

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

AGENDA

Tuesday, May 19, 2015
3:30 p.m.

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

PUBLIC HEARINGS:

Rezonings:

- A. A proposed ordinance of South Bend Public Transportation Corp. to zone from MU Mixed Use District and MF1 Urban Corridor Multifamily District to SF2 Single Family & Two Family District and seeking the following three variances: 1) From the required Minimum Lot Width of 40' to 29' for Parcels B & F; 2) From the required 25' minimum front yard building setback to 15' for all lots; and 3) From the required minimum side yard of 5' or 10% of lot width, whichever is greater, to 4' for all lots, property located at the intersections of Northside Boulevard with Notre Dame Avenue and Frances Street (commonly known as the TRANSPRO Site), City of South Bend, as tabled - [APC# 2735-15](#).
- B. A proposed ordinance of University of Notre Dame Du Lac to zone from R: Single Family District to PUD Planned Unit Development District, property located at 54704, 54716, 54738 Twyckenham Drive & 18389, 18429, and 18449 Vaness Street, St. Joseph County - [APC# 2737-15](#)
- C. A proposed ordinance initiated by the County Council of St. Joseph County, Indiana to zone from O/B: Office/Buffer District to R: Single Family District, property located at 15316 State Road 23, St. Joseph County - [APC# 2740-15](#).
- D. A proposed ordinance of South Bend Self Storage LLC to zone from GB General Business District and CB Community Business District to PUD Planned Unit Development District, property located at 605 North Hickory Road, City of South Bend - [APC# 2741-15](#).
- E. A combined public hearing on a proposed ordinance of New Paris Development Co. LLC to zone from MU Mixed Use District to LB Local Business District; seeking a special use exception to allow for a tattoo, body piercing establishment; and seeking the following two variances: 1. from the required 12 parking spaces to 0; and 2. from the required 500' separation from a religious use to 20', property located at 2212 Mishawaka Avenue, City of South Bend - [APC# 2742-15](#).

ITEMS NOT REQUIRING A PUBLIC HEARING

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

Staff Report

5/8/2015

APC # 2735-15
Owner: South Bend Public Transportation Corp.
Location: the intersections of Northside Boulevard with Notre Dame Avenue and Frances Street (commonly known as the TRANSPO site)
Jurisdiction: City of South Bend
Public Hearing Date: 4/21/2015

Requested Action:

The petitioner is requesting a zone change from MU Mixed Use District MF1 Urban Corridor Multifamily District to SF2 Single Family & Two Family District and seeking three variances.

Land Uses and Zoning:

- On site: On site is vacant land.
- North: To the north are single family homes zoned MF1 Urban Corridor Multifamily District and Rose Brick zoned MU Mixed Use.
- East: To the east across Frances Street is an industrial building zoned LI Light Industrial and single family homes zoned SF1 Single Family & Two Family District.
- South: To the south across Northside Boulevard is park property adjacent to the St. Joseph River zoned MU Mixed Use.
- West: To the west across St. Peter Street is an office building zoned MU Mixed Use and a vacant lot zoned MF1 Urban Corridor Multifamily District.

District Uses and Development Standards:

The SF2 District is established to protect, promote and maintain the development of single family dwellings and two family dwellings in the urban core of the City of South Bend as well as to provide for limited public and institutional uses that are compatible with an urban residential neighborhood. The availability of public facilities (e.g., public water, public sanitary sewer, storm sewer, natural gas, electricity, telephone, etc.) is required for development within this district.

Site Plan Description:

The area to be rezoned is approximately 9 acres. The development will include a mixture of single family home types, including townhomes, high density detached homes, and traditional single family homes on 54 new lots. The petitioner is seeking variances to allow 15' front yard setbacks and 4' side yard setbacks for parcels A through F. They are also seeking a variance from the required 40' minimum lot width to 29' for parcels B and F.

Zoning and Land Use History And Trends:

The site has historically been focused around transportation. Originally the trolley barn for the trolley system, it later became the administration offices and service area for TRANSPO.

Traffic and Transportation Considerations:

Northside Boulevard has two lanes. Wayne Street, Notre Dame Avenue and Frances Street are two-lane roads with on-street parking. The City is proposing to extend St. Peter south to intersect with Northside.

Utilities:

The site will be served by municipal water and sewer.

Agency Comments:

The Department of Community Investment offers a favorable recommendation.

Commitments:

The petitioner is not proposing any written commitments.

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

1. Comprehensive Plan:

Policy Plan:

The petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006)

Policy H 1.1: Encourage residential developments to contain a mix of housing types, densities, price ranges, and amenities.

Land Use Plan:

The future land use map identifies this area as mixed use and high density residential.

Plan Implementation/Other Plans:

The Howard Park Neighborhood Plan (2012) identifies this area as single family residential.

2. Current Conditions and Character:

The area has a wide mix of uses ranging from single family to industrial typical of an area that was once bordered by a rail line.

3. Most Desirable Use:

The most desirable use of land is for medium to high density residential.

4. Conservation of Property Values:

Due to the low impact of residential development, surrounding property values should not be affected.

5. Responsible Development And Growth:

It is responsible development and growth to support the redevelopment of this area with single family homes, as supported by the Howard Park Neighborhood Plan.

Staff Comments:

This is a combined public hearing procedure, which includes a rezoning and 3 variances from the development standards. The Commission will forward the rezoning to the Council with or without a recommendation and either approve or deny the variances.

The petitioner is also requesting the following variances:

- 1) From the required Minimum Lot Width of 40' to 29' for Parcels B & F;
- 2) From the required 25' minimum front yard building setback to 15' for Parcels A - F; and
- 3) From the required minimum side yard of 5' or 10% of lot width, whichever is greater, to 4' for Parcels A - F.

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. The project is establishing new lots for residential development. Many of the lots in the surrounding neighborhood have setbacks consistent with the proposed development. While the reduced lot widths will increase density, it will not negatively impact the general welfare of the community because the appropriate infrastructure is already in place.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The residential development is surrounded by a mix of uses. The low impact of the development should not affect 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 would prevent the development from instituting a neighborhood layout appropriate to this specific location. It's close proximity to downtown and the river support the request for a more urban residential pattern.

Recommendation:

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

Analysis:

Redevelopment of this site for single family residential will strengthen the existing Howard Park Neighborhood and address a demand for urban housing as identified by local developers, real estate professionals, and the Howard Park Neighborhood Plan.

REZONING
#2735-15



SOUTH BEND

Northside

Wayne

St Peter

Notre Dame

Frances

Quimby

Western

Party

Northside

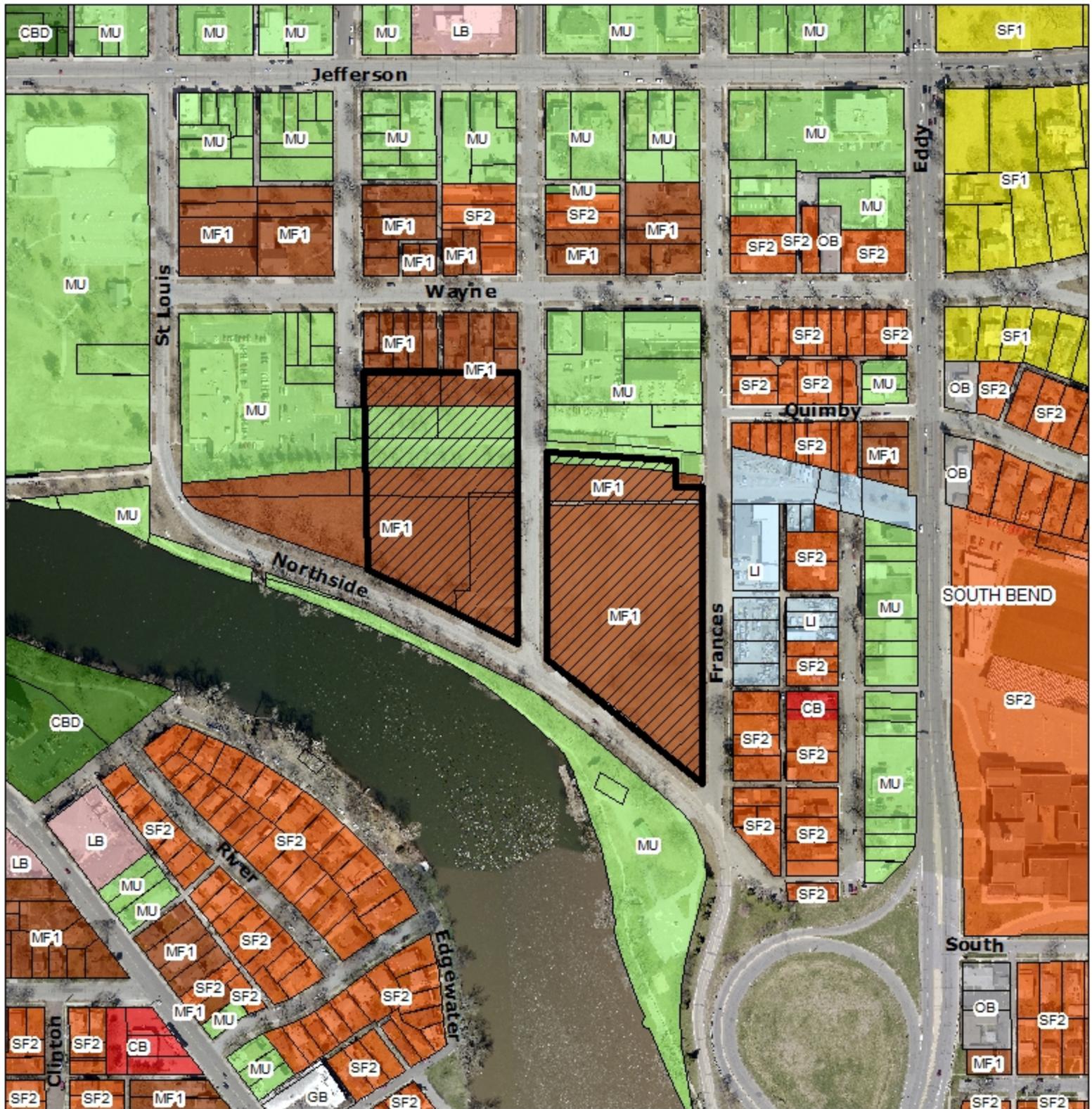
Edgewater

River

Arch

1 inch = 200 feet
PORTAGE TOWNSHIP



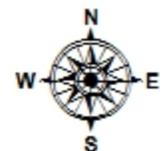


Rezoning from:

**"MU" MIXED USE DISTRICT & "MF1" URBAN CORRIDOR MULTIFAMILY DISTRICT
to "SF2" SINGLE FAMILY & TWO FAMILY DISTRICT**

MASTER ZONING KEY

- SOUTH BEND "SF1" SINGLE FAMILY AND TWO FAMILY DISTRICT
- SOUTH BEND "SF2" SINGLE FAMILY AND TWO FAMILY DISTRICT
- SOUTH BEND "MF1" URBAN CORRIDOR MULTIFAMILY DISTRICT
- SOUTH BEND "OB" OFFICE BUFFER DISTRICT
- SOUTH BEND "MU" MIXED USE DISTRICT
- SOUTH BEND "CBD" CENTRAL BUSINESS DISTRICT
- SOUTH BEND "LB" LOCAL BUSINESS DISTRICT
- SOUTH BEND "CB" COMMUNITY BUSINESS DISTRICT
- SOUTH BEND "LI" LIGHT INDUSTRIAL DISTRICT



1 inch = 300 feet

APC # 2735-15

Staff Report

5/8/2015

APC # 2737-15
 Owner: University of Notre Dame Du Lac
 Location: 54704, 54716, 54738 Twyckenham Drive & 18389, 18429, and 18449 Vaness Street
 Jurisdiction: St. Joseph County
 Public Hearing Date: 5/19/2015

Requested Action:

The petitioner is requesting a zone change from R: Single Family District to PUD Planned Unit Development District

Land Uses and Zoning:

- On site: On site are single family homes and vacant lots zoned R: Single Family District.
- North: To the north are multifamily developments and a café zoned PUD: Planned Unit Development District.
- East: To the east are multifamily homes zoned PUD: Planned Unit Development and MF1 Urban Corridor Multifamily District in the City of South Bend.
- South: To the south across Vaness Street are multifamily developments zoned MF2 High Density Multifamily District in the City of South Bend and a vacant lot zoned R: Single Family District in the County.
- West: To the west across Twyckenham Drive are sports fields zoned U: University District.

District Uses and Development Standards:

The Planned Unit Development (PUD) District is designed and intended to: encourage creativity and innovation in the design of developments; provide for more efficient use of land; permit special consideration of property with outstanding natural or topographical features; facilitate use of the most appropriate construction techniques in the development of land; and, provide for any individual land use not otherwise specified elsewhere in this Chapter. The PUD District encourages imaginative uses of open space, promotes high standards in design and construction, and furthers the purposes of the Comprehensive Plan. The PUD District is not intended for the development of residential subdivisions or other developments which are provided for as a matter of right within any district of this Chapter.

Site Plan Description:

The 1.86 acre site consists of a 1.62 acre lot at the northeast corner of Vaness Street and Twyckenham Drive and a 0.24 acre lot at the northeast corner of Vaness Street and Burdette Street. An 80,264 square foot, 4 story residential building with 4,500 square feet set aside on the first floor for retail or restaurant space is proposed along Twyckenham Drive. The petitioner is proposing approximately 120 one-bedroom and studio units. The portion of the site east of Burdette Street is proposed as a parking lot, and will only have

access from Burdette Street. Parking for residential units will be provided at a ratio of 0.70 parking space per dwelling unit. An additional 5 spaces are set aside for the commercial component, plus 9 extra spaces for guests and overflow parking. The portion of the site that is west of Burdette Street will have access from Burdette Street and Vaness Street, with possible future access to the Overlook PUD to the north. The parking areas will be screened from the rights of way and adjacent buildings by either landscaping or a combination of landscaping and fencing. Foundation and perimeter landscaping is provided. Signage is limited to on-site monument, projecting, window, and directional signage. Architectural elements and façade offsets are required along street frontages.

Zoning and Land Use History And Trends:

The properties to the north and east have been rezoned from R: Residential District to PUD: Planned Unit Development District and MF1 Urban Corridor Multifamily District between 2004-2013 to allow for higher density residential and a limited amount of retail space.

Traffic and Transportation Considerations:

Vaness Street and Burdette Street have two lanes. Twyckenham Drive has four lanes.

Utilities:

This property will be served by municipal sewer and water.

Agency Comments:

County Surveyor recommends approval. County Engineer notes that final site plan will require SWPPP and proper drainage calculations. County Engineer also notes that driveway openings should not be less than 150' from intersections or between openings. City Engineer notes that the site will need to connect to municipal water and sewer.

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 3: Objective D: Encourage population growth within existing urban service areas.

Land Use Plan:

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

Plan Implementation/Other Plans:

The Morningside Land Use & Pedestrian Plan (2014) recommends that development patterns in this sub-area generally remain consistent with the current land uses.

2. Current Conditions and Character:

The area to the north and east has developed into high density housing developments.

3. Most Desirable Use:

The most desirable use for the land is one that is compatible with the multifamily residential character of the area.

4. Conservation of Property Values:

The value of surrounding properties should not be adversely affected. Several other properties in the area are already zoned for higher density residential.

5. Responsible Development And Growth:

It is responsible growth and development to zone this property PUD Planned Unit Development to allow for student housing with an accompanying retail/restaurant use to serve its residents.

Staff Comments:

The staff has no additional comments.

Recommendation:

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

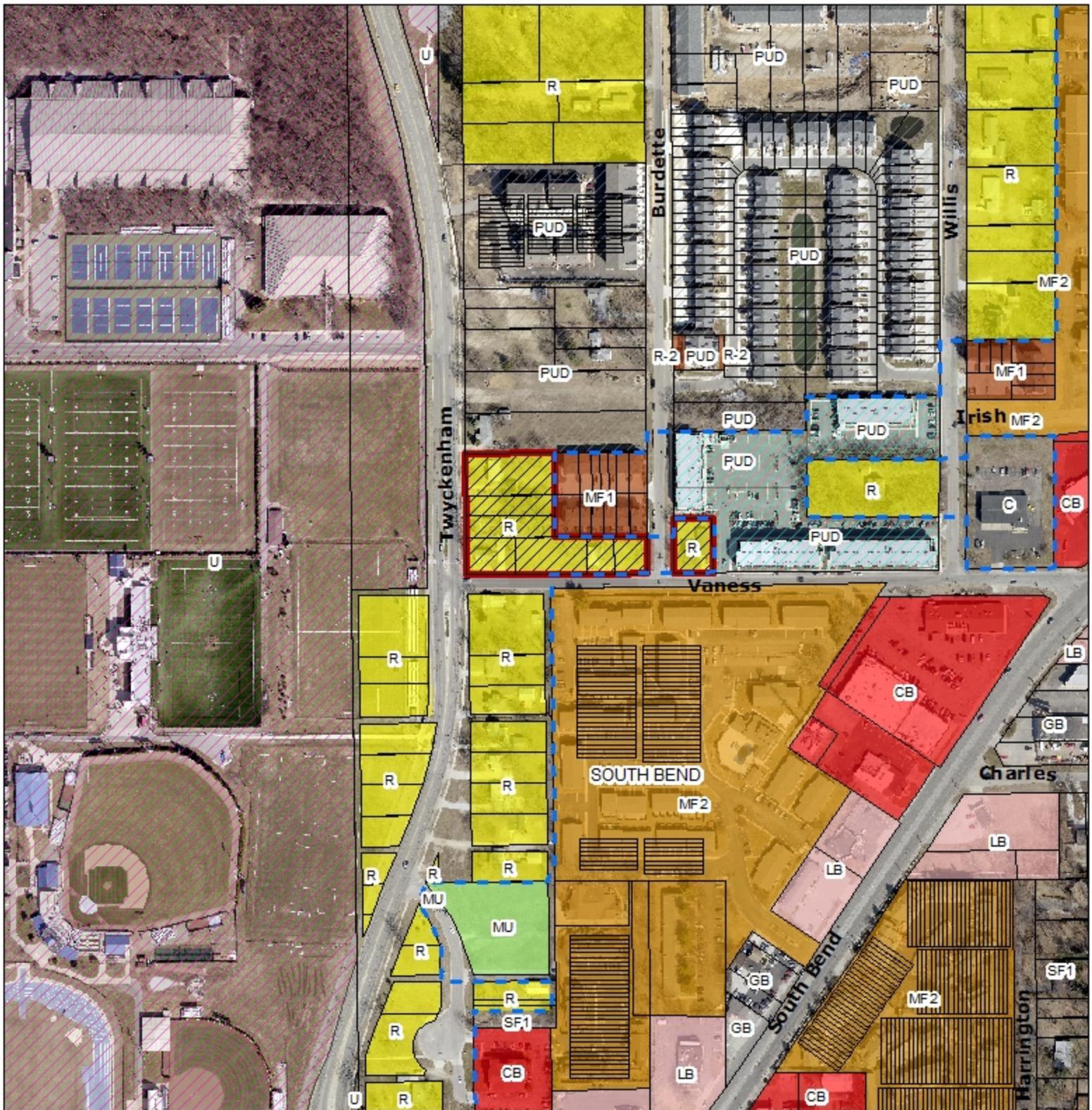
Analysis:

This development supports the ongoing need to provide appropriate off-campus housing for University students with convenient access to the University and local amenities.



1 inch = 300 feet
CLAY TOWNSHIP

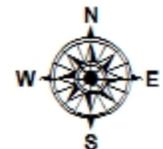




**Rezoning from:
"R" SINGLE FAMILY DISTRICT
to "PUD" PLANNED UNIT DEVELOPMENT DISTRICT**

MA STER ZONING KEY

- COUNTY "R" SINGLE FAMILY DISTRICT
- COUNTY "R-2" MULTIFAMILY DISTRICT
- COUNTY "PUD" PLANNED UNIT DEVELOPMENT
- COUNTY "U" UNIVERSITY DISTRICT
- SOUTH BEND "MF1" URBAN CORRIDOR MULTIFAMILY DISTRICT
- SOUTH BEND "MF2" HIGH-DENSITY MULTIFAMILY DISTRICT
- SOUTH BEND "MU" MIXED USE DISTRICT
- SOUTH BEND "LB" LOCAL BUSINESS DISTRICT
- SOUTH BEND "CB" COMMUNITY BUSINESS DISTRICT
- SOUTH BEND "PUD" PLANNED UNIT DEVELOPMENT



1 inch = 300 feet

APC # 2737-15

Staff Report

5/8/2015

APC # 2740-15
Owner: County Council of St. Joseph County, Indiana
Location: 15316 State Road 23
Jurisdiction: St. Joseph County
Public Hearing Date: 5/19/2015

Requested Action:

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

Land Uses and Zoning:

- On site: On site is a single family home.
- North: To the north across State Road 23 is 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 is a vacant lot zoned R: Single Family District.
- West: To the west is a single family home zoned R: Single Family District.

District Uses and Development Standards:

The R: Single Family Districts are established to protect, promote and maintain the development of single family dwellings as well as provide for other limited residential, public and institutional uses that are compatible with residential development located at the periphery of an urban area.

Site Plan Description:

Rezoning and petitions to R: Single Family District do not require a site plan.

Zoning and Land Use History And Trends:

In September 2013, the County Council denied a petition (APC #2678-13) to rezone this site from R: Single Family District to O/B: Office Buffer District. In July 2014, the County Council approved a petition (APC #2706-14) to rezone this site from R: Single Family District to O/B: Office Buffer District.

Traffic and Transportation Considerations:

S.R. 23 has four lanes and a center turn lane.

Utilities:

This property is served by private well and septic.

Agency Comments:

The County Engineer and County Surveyor recommend approval.

Commitments:

The petitioner is not requesting 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 3: Objective A: Promote the development and/or maintenance of community and neighborhood character.

Land Use Plan:

The Future Land Use Map identifies this area as a Residential Growth Area.

Plan Implementation/Other Plans:

In 2007 and 2008, a series of public meetings were conducted with interested Harris Township residents and groups in an attempt to reach consensus on a land use plan for State Road #23 Between Grape Road and Adams Road. A plan was not adopted, but the latest draft showed the land use between Filbert Road and Santa Monica remaining residential.

2. Current Conditions and Character:

The portion of State Road 23 between Filbert Road and Santa Monica Drive is residential in nature. The commercial node that exists at Fir Road includes two gas stations, a drug store, a car wash, and the St. Pius X church and school. There is also a developing office node just west of Filbert Road containing a dentist office, a hair salon, a vacant business, and two vacant parcels. West of this area begins the heavy commercialized area of Gumwood and Grape Roads.

3. Most Desirable Use:

The most desirable use for the land is one that has the least impact on the surrounding residential properties.

4. Conservation of Property Values:

Allowing this property to remain residential would not adversely affect surrounding property values.

5. Responsible Development And Growth:

It is responsible growth and development to maintain community and neighborhood character.

Staff Comments:

The staff would note that it was not in support of the prior two petitions to zone the property from residential to office buffer. Since no other zoning changes have occurred in the immediate area, rezoning this property back to a residential classification maintains the integrity of the surrounding area for residential uses.

Recommendation:

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

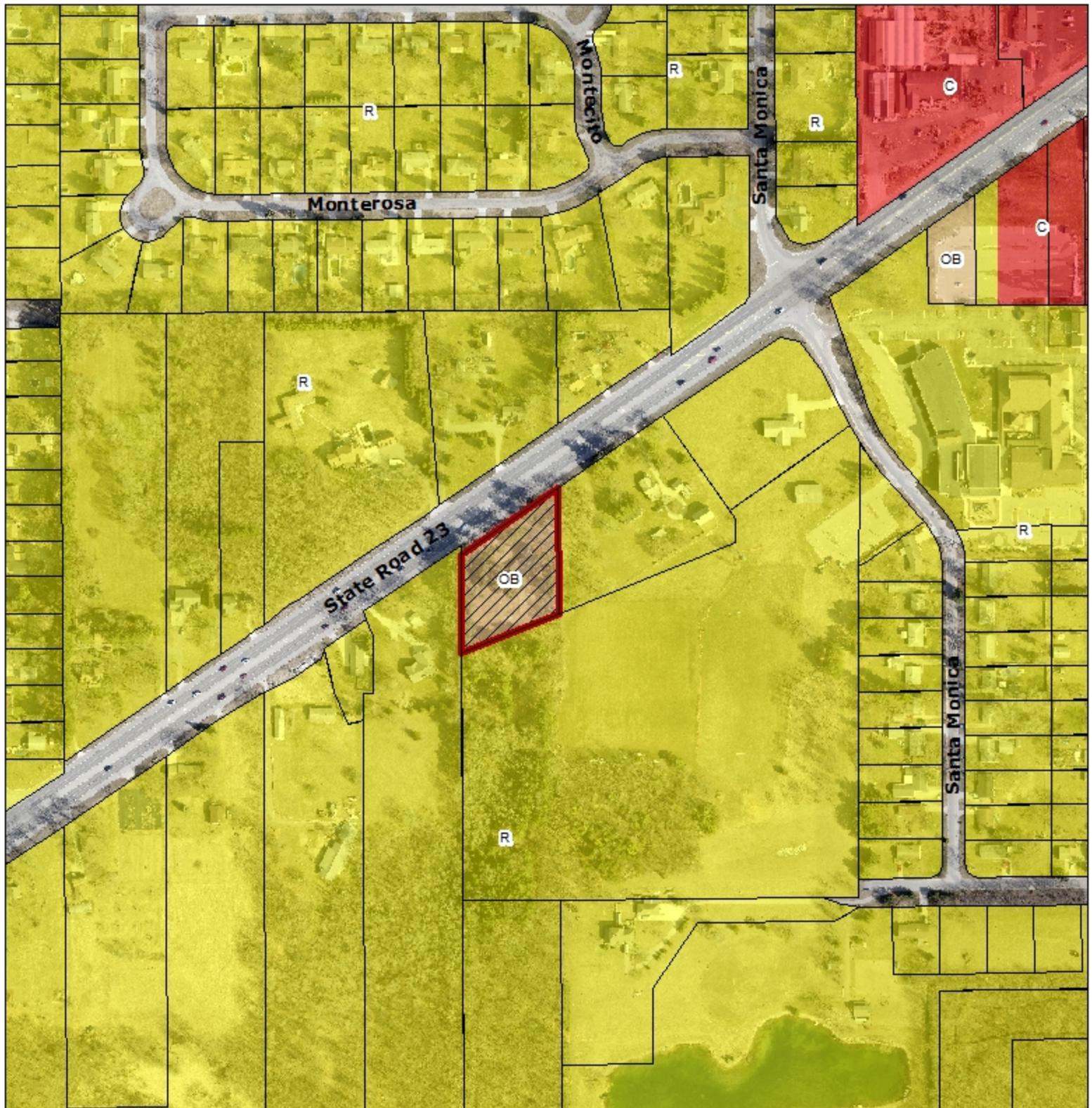
Analysis:

The O/B Office Buffer District was established to provide a natural progression of site use intensity between residential and full commercial uses. Since this site is surrounded by single-family homes and residential zoning, allowing this site to remain zoned to allow office-type uses is inappropriate land-use practice. The established commercial and business nodes located between Fir Road and Brick Road and west of Filbert Road should remain the focus for business development. Filbert Road and Santa Monica Drive provide direct access to large residential developments, and this area of State Road 23 should retain its residential character.



1 inch = 300 feet
HARRIS TOWNSHIP

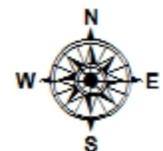




**Rezoning from:
"O/B" OFFICE/BUFFER DISTRICT
to "R" SINGLE FAMILY DISTRICT**

MASTER ZONING KEY

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



1 inch = 300 feet

APC # 2740-15

Staff Report

5/8/2015

APC # 2741-15
Owner: South Bend Self Storage LLC
Location: 605 North Hickory Road
Jurisdiction: City of South Bend
Public Hearing Date: 5/19/2015

Requested Action:

The petitioner is requesting a zone change from GB General Business District to PUD Planned Unit Development District.

Land Uses and Zoning:

- On site: On site is a former retail space that has been converted into mini-warehouse storage units.
- North: To the north are single family homes zoned SF1 Single Family & Two Family District.
- East: To the east is a vacant lot zoned PUD Planned Unit Development District and a Dollar General store zoned CB Community Business District. Across Hickory Road is a multi-tenant shopping plaza in the City of Mishawaka.
- South: To the south are retail stores and an Elks Lodge zoned CB Community Business District.
- West: To the west is a vacant lot zoned PUD Planned Unit Development.

District Uses and Development Standards:

The Planned Unit Development (PUD) District is designed and intended to: encourage creativity and innovation in the design of developments; provide for more efficient use of land; permit special consideration of property with outstanding natural or topographical features; facilitate use of the most appropriate construction techniques in the development of land; and, provide for any individual land use not otherwise specified elsewhere in this Ordinance. The PUD District encourages imaginative uses of open space, promotes high standards in design and construction, and furthers the purposes of the Comprehensive Plan. The PUD District is not intended for the development of residential subdivisions or other developments which are provided for as a matter of right within any district of this Ordinance.

Site Plan Description:

The 10.61 acre site contains a 128,614 square foot building, previously used for retail. A 30,000 square foot retail space is proposed with the remaining 9,244 designated as self-storage warehousing space. A portion of the structure is currently being used for self-storage warehousing. A total of 117 parking spaces will be provided for all uses. The west property line, north of the building, will be screened using either a fence or landscaping. The existing freestanding sign along Hickory Road will remain and may not be increased in height or area without proper approval as per the City zoning ordinance.

Zoning and Land Use History And Trends:

Prior to the adoption of the current zoning ordinance in 2004, the site was primarily zoned C Commercial, with the northern 120' zoned B Multifamily. In 2011, the property to the west and an outlot fronting on Hickory to the east was rezoned to PUD (APC# 2597-11) for a self-lock storage project, CB Community Business uses, and single or multi-family residential uses. A secondary site plan has not been submitted. In 2014, the majority of the site was rezoned to GB General Business District (APC# 2704-14) to allow for mini-warehouse storage units with a Special Exception Use for outdoor storage.

Traffic and Transportation Considerations:

Hickory Road has four lanes and a center turn lane.

Utilities:

This property is served by municipal sewer and water.

Agency Comments:

The County Surveyor and Department of Community Investment offer a favorable recommendation. The City Engineer notes that approval will be subject to a drainage plan and final site plan review.

Commitments:

The petitioner is not proposing any written commitments.

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

1. Comprehensive Plan:

Policy Plan:

The petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006). Policy ED 1.2: Encourage reuse of abandoned and underutilized land and structures.

Land Use Plan:

The future land use map identifies this area as Medium Density Residential.

Plan Implementation/Other Plans:

There are no other plans in effect for this area.

2. Current Conditions and Character:

The McKinley Avenue and Hickory Road area is a large commercial node with a mixture of uses.

3. Most Desirable Use:

The most desirable use for the land is one that is compatible with the commercial and mixed-use character of the area.

4. Conservation of Property Values:

Any improvements to the site, including screening, should not adversely affect surrounding property values.

5. Responsible Development And Growth:

It is responsible growth and development to allow retail uses within this repurposed building, and to allow outdoor storage within its underutilized parking lot.

Staff Comments:

Outdoor storage may be permitted on the site, but will be limited to a maximum size of 20% of the gross square footage of the building. Any outdoor storage may not encroach within 50' of any property line, or within 200' of the north property line, and will be required to have screening in the form of an 8' fencing or landscaping.

Recommendation:

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

Analysis:

This site is suited for uses allowed in GB General Business District, LB Local Business District, and CB Community Business District. Zoning to PUD Planned Unit Development District will allow for a wide range of compatible commercial uses not explicitly listed in any single zoning district.

Corby

CORBY

REZONING

#2741-15

Salem

Manchester

Brookhurst

Waterfall

Brighton

Patterson

JAMESTOWN

JAMESTOWN

PIN OAK

PIN OAK

Sarin

Preston

HICKORY

MIRACLE

Essex

McKinley

MC KINLEY

Winding Wood

Bearfit

LOGAN

1 inch = 300 feet

PORTAGE TOWNSHIP

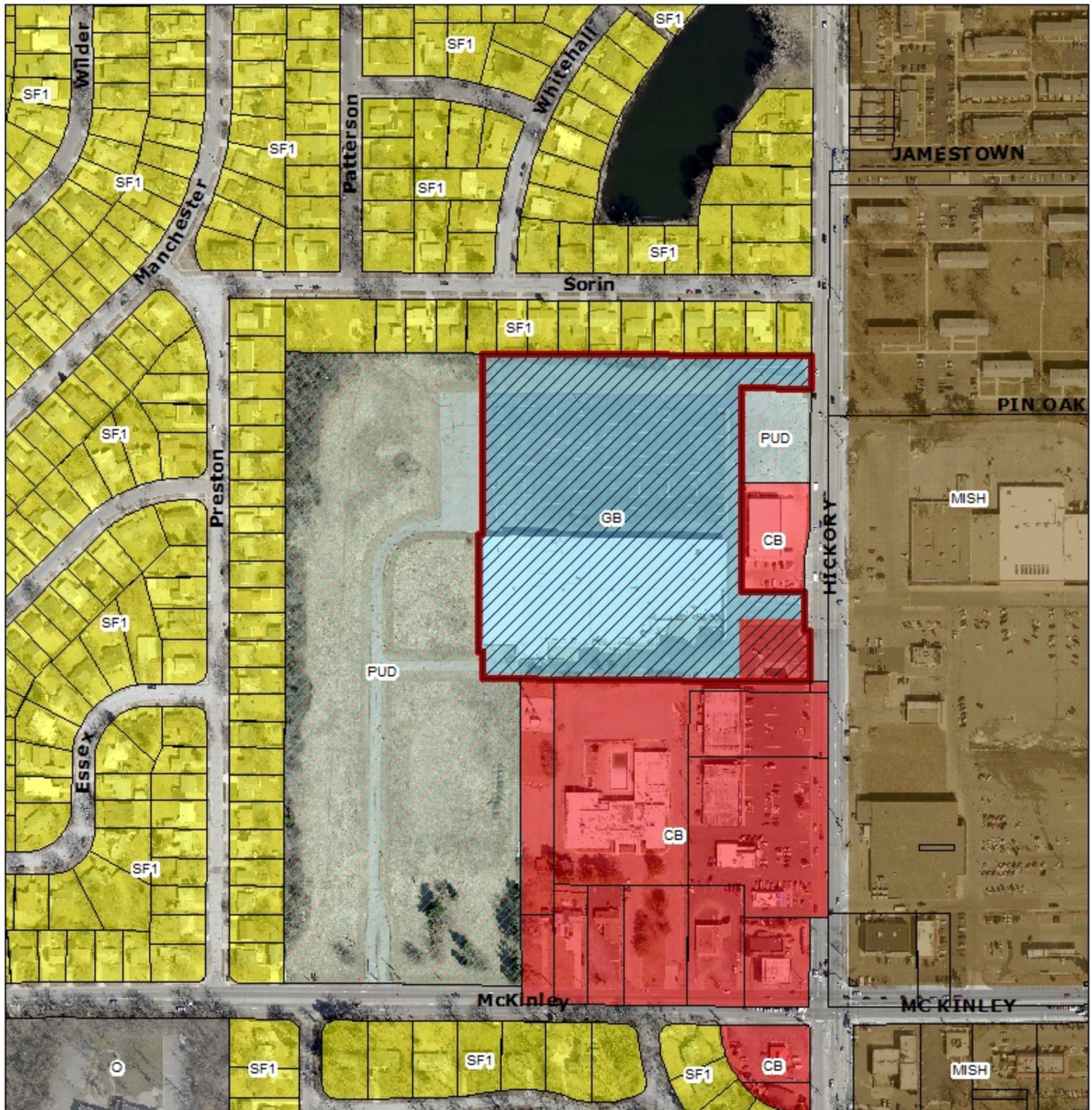
Sylvan Glen

Wildemere

Devon

Timber

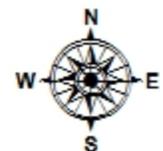




**Rezoning from:
"GB" GENERAL BUSINESS DISTRICT & "CB" COMMUNITY BUSINESS
to "PUD" PLANNED UNIT DISTRICT**

MASTER ZONING KEY

-  MISHAWAKA
-  SOUTH BEND "SF1" SINGLE FAMILY AND TWO FAMILY DISTRICT
-  SOUTH BEND "O" OFFICE DISTRICT
-  SOUTH BEND "CB" COMMUNITY BUSINESS DISTRICT
-  SOUTH BEND "GB" GENERAL BUSINESS DISTRICT
-  SOUTH BEND "PUD" PLANNED UNIT DEVELOPMENT



1 inch = 300 feet

APC # 2741-15

Staff Report

5/8/2015

APC # 2742-15
Owner: New Paris Development Co. LLC
Location: 2212 Mishawaka Avenue
Jurisdiction: City of South Bend
Public Hearing Date: 5/19/2015

Requested Action:

A combined public hearing on a proposed ordinance of New Paris Development Co. LLC to zone from MU Mixed Use District to LB Local Business District; seeking a Special Exception Use to allow for a tattoo, body piercing establishment; and seeking two variances.

Land Uses and Zoning:

On site: On site is an existing retail building.
North: To the north across Mishawaka Avenue is a gas station and convenience store zoned CB Community Business District.
East: To the east is a church zoned MU Mixed Use District.
South: To the south is a single family home zoned MU Mixed Use District.
West: To the west is a tavern zoned MU Mixed Use District.

District Uses and Development Standards:

The LB District is established to provide for small business groupings located outside of the village style mixed use concept and which provide for the full range of convenience uses necessary to meet the daily needs of nearby residential neighborhoods. Permitted uses within the LB Districts are regulated in character to assure harmonious development with the nearby residential districts served and are limited in size and scale to promote pedestrian access.

Site Plan Description:

On site is a 3,300 square foot retail space abutted by similar buildings to the east and west. The front façade of buildings along this block abut the sidewalk, with a 0' setback. There is a paved parking area behind the building that is shared with the other businesses.

Zoning and Land Use History And Trends:

This site has been zoned MU Mixed Use District since 2004.

Traffic and Transportation Considerations:

Mishawaka Avenue has two lanes with a center turn lane and on-street parallel parking on the south side of the street.

Utilities:

This site is served by municipal water and sewer.

Agency Comments:

County Surveyor, City Engineer, and South Bend Department of Community Investment

recommend approval.

Commitments:

The petitioner is not proposing any written commitments.

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

1. Comprehensive Plan:

Policy Plan:

The petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006). Policy LU 2.2: pursue a mix of land uses along major corridors and other locations identified on the future land use map. Policy ED 1.2: Encourage reuse of abandoned and underutilized land and structures.

Land Use Plan:

The future land use map identifies this area as Commercial.

Plan Implementation/Other Plans:

No other plan is in effect for this area.

2. Current Conditions and Character:

The 2200 block of Mishawaka Avenue is a commercial node with a mix of non-residential uses.

3. Most Desirable Use:

The most desirable use is one that is compatible with the mixed-use character of this commercial corridor.

4. Conservation of Property Values:

Physical improvements and use of this site for a tattoo shop should not adversely affect surrounding property values.

5. Responsible Development And Growth:

It is responsible growth and development to allow this property to develop into a business that will serve the community.

Staff Comments:

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

The Special Exception Use is for a tattoo parlor.

A special exception use may only be granted upon making a written determination and adopting appropriate Findings of Fact, based upon the evidence presented at a public hearing, that:

- (1) The proposed use will not be injurious to the public health, safety, comfort, community

moral standards, convenience or general welfare. Tattoo facilities are licensed and certified through the Health Department to ensure they operate in a safe manner.

(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein. The property was previously used for non-residential uses.

(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein. The tattoo parlor will operate similarly to the other businesses found along Mishawaka Avenue.

(4) The proposed use is compatible with the recommendations of the Comprehensive Plan. The comprehensive plan identifies this area for commercial development.

The variances are as follows:

1. From the required twelve parking spaces to zero; and
2. From the required 500' separation from a religious use to 20'.

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

(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Tattoo facilities are licensed and certified through the Health Department to ensure they operate in a safe manner. Because there is on-street parking available with additional parking behind the building, the parking variance should not be injurious to the safety or general welfare of the community.

(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. Improving the physical appearance of the façade will protect surrounding property values. The property was previously used for non-residential uses.

(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 would limit the ability for the site to be redeveloped as a tattoo parlor. On street parking is available, as well as non-descript parking in the rear of the building.

Recommendation:

Based on information available prior to the public hearing, the staff recommends that the rezoning petition and the Special Exception Use be sent to the Common Council with a favorable recommendation. The staff recommends approval of both variances.

Analysis:

Allowing a tattoo parlor in this location will not be injurious to the overall retail character of Mishawka Avenue or the adjacent residents. Rezoning to LB Local Business District is consistent with the character of the area.

REZONING
#2742-15



1 inch = 100 feet
PORTAGE TOWNSHIP

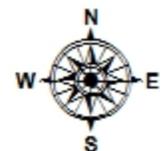




**Rezoning from:
"MU" MIXED USE DISTRICT to "LB" LOCAL BUSINESS DISTRICT**

MASTER ZONING KEY

- SOUTH BEND "SF1" SINGLE FAMILY AND TWO FAMILY DISTRICT
- SOUTH BEND "SF2" SINGLE FAMILY AND TWO FAMILY DISTRICT
- SOUTH BEND "OB" OFFICE BUFFER DISTRICT
- SOUTH BEND "MU" MIXED USE DISTRICT
- SOUTH BEND "LB" LOCAL BUSINESS DISTRICT
- SOUTH BEND "CB" COMMUNITY BUSINESS DISTRICT



1 inch = 100 feet

APC # 2742-15