

**THE AREA PLAN COMMISSION  
OF ST. JOSEPH COUNTY, IN**

**AGENDA**

Tuesday, March 15, 2016  
3:30 p.m.

Fourth-Floor Council Chambers  
County-City Building, South Bend, IN

**PUBLIC HEARINGS:**

Rezoning:

- A. A proposed ordinance of Presbytery of Wabash Valley Inc. to zone from R: Single Family District to O/B: Office/Buffer District, property located at 13388 State Road 23, St. Joseph County - [APC# 2775-16](#).
- B. A proposed Ordinance initiated by the Area Plan Commission on behalf of the Town Council of the Town of Osceola, amending and supplementing Chapter 14 Floodplain Regulations, of the Zoning Ordinance of the Town of Osceola, St. Joseph County, Indiana, to make needed and required corrections - [APC# 2771-15](#).

Appeals:

- A. An appeal of Halstead Hickory Road Major Subdivision to be located on the east side of Hickory Road approximately 2,000 feet north of Cleveland Road, St. Joseph County – AS TABLED - [APC #6792-15-P](#)

**ITEMS NOT REQUIRING A PUBLIC HEARING**

1. Miscellaneous:

- A. A combined public hearing on a proposed ordinance of Mishawaka Federal Bank (a.k.a. Mutual Bank) to zone from LB Local Business District to CB Community Business District and seeking the following five variances: 1) from the required perimeter and residential bufferyard landscaping to the existing landscaping, as shown on the site plan; 2) from the required 30' front yard setback for off- premise signs to 5' along Ireland Road and to 14' along High Street; 3) from the required 200' linear separation between an off-premise sign and a residential district to 0'; 4) from the required 100' radial separation between an off-premise sign and a residential district to 55'; and 5) from the required maximum 2 displays per off-premise sign surface to a maximum of 11 displays, property located at 742 East Ireland Road, City of South Bend – WITHDRAW - [APC# 2744-15](#).
- B. Findings of Facts for Granting Variances for property located at 3101 – 3113 Lincolnway West, City of South Bend – [APC #2773-16](#)
- C. For Discussion Purposes Only – Zoning Plan for SAPA Annexation Ordinance #2016-01

- 2. Executive Director's Report:
- 3. Minutes and Expenditures:
- 4. Adjournment:

APC # 2775-16  
Owner: Presbytery of Wabash Valley Inc.  
Location: 13388 State Road 23  
Jurisdiction: St. Joseph County  
Public Hearing Date: 3/15/2016

**Requested Action:**

The petitioner is requesting a zone change from R: Single Family District to O/B: Office/Buffer District

**Land Uses and Zoning:**

- On site: On site is an existing non-residential building and a single family home.
- North: To the north is a daycare center and a single family home zoned R: Single Family District.
- East: To the east is a single family home zoned R: Single Family District.
- South: To the south are single family homes zoned R: Single Family District.
- West: To the west is a single family home zoned C: Commercial District and R: Single Family District.

**District Uses and Development Standards:**

The O/B: Office/Buffer District is to provide specific areas where only certain limited offices may be developed. Since the district excludes retail, clinics, and business and commercial uses, and requires extensive screening and landscaping of permitted uses and associated parking areas, it may serve as a buffer between residential areas, and business and commercial developments. The O/B: Office/Buffer District is expressly intended to be limited to the area in association with commercial areas and certain streets where a gradual transition from existing residential use should occur.

**Site Plan Description:**

On this 6.68 acre site, only the northern portion is developed. The existing structures on site include a former church along with its associated parking and a single family home previously used in conjunction with the church. The petitioner is proposing to rezone the portion of the site previously developed. The remaining 780' will remain R: Single Family District. The petitioner is not proposing any changes to the site at this time.

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

The northern portion of the property to the west was rezoned C: Commercial District in 2006 for an import/export business. The property to the northwest was zoned B: Business District in 2003 for a funeral home.

**Traffic and Transportation Considerations:**

State Road 23 has 4 lanes with a center turn lane.

**Utilities:**

The site is served by private well and septic.

**Agency Comments:**

INDOT stated that relocation, alteration, or remodeling of an access, approach and/or crossover, or any change in the character of the use of the access, approach and/or

crossover shall be considered the construction of a new access, approach or crossover and an application for permit shall be required. The County Engineer states that if any land development is proposed, then details are required to be submitted for review. The County Health Department may require additional information about the size and type of the well and septic system.

**Commitments:**

The petitioner is not proposing any written commitments.

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

**1. Comprehensive Plan:**

**Policy Plan:**

The petition is consistent with the Comprehensive Plan for South Bend and St. Joseph County, Indiana (April, 2002)  
Goal 2, Objective B: Locate employment uses in such a manner that conflicts with residential land uses are minimized.

**Land Use Plan:**

The future land use map identifies this area as residential.

**Plan Implementation/Other Plans:**

There are no other plans in effect for this area.

**2. Current Conditions and Character:**

State Road 23 is primarily residential. To the Northwest there is a mixture of Business and Commercial uses.

**3. Most Desirable Use:**

The most desirable use for land is one that is compatible with the residential properties along this portion of State Road 23.

**4. Conservation of Property Values:**

With proper buffering the surrounding property values should not be adversely impacted.

**5. Responsible Development And Growth:**

It is responsible development and growth to allow for the adaptive reuse of a former church building in a manner that will not impact the use of adjacent properties.

**Staff Comments:**

Because the primary structure on the lot is a non-residential building, reuse of the site is limited due to the existing structure on the property. The O/B: Office Buffer District limits the total square footage of all buildings to 5,000 square feet. The two existing buildings have a total square footage of 3,778. Staff recommended the petitioner limit the area being rezoned to the developed portion of the site only in order to limit the impact on surrounding properties.

**Recommendation:**

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

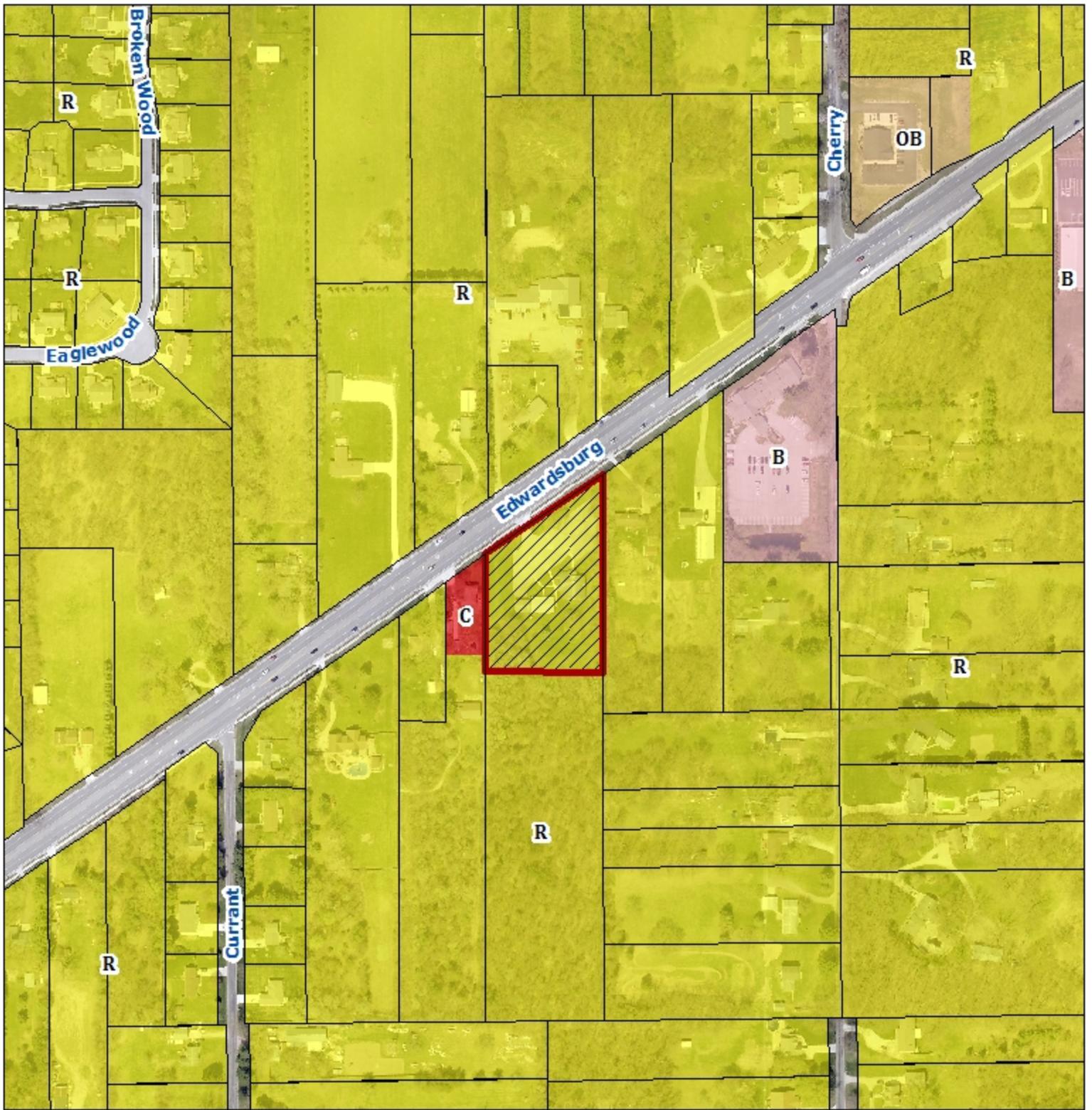
**Analysis:**

Rezoning this property to O/B Office Buffer will allow for the adaptive reuse of a non-residential building in a manner compatible with surrounding residential properties.



1 inch = 300 feet  
HARRIS TOWNSHIP

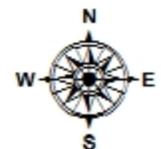




**Rezoning from: ST. JOSEPH COUNTY  
"R" SINGLE FAMILY DISTRICT to  
"OB" OFFICE BUFFER DISTRICT**

**MASTER ZONING KEY**

- COUNTY "R" SINGLE FAMILY DISTRICT
- COUNTY "OB" OFFICE/BUFFER DISTRICT
- COUNTY "B" BUSINESS DISTRICT
- COUNTY "C" COMMERCIAL DISTRICT



1 inch = 300 feet

**APC # 2775-16**

**Staff Report**

3/1/2016

APC # 2771-15  
Owner: APC Initiated  
Location: Text Amendment  
Jurisdiction: Town of Osceola  
Public Hearing Date: 3/15/2016

**Requested Action:**

An Ordinance initiated by the Area Plan Commission of St. Joseph County, amending Chapter IV, District Regulations, Section 4.80 Floodplain Regulations, of the Zoning Ordinance of the Town of Osceola, St. Joseph County, Indiana.

**Agency Comments:**

The Department of Natural Resources has reviewed the text changes and recommends approval. Chuck Bulot, Floodplain Administrator, has reviewed the changes and recommends approval.

**Staff Comments:**

Chapter 14 Floodplain Regulations was replaced in its entirety on December 2, 2015 by Ordinance 07-2015. Upon further review by FEMA and DNR, additional changes are required to meet the requirements of the NFIP.

The applicable changes of note are:

1. The definitions of "Expansion" and "New manufactured home park or subdivision" were deleted
2. The definition of "Substantial improvement" was amended to delete the reference to historic structure
3. A new and additional paragraph was added to Section 14.05. B. 2. Requiring the submittal to the Floodplain Administrator of a floodproofing certificate
4. Removed any reference to allowing travel trailers or recreational vehicles in a floodplain for more than 180 days
5. Removed Section 14.06. C. Standards for Subdivision Proposals.

**Recommendation:**

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

**Analysis:**

This ordinance addresses required changes in the Osceola's floodplain ordinance, in order for the Town of Osceola to continue its participation in the National Flood Insurance Program.

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

AN ORDINANCE INITIATED BY THE AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, INDIANA ON BEHALF OF THE TOWN COUNCIL OF THE TOWN OF OSCEOLA, INDIANA, AMENDING AND SUPPLEMENTING CHAPTER 14 FLOODPLAIN REGULATIONS OF THE TOWN OF OSCEOLA ZONING ORDINANCE.

STATEMENT OF PURPOSE AND INTENT

The Town Council of the Town of Osceola recognizes that a study of the flood-prone areas in the Town of Osceola, Indiana, has been prepared and published by the Federal Emergency Management Agency, and identifies the floodplains, floodways and floodway fringe areas within the Town in conjunction with the National Flood Insurance Program.

The Town Council of the Town of Osceola recognizes its duty to enact amendments, as needed and required, to the Floodplain Regulations in order to continue to qualify for participation in the National Flood Insurance Program and to further provide for the public health and safety of residents and property owners.

The purpose of this ordinance is to amend Chapter 14 Floodplain Regulations of the Town of Osceola Zoning Ordinance, to reflect changes as required by the Federal Emergency Management Agency (FEMA) relative to prohibiting new residential and non-residential construction in the floodplain.

NOW, THEREFORE, be it ordained by the Town Council of the Town of Osceola, Indiana, that Chapter 14 Floodplain Regulations of the Town of Osceola, Indiana Zoning Ordinance, be amended as follows:

**SECTION 1.** Section 14.02 Prohibition on New Construction in the Floodplain, be amended as follows:

- A. Notwithstanding any other requirements in this ~~Section~~ Chapter, no new residential *dwelling* or non-residential *structure* in any zoning district, shall be permitted in any area designated as a *floodplain* by *FEMA* or the Indiana Department of Natural Resources (DNR).
- B. Existing *primary buildings* and structures located in an area designated as a *floodplain*, may be expanded only under the specific requirements of this ~~Section~~ Chapter.

- C. New and existing *accessory structures* located in an area designated as a *floodplain* may be built and/or expanded only under the specific requirements of this ~~Section~~ Chapter.

**SECTION 2.** Section 14.03 Definitions, be amended by deleting Definition 21 and 52, and amending Definition 68, as follows:

~~21. “Expansion” to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

Definition ~~22~~: to 21.

~~23~~: to 22.

~~24~~: to 23.

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~~51~~: to 50.

~~52. “New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of~~

~~utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.~~

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~~54.~~ to 52.

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~~68.~~ to 66.

~~68.~~ 66. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements ~~or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".~~

~~69.~~ to 67.

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~~76.~~ to 74.

**SECTION 3.** Section 14.05 Administration, be amended as follows:

B. 2. Construction Stage.

- a. Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor,

as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

b. Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

C. 2. K. Verify and record the actual elevation of the lowest floor (including basement) of all ~~new or~~ substantially improved structures, in accordance with Section 14.05 B.;

C. 2. 1. Verify and record the actual elevation to which any ~~new or~~ substantially improved structures have been floodproofed, in accordance with Section 14.05 B.;

C. 2. n. ii. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the ~~construction, erection,~~ alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

**SECTION 3.** Section 14.06 Provisions for Flood Hazard Reduction, be amended as follows:

A. 9. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "~~new construction~~ Substantial Improvement" as contained in this ordinance;

B. 1. a. ~~Construction or placement of any new structure having a floor area greater less than 400 square feet;~~

~~b. to a.~~

~~c. to b.~~

~~d. Installing a travel trailer or recreational vehicle on a site for more than 180 days;~~

~~e. to c. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage;~~

~~f.~~ to d.  
~~g.~~ to e.

B. 2. Residential Structures. Substantial improvement of any residential dwelling structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 14.06 B. 4.

B. 5. Structures Constructed on Fill. A residential or nonresidential structure may be re-constructed on a permanent land fill in accordance with the following:

B. 6. Standards for Manufactured Homes ~~and Recreational Vehicles~~. Manufactured homes ~~and recreational vehicles~~ to be ~~installed or~~ substantially improved ~~on a site for more than 180 days~~ must meet one of the following requirements:

B. 6. a. These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; ~~in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision;~~ or in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood:

B. 6. c. Recreational vehicles placed on a site shall either:

- i. be on site for less than 180 days; or
- ii. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); ~~or,~~
- iii. ~~meet the requirements for “manufactured homes” as stated earlier in this section.~~

~~C. Standards for Subdivision Proposals.~~

- ~~1. All subdivision proposals shall be consistent with the need to minimize flood damage;~~
- ~~2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;~~
- ~~3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;~~

4. ~~Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres;~~

5. ~~All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA; and~~

6. ~~All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).~~

~~D.~~ to C. Critical Facility. Re-Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. ~~Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available.~~ Critical facilities re-constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

~~E.~~ to D.

~~F.~~ to E.

~~G.~~ to F.

~~H.~~ to G.

**SECTION 4.** This ordinance shall be in full force and effect on April \_\_\_\_\_, 2016, after its adoption by the Town Council, its publication as required by law, and filing in the office of the Clerk-Treasurer.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF OSCEOLA, COUNTY OF ST. JOSEPH, INDIANA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, HAVING BEEN PASSED BY A VOTE OF \_\_\_\_\_ IN FAVOR AND \_\_\_\_\_ OPPOSED.

Voting Affirmative:

Voting Opposed:

\_\_\_\_\_  
Town Council President

\_\_\_\_\_  
Town Council President

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ATTEST:

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Denese Thornburg, Clerk-Treasurer

## Staff Report

### **Halstead Hickory Road Major 6792-15-P**

**Location:** This Major Primary subdivision is located on the east side of Hickory Road approximately 2,000 feet north of Cleveland Road, St. Joseph County.

**Tabulated Data:** This subdivision will consist of 2 building lots. The total area is for this Major subdivision is 7.13 acres.

**Zoning:** This property is zoned "R" Single Family District.

**Environmental Data:** A check of the Agency's maps indicates that no environmental hazard areas or wetlands are present. This property is not located in a floodplain.

**Drainage Plan:** The Drainage plan was waived by the County Engineer on October 30, 2015.

**Rights-Of-Way:** The rights-of-way are correct as shown.

**Agency Comments:** The County Surveyor and County Health Department recommend approval. The County Engineer recommends approval subject to constructing a roadside drainage swale along Hickory Road.

**Staff Comments:** This subdivision went through Technical Review on November 19, 2015. Lot 1 is currently served by private well and septic system. If and when the private well fails, they shall connect to Municipal water. Lot 2 will be served by municipal water and private septic system. On December 3, 2015, the Plat Committee granted primary approval.

On December 8, 2015, an appeal to the Plat Committee's decision approving the primary plat was filed. The appeal was filed by John W. Linn, the adjacent property owner to the north. Mr. Linn contends that: "...the approval grants additional and unauthorized use of an easement across our property. The easement that is currently in place is for the benefit of the single existing lot. The proposed subdivision will add vehicular trips, thereby increasing wear and tear on the drive. Additionally, the increased use of our property creates additional liability for my wife and me, as the current owners of the property, which will result in damage/de-valuing of our property. We respectfully request that the access to this subdivision be removed from our property."

Hickory Acres Minor Subdivision was recorded as a two-lot minor in June of 1985. At that point in time, the Subdivision Control Ordinance required a 30' "Future Roadway Easement" on Minor plats to accommodate future development. Establishing a 5' non-access easement along the balance of the road frontage was common then as it

is today. The Deed of Dedication states, in part: "The areas of ground designated on this plat and marked as 'easements', are reserved for the uses as designated for the use of public utilities, and include but are not limited to the installation of water and sewer mains, poles, ducts, lines and wires, drainage facilities, and access for present or future development, subject at all times to the proper authorities and to the easement herein reserved."

Staff Recommendation: The Staff has reviewed this Subdivision and finds that if the following conditions are adhered to, it complies with the requirements for Primary Approval as specified by the St. Joseph County Subdivision Control Ordinance. The Staff therefore recommends that this Subdivision be granted Primary Approval, subject to the following: 1) Constructing a roadside swale along Hickory Road; 2) Removing the waiver note on the plat and Site Data Sheet; and 3) Adding a scale on the vicinity map.

## FINDINGS OF FACT

**APC# 2773-16**  
**Kuert Concrete, Inc.**  
**3101-3113 Lincolnway West**  
**South Bend**

On Tuesday, February 16, 2016, the Area Plan Commission **approved** the following variances from the Development Standards of the South Bend Zoning Ordinance:

- 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
- 4) to 4' on the south property line and to no fence on the west side of outdoor storage area, subject to installing a 4' fence along the west side of the storage area;
- 5) From the required landscaping of required perimeter yards to none, subject to providing Type A perimeter landscaping along Lincolnway West; and
- 6) From the maximum allowable sign surface area of 64 square feet for a monument sign
- 7) to 78 square feet.

(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 this Chapter would 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 Minutes of the February 16, 2016 meeting of the Area Plan Commission are hereby incorporated by reference herein.

Adopted by the Area Plan Commission of St. Joseph County, Indiana, this 15<sup>th</sup> day of March, 2016.

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Daniel H. Brewer, President  
Area Plan Commission of  
St. Joseph County, Indiana

ATTEST:

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Lawrence P. Magliozzi, Secretary