shall have no impact to community welfare.
- b) The value and use of adjacent areas shall not be impacted by the absence of required supplemental landscaping.
- c) Installation of required landscaping would reduce the amount of usable outdoor storage space. This variance request seeks to maintain the landscape plan approved in the West Side Corridors grant agreement.

#### Requested Variance #3

- a) The proposed fence height of four (4) feet will provide screening of outdoor storage, but will not restrict views of the adjacent retail building. The absence of a fence along the west side of the outdoor storage area shall present no change to the surrounding community, as this outdoor storage area has not been screened in the past.
- b) The surrounding properties would benefit from the improved aesthetics provided by a screening fence, despite the entire outdoor storage area not being screened from view.
- c) A required fence height of six (6) feet would restrict pedestrian and motorist views of the adjacent retail building along the south property line. Installation of a fence along the west side of the storage area would restrict our ability to display retail concrete products. This variance request seeks to maintain the fencing as approved in the West Side Corridors grant agreement.

#### Requested Variance #4

- a) The relatively small additional sign surface area requested should have no impact on the surrounding community. The sign will not interfere with any clear sight area requirements.
- b) The use and value of the adjacent area will not be negatively impacted by the installation of an electronic sign with a calculated sign surface area of seventy-eight (78) square feet.
- c) Preliminary work has already begun for the construction of an electronic sign, as outlined and approved in the West Side Corridors grant agreement, which is in compliance with the property's current CB zoning. The subsequent need for rezoning renders the current sign design non-compliant because of the reduced allowable sign surface area regulations for a GI district.

#### Requested Variance #5

- a) The parcels currently do not contain any landscaping in the required perimeter yards. Allowing the properties to continue without landscaping will present no change to the surrounding community.
- b) The use and value of adjacent properties will not be impacted by waiving the landscaping requirement.
- c) This variance request seeks to maintain the landscaping as approved in the West Side Corridors grant agreement. This includes the installation of two (2) deciduous trees, ornamental grasses, flowers, colored mulch, and a grass lawn.







555 Eastport Centre Drive  
P.O. Box 2237  
Valparaiso, IN 46384

**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

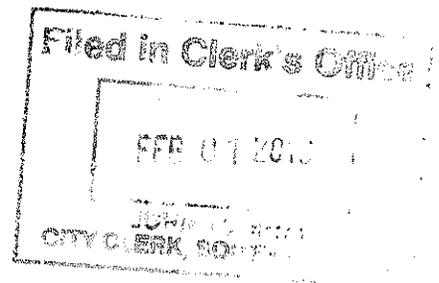
RE: Alley Vacation, 2910 Mishawaka Avenue

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

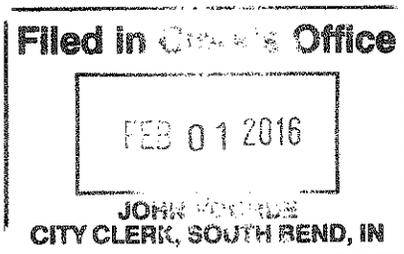
Attest:

\_\_\_\_\_  
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 ✓ *and*

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



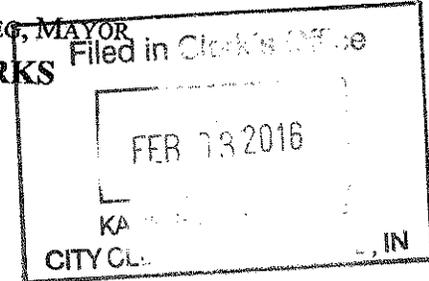
PHONE 574/235-9251  
FAX 574/235-9171

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

**BOARD OF PUBLIC WORKS**

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:

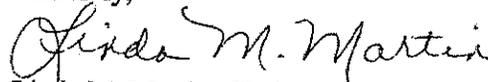
Area Plan stated that the vacation would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous. The vacation would not make access to the lands of the aggrieved person by means of public way difficult or inconvenient. The vacation 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 ([Imaglioz@co.st-joseph.in.us](mailto:Imaglioz@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**

**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**  
**frodriagu@southbendin.gov**

**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 <frodriagu@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:** 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

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: Linda M. Martin, Clerk *LM*

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

---

APPLICANT: **Family Pet Health Center**

---

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:**

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

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 <pkerr@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

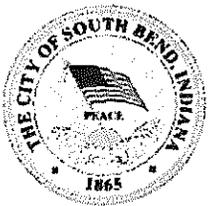
Department of Public Works

227 W. Jefferson Blvd., Suite 1316

South Bend, IN 46601

574-235-3168

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

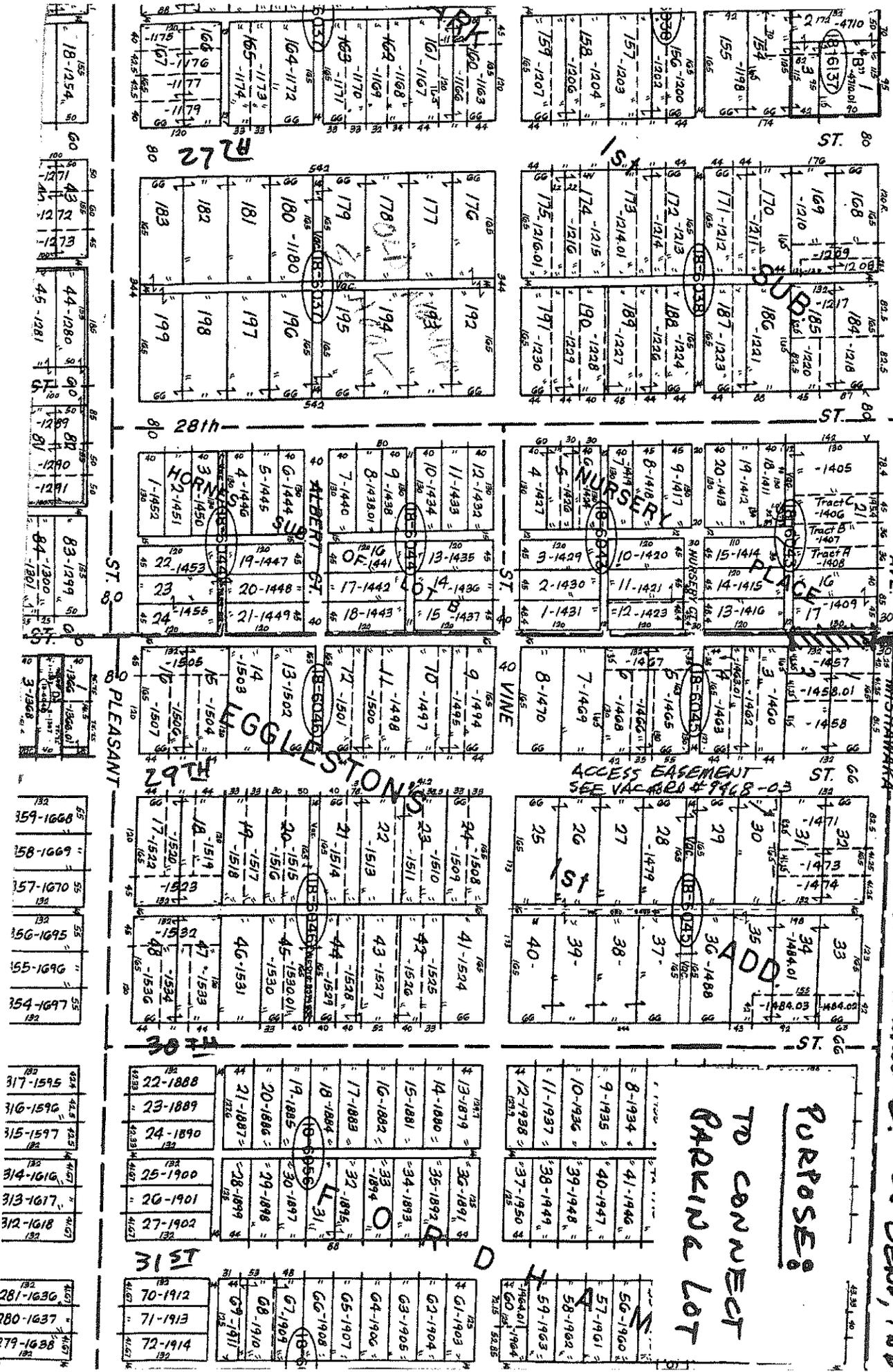


**CONTACT:**  
**CHESTER ARCH WLEY TO BE VICATED**  
**219-4652-9555**

**A**

**PETTORER:** OLD RIVER PARK  
**FAMILY PET HEALTH CENTER / 2910 MISHAWAKA - S. BEND, MN**

**PURPOSE:**  
**TO CONNECT**  
**PARKING LOT**



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

2920 MISHAWAKA AVENUE

1 & 2

71-09-17-201-001.000-026

→ John J. Bognar  
→ Wendy Bognar

CONTACT PERSON (S)

NAME:

STEVE DEBOLD - CHESTER, INC.

ADDRESS:

555 EASTPORT CENTRE DR.

PO BOX 2237

VALPARAISO, IN 46384

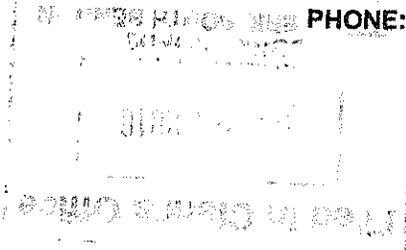
219-465-7555

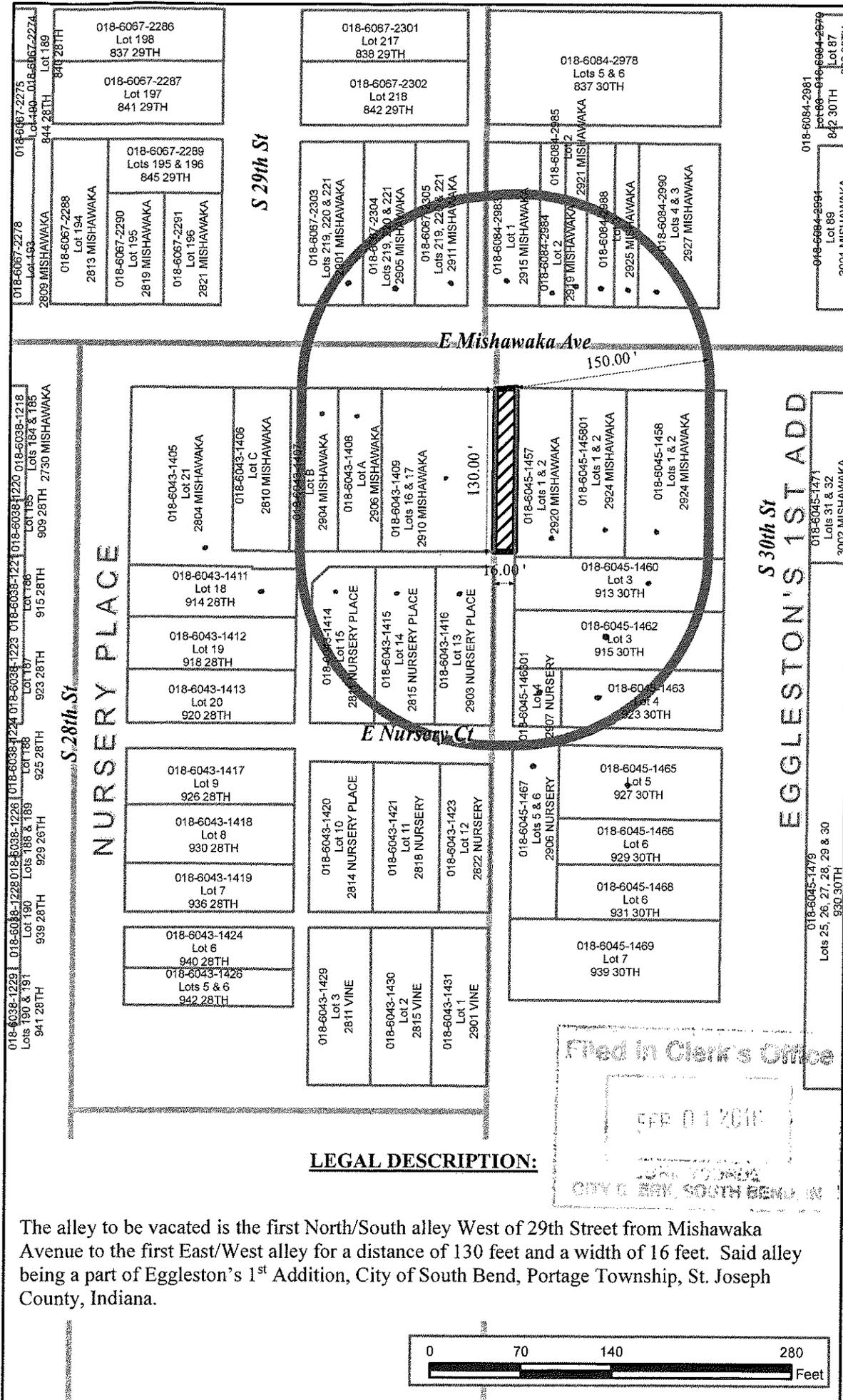
RETURN TO:

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

574-235-9221

PHONE:

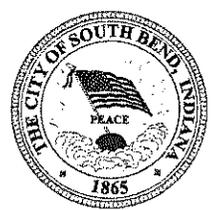




**Alley Vacation**

**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**



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

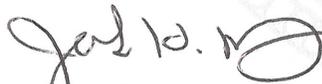
Dear President Scott,

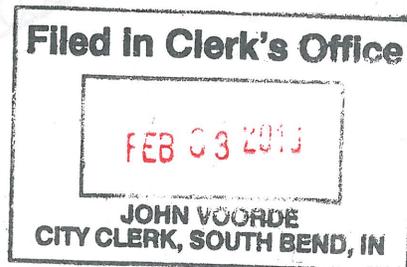
The City Administration is requesting an additional appropriation of \$68,000 for equipment and repairs at the Elbel Golf Course in order to prepare the course for the current year. As you may know, there has been conservative capital spending at the course over the past two years, as discussions have 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).

STATEMENT OF PURPOSE AND INTENT

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.

\_\_\_\_\_  
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 \_\_\_\_\_, 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

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
DEFERRED  
NOTED

**Filed in Clerk's Office**  
FEB 03 2016  
JOHN VOORDE  
CITY CLERK, SOUTH BEND, IN

**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



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.

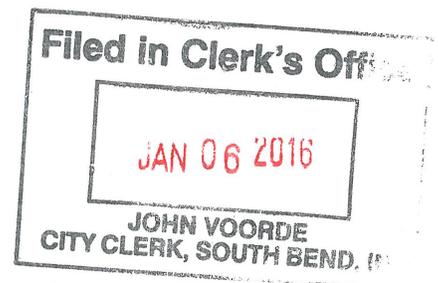
On December 16, 2015 the Parks Board held a public meeting to elicit public comments on whether the property should be sold and approved the sale of this property as part of their Resolution No. 03-2015. State statute requires the approval of the Common Council for the property to continue the disposition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

---

**STATEMENT OF PURPOSE AND INTENT**

---

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

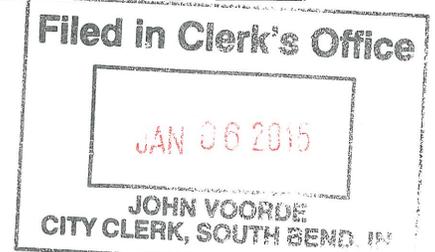
Attest:

\_\_\_\_\_  
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. CC3-2015

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

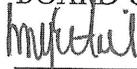
WHEREAS, the Park Board hereby recommends and authorizes the Parks Department, or its designee, to prepare an ordinance authorizing the sale of Elbel and submit the same to the South Bend Common Council ("Council"); and

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

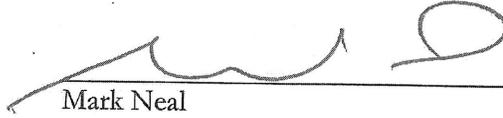
1. The Park Board hereby deems Elbel as not required for the future operation of the Parks Department; and
2. The Park Board accepts the average redevelopment appraised value of Elbel as \$1,295,000.00; and
3. The Park Board accepts the average golf course appraised value of Elbel as \$747,500.00; and
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



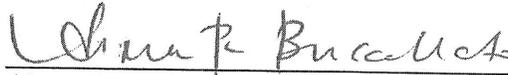
\_\_\_\_\_  
Amy Hill, President



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

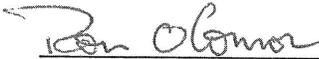


\_\_\_\_\_  
Dan Farrell



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

ATTEST:



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



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.

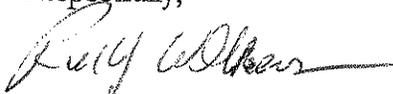
The Indiana Unsafe Building Law, Ind. Code 36-7-9-1, which is incorporated into the South Bend Municipal Code (the Code) in full and by reference at Chapter 6, Article 8, Section 6-37, authorizes the City of South Bend through its Department of Code Enforcement to remove trash, debris, fire hazardous 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.

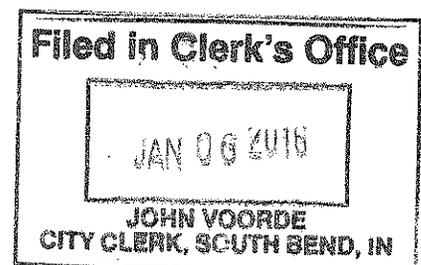
On behalf of the Department of Code Enforcement, it is my belief that this ordinance is in the best interest of the citizens of the City of South Bend.

Respectfully,



Randy Wilkerson

Director of Code Enforcement



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

**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**

---

**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 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

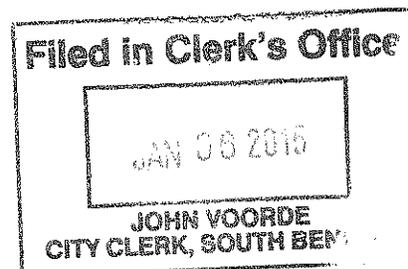
Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, at \_\_\_\_\_ o'clock \_\_\_\_\_ m.

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

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

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

1<sup>st</sup> READING  
PUBLIC HEARING  
3<sup>rd</sup> 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. 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

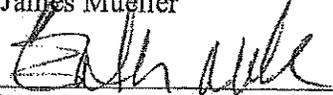


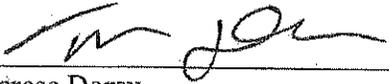
Gary Gilot



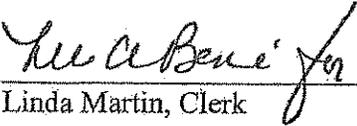
David Relos

  
James Mueller

  
Elizabeth Maradik

  
Therese Dorau

ATTEST:

  
Linda Martin, Clerk

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



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  
RW

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.

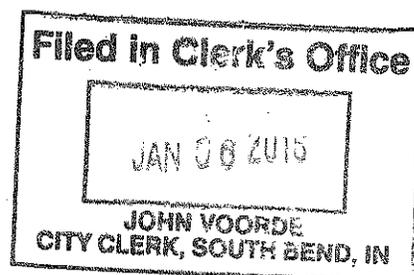
On behalf of the Department of Code Enforcement, it is my belief that this ordinance is in the best interest of the citizens of the City of South Bend.

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**

---

**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

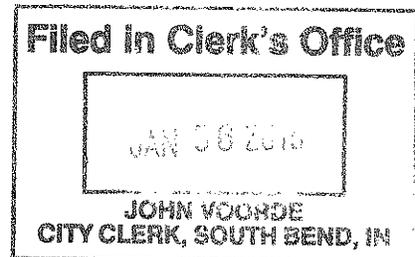
Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

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

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

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

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



**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**

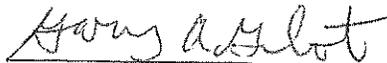
Section III. The following fees reflect the average expenses which are incurred by the Department of Code Enforcement in processing orders to secure structures, and which shall be charged in addition to the costs of the contractor for each order to secure issued:

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

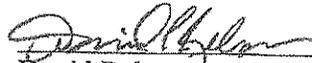
**TOTAL COST TO SECURE** **\$162.00**

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

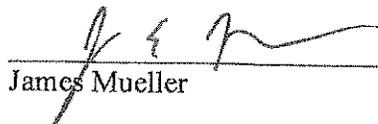
BOARD OF PUBLIC WORKS OF THE  
CITY OF SOUTH BEND, INDIANA



Gary Gilot

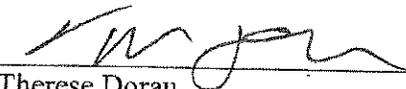


David Relos

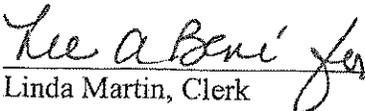


James Mueller

  
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  
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**.

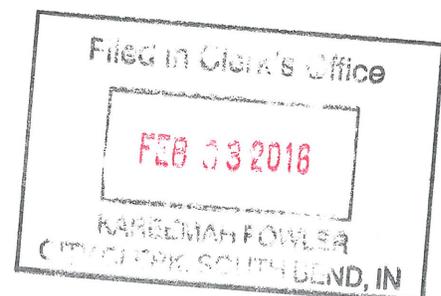
The deliberations of the Area Board of Zoning Appeals and points considered in arriving at the above decision as shown in the Minutes of the Public Hearing, and will be forwarded to you at a later date, to be made part of this report.

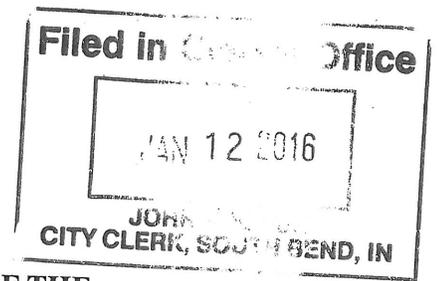
Sincerely,



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.

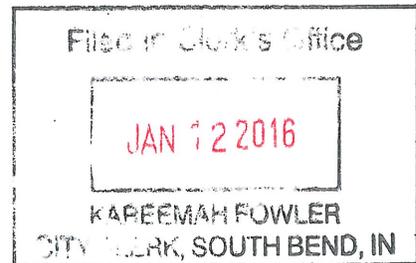
**SECTION III.** The Common Council of the City of South Bend, Indiana, hereby finds that:

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

ADOPTED

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.

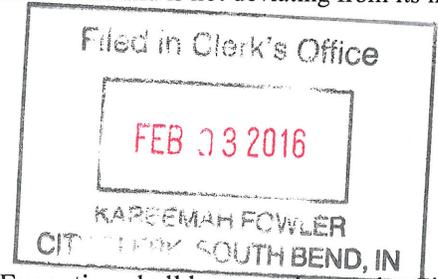
3. THE PROPOSED *USE* WILL BE CONSISTENT WITH THE CHARACTER OF THE *DISTRICT* IN WHICH IT IS LOCATED AND THE LAND USES AUTHORIZED THEREIN BECAUSE:

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.

MOTION	SECOND	RECUSED	ABSENT	YES	NO	
<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)

\*\*\*\*

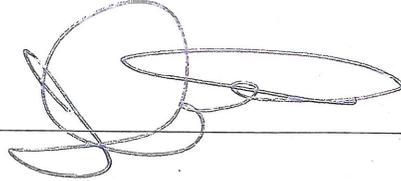
Petitioners seek permission to construct a Fast Casual Restaurant with drive-thru/pick-up window on the subject vacant parcel.

- (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.

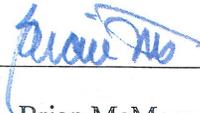
(d) Strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- 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.

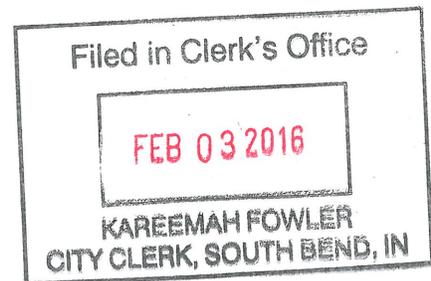
Signed by PETITIONER: \_\_\_\_\_



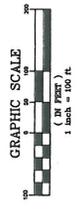
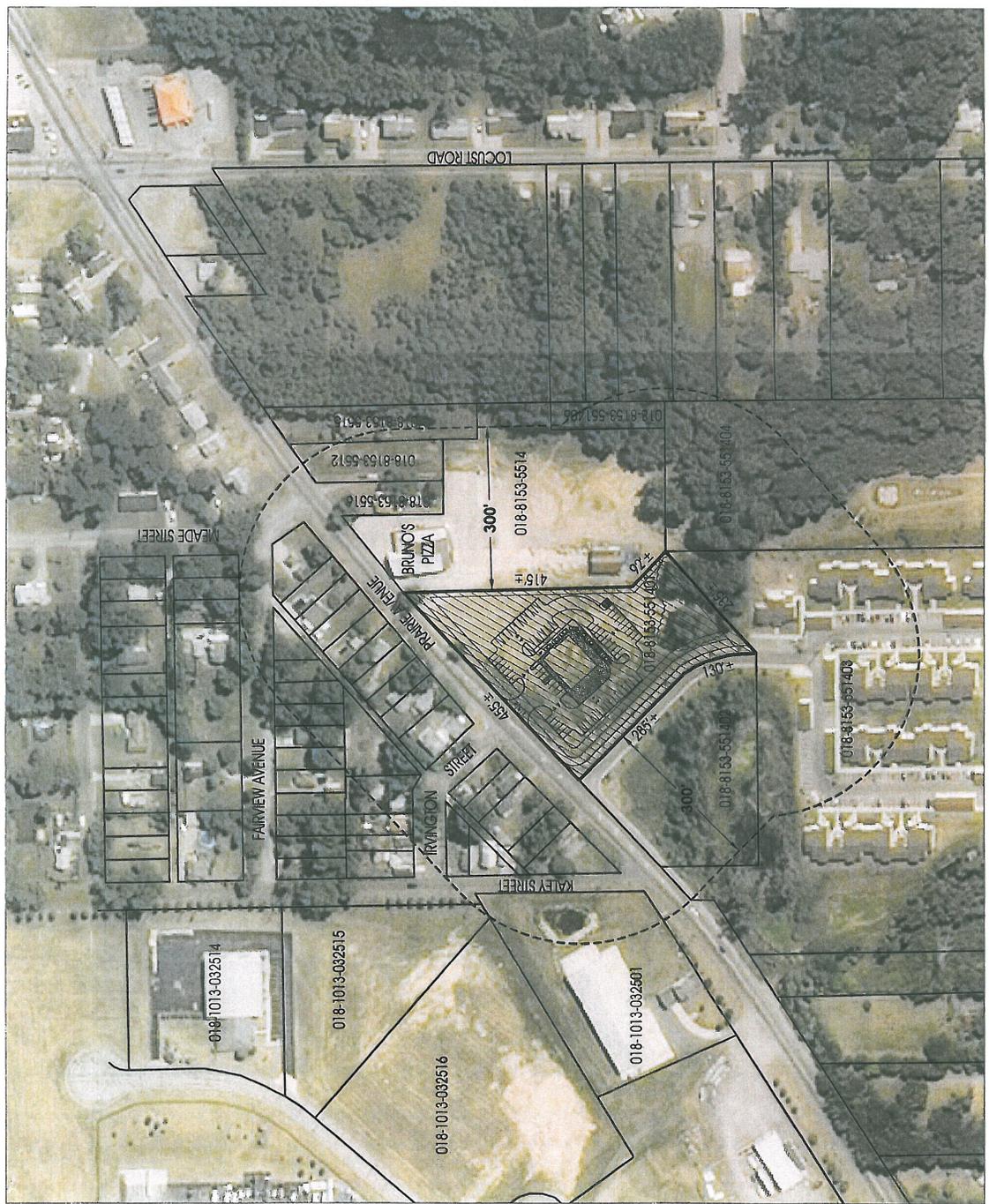
PRESENTED by: \_\_\_\_\_



Brian McMorrow, Abonmarche Consultants, Inc.



**LEGEND**  
 [Symbol] SUBJECT PROPERTY (#018-8153-551401) 2.75 ACRES



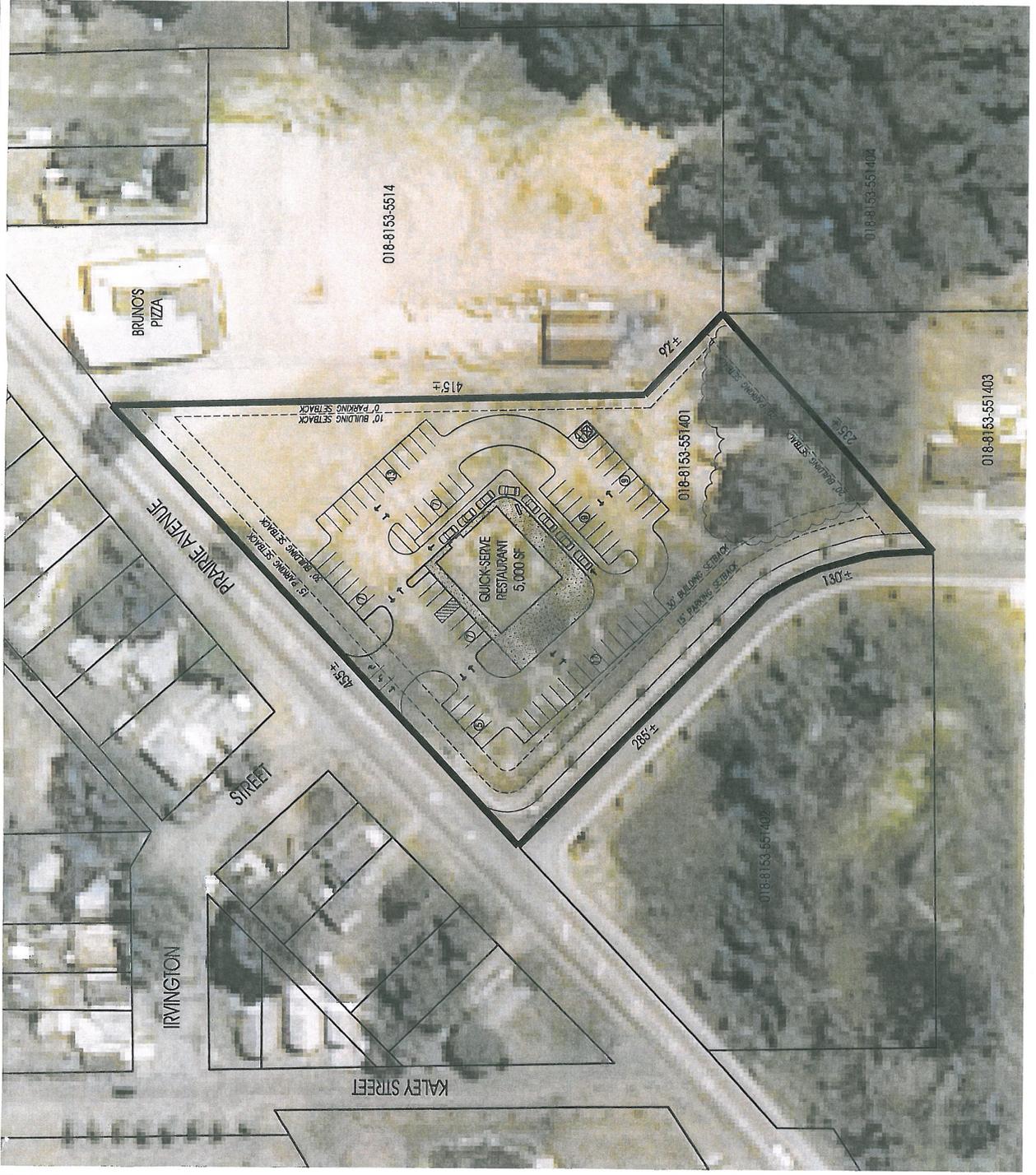


**GENERAL NOTES**

- Total Area: 2.75 acres
- Current Zoning: O3, Community Business District (Preceded by 018-0153-551400)  
Current Owner: Bruno & Ross Cataldo
- Existing Land Use: Vacant Land  
Proposed Land Use: Quick-Serve Restaurant (With Drive-Through Service)
- Building shall be less than 50' in height.
- Building setbacks:  
Side: 10' (Adjacent to Residential: 20')  
Rear: 10' (Adjacent to Residential: 20')  
Front: 15'  
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 drainage 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: 80 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: 59 spaces (includes 2 ADA spaces)



NO.	REVISION DESCRIPTION	BY	DATE



227 W. JEFFERSON BOULEVARD  
SUITE 1400 S.  
SOUTH BEND, IN 46601-1830



PHONE: 574/235-9371  
FAX: 574/235-9021

CITY OF SOUTH BEND      PETE BUTTIGIEG, MAYOR  
**COMMUNITY INVESTMENT**  
SCOTT FORD, EXECUTIVE DIRECTOR

January 20, 2016

Council Member Gavin Ferlic, Chairperson  
Community Investment Committee  
South Bend Common Council  
4th Floor, County City Building  
South Bend, IN 46601

RE: Residential Real Property Tax Abatement Petition for: **Jeffrey Szalay and Amber O'Brien**

Dear Council Member Ferlic:

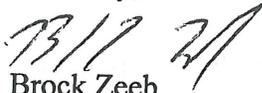
Please find the attached information pertaining to a residential real property tax abatement petition submitted by Jeffrey Szalay and Amber O'Brien to a build a single-family home:

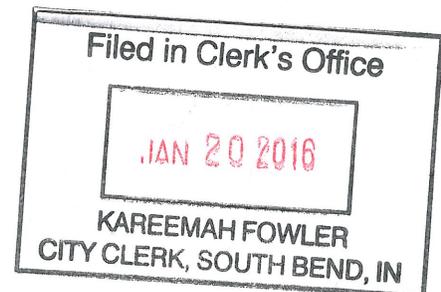
- Department of Community Investment's summary report
- Copy of the petition
- Statement of Benefits form
- Supporting information.

The report contains the Department's findings relative to the above petition. The petitioner proposes to build a single-family home with an approximate construction value of \$182,500. The project meets the qualifications for a (5) five-year residential property tax abatement and Jeffrey Szalay and Amber O'Brien will be available to meet with the Committee on Monday, January 25, 2016.

Should you or any of the other Council members have any questions concerning the report, or need additional information, please feel free to call me at 235-9339.

Sincerely,

  
Brock Zeeb  
Director Economic Resources



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

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

**6741 Lutz Drive, South Bend, IN 46614**

AS A RESIDENTIALLY DISTRESSED AREA FOR PURPOSES OF A (5) FIVE-YEAR RESIDENTIAL REAL PROPERTY TAX ABATEMENT FOR

**Jeffrey Szalay and Amber O'Brien**

---

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as Residentially Distressed Areas for the purpose of tax abatement consideration; and

WHEREAS, a Declaratory Resolution designated the area commonly known as:

**6741 Lutz Drive, South Bend, IN 46614**

and which is more particularly described as follows:

LOT 336 LAFAYETTE FALLS PHASE III SECTION TWO  
TAX KEY NO. 023-1002-002424

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

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

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

WHEREAS, the Council has determined that the qualifications for a residentially distressed area have been met.

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

SECTION I. The Common Council hereby determines and finds that the petition for real property

tax abatement and the Statement of Benefits form meet the requirements of Indiana Code 6-1.1-12.1 et seq., for tax abatement.

SECTION II. The Common Council hereby determines and finds that the area meets one of the following conditions as formally established in Ordinance No. 9394-03, which was passed on February 10, 2003:

- A. The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings designed for up to four (4) families, including accessory buildings for those dwellings; or
- B. Any dwellings in the area are not permanently occupied and are:
  - i. the subject of an order issued under IC 36-7-9; or
  - ii. evidencing significant building deficiencies; or
- C. Parcels of property in the area:
  - i. have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or
  - ii. are owned by a unit of local government; or
- D. A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land; or
- E. A significant number of dwelling units within the area are:
  - i. the subject of an order issued under IC 36-7-9; or
  - ii. evidencing significant building deficiencies; or
- F. The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the areas are owned by Indiana or the United States; or
- G. The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the Council's jurisdiction.

SECTION III. The Common Council also hereby determines and finds the following:

- A. That the description of the proposed redevelopment meets the applicable standards for such development.
- B. That the estimate of the value of the redevelopment is reasonable for projects of this nature;
- C. That the other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment; and
- D. That the totality of benefits is sufficient to justify the requested deduction, all of which satisfy the requirements of Indiana Code 6-1.1-12.1-3.
- E. The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.
- F. The deduction will not be allowed unless the dwelling rehabilitation is completed within five (5) calendar years from the date of the adoption of this Resolution by the Common Council.

SECTION IV. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as a Residentially Distressed Area for the purposes of tax abatement. Such

designation is for Real property tax abatement only and is limited to two (2) calendar years from the date of adoption of the Declaratory Resolution by the Common Council as shown by the attachment pursuant to Indiana Code 6-1.1-12.1-17.

SECTION V. The Common Council hereby determines that the property owner is qualified for and is granted a real property tax deduction for a period of five (5) years as shown by the attachment pursuant to Indiana Code 6-1.1-12.1-17, and further determines that the petition complies with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12.1 et seq.

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

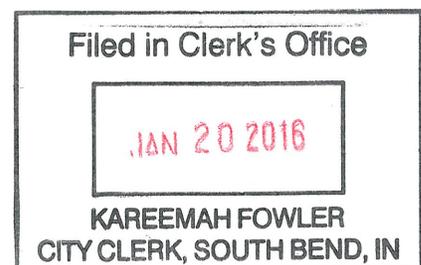
---

Member of the Common Council

PRESENTED

NOT APPROVED

ADOPTED



# TAX ABATEMENT REPORT

TO: SOUTH BEND COMMON COUNCIL  
FROM: BROCK ZEEB  
SUBJECT: RESIDENTIAL REAL PROPERTY TAX ABATEMENT PETITION FOR:  
**Jeffrey Szalay and Amber O'Brien**  
DATE: January 20, 2016

On Thursday, January 7, 2016, a petition from Jeffrey Szalay and Amber O'Brien was received and subsequently filed with the City Clerk for residential real property tax abatement consideration for a single-family home. Pursuant to Chapter 2, Article 6, Section 2-84.2 of the Municipal Code of the City of South Bend, this petition was referred to the Department of Community Investment for purposes of investigation and preparation of a report determining whether the area qualifies as an Economic Revitalization Area pursuant to I.C.6-1.1-12.1 and whether all zoning requirements have been met.

The Department of Community Investment has reviewed the petition (a copy of which is attached), investigated the area, and makes the following report.

## PROJECT SUMMARY

- (1) One single-family home at an approximate net assessed value of \$62,910
- New total taxes during five year abatement period – \$8911
- Estimated taxes being abated during five year abatement period – \$8809
- Total taxes to be paid during five year abatement period – \$102

## ABATEMENT QUALIFICATION

1. A review of the tax abatements previously granted, finds that the petitioner has not been granted or associated with any previous abatements.
2. The Building Commissioner has reviewed the petition and finds the property to be properly zoned for the proposed project.
3. A review of the South Bend Redevelopment designation areas finds that the property is not located in a designated Development Area.
4. A review of the Tax Abatement Ordinance No. 9394-03 finds that the petitioner meets the qualifications for a (5) five-year residential property tax abatement under section 2-77.1, Single Family Residential Construction.

**Jeffrey Szalay and Amber O'Brien**

South Bend Portage Township  
Residential Real Property Tax Abatement Schedule\*

Estimated Project Cost: **\$182,500.00**

<u>Assessed Value:</u>		<u>Total Taxes</u>	<u>Tax Abated**</u>	<u>Tax Paid***</u>
Structure (% AV of cost)	80.0%	146,000.00	146,000.00	146,000.00
Land Value	400	400.00	N/A	N/A
Gross Assessed Value		146,400.00	146,000.00	146,000.00
Less Mortgage Exemption		(3,000.00)	(3,000.00)	(3,000.00)
Less Homestead Deduction		(45,000.00)	(45,000.00)	(45,000.00)
Less Supplemental Homestead Deduction		(35,490.00)	(35,490.00)	(35,490.00)
Base Assessed Value		62,910.00	62,510.00	62,510.00
Less Maximum Abatement Deduction		N/A	N/A	(62,510.00)
Less Non-Abated Amount		N/A	0.00	N/A
Plus Land Assessed Value		N/A	N/A	400.00
Net Assessed Value		62,910.00	62,510.00	400.00
<u>Property Taxes:</u>				
Assume constant tax rate of		5.4597%	5.4597%	5.4597%
Gross Tax (tax rate x net assessed value)		3,434.67	3,412.83	21.84
Less County COIT Homestead Credit:		6.8095%	(233.88)	(232.40)
Tax Due Before Circuit Breaker		3,200.79	3,180.43	20.35
Less Circuit Breaker Credit		(1,418.65)	(1,418.65)	0.00
Net Tax		1,782.14	1,761.78	20.35
<u>Circuit Breaker Cap</u>				
Circuit Breaker		1.0000%	1,464.00	1,460.00
Debt Service		0.5057%	318.14	316.11
Circuit Braker Cap			1,782.14	1,776.11
				1,466.02

Year	Net Assessed Value	Total Taxes Due	Tax Abated	Tax Paid
1	62,910.00	1,782.14	1,761.78	20.35
2	62,910.00	1,782.14	1,761.78	20.35
3	62,910.00	1,782.14	1,761.78	20.35
4	62,910.00	1,782.14	1,761.78	20.35
5	62,910.00	1,782.14	1,761.78	20.35
5 year totals:		8,910.68	8,808.92	101.76

\*This schedule is for estimation purposes only and assumes constant tax rates. The true tax values will ultimately be determined by the actual assessed valuation and the then current tax rates.

\*\*Tax Abated is capped at \$74,880 of assessed value of structures only and does not include land assessed value.

\*\*\*Tax Paid is calculated using the difference between actual assessed value of structure and maximum abated portion of \$74,880 and adding back the land assessed value.

**CITY OF SOUTH BEND, INDIANA  
PETITION FOR RESIDENTIAL TAX ABATEMENT CONSIDERATION**

The undersigned owner(s) of real property, located within the City of South Bend, hereby petition the Common Council of the City of South Bend for Residential Real Property tax abatement consideration and pursuant to I.C. 6-1.1-12.1-1, et seq., and South Bend Municipal Code Sec. 2-76 et seq., for this petition state the following:

1. Describe the proposed construction project, including information about square footage, number of rooms, number of stories, other amenities such as finished basements and garages, the amount of land to be used, the proposed use of the improvements, and a general statement as to the importance of the project (use additional sheet for long project descriptions):  
We plan to construct a single family, one story home of 1719 sq. feet with three bedrooms and two bathrooms, and a two stall garage. There will be an additional bathroom and bedroom with egress window in the basement once finished. This home will serve as the primary residence of our growing family in the years to come.

2. Estimate the dollar value of the construction project (do not include land cost): \$ 182,500.

3. The real property for which tax abatement consideration is petitioned (Property) is owned or to be owned by the following individual(s) or corporation(s) (if the business organization is publicly held, indicate also the name of the corporate parent, if any, and the name under which the corporation has filed with the Securities and Exchange Commission):

<u>Name</u>	<u>Address</u>	<u>Interest</u>
Jeffrey Szalay	722 S Gladstone Ave.	homeowner
Amber O'Brien	722 S Gladstone Ave.	homeowner

4. The commonly known address of the Property is: 6741 Lutz Drive and having tax key no.: 023-1002-002424 (use additional sheet for multiple addresses or key numbers).

5. A legal description of said Property(s) is attached hereto, marked Exhibit A, and is incorporated herein.

6. A map and/or plat indicating the location of the Property(s) is attached hereto, marked Exhibit B, and is incorporated herein.

7. Photographs of the Property(s), taken within two (2) weeks of the filing of this petition, are attached hereto, marked Exhibit C, and incorporated herein.

8. The current assessed valuation of the property before construction is \$ 400 (use additional sheet for multiple addresses). (Information may be obtained from the St. Joseph County Assessor's Office, 235-9523).

9. List the real property taxes paid at the location during the previous two years, whether paid by the current owner or a previous owner (use additional sheet for multiple addresses):  
2013 payable 2014 - \$ 8.25  
2014 payable 2015 - \$10.45

(This information may be obtained from the St. Joseph County Treasurers office, 235-9531)

10. What is your best estimate of the after completion market value of the property: \$ 200,000.

11. No building permit has been issued for construction on the property in connection with the improvement in question as of the date of filing of this petition. The building permit may be issued after the South Bend Common Council has approved the Declaratory Resolution. (Tax abatement is not available if a building permit has already been issued). The signature below is verification of this statement.
12. List other anticipated public financing for the project, including any assistance to be sought or already authorized through the United States Department of Housing and Urban Development funds from the City of South Bend, South Bend Housing Authority, Housing Assistance Office, St. Joseph County Housing Consortium or other public financial assistance, including but not limited to public works improvements:  
not applicable  
 \_\_\_\_\_  
 \_\_\_\_\_
13. Describe how the property has become undesirable for or impossible of normal development because of a lack of development, cessation of growth, deterioration of improvements or other factors which have impaired values and prevent a normal development of the property:  
Development within the subdivision Lafayette Falls has been stagnant since December of 2014 when remaining vacant lots fell into bank ownership. At the same time, the overall condition of the subdivision also began to deteriorate and has been in ill-repair until recently when the HOA has been overtaken by a group of neighborhood occupants whose goal is to begin revitalization and improvement of the subdivision.
14. The current use of the property is vacant subdivision lot and the current zoning is agricultural. (This information may be obtained from the Building Department 235-9553)
15. The property is located in the following Allocation Area (if any) declared and confirmed by the South Bend Redevelopment Commission (requiring approval of the tax abatement by the Redevelopment Commission):  
 \_\_\_\_\_
16. The following person should be contacted as the petitioner's agent regarding additional information and public hearing notifications:

Name Amber O'Brien  
 Address 722 S Gladstone Ave.  
 City, State, Zip South Bend, IN, 46619  
 Telephone (574) 298-3187  
 E-mail Address obrienamRN@gmail.com

WHEREFORE, Petitioner has paid the required fee of \$50.00 and requests that the Common Council of the City of South Bend, Indiana, adopt a declaratory resolution designating the area described herein as a residentially distressed area for the purposes of real property tax abatement consideration, and after publication of notice and public hearing, determine that the qualifications for a residentially distressed area have been met and confirm such resolution.

Name of Property Owner(s):

Amber O'Brien and Jeffrey Szalay

By: \_\_\_\_\_

(Signature)

Amber O'Brien

(Typed or printed name and capacity)

71-13-02-251-065.000-002

Chemical Bank

6741 LUTZ DR

ADMINISTRATIVE INFORMATION

PARCEL NUMBER 71-13-02-251-065.000-002  
Parent Parcel Number 71-13-02-251-087.000-002  
Property Address 6741 LUTZ DR

Neighborhood 7102003 23103-399  
Property Class 100 Agri Vacant land

TAKING DISTRICT INFORMATION

Jurisdiction 71 St. Joseph Centre  
Corporation N  
District 002  
Section & Plat 0002  
Routing Number 13-2A

Site Description  
Topography:  
Public Utilities:

Street or Road:  
Neighborhood:  
Zoning:  
Legal Acres:  
Admin Legal:

1 TILLABLE LAND

HeC2 0.2507

0.68 2050.00

1394.00

350

350

OWNERSHIP  
Chemical Bank  
333 East Main St  
Midland, MI 48640  
LOT 336 LAFAYETTE FALLS PHASE III SECTION TWO  
04-03-08 09/10 NEW PARCEL

TRANSFER OF OWNERSHIP  
Date 12/10/2014  
KENDALL WEISS LLP

RP947

Printed 08/27/2015  
Card No. 1 of 1

AGRICULTURAL

Assessment Year	03/01/2009	03/01/2010	03/01/2011	03/01/2012	03/01/2013	03/01/2014	03/01/2015
Reason for Change							
VALUATION	L	Trend Val	Trend Val	Trend Val	Annual	Annual	Annual
Appraised Value	B	200	200	300	300	400	400
VALUATION	T	0	0	0	0	0	0
True Tax Value	L	200	200	300	300	400	400
	B	0	0	0	0	0	0
	T	200	200	300	300	400	400

LAND DATA AND CALCULATIONS

Rating	Measured	Table	Prod. Factor	Soil ID	Acresage	Depth Factor	Base Rate	Adjusted Rate	Extended Value	Influence Factor	Value
HeC2	0.2507	0.68	2050.00					1394.00	350		350

CR: CYCLICAL REASSESSMENT  
14/15 CYCLICAL REASSESSMENT  
RA12: GENERAL REASSESSMENT, PJR  
RE09: GENERAL REASSESSMENT 2012  
10-16-09 REPEAT 2009 PAY 2010  
04-03-08.CW  
TA: GENERAL  
10-27-2009 - PER CITY ENGINEER'S OFFICE, CORRECTED  
THE ADDRESS FROM 6804 TO 6741 LUTZ DR. NM

FARMLAND COMPUTATIONS  
Parcel Acreage  
81 Legal Drain NV [-]  
82 Public Roads NV [-]  
83 UT Towers NV [-]  
9 Homestead(s) [-]  
91/92 Excess Acreage [-]  
TOTAL ACRES FARMLAND  
TRUE TAX VALUE

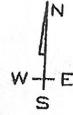
Supplemental Cards  
TRUE TAX VALUE  
Measured Acreage  
Average True Tax Value/Acre  
TRUE TAX VALUE FARMLAND  
Classified Land Total  
Homestead(s) Value (+)  
Excess Acreage Value (+)  
Supplemental Cards  
TOTAL LAND VALUE

Exhibit A

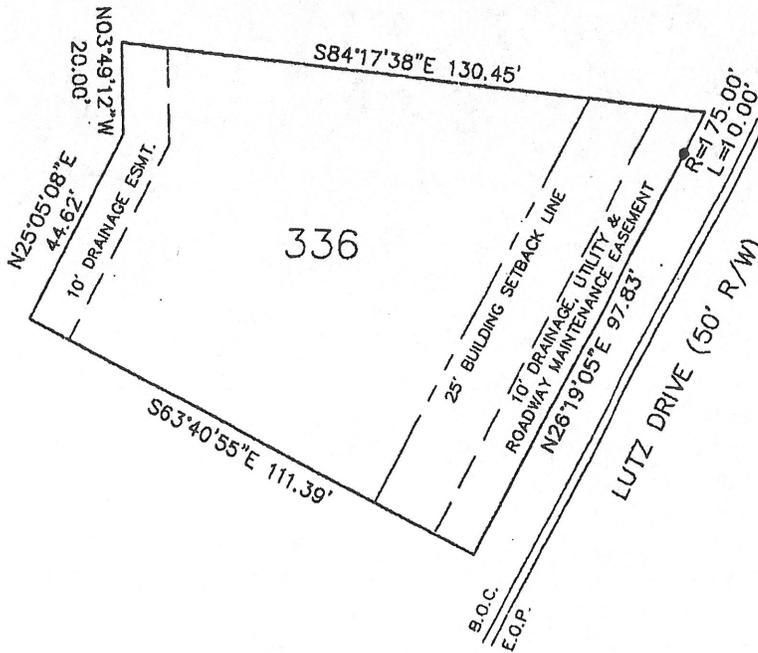
# 15

SHEET 1 OF 1

LOT 336 LAFAYETTE FALLS, PHASE III, SECTION TWO  
PART OF SECTION 2, TOWNSHIP 36 NORTH, RANGE 2 EAST,  
CENTRE TOWNSHIP, ST. JOSEPH COUNTY,  
INDIANA



9,836 SQ. FT.  
(0.23 ACRES)



LEGEND

B.O.C. BACK OF CURB  
E.O.P. EDGE OF PAVEMENT

NOTE:

THIS DRAWING DEPICTS THE APPROXIMATE LAYOUT OF THE LOT. FOR ACTUAL DIMENSIONS, SEE THE RECORDED FINAL PLAT.

LOT DRAWING  
FOR  
KENDALL-WEISS, L.L.P.



ABONMARCHE CONSULTANTS, L.L.C.

750 Lincoln Way East  
South Bend, Indiana 46601  
(574) 232-8700  
FAX: (574) 251-4440

Fort Wayne, Indiana  
Benton Harbor, Michigan  
Manistee, Michigan

ENGINEERING / LAND SURVEYING / PLANNING / CONSTRUCTION SERVICES

DATE: 01/14/08

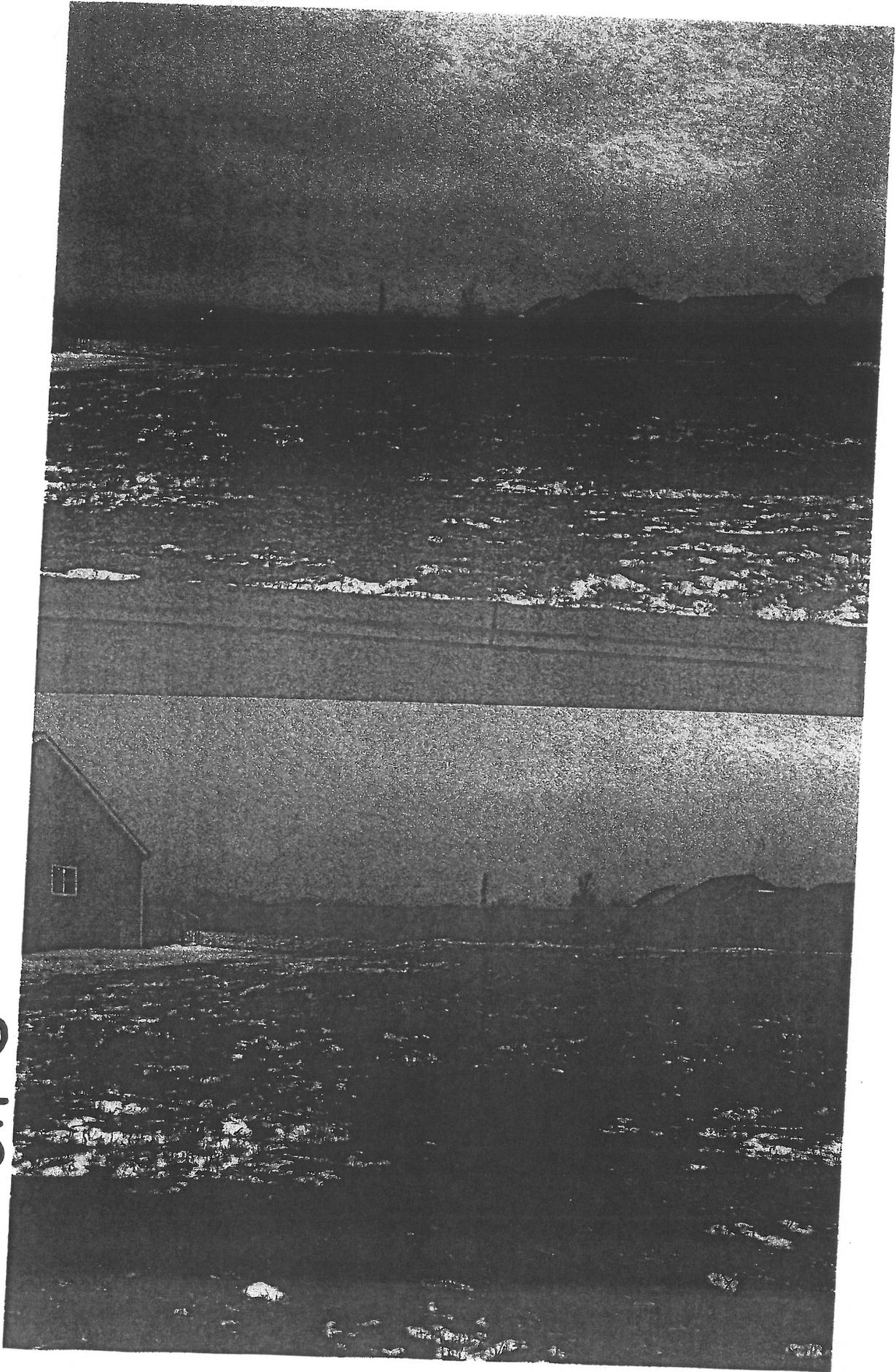
SCALE: 1"=30'

E:\CIVIL 3D\ENIG PROJ\ENIG167\enig167\LOT336.dwg, Model, 1/22/2008 1:45:27 PM, jmmiller, 1:20

JOB NO. M3-1167-336

Exhibit B

Exhibit C





# STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51767 (R2 / 1-07)

Prescribed by the Department of Local Government Finance

20    PAY 20   

FORM SB-1 / Real Property

This statement is being completed for real property that qualifies under the following Indiana Code (check one box):

- Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)
- Eligible vacant building (IC 6-1.1-12.1-4.8)

### INSTRUCTIONS:

- This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise this statement must be submitted to the designating body **BEFORE** the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction. "Projects" planned or committed to after July 1, 1987, and areas designated after July 1, 1987, require a STATEMENT OF BENEFITS. (IC 6-1.1-12.1)
- Approval of the designating body (City Council, Town Board, County Council, etc.) must be obtained prior to initiation of the redevelopment or rehabilitation, **BEFORE** a deduction may be approved.
- To obtain a deduction, application Form 322 ERA/RE or Form 322 ERA/VBD, whichever is applicable, must be filed with the County Auditor by the later of: (1) May 10; or (2) thirty (30) days after the notice of addition to assessed valuation or new assessment is mailed to the property owner at the address shown on the records of the township assessor.
- Property owners whose Statement of Benefits was approved after June 30, 1991, must attach a Form CF-1/Real Property annually to the application to show compliance with the Statement of Benefits. [IC 6-1.1-12.1-5.1(b) and IC 6-1.1-12.1-5.3(j)]
- The schedules established under IC 6-1.1-12.1-4(d) for rehabilitated property and under IC 6-1.1-12.1-4.8(1) for vacant buildings apply to any statement of benefits approved on or after July 1, 2000. The schedules effective prior to July 1, 2000, shall continue to apply to a statement of benefits filed before July 1, 2000.

### SECTION 1

#### TAXPAYER INFORMATION

Name of taxpayer  
**Jeffrey Szalay & Amber O'Brien**

Address of taxpayer (number and street, city, state, and ZIP code)  
**722 S. Gladstone Ave. South Bend, IN 46619**

Name of contact person  
**Amber O'Brien**

Telephone number  
**(574) 298-3187**

E-mail address  
**obrienamr@gmail.com**

### SECTION 2

#### LOCATION AND DESCRIPTION OF PROPOSED PROJECT

Name of designating body  
**SOUTH BEND COMMON COUNCIL**

Resolution number  
**002**

Location of property  
**Lot 336 Lafayette Falls (674) Lutz Dr.**

County  
**St. Joseph**

DLGF taxing district number  
**002**

Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary)  
**New construction of single family residence. 1719 sq. feet with 4BR, 3BATH, and 2 car garage.**

Estimated start date (month, day, year)  
**Feb. 15, 2016**

Estimated completion date (month, day, year)  
**June 24, 2016**

### SECTION 3

#### ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT

Current number	Salaries	Number retained	Salaries	Number additional	Salaries
0	0	0	0	* see below	

### SECTION 4

#### ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT

NOTE: Pursuant to IC 6-1.1-12.1-5.1 (d) (2) the COST of the property is confidential.	REAL ESTATE IMPROVEMENTS	
	COST	ASSESSED VALUE
Current values	land \$17,500	\$400
Plus estimated values of proposed project	\$182,500	not
Less values of any property being replaced	0	yet
Net estimated values upon completion of project	\$200,000	assessed

### SECTION 5

#### WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER

Estimated solid waste converted (pounds) 0

Estimated hazardous waste converted (pounds) 0

#### Other benefits

\* During the approximately 4 months of expected construction, work will be generated and corresponding salaries or compensation received by contracting companies utilized by Team Construction. The closing date for proposed construction project is January 29, 2016 and construction is expected to begin after consideration of this application.

### SECTION 6

#### TAXPAYER CERTIFICATION

I hereby certify that the representations in this statement are true.

Signature of authorized representative  
**Amber O'Brien**

Title  
**owner, taxpayer**

Date signed (month, day, year)  
**Jan. 6, 2016**

**FOR USE OF THE DESIGNATING BODY**

We have reviewed our prior actions relating to the designation of this Economic Revitalization Area and find that the applicant meets the general standards adopted in the resolution previously approved by this body. Said resolution, passed under IC 6-1.1-12.1, provides for the following limitations:

- A. The designated area has been limited to a period of time not to exceed \_\_\_\_\_ calendar years \* (see below). The date this designation expires is \_\_\_\_\_.
- B. The type of deduction that is allowed in the designated area is limited to:
  - 1. Redevelopment or rehabilitation of real estate improvements       Yes       No
  - 2. Residentially distressed areas       Yes       No
  - 3. Occupancy of a vacant building       Yes       No
- C. The amount of the deduction applicable is limited to \$ \_\_\_\_\_.
- D. Other limitations or conditions (specify) \_\_\_\_\_
- E. The deduction is allowed for \_\_\_\_\_ years\* (see below).

We have also reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved (signature and title of authorized member of designating body)	Telephone number	Date signed (month, day, year)
Attested by (signature and title of attester)	Designated body	

\* If the designating body limits the time period during which an area is an economic revitalization area, it does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years designated under IC 6-1.12-12.1-4.

- A. For residentially distressed areas, the deduction period may not exceed five (5) years.
- B. For redevelopment and rehabilitation or real estate improvements:
  - 1. If the Economic Revitalization Area was designated prior to July 1, 2000, the deduction period is limited to three (3), six (6), or ten (10) years.
  - 2. If the Economic Revitalization Area was designated after June 20, 2000, the deduction period may not exceed ten (10) years.
- C. For vacant buildings, the deduction period may not exceed two (2) years.



*a better way to build*  
 1949 W. Lincoln Ave.  
 Goethen, IN 46526  
 574-530-3100

BEAM CONSTRUCTION COMPANY, INC. IS AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER. WE DO NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, SEX, RELIGION, NATIONAL ORIGIN, ANCESTRY, AGE, OR HANDICAP. WE ARE AN EQUAL OPPORTUNITY EMPLOYER.

**TYPICAL OVERHANGS**  
 EAVES: 16"  
 GABLES: 12"

**WINDOW WRAP: 6" P/T**  
 (unless noted otherwise)

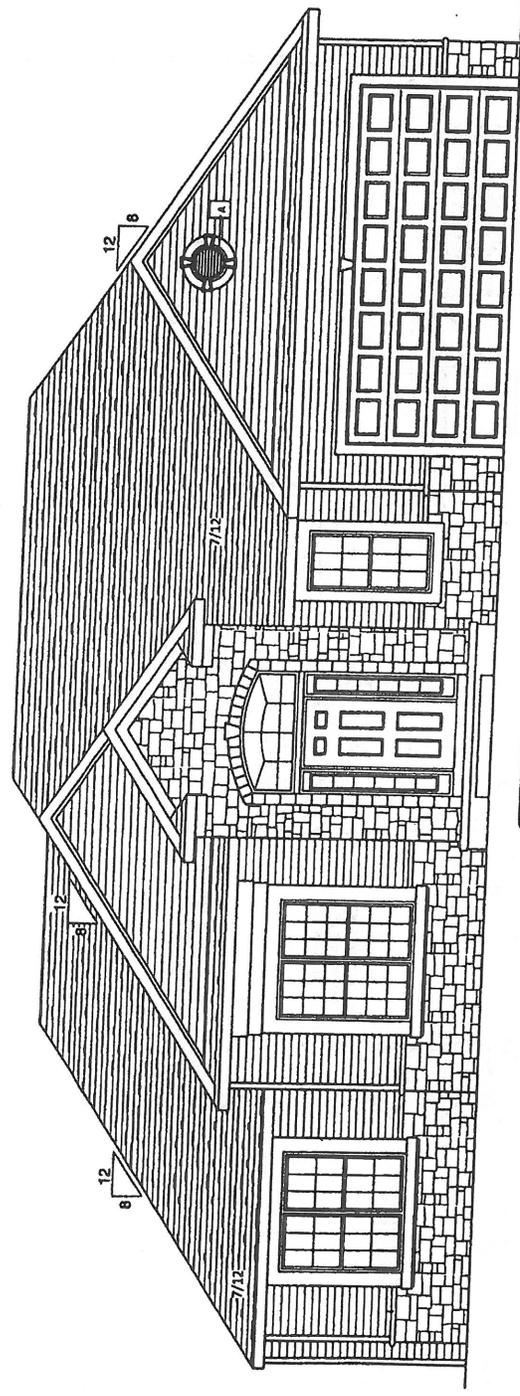
**O'BRIEN**

**JOB LOCATION**  
 LAFAYETTE FALLS lot #336  
 6741 Lutz Dr., South Bend 46614

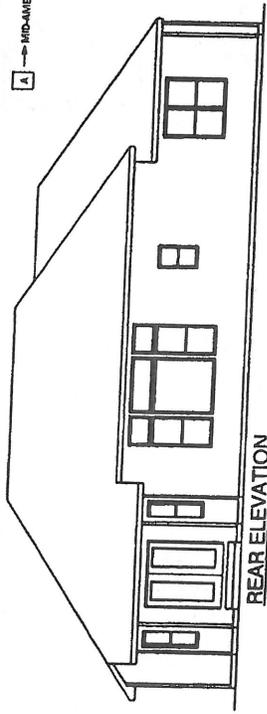
**SIERRA**

**SCALE** 3/16" = 1'-0"  
**DATE** December 22, 2015

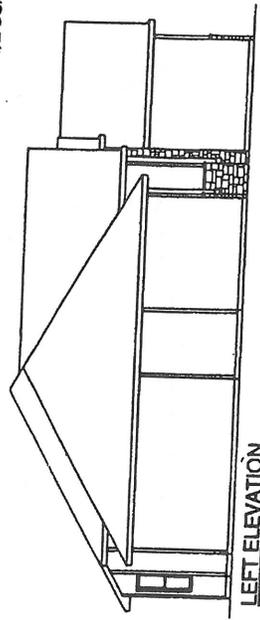
**ELEVATIONS**



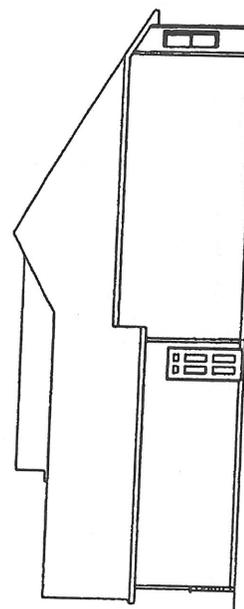
A → MID-AMERICA 30" DESIGNER ROUND w/ KEYS



REAR ELEVATION  
1/2 SCALE



LEFT ELEVATION  
1/2 SCALE



RIGHT ELEVATION  
1/2 SCALE





a better way to build

1848 W. Lincoln Ave.  
Goshen, IN 46526  
574-533-3100

THIS DRAWING IS THE PROPERTY OF BEAM CONSTRUCTION COMPANY, INC. AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BEAM CONSTRUCTION COMPANY, INC.

NOTES

1. 8" POURED WALLS
2. TYPICAL: 8" BRICK LERGES  
12" BL @ OVERHEAD DOORS

DETAILS

CO-FW-01-8 8" WALLS

DATE

O'BRIEN

PROJECT

LAFAYETTE FALLS lot #338  
6741 Lutz Dr., South Bend 46614

DESIGNER

SIERRA

SCALE

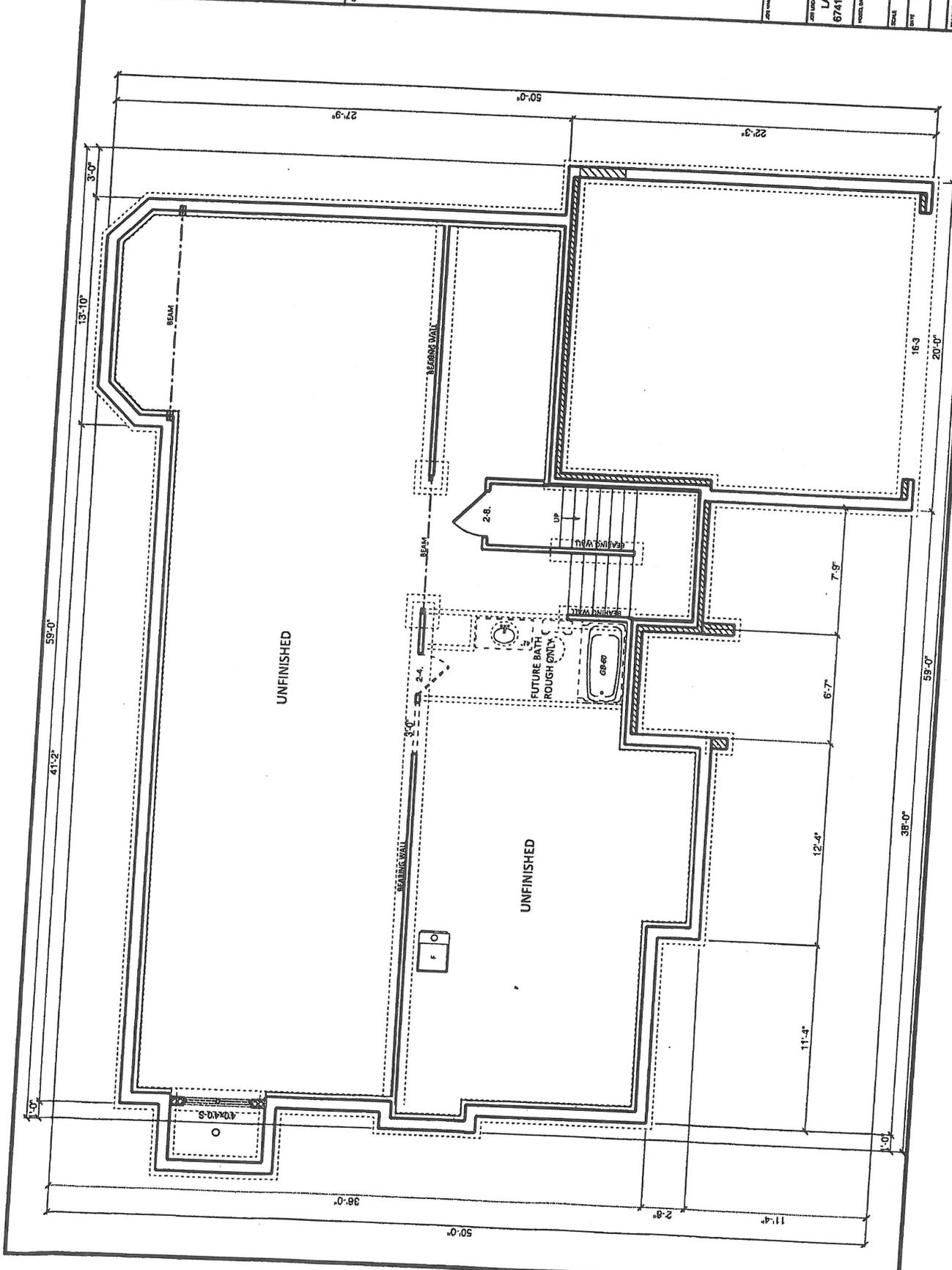
3/16" = 1'-0"

DATE

December 22, 2015

DRAWING

BASEMENT PLAN





RESOLUTION NO. 4528-16

A RESOLUTION OF THE COMMON COUNCIL OF THE  
CITY OF SOUTH BEND DESIGNATING A CERTAIN AREA WITHIN  
THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS

**6741 Lutz Drive, South Bend, IN 46614**

AS A RESIDENTIALLY DISTRESSED AREA FOR PURPOSES OF A  
(5) FIVE-YEAR RESIDENTIAL REAL  
PROPERTY TAX ABATEMENT FOR

**Jeffrey Szalay and Amber O'Brien**

---

WHEREAS, a Statement of Benefits and a petition for residential real property tax abatement have been submitted to and filed with the City Clerk for consideration by the Common Council of the City of South Bend, Indiana, requesting that the area commonly known as 6741 Lutz Drive, South Bend, IN 46614 and which is more particularly described as follows:

LOT 336 LAFAYETTE FALLS PHASE III SECTION TWO  
TAX KEY NO. 023-1002-002424

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

WHEREAS, the Department of Community Investment has concluded an investigation and prepared a report with information sufficient for the Common Council to determine that the area qualifies as a Residentially Distressed Area under Indiana Code 6-1.1-12.1, et seq., and South Bend Municipal Code Sections 2-76, et seq., and has further prepared maps and plats showing the boundaries and such other information regarding the area in question as required by law; and

WHEREAS, the Community Investment Committee of the Common Council has reviewed said report and recommended to the Common Council that the area qualifies as a Residentially Distressed Area.

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

SECTION I. The Common Council hereby determines and finds that the petition for real property tax abatement and the Statement of Benefits form meet the requirements of Indiana Code 6-1.1-

12.1 et seq., for tax abatement.

SECTION II. The Common Council hereby determines and finds that the area meets one of the following conditions as formally established in Ordinance No. 9394-03, which was passed on February 10, 2003:

- A. The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings designed for up to four (4) families, including accessory buildings for those dwellings; or
- B. Any dwellings in the area are not permanently occupied and are:
  - i. the subject of an order issued under IC 36-7-9; or
  - ii. evidencing significant building deficiencies; or
- C. Parcels of property in the area:
  - i. have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or
  - ii. are owned by a unit of local government; or
- D. A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land; or
- E. A significant number of dwelling units within the area are:
  - i. the subject of an order issued under IC 36-7-9; or
  - ii. evidencing significant building deficiencies; or
- F. The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the areas are owned by Indiana or the United States; or,
- G. The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the Council's jurisdiction.

SECTION III. The Common Council also hereby determines and finds the following:

- A. That the description of the proposed redevelopment meets the applicable standards for such development.
- B. That the estimate of the value of the redevelopment is reasonable for projects of this nature;
- C. That the other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment; and
- D. That the totality of benefits is sufficient to justify the requested deduction, all of which satisfy the requirements of Indiana Code 6-1.1-12.1-3.
- E. The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.
- F. The deduction will not be allowed unless the dwelling rehabilitation is completed within five (5) calendar years from the date of the adoption of this Resolution by the Common Council.

SECTION IV. The Common Council hereby determines and finds that the proposed described redevelopment can be reasonably expected to yield benefits identified in the Statement of Benefits and the petition for real property tax abatement consideration and that the Statement of Benefits form prescribed by the State Board of Accounts are sufficient to justify the deduction granted under Indiana Code 6-1.1-12.1-3.

SECTION V. The Common Council hereby accepts the report and recommendation of the Community Investment Committee that the area herein described be designated as a Residentially Distressed Area and hereby adopts a Resolution designating this area as a Residentially Distressed Area for purposes of real property tax abatement.

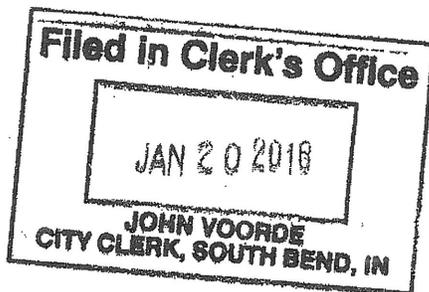
SECTION VI. The designation as a Residentially Distressed Area shall be limited to two (2) calendar years from the date of the adoption of this Resolution by the Common Council.

SECTION VII. The Common Council hereby determines that the property owner is qualified for and is granted a real property tax deduction for a period of five (5) years as shown by the attachment pursuant to Indiana Code 6-1.1-12.1-17.

SECTION VIII. The Common Council directs the City Clerk to cause notice of the adoption of this Declaratory Resolution for Real Property Tax Abatement to be published pursuant to Indiana Code 5-3-1 and Indiana Code 6-1.1-12.1-2.5, said publication providing notice of the public hearing before the Common Council on the proposed confirming of said declaration.

SECTION IX. Pursuant to Indiana Code 6-1.1-12.1-2, the rehabilitation must meet all local code standards for habitability as a specific condition of having such property designated as a residentially distressed area.

SECTION X. This 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 01/25/16

NOT APPROVED

ADOPED 01/25/16





**The South Bend Common Council**

227 West Jefferson Boulevard, Room 441  
Downtown South Bend, Indiana 46601  
574.235.5981 TDD 574.235.5567

February 11, 2016

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

**Re: Resolution Supporting Additional Research on Potential Food and Beverage Tax**

Dear Council Members:

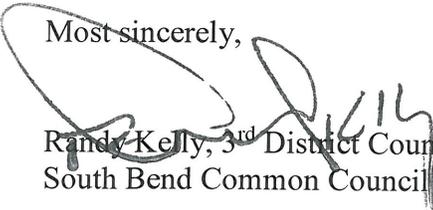
On February 9, 2016, the St. Joseph County Council adopted Resolution No. R2-16 by a vote of 7-2. It supports the concept of obtaining additional research into a potential food and beverage tax in St. Joseph County. I have attached a copy of that resolution for your review.

The Potawatomi Zoo is located in the 3<sup>rd</sup> Councilmanic District, which I proudly represent. The Potawatomi Zoo opened its doors in 1902, and has become the top destination point in the City of South Bend, since being relocated to their home on South Greenlawn Avenue in 1912.

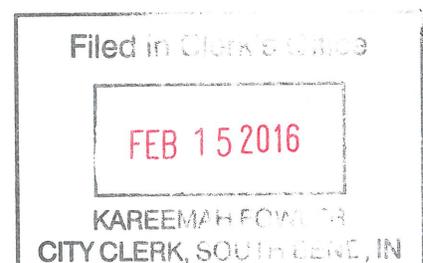
I am introducing a proposed resolution which I ask you to review. You will find in the "Whereas" clauses a summary of background information on Indiana communities which have been authorized to enact a food and beverage tax, as well as additional information on the Potawatomi Zoo.

In essence, it supports researching the impact of a potential food and beverage tax in our community. Most importantly, it calls for public dialogue and the opportunity to participate in the discussions. I look forward to discussing this with you at a Parks Committee meeting on Monday, February 22<sup>nd</sup>. Thank you.

Most sincerely,

  
Randy Kelly, 3<sup>rd</sup> District Council Member  
South Bend Common Council

Attachments



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

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, SUPPORTING ADDITIONAL RESEARCH INTO A  
POTENTIAL FOOD AND BEVERAGE TAX IN ST. JOSEPH COUNTY, INDIANA**

*Whereas*, the South Bend Common Council recognizes that the Indiana Department of Revenue oversees local food and beverage taxes established by the Indiana General Assembly and codified in various provisions of *Indiana Code 6-9*; and

*Whereas*, the Indiana Department of Revenue has noted that "...generally, in counties or municipalities that adopt a food and beverage tax, the rate is 1% of the gross retail income received from taxable food and beverage transactions [and] in some instances where both a county and municipality within the county have adopted the food and beverage tax, the total rate for a taxable transaction inside the municipality is 2%", *Commissioner's Directive # 30 September 2015*; and

*Whereas*, in Indiana, "food and beverage tax is imposed, paid, and collected in the same manner as the sales tax, and according to the Indiana Department of Revenue's *Commissioner's Directive # 30 September 2015*, the following twelve (12) Indiana counties have imposed a food and beverage tax:

<u>County</u>	<u>Rate</u>	<u>Effective Date</u>
Allen County	1%	July 1986
Boone County	1%	August 2005
Delaware County	1%	August 1986
Hamilton County	1%	August 2005
Hancock County	1%	August 2005
Hendricks County	1%	August 2005
Henry County	1%	October 1987
Johnson County	1%	August 2005
Madison County	1%	February 1989
Marion County	2%	July 1981 & July 2005 (rate increase)
Shelby County	1%	August 2005
Vanderburgh County	1%	August 1985

and the following fifteen (15) entities have established a "municipality rate":

<u>Municipality</u>	<u>Rate</u>	<u>Effective Date</u>
Avon	1%	July 2005
Brownsburg	1%	August 1995
Carmel	1%	August 2005
Cloverdale	1%	September 1, 2013
Historic Hotels Orange Co	2%	July 1, 2015
Lebanon	1%	November 2005
Martinsville	1%	July 2005
Mooresville	1%	August 1990
Nashville	1%	July 1987
Noblesville	1%	August 2005

<u>Municipality</u>	<u>Rate</u>	<u>Effective Date</u>
Plainfield	1%	August 1995
Rockville	1%	September 1, 2015
Shipshewana	1%	July 1990
Westfield	1%	August 2005
Zionsville	1%	November 2005; and

*Whereas*, House Enrolled Act 1120-2005 authorized several counties and municipalities to enact an ordinance to impose a one percent (1%) food and beverage tax; with the above-listings showing the nine (9) communities so authorized by the Indiana General Assembly; and

*Whereas*, in the current session of the 2016 Indiana General Assembly, several House Bills were introduced addressing food and beverage taxes in various counties [HB 1040, HB 1096, HB 1170, and HB 1305] as well as one proposed for Greenwood [HB1192], and HB 1191 was introduced seeking a uniform municipal food and beverage tax; and

*Whereas*, the Common Council notes that Potawatomi Zoo, the oldest zoo in the State of Indiana, was originally founded in 1902 at Leeper Park and moved to its current location in 1912 which consists of approximately twenty-three (23) acres located at 500 South Greenlawn Avenue, where the zoo is the home to approximately 400 animals of 160 different species with a special emphasis on large cats, primates and Australian animal; and

*Whereas*, Potawatomi Zoo is accredited by the Association of Zoos and Aquariums (AZA) and meets the “rigorous, professional standards for animal welfare and management, veterinary care, behavioral enrichment, nutrition and staff training” and facilitates “Species Survival Plans and Population Management Plans”; and

*Whereas*, in 2013, Potawatomi Zoo attracted 205,758 visitors, an increase of 1,860 from 2012, with the “Education Department setting a record for annual program participation with over 57,000 people coming into contact with staff and volunteer educators”, as documented in the *2013 Annual Report of the South Bend Parks and Recreation Department*; and 2015 saw the highest attendance record in the history of Potawatomi Zoo, making the it the 2<sup>nd</sup> most popular attraction in St. Joseph County; and

*Whereas*, on June 10, 2013, the South Bend Common Council adopted Resolution No. 4262-13 which recommended that the City of South Bend enter into a public/private partnership agreement with the Potawatomi Zoological Society; and

*Whereas*, in December of 2013, the South Bend Board of Park Commissioners unanimously approved a five-year lease for the Potawatomi Zoological Society to oversee the management and daily activities of the Potawatomi Zoo, effective January 1, 2014; and

*Whereas,* a Zoo Master Plan has been developed which proposes \$37 million in infrastructure and other capital improvements to the Potawatomi Zoo, which is now celebrating its 114<sup>th</sup> year of operation; and

*Whereas,* it is estimated, that if enabling legislation is enacted by the Indiana General Assembly, a proposed 0.25 percent food and beverage tax earmarked for the Potawatomi Zoo may generate between \$1 million to \$1.5 million annually, which would further require authorization of such a tax by at least two (2) of the three (3) largest fiscal bodies in St. Joseph County [St. Joseph County Council, South Bend Common Council, Mishawaka Common Council] being required to approve such legislation; and

*Whereas,* in the interest of providing opportunities for public input, discussion, and transparency, there is a need for further research and collaboration on the potential short and long-range impact which a food and beverage tax may have on the residents and businesses in St. Joseph County, Indiana.

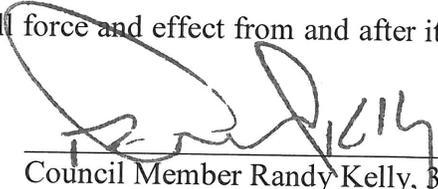
*Now, Therefore, be it resolved, by the Common Council of the City of South Bend, Indiana, as follows:*

Section I. The Common Council believes that public input and transparency, especially with regard to assets dedicated to the public good, is in our community's best interests.

Section II. The South Bend Common Council is in support of researching the impact on the community of a potential adoption of a food and beverage tax in St. Joseph County not to exceed one percent (1%) total of which one-quarter percent (.25%) would be to benefit the implementation of the Potawatomi Zoo Master Plan.

Section III. The Common Council recommends that as additional data and research is conducted by any and all entities on the topics addressed in this Resolution, that it be shared with the Office of the City Clerk for timely dissemination to the South Bend Common Council for review and public discussion.

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 Randy Kelly, 3<sup>rd</sup> District Council Member  
South Bend Common Council

In Favor: \_\_\_\_\_ In Opposition: \_\_\_\_\_

*Attest:*

\_\_\_\_\_  
Office of the City Clerk

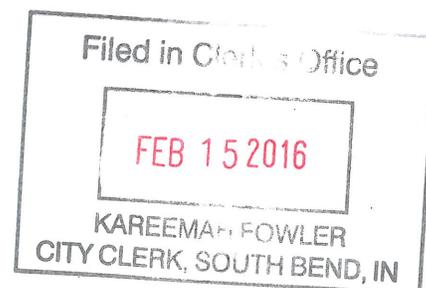
*Presented* by me to Pete Buttigieg, the Mayor of the City of South Bend, Indiana, on the \_\_\_\_  
day of \_\_\_\_\_, 2016, at \_\_\_\_\_ o'clock \_\_. m.

\_\_\_\_\_  
Office of the City Clerk

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

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

PRESENTED  
NOT APPROVED  
ADOPTED



**THE ST. JOSEPH COUNTY COUNCIL  
ST. JOSEPH COUNTY, INDIANA**

Bill No. 16-16

RESOLUTION NO. R2-16

**A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL  
SUPPORTING ADDITIONAL RESEARCH INTO A POTENTIAL FOOD AND  
BEVERAGE TAX IN ST. JOSEPH COUNTY**

**WHEREAS**, The Potawatomi Zoo was established in 1902 and is the oldest continually operating zoo in the State of Indianan; and

**WHEREAS**, the Potawatomi Zoo has created a capital improvements master plan which establishes goals for the construction and maintenance of various capital improvements at the Potawatomi Zoo; resulting in increased Zoo visitors and positive economic impact in the County; and

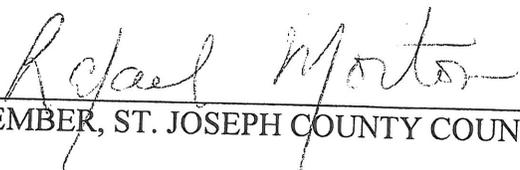
**WHEREAS**, the Potawatomi Zoo has brought great pride to St. Joseph County as a result of their conservation and animal care initiatives.

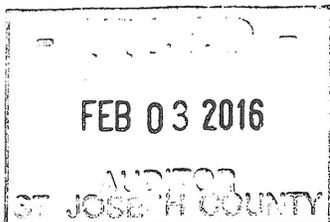
**NOW, THEREFORE, BE IT RESOLVED BY THE ST. JOSEPH COUNTY COUNCIL, THAT:**

Section 1. The St. Joseph County Council is in support of researching the impact on the community of a potential adoption of a food and beverage tax in St. Joseph County not to exceed one (1%) percent total of which one-quarter (.25%) percent to benefit the Potawatomi Zoo master plan.

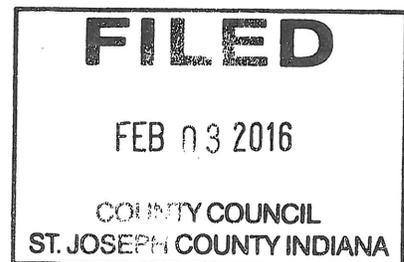
Section 2. This resolution shall be in full force and effect after its passage

Passed and adopted this 9th day of February, 2016.

  
MEMBER, ST. JOSEPH COUNTY COUNCIL



1<sup>st</sup> READING  
PUBLIC HEARING 2-4-16  
2<sup>nd</sup> READING  
3<sup>rd</sup> READING  
4<sup>th</sup> READING  
5<sup>th</sup> READING  
6<sup>th</sup> READING  
7-2  
APPROVED BY COUNCIL



Bill No. 16-16

**A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL  
SUPPORTING ADDITIONAL RESEARCH INTO A POTENTIAL FOOD AND  
BEVERAGE TAX IN ST. JOSEPH COUNTY**

Aye

Nay

*Robert Kruszynski Jr.*

*[Signature]*

*Quaker*

*Rafael Motta*

*M-P-T*

*Mark Catanzano*

*Robert M. Cahill*

*James A. Breen*

*Mark Root*

Filed in Clerk's Office  
**FEB 15 2016**  
KAREN [unclear] R  
CITY CLERK [unclear] IN