

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

AGENDA

Tuesday, September 20, 2016
3:30 p.m.

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

PUBLIC HEARING:

Rezoning:

- A. A combined public hearing on a proposed ordinance of Cook Land Group LLC to zone from LI Light Industrial District to GB General Business District, and seeking the following variance(s): 1) from the required perimeter landscaping to none, property located at 4246 Meghan Beehler Court, City of South Bend - APC #2793-16.
- B. A proposed ordinance of Commerce Center Development, LLC and East Bank South Bend Development LLC to zone from CBD Central Business District to PUD Planned Unit Development District, property located at 401 East Colfax Avenue, 228, 2030 Sycamore Street and 312 LaSalle Avenue, City of South Bend - APC# 2794-16.
- C. A combined public hearing on a proposed ordinance of Mark Osler and Kare Bear Learning Center, Inc. and MM Brandon LLC to zone from R: Single Family District, C: Commercial District and M: Manufacturing Industrial District to M: Manufacturing Industrial District and seeking a Special Use to allow storage, loading and hauling of sand, gravel or other aggregate and processing facility, and seeking the following variance(s): 1) from the required 50' minimum yards and building setback adjacent to residential to 40'. for the front and 10' for side and rear; 2) from the required 50' minimum setback from any property line for material storage and processing to 10'; 3) from the required screening of outdoor storage and operations to fencing and landscaping as shown on site plan; 4) to allow the outdoor storage to exceed the height of the fence, provided the storage does not exceed 30' in height; 5) from the required type 2 landscaping of required yards abutting residential to as shown on site plan; 6) from the required foundation landscaping to none and 7) from the required parking area screening of a side lot line abutting a residential district or use to none, property located at 10261, 10289 and 10343 McKinley Highway, St. Joseph County - APC #2795-16.

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Miscellaneous:

- A. Findings of Fact for granting Variances for property located at 202 Bartlett Street, City of South Bend – APC #2789-16.

2. Executive Director's Report:

3. Minutes and Expenditures:

4. Adjournment:

Staff Report

9/7/2016

APC # 2793-16
Owner: Cook Land Group LLC
Location: 4246 Meghan Beehler Court
Jurisdiction: City of South Bend
Public Hearing Date: 9/20/2016

Requested Action:

The petitioner is requesting a zone change from LI Light Industrial District to GB General Business District and seeking one variance from the development standards.

Land Uses and Zoning:

- On site: On site is an existing sales and service building.
- North: To the north is a vacant lot zoned LI Light Industrial.
- East: To the east is a parking lot zoned LI Light Industrial.
- South: To the south is an industrial building zoned LI Light Industrial.
- West: To the west of Meghan Beehler is an industrial building zoned LI Light Industrial.

District Uses and Development Standards:

The GB General Business District is established to provide a location for those retail sales and service functions whose operations are typically characterized by: outdoor display or sales of merchandise; major repair of motor vehicles; commercial amusement and recreational activities; or, activities or operations conducted in structures which are not completely enclosed. The types of uses found in the GB District are often brightly lighted and noisy. Permitted uses contained in this district are such that this district may be used to form a grouping of similar uses along certain portions of major commercial thoroughfares. Special attention should be paid to buffering whenever this district is located adjacent to any residential district or residential uses.

Site Plan Description:

On site is an existing 18,000 sq. ft. building, located on 5.32 acres. There is an existing parking lot and sales storage area along the north and west of the building.

Zoning and Land Use History And Trends:

This property was rezoned from Light Industrial and Residential to Light Industrial in 2000.

Traffic and Transportation Considerations:

Meghan Beehler Court has two lanes.

Utilities:

This site is served by municipal water and sewer.

Agency Comments:

The Department of Community Investment offers a favorable recommendation, assuming that the GB General Business District permits all of Superior's uses for the property. With the rezoning, the property should meet the present parking and landscaping standards.

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) Objective ED 2: Retain existing businesses and recruit new ones to the city.

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:

The surrounding properties are industrial uses.

3. Most Desirable Use:

The most desirable use is one that allows for the continuation of an existing business.

4. Conservation of Property Values:

The surrounding properties are industrial and should not be adversely affected.

5. Responsible Development And Growth:

It is responsible growth and development to allow an existing business to continue operating and expand to include the addition of on-site sales.

Combined Public Hearing

This is a combined public hearing procedure, which includes a rezoning and 1 variance 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 petitioner is seeking the following variance(s):

- 1) from the required perimeter landscaping to none

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:

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

Allowing the site to continue without the addition of perimeter landscaping should not be injurious to the public health, safety, and welfare.

- (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;**

There is some existing landscaping along adjacent industrial properties and they should not be adversely affected.

- (3) The strict application of the terms of this Chapter would result in practical**

difficulties in the use of the property

Requiring the petitioner to remove existing vegetation and to screen between this site and surrounding industrial properties creates a practical difficulty on this property.

Staff Comments:

The staff has no additional comments.

Recommendation:

Based on information available prior to the public hearing, the staff recommends that the rezoning petition be sent to the Common Council with a favorable recommendation. The staff recommends approval of the variance, subject to providing the required perimeter landscaping along the front property line.

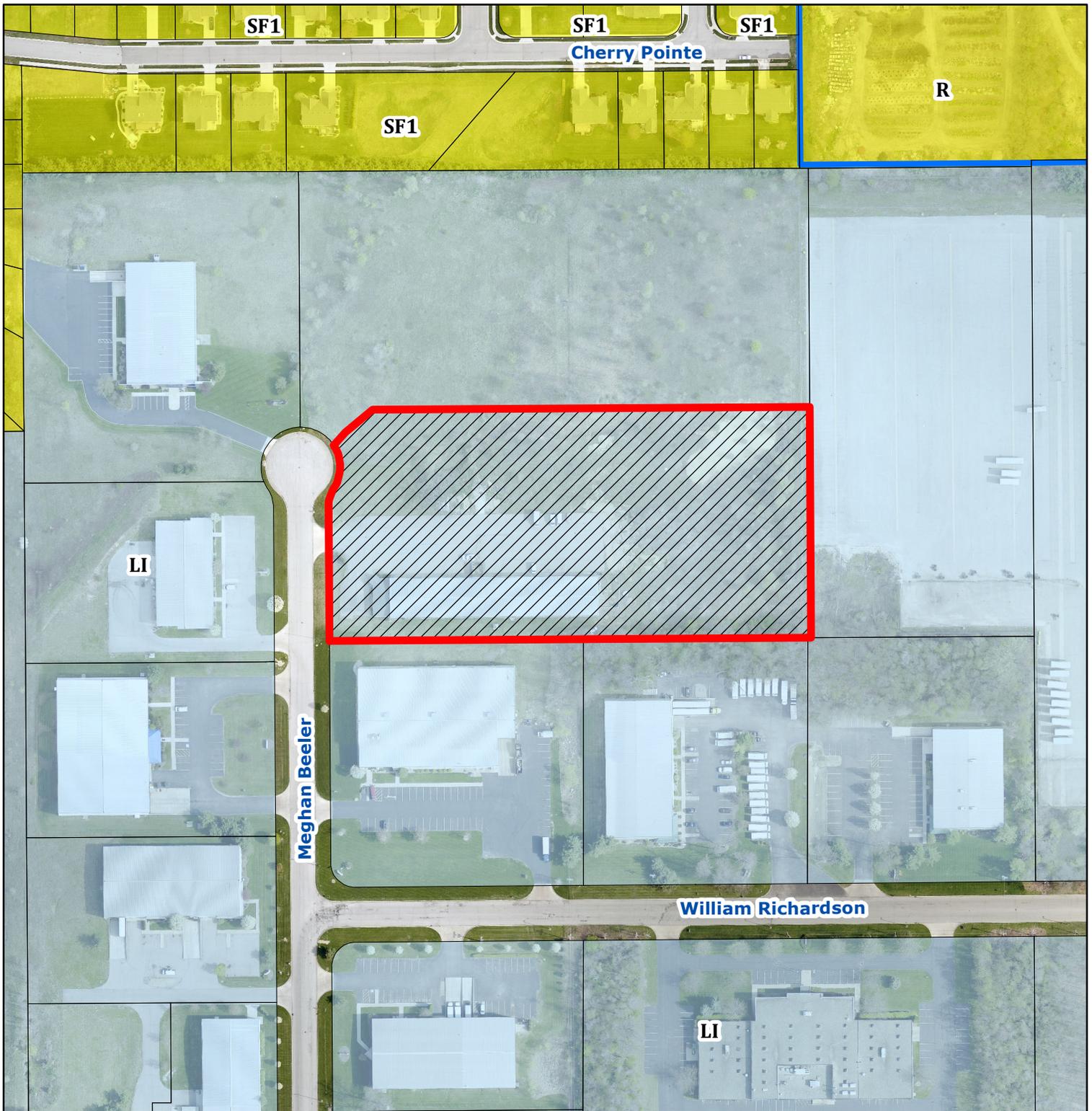
Analysis:

Rezoning this property to GB General Business will allow for an existing business to continue operations and expand to include on-site sales of motor vehicles, a use which is compatible with the surrounding industrial uses.

REZONING
#2793-16

1 inch = 200 feet
GERMAN TOWNSHIP

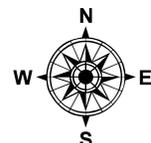




**Rezoning from: CITY OF SOUTH BEND
"LI" LIGHT INDUSTRIAL DISTRICT
to "GB" GENERAL BUSINESS DISTRICT**

MASTER ZONING KEY

-  COUNTY "R" SINGLE FAMILY DISTRICT
-  SOUTH BEND "SF1" SINGLE FAMILY AND TWO FAMILY DISTRICT
-  SOUTH BEND "LI" LIGHT INDUSTRIAL DISTRICT



1 inch = 200 feet

APC # 2793-16

Staff Report

9/9/2016

APC # 2794-16
Owner: Commerce Center Development, LLC and East Bank South Bend Development LLC
Location: 401 East Colfax Avenue, 228, and 230 Sycamore Street
Jurisdiction: City of South Bend
Public Hearing Date: 9/20/2016

Requested Action:

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

Land Uses and Zoning:

- On site: On site is the Commerce Center and multiple parking lots.
- North: To the north across LaSalle is The Pointe at St. Joseph Apartments zoned CBD Central Business District.
- East: To the east is the East Race waterway. Across the East Race are two office buildings zoned CBD Central Business District.
- South: To the south across Colfax is Stephenson Mills Apartments and a parking lot zoned CBD Central Business District.
- West: To the west is the AEP Substation, an art studio, an office and a cellular tower zoned CBD Central Business District. Across Sycamore is a private club zoned CBD Central Business District.

District Uses and Development Standards:

The Planned Unit Development (PUD) District is intended to: establish a compatible and efficient mix of land uses and open space; ensure compatibility with the Comprehensive Plan, surrounding developments and future development needs; establish a creative approach in building design through architectural compatibility with adjacent buildings, general neighborhood design or by creating a unique style; achieve flexibility and provide incentives for development that will sustain a wider range of choice in satisfying the changing needs of the community; and provide for any individual land or combination of land uses not otherwise specified elsewhere in this Ordinance. The PUD District is not intended for the development of residential subdivisions, Permitted Uses, or Special Exception Uses which are provided for within any district of this Ordinance.

Site Plan Description:

On site is the existing Commerce Center building. The 5 story, 60' tall building will continue to be used as a mixed use building. The site plan shows a proposed 175' tall mixed use building spanning 411' along LaSalle Avenue and wrapping around a proposed 100' tall parking structure. A small portion of the site is proposed to be used for surface parking and access. The proposed PUD Ordinance allows for uses currently permitted in the CBD Central Business District plus adds Group Residences, Manufacturing Retailer, Electricity Relay Station or Public Utility Substation, and Maker Space. The accessory uses and architectural standards are consistent with the CBD District. The temporary uses generally follow the guidelines of the CBD District, but add the allowance for an 8' tall

temporary construction barrier during construction. The PUD Ordinance exempts this property from the requirements of the Parking and Loading sections of the South Bend Zoning Ordinance. The sign section has been expanded to allow an increased building coverage, increased monument height and area, the addition of roof signs which may extend 15' above the roofline, and increased incidental/directional sign area.

Zoning and Land Use History And Trends:

Prior to the adoption of the new zoning ordinance in 2004, the property was zoned A3 Mixed Use Multifamily Residential and Commercial District.

Traffic and Transportation Considerations:

LaSalle Avenue has four lanes. Colfax Avenue has 2 lanes plus a center turn lane and a designated bike lane. Sycamore Street has two lanes with on-street parking.

Utilities:

This site will be served by municipal water and sewer.

Agency Comments:

The City Engineer stated that additional information related to traffic patterns and the impact of the uses on utilities and other public amenities is needed before a recommendation could be given.

Because of the negative impacts on the neighborhood, DCI cannot support the Commerce Center PUD as presented. However, DCI would be supportive of the rezoning subject to the recommendations provided in the full report (attached as Exhibit A).

Commitments:

The petitioner is not proposing any written commitments, however the site will need to comply with all development standards established in the Commerce Center PUD District Ordinance and any conditions or commitments stated by the petitioner during the public hearing process.

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

1. Comprehensive Plan:

Policy Plan:

The petition is not consistent with The East Bank Village Master Plan - Phase 1 (June 2008). The plan states the area east of the river has its own unique identity independent from the Central Business District and should be branded as the East Bank Village. The Village character is emphasized throughout the plan through the use of pedestrian scaled development, interactive public spaces, and less dense mixed use buildings ranging from 2-4 stories.

Land Use Plan:

The East Bank Master Plan - Phase 1 land use plan identifies the northwest corner of the site as a location for a parking structure surrounded by a 3-4 story mixed-use building fronting on Sycamore and LaSalle. The northeast portion of the site, north of the Commerce Building and along the East Race, is shown as recreation (parks, open spaces, public plaza). The Commerce Building is identified as Commercial (Retail, General Commercial, Specialty Retail, Office, Tech OR&D)

Plan Implementation/Other Plans:

The petition is not consistent with City Plan, South Bend Comprehensive Plan (November 2006) Objective UD 1.1 Require developments to utilize design techniques that create an attractive, urban character for the Central Business District, corridors, and commercial areas; UD 1.6 Respect the scale, design, and aesthetic quality of established neighborhoods when undertaking infill development projects; UD 1.7 Promote urban design elements in new developments that are appropriately scaled and conducive to pedestrians, including pedestrian safety considerations.

2. Current Conditions and Character:

The Central Business District east of the river has a mixture of commercial, office, and residential uses. The low and mid-rise buildings emphasize pedestrian scale, public amenities, and lower density mixed-use buildings. The Commerce Center building is the tallest structure in the area with the majority of the surrounding properties in the 30' - 45' range.

3. Most Desirable Use:

The most desirable use is one that fits into the character of the East Bank Village neighborhood.

4. Conservation of Property Values:

Due to the height and size of the proposed building surrounding property values may be negatively affected. Developing a site that exceeds the general standards for the area by two to three times what is allowed for other properties in the district could have a significant impact on adjacent property values. If constructed at the proposed 175' height, the building will cast significant shadows that will have an adverse impact on the surrounding properties.

5. Responsible Development And Growth:

It is not responsible development and growth to develop a site that does not fit with the character and approved plan of the surrounding neighborhood.

Staff Comments:

The petitioner failed to provide a statement of how the proposed PUD meets the 5 items of Intent for Planned Unit Developments as required by the South Bend Zoning Ordinance Section 21-05 (a) (1). It is the staff's opinion that the petitioner failed to meet the Intent as follows:

(A) Establish a compatible and efficient mix of land uses and open spaces;

While the proposed PUD provides for a compatible mix of land uses, the site layout as shown does not convincingly address or identify the open space and its interaction with the public spaces of the East Race, as should be appropriate for a development in this location.

(B) Ensure compatibility with the Comprehensive Plan, surrounding developments and future development needs;

The extreme variation from the allowed development standards established for the Central Business District east of the River and the high rise approach vs. village approach to the building design make the proposed PUD incompatible with the Comprehensive Plan, the East Bank Plan and the existing and proposed surrounding developments.

(C) Establish a creative approach in building design through architectural compatibility

with adjacent buildings, general neighborhood design or by creating a unique style;

The developer has failed to provide building design and elevation profiles to determine architectural compatibility. The proposed height and bulk of the building demands careful review to ensure a building design that is architecturally compatible with adjacent buildings and the general neighborhood.

(D) Achieve flexibility and provide incentives for development that will sustain a wider range of choice in satisfying the changing needs of the community;

If constructed as proposed, a large portion of the building may become undesirable and remain vacant or unuseable. Many of the residential units will be facing the garage, and the commercial space has not been shown to be adaptable to changing market demands (dedicated space vs flexible space).

(E) Provide for any individual land or a combination of land uses not otherwise specified elsewhere in the Ordinance.

At the time of filing, Group Residence was not a permitted or special exception use in the Central Business District, however, the Mixed Use District would have provided for all the land uses proposed within the PUD.

Furthermore, the Planned Unit Development section of the Ordinance specifically states that the PUD District is not intended for permitted uses or special exception uses which are provided within another district of the Ordinance OR for developments seeking relief from development standards within a district in which the use is permitted.

In addition to not meeting the intent of the PUD Planned Unit Development District, the proposed development standards include many standards completely out of character with the area. In addition to the points addressed by the Department of Community Investment, the proposed temporary uses, extreme height, lack of public open space, and excessive signage would have a very detrimental impact on the adjacent properties and surrounding community.

Recommendation:

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

Analysis:

As presented, the petition does not meet the intent or standards for a Planned Unit Development District and, therefore, is not a valid application of the PUD District Designation. While the land uses and overall concept proposed are desirable and appropriate for the Central Business District or Mixed Use District, the development standards in the proposed Commerce Center PUD District Ordinance are so out of character for the area that the construction of this project could ultimately have a significant negative impact on the overall development and success of the East Bank Village.



Department of

Community Investment

Commerce Center PUD Rezoning Request

Friday, September 9, 2016

Due to the negative impacts on the neighborhood as described below, DCI cannot support the Commerce Center PUD as presented. However, DCI would be supportive of the rezoning subject to the recommendations provided in the discussion here:

- Lack of consistency with the East Bank Village Master Plan (EBVMP).** The East Bank Village Master Plan was developed in conjunction with the community and illustrates their expectations for future decisions in the neighborhood. This rezoning would completely disregard the EBVMP in the following ways:
 - Height** – The proposal would exceed the agreed height limit for the neighborhood by approx. 115' from 60' to 175'.
 - Character** – The proposal is out of character with the existing fine grain, low-scale nature of the neighborhood as well as the desired future character of the neighborhood as presented in the EBVMP.
- Height.** The proposed height of 175' is completely out of context with the neighborhood and the East Bank Village Master Plan. The City's policy for previous height variances in the East Bank is to allow the lesser of 96 feet or 8 stories. This taller height could be supported if a public benefit is provided; otherwise, a maximum height of 60' as permitted by the zoning ordinance should be applied. The following public domain upgrades should be considered for additional height to be granted:
 - 5' front setback** to LaSalle Street and Sycamore Streets. This would accommodate additional foot traffic generated by the development as well as provide room for outdoor seating for a café or other street activating uses.
 - Public open space** in the form of a plaza, square or similar publically accessible space adjacent to the East Race between the Commerce Center and LaSalle Ave. This space should be generously scaled, address the East Race waterway and be activated by ground floor uses like a café, bar, restaurant. It is recommended a setback of 30', consistent with the northern portion of the Commerce Center's East Race setback, would be reasonable and appropriate for such a high profile location.



3. **Character.** The scale and mass of the building does not fit into the character of the neighborhood. The proposal could be supported if the following character elements are achieved:
- **Ground Floor Activation to LaSalle Ave and the East Race.** This is necessary to complement the existing active frontages typical of the East Bank Neighborhood. It is recommended that:
 - A minimum of 5 entries be provided at ground level. 1 to the East Race and 4 to LaSalle Ave.
 - Separate residential, office and retail entry lobbies be provided to face the East Race, LaSalle Ave. and Sycamore Street.
 - 70% of the ground floor building frontage to be glass with views into the ground floor uses.
 - **Upper Level Setback.** Taller buildings can better fit into the existing context when the upper levels are setback at a height consistent with neighboring development, in this case The Pointe apartments. It is recommended that:
 - An upper level setback of 15-20' from the front setback be incorporated into the building. The setback should occur at the approx. height of The Pointe apartments or around 40'.
 - **Fine Grained Character.** The East Bank Village is made up of numerous smaller buildings that provide a great deal of visual variety that typifies the character of the neighborhood. It is recommended that:
 - The development look like multiple buildings through variations in the façade. No 1 façade should exceed 150' in length without changing elements such as: materials, color, variations in height, window spacing, balconies, setbacks, (for instance Eddy Street Commons) etc.
4. **Solar Access.** The height of the proposed building significantly overshadows portions of The Pointe and the East Race walkway. This would significantly reduce the environmental quality of the public domain along the East Race and impact the residents of The Pointe. Furthermore, the internal building layout has a significant number of apartments facing into an 11' gap looking into a naturally ventilated parking garage. These apartments would receive no direct sunlight and would likely need to have their windows permanently closed due to exhaust fumes venting from the parking garage. It is recommended that:
- A minimum of 70% of apartments must receive 2 or more hours of direct sunlight to the primary living area at midwinter (Dec. 21).
 - No overshadowing to balconies or living areas to adjacent properties between the hours of 11am – 3pm.
5. **Signage.** It is recommended that the development substantially comply with the existing CBD signage code and Design Guidelines.

Other Things to Note:

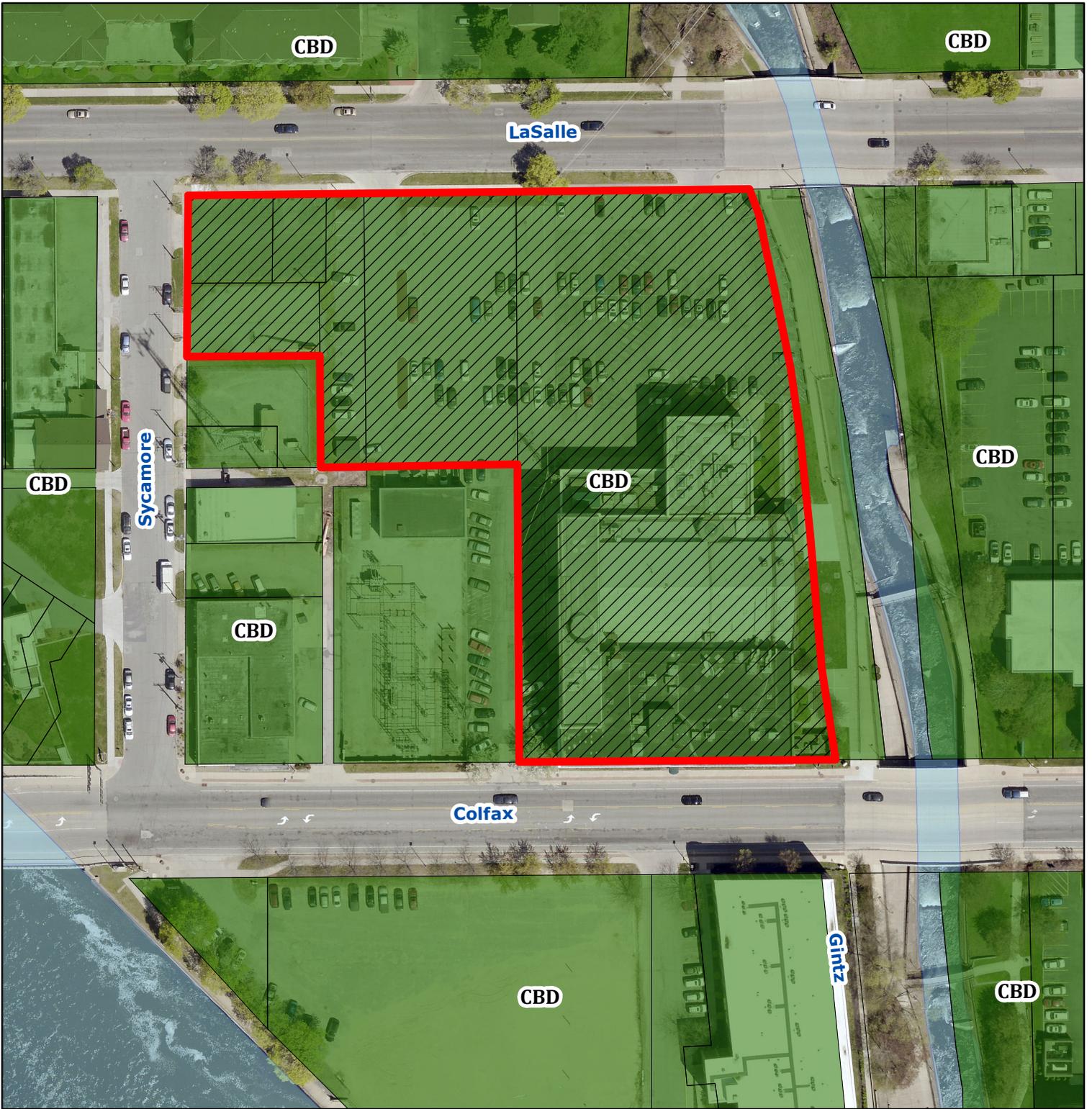
- The East Bank is not the Downtown, these distinct areas complement each other, but are not interchangeable and thus should not be treated the same.
- The Regional Cities grant in no way requires this development to provide a specific number of apartments. The only requirements for the site from a Regional Development Authority perspective is to provide a mixed use development that includes a super market. The original submission from Matthews LLC called for a maximum height of 5 stories, this was amended to 8 stories in the final submission. It was this submission that won the award from the RDA.

REZONING
#2794-16



1 inch = 100 feet
PORTAGE TOWNSHIP

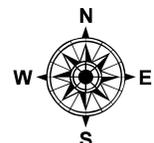




**Rezoning from: CITY OF SOUTH BEND
"CBD" CENTRAL BUSINESS DISTRICT
to "PUD" PLANNED UNIT DEVELOPMENT DISTRICT**

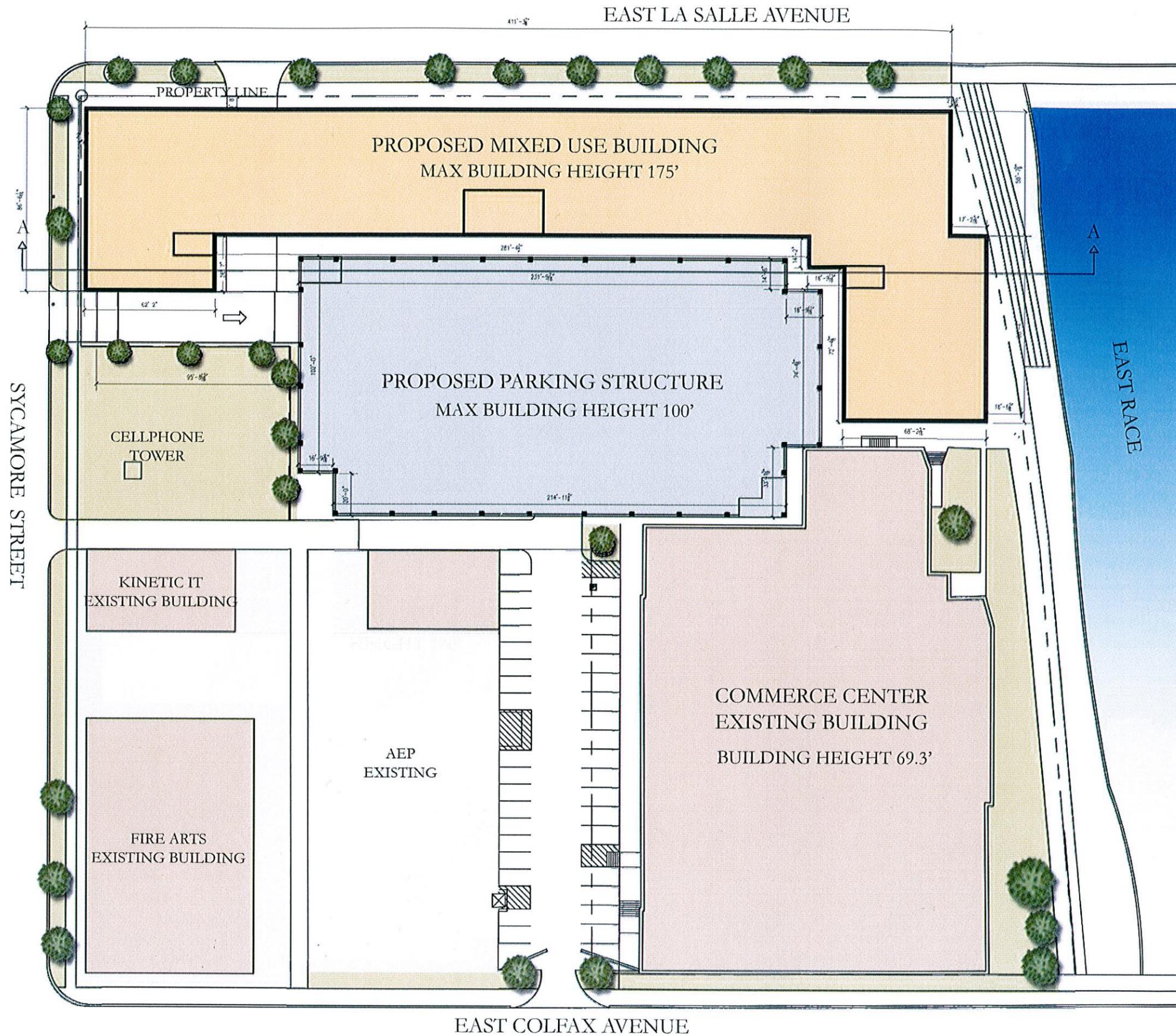
MASTER ZONING KEY

 SOUTH BEND "CBD" CENTRAL BUSINESS DISTRICT



1 inch = 100 feet

APC # 2794-16

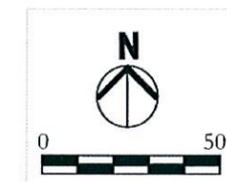


FILED
 SEP 07 2016
 AREA PLAN COMMISSION
 APPLICATION NO. 2994-16

COMMERCE CENTER PUD

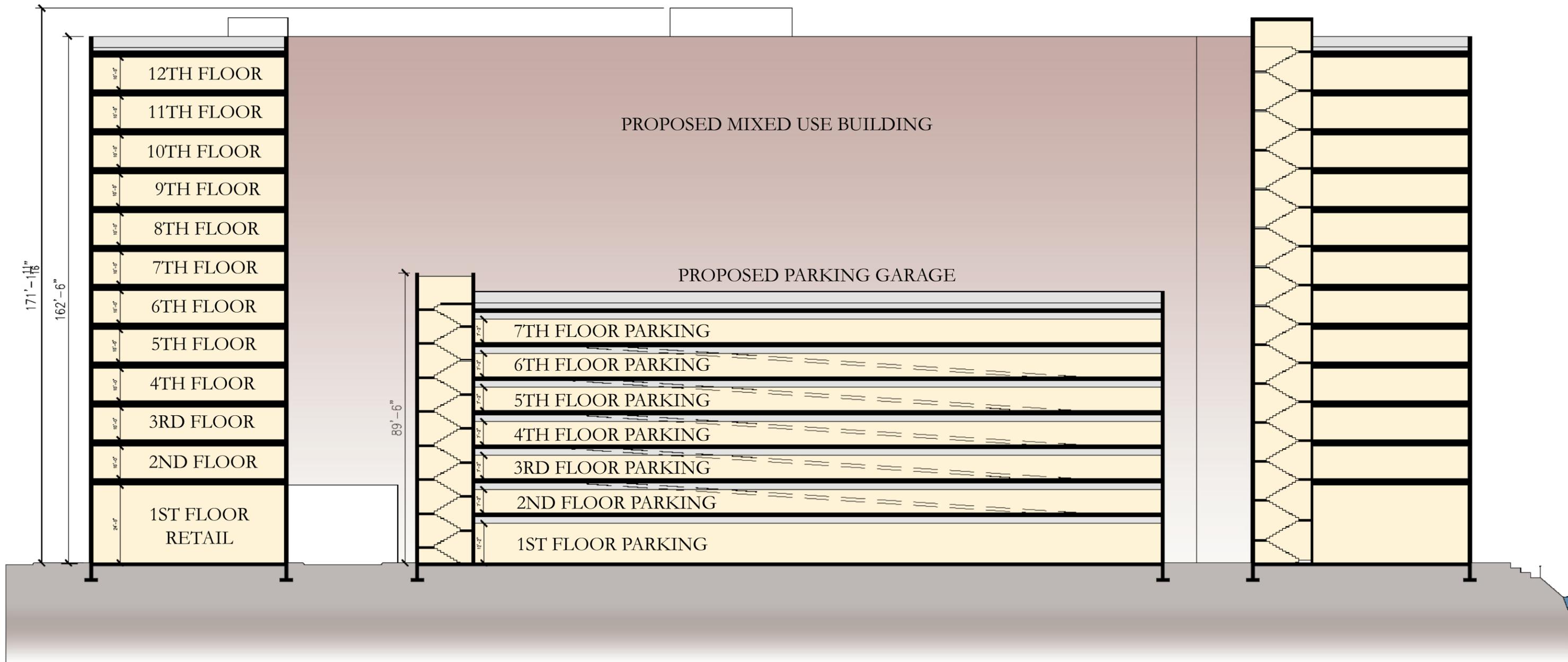
SITE PLAN

SCALE 1:30



MATTHEWS, LLC
 SOUTH BEND, IN

8/30/2016



SECTION A-A



MATTHEWS, LLC
SOUTH BEND, IN

COMMERCE CENTER PUD



SCALE 1:30

8/30/2016

Section 21-03.06 **Commerce Center PUD**

Intent: The proposed PUD is being established in compliance with the following parameters as established by the PUD District of the South Bend Zoning Ordinance :*(insert a statement demonstrating how the proposed PUD meets each of the intent standards below)*

- (A) Establish a compatible and efficient mix of land uses and open space;
- (B) Ensure compatibility with the Comprehensive Plan, surrounding developments and future development needs;
- (C) Establish a creative approach in building design through architectural compatibility with adjacent buildings, general neighborhood design or by creating a unique style;
- (D) Achieve flexibility and provide incentives for development that will sustain a wider range of choice in satisfying the changing needs of the community; and
- (E) Provide for any individual land or a combination of land uses not otherwise specified elsewhere in this Ordinance.

(a) *Permitted Uses.*

(1) *Primary Uses.*

- (A) Primary Uses as permitted in the CBD Central Business District
- (B) Group Residence
- (C) Manufacturing Retailer
- (D) Electricity Relay Station or Public Utility Substation
- (E) Maker Space

(2) *Accessory Uses* – See South Bend Zoning Ordinance Section 21-03.11 (a) – Accessory Uses, Buildings and Structures.

(3) *Temporary Uses* – See South Bend Zoning Ordinance Section 21-03.11 (b) – Temporary Uses, Buildings and Structures, with the following changes:

Construction Barrier - During the time of construction, a temporary 8’ solid structure may be installed around the property to secure the site or block the view of construction activities. Such barrier shall be subject to the following:

- (A) The barrier may include messages related to current on-site construction activity and on-site future development, and
- (B) The barrier may be installed at the property line provided it meets the provisions of Section 21-01.01 (t) Clear Sight Area requirements of the South Bend Zoning Ordinance.

(4) *Home Occupations* – See South Bend Zoning Ordinance Section 21-03.11 (c) – Home Occupations.

(b) *Development Standards.*

(1) Minimum **Project Frontage** – 30 feet.

(2) Yards and Building Setbacks:

(A) Front -

	<u>Minimum</u>	<u>Maximum</u>
All Other <i>Streets</i> :	0'	15'
Provided, however,		

- i. in elevation view from the *street frontage*, at least fifty percent (50%) of the visible *façades* of the *buildings* facing a *street* shall be located at or between the *minimum setback* and the *maximum setback*; and,
- ii. *parking areas* and *interior access drives* shall not be located in front of the *maximum setback*.

(B) Minimum *Side Yard* and *Setback* – zero (0) feet

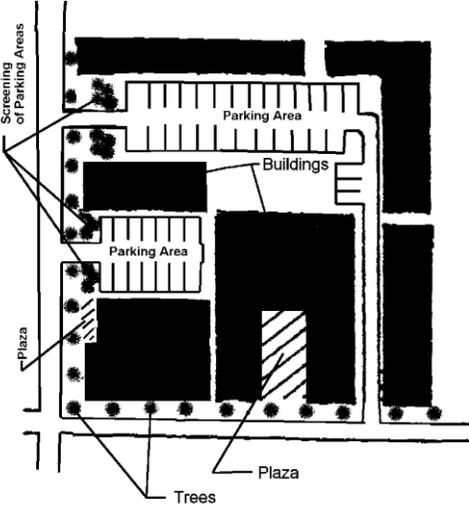
(C) Minimum *Rear Yard* and *Setback* – zero (0) feet

(3) Use of Minimum *Yards* and *Residential Bufferyards*.

All *minimum yards* when provided, shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in Section 21- 07.01 – Landscape Regulations of this Ordinance and shall remain free from *structures*, except where expressly permitted below:

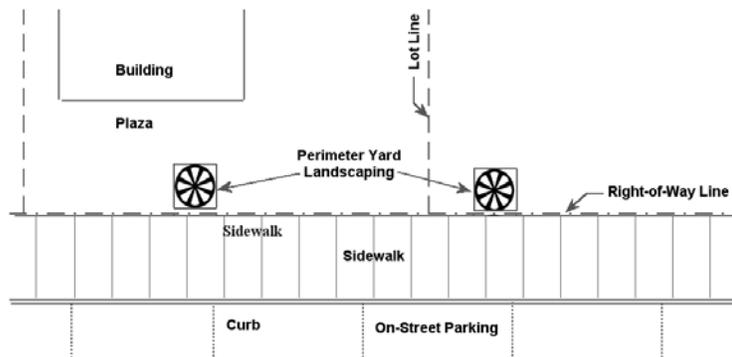
(A) Minimum *Front Yards* –

- i. When a *front yard* is provided, such *front yard* may include: *driveways*; or, *signs* as regulated by Sign Regulations of this Ordinance, and shall otherwise be developed as *plazas* in compliance with the following requirements:



Commerce Center PUD

- a. shall be located adjacent to a *building*;
- b. shall be surfaced with concrete, brick or other form of hardsurface paver appropriate for the proposed development, except for those areas required for trees, foundation landscaping or planters;
- c. shall be planted with shade trees spaced twenty-five (25) feet on-center along the portion of the *plaza perimeter which abuts the sidewalk of a public street, in the tree lawn area between the public sidewalk and public street curb*. If trees exist on an abutting *lot*, the on-center spacing of the trees shall be measured from such existing trees; and,



Example of Tree Placement along Street Frontage

- d. shall maintain surface areas at a slope of less than 3%, surface areas may be stepped, where appropriate, as necessary to accommodate natural topography.
- (B) Minimum *Side* and *Rear Yards* – when a *side yard* or *rear yard* is provided, such *side yard* or *rear yard* may include *driveways, interior access driveways, parking areas, loading areas, walkways* or other pedestrian way connections to adjoining *lots*, provided that the remainder of said *yards* shall be maintained as *opens space* free from *buildings*;
- (4) *Building Height*.
- (A) Minimum Front Façade Height – in the elevation view from the street frontage, twenty-two (22) feet.
 - (B) Maximum *Building Height* – the lesser of **one hundred seventy-five** (175) feet or **twelve** (12) stories.

- (5) Lighting – See Section 21-07.02 – Lighting Regulations.
- (6) Parking – This district is exempt from off street parking requirements.
- (7) Loading – This district is exempt from off street loading regulations.
- (8) *Greenway* Connection Required – If the *lot* abuts any portion of a *greenway*, a direct linkage from the *project* to such *greenway* shall be provided.
- (9) Outdoor Operations - All uses and operations (except *off-street parking*, *off-street loading* and delivery and walk-up customer service windows) shall be conducted completely within enclosed *buildings*, except where expressly permitted below:
 - (A) Outdoor seating for restaurants provided that such outdoor seating:
 - i. shall be located in a *plaza* as set forth above;
 - ii. may be located on a *sidewalk* in an abutting *street right-of-way* provided that a *useable sidewalk* width of not less than five (5) feet is maintained;
 - iii. shall be permitted only along the business' tenant bay or storefront façade; and,
 - iv. shall not block the entrance or exit to or from the business or building;
 - (B) *Outdoor display* or sales of merchandise:
 - i. shall be located in a *plaza* as set forth above;
 - ii. may be located on a *sidewalk* in an abutting *street right-of-way* provided that a *useable sidewalk* width of not less than five (5) feet is maintained;
 - iii. shall be permitted only along the business' tenant bay or storefront façade;
 - iv. shall not block the entrance or exist to or from the business or *building*;
 - v. shall be permitted only during the hours of operation of the business and shall be removed at the close of each business day;

- (C) Walk-up customer service windows or Automated Teller Machines (ATM's), provided that such facilities are not free-standing and are set flush with the façade of the *building*.
 - (D) Customer drive through, drop off, and pick up, services.
- (10) Architecture:
- (A) Additions to Existing *Buildings*: All additions to existing *buildings* shall utilize *building materials* that are compatible and harmonious with the materials used on the existing building.
 - (B) Exterior Renovations, Major Additions and *Accessory Buildings*: Exterior renovations, major additions and *accessory buildings* to existing *buildings* or facilities are encouraged to comply with the provisions in sub-Section (C), below, for new construction, however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in sub-Section (A), above, for additions to existing *buildings*.
 - (C) New Construction: In order to create variation and interest in the built environment, all new primary *buildings* shall comply with one (1) of the following two (2) sets of architectural regulations regarding *building material* and architectural features on each facade visible from a *public street*:
 - i. All brick (excluding window, display window, door, roofing, fascia and soffit materials), provided that the brick used on each applicable facade shall include:
 - a. at least two (2) architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.); or,
 - b. at least two (2) colors of brick, with the secondary color constituting a minimum of ten (10) percent of the façade (excluding windows, display windows, doors, roofing, fascia or soffit materials); or,
 - ii. Two (2) or more *building materials* (excluding window, display window, door and roofing materials), provided:
 - a. *Primary Building Material*: The primary *building material* shall be either: brick; stone (limestone, granite, fieldstone, etc.); architectural pre-cast concrete, if the surface looks like brick or stone; Exterior insulation and finish system (EIFS);

Commerce Center PUD

and shall constitute a minimum of fifty (50) percent of each applicable façade.

- b. *Secondary Building Material:* The secondary *building material* shall constitute a minimum of zero (0) percent of the façade. Glass curtain wall or a faux window (not intended for use as a window or display window) may qualify as a secondary *building material*.
- c. *Architectural Features:* In addition, the exterior *building material* selection shall be supplemented with the use of multiple colors, textures (e.g., rough, smooth, striated, etc.) or architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.) on each facade visible from a *public street*.

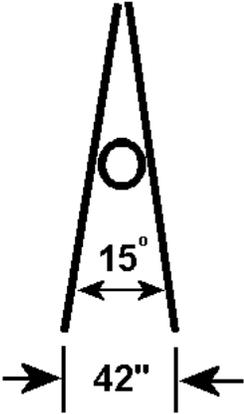
Sign Regulations.

General Sign Regulations.

(1) Calculation of *Sign Surface Area*.

(A) *Multifaced Signs*.

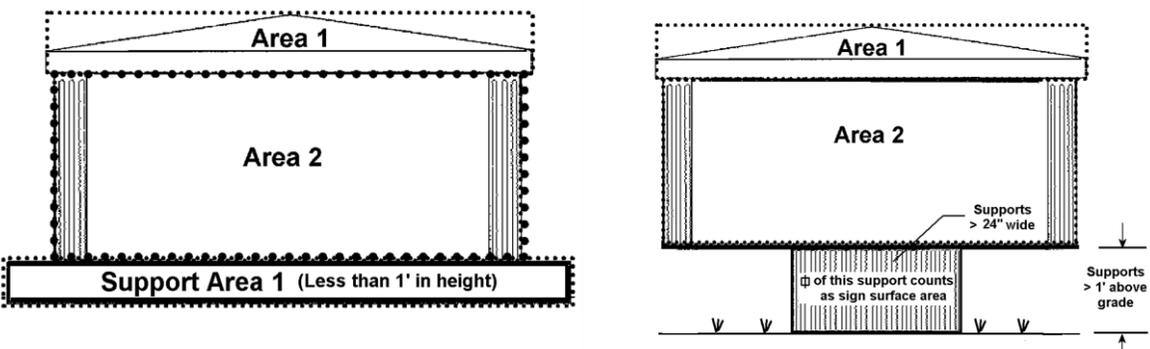
The *sign surface area* for a *sign* with more than one (1) *sign face* shall be computed by adding together the *sign surface area* of all *sign faces* visible from any one point. When two (2) *sign faces* are placed back to back, or at no greater than fifteen (15) degrees from one another, so that both faces cannot be viewed from any point at the same time, the *sign surface area* shall be computed by the measurement of one (1) of the *sign faces*. In addition, except for *off-premise signs*, such *sign faces* that are part of the same *sign structure* shall not be more than forty-two (42) inches apart.



Sign Face Angle and Separation

(B) *Monument Sign Support Base as Sign Surface Area*.

In the case of a *freestanding monument sign* with an ornamental shell or external support structure in excess of twenty-four (24) inches in width and in excess of one (1) foot in height above *grade* to the base of the *sign face*, the ornamental shell or external support structure shall be considered to be the background of the display used to differentiate the *sign* from the backdrop and the area of ornamental shell or external support structure shall be included in the calculation of *sign surface area*.



Support Base – Not Sign Surface Area Support Base – Part of Sign Surface Area

(C) *Sign Surface Area Determinations.*

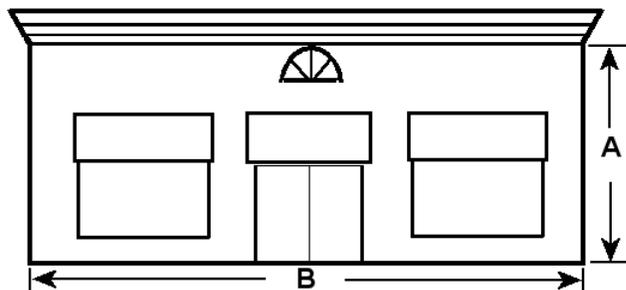
When calculating the *sign surface area* of any *sign*, a maximum of three (3) distinct and abutting "Areas" made up of circles, ovals squares or rectangles may be used to encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part Areas Used to Determine Sign Surface Area of the background of the



display or used to differentiate the *sign* from the backdrop or *structure* against which it is placed.

In the case of a *freestanding monument sign* with a base or pole cover not in excess of twenty-four (24) inches in width and not in excess of one (1) foot in height above *grade* to the base of the *sign face*, a maximum of two (2) "Support Areas" shall be permitted which shall not be included in the count of the maximum number of "Areas". Any such additional "Support Areas", or "Support Areas" in excess of twenty-four (24) inches in width and in excess of one (1) foot in height above *grade* to the base of the *sign face*, shall be included in the overall calculation of *sign surface area*.

(D) *Façade Area Calculations for Building Signs* – When calculating the area of a *façade* upon which a *building sign* may be placed, the following regulations shall be followed to determine the area of the *façade*:

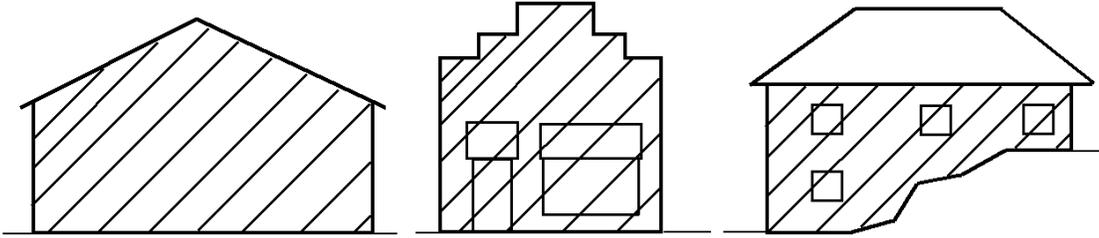


$$\text{Façade Area} = A \times B$$

Façade Area Calculations – Square or Rectangular Shaped Façade

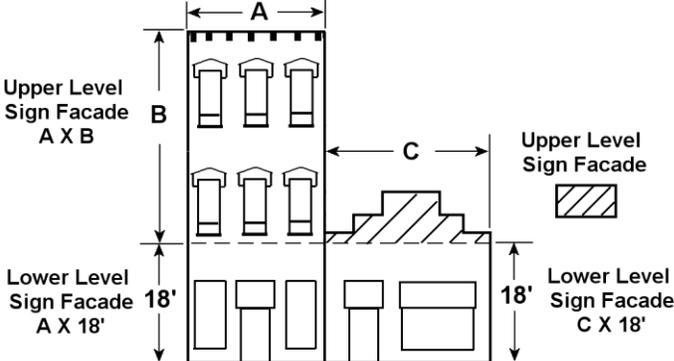
- i. Square or Rectangular Shaped Façade – The area of the façade of the *building* or tenant space shall be the length of the *building* or tenant space times the height of the *building* or tenant space.
- ii. Irregular Shaped Façade – The area of the façade shall be the actual surface area of the façade of the *building* or tenant space above grade and beneath the top of the wall.

 – **Façade Area**



Façade Area – Irregular Shaped Façade

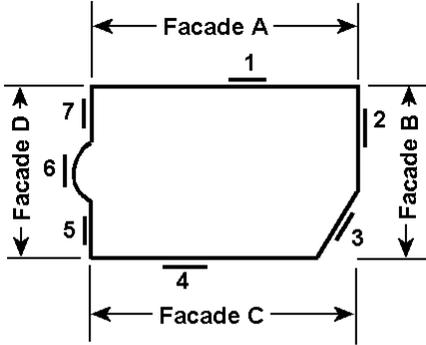
- iii. Lower Level Signs – The area of the façade for lower level *building signs* shall be the actual surface area of the façade of the *building* or tenant space above grade and beneath the lesser of top of the wall or eighteen (18) feet above grade.
- iv. Upper Level Signs - The area of the façade for upper level *building signs* shall be the actual surface area of the façade of the building or tenant space located above eighteen (18) feet above grade.



Façade Area – Upper and Lower Level Signs

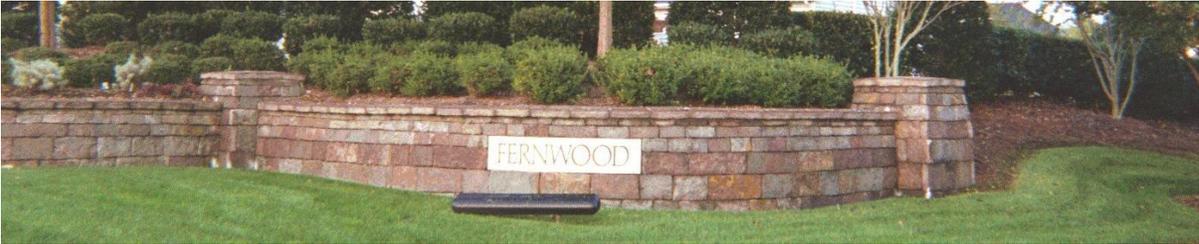
v. Buildings With Irregular Footprints – The area of the façade shall be determined by the smallest two dimensional area, pursuant to the above regulations, from which the façade, or portion thereof, may be viewed.

(E) Signs on Ornamental, Decorative Fence or Masonry Wall – The *sign surface area* of a *sign face* located on an ornamental, decorative fence or masonry wall shall be limited to the area of the *sign face* only if the fence or wall has a length of not less than three (3) times the width of the *sign* or message element. If a fence or wall is less than three (3) times the width of the *sign* or message element, the fence or wall shall be deemed to be part of the background of the display used to differentiate the sign from the backdrop and the entire area of the fence or wall shall be considered part of the *sign surface area*.



Facade A - Sign 1
Facade B - Signs 2 & 3
Facade C - Sign 4
Facade D - Signs 5, 6 & 7

Façade Area for Buildings with Irregular Footprints



Ornamental, Decorative Fence or Masonry Wall Greater Than Three Times Length of Sign

(2) *Freestanding Signs as Accessory Structures.*

Freestanding signs and sign structures are hereby declared to be *accessory structures*. As *accessory structures*, *freestanding signs and sign structures* may not occupy a *lot* without a *primary use or building* also being legally located on the *lot*, unless in compliance with the regulations of this ordinance for *temporary signs or off-premise signs*.

(3) Cutting of Trees or Shrubs.

No person, for the purpose of increasing or enhancing the visibility of any *sign*, shall damage, trim, destroy, or remove any trees, shrubs or other vegetation located:

- (A) Within any *public street right-of-way* unless the work is done pursuant to the express written authorization of the governmental department having jurisdiction over said *public street*;
- (B) On property that is not under ownership or control of the person doing or responsible for such work unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located; or,
- (C) In any area where such trees or shrubs are required to remain under a permit issued under this Ordinance.

(4) Illuminated Signs.

- (A) Lighting directed towards a *sign* shall be shielded so that it illuminates only the *sign surface* and does not shine on, cause glare to or otherwise impair the vision of the driver of any motor vehicle traveling on a *public right-of-way*.
- (B) This sub-Section shall not apply to *signs* that are an integral part of a vending machine, telephone booth or, do not exceed two (2) square feet in *sign surface area*.

(5) *Changeable Copy Signs*.

Changeable copy signs shall be permitted as part of an otherwise permitted *sign*, provided that:

- (A) Either one (1) *changeable copy sign* shall be permitted as part of a *freestanding sign*, or each individual *use* within an *integrated center* shall be permitted one (1) *changeable copy sign* as part of a permitted *wall sign*;
- (B) A *changeable copy sign* may be used as part of either a *freestanding sign* or as part of a *wall sign*, but not both; and,

(6) Compliance with Other Codes.

All *signs* shall be constructed, connected, operated and maintained according to the specifications of the building and electrical codes of the City of South Bend.

(7) Clear Sight Areas.

No *sign* shall interfere with the clear sight area specified in South Bend Zoning Ordinance Section 21-01.01 (t) – Clear Sight Area Requirements.

On-Premise Signs

(3) *Freestanding Identification Signs*.

(A) Type of *Signs*.

Freestanding identification signs shall be *monument signs*.

(B) Number of *Signs*.

The minimum separation between *freestanding identification signs* on the *lot*, regardless of the orientation of the *freestanding identification signs*, shall be one hundred (100) feet.

(C) Maximum *Sign Surface Area* of *Freestanding Signs*.

Maximum *sign surface area* shall apply individually to each *street* or *limited access highway*.

The maximum *sign surface area* shall not exceed one (1) square foot for each one (1) lineal foot that a *lot* abuts a *street* or *limited access highway* to a maximum *sign surface area* of: 300 Square Feet

(D) Minimum *Front Yard Setback*, *Side Yard Setback* and *Rear Yard Setback* for *Freestanding Identification Signs*.

i. There shall be no minimum required *front yard setback*, *side yard setback* or *rear yard setback* for *freestanding identification signs*, provided, however, such *signs* shall not encroach into any *public right-of-way* or any clear sight area regulated by South Bend Zoning Ordinance Section 21-01.01 (t) – Clear Sight Area Requirements.

(E) Maximum Height of *Freestanding Identification Signs*.

The maximum height of a *freestanding monument identification sign* shall

not exceed:

- i. Fifteen (20) feet in height above *grade*.

(4) *Building Identification Signs*

(A) Lower Level *Building Identification Signs*.

Building identification signs located on the first eighteen (18) feet of *building* height or the actual *building* height, whichever is less, shall be considered lower level *building identification signs*. Lower level *building identification signs* shall be limited to *wall signs*. In addition, *awning signs*, *canopy signs* or *marquee signs* may be permitted subject to the provisions below, or *projecting signs* may be permitted subject to the provisions below.

The total *sign surface area* of all lower level *building identification signs* oriented to an individual *facade* shall not exceed:

- i. *Front Facade* – thirty (30) percent of the total area of the first eighteen (18) feet or the actual *building* height, whichever is lesser, of *front facade* of a *building*; and,
- ii. *Side Façade* and *Rear Façade* – twenty (20) percent of the total area of the first eighteen (18) feet or the actual *building* height, whichever is lesser, of a *side* or *rear facade* of a *building*, provided, however, that for any *side façade* or *rear façade* of a *building* oriented toward a customer *parking area*, *street* or *limited access highway*, the maximum *sign surface area* of thirty (30) percent shall apply.

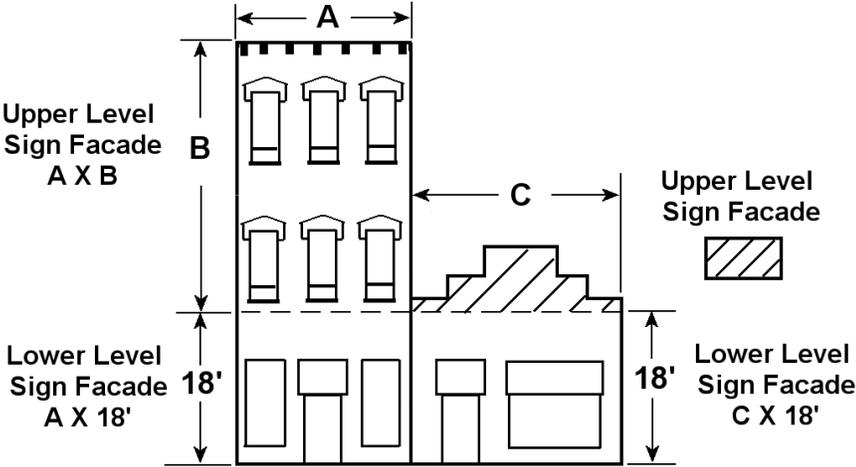
(B) Upper Level *Building Identification Signs*.

Building identification signs located above the first eighteen (18) feet of *building* height shall be considered upper level *building identification signs*.

The total *sign surface area* of all upper level *building identification signs* oriented to an individual *facade* shall not exceed:

- i. *Front Facade* - fifty (50) percent of the total area of the *front facade* of a *building* located above eighteen (18) feet above *grade*; and,
- ii. *Side and Rear Facades* - thirty (30) percent of the total area of a *side* or *rear facade* of a *building* located above eighteen (18) feet above *grade*, provided, however, that for any *side façade* or *rear*

façade of a building oriented toward a customer parking area, street or limited access highway, the maximum sign surface area of fifty (50) percent shall apply.



Determination of Lower Level / Upper Level Signs

(C) *Projecting Building Identification Signs.*

i. *Maximum Height of Projecting Building Identification Signs.*

Projecting building identification signs shall not extend more than fifteen (15) feet above the roof line.

ii. *Sign Surface Area.*

a. *Total Area – The sign surface area of a projecting building identification sign shall not exceed the sign surface area allocated to either: lower level building identification signs; or, upper level building identification signs, whichever is applicable based upon the location on façade of the building upon which the projecting building identification sign is attached.*



Projecting Sign

b. *Sign Split between Upper and Lower Levels – In the case of a projecting building identification sign located partially as a lower level sign*

and partially as an upper level sign, the sign surface area regulations regarding upper level building identification signs shall apply.

c. *Corner Lots – In the case of a projecting building identification sign located on the corner of a building oriented toward the intersection of two or more streets, such corner projecting building identification sign shall count against the total sign surface area of building identification signs authorized on the smaller front façade.*

- iii. Maximum Number of *Projecting Building Identification Signs*.
 - a. *Front Façade* – One (1) *projecting building identification sign* shall be permitted for each **fifty (50) feet** in width of a *front façade* of a *building* oriented toward a *street*. Whenever more than one (1) *projecting building identification sign* is permitted, the minimum separation between *projecting building identification signs* oriented toward the same *street* shall **twenty-five (25) feet**.
 - b. *Corner Lots* – In the case of a *building* located on a *corner lot*, a *projecting building identification sign* may be located at the corner of the *building* oriented toward the intersection of two or more *streets*, provided, however, that no other *projecting building identification signs* shall be located on the same *building* within one-hundred (100) feet of a corner *projecting building identification sign*, regardless of orientation.
- iv. Maximum Projection from *Building* for *Projecting Building Identification Signs*.
 - a. *Projection from Building* – No *projecting building identification sign* or *sign structure* supporting a *projecting building identification sign* shall extend more than eight (8) feet from or beyond its supporting *building*.
 - b. *Distance from Curb* – No *projecting building identification sign* or *sign structure* shall not extend any closer to an imaginary perpendicular vertical plane located at the *street* pavement line, curb or outside edge of sidewalk than three (5) feet.
 - a. *Encroachment over Right-of-Way* – *Projecting building identification signs* in compliance with the above regulations may project into the air rights of a *public right-of-way* if approval for such encroachment into the air rights of a *public right-of-way* is obtained from the governmental authority having jurisdiction prior to the placement of the *projecting building identification sign*.

- ii. Minimum Height Above *Grade* for a Projecting *Building Identification Sign*.

The bottom edge of a *projecting building identification sign* shall not be less than ten (10) feet above *grade* over a *walkway* or fifteen (15) feet above *grade* over a *driveway*.

- (F) *Awning Sign, Canopy Sign or Marquee Sign*.

Wherever a lower level *building identification sign* is permitted, the use of an *awning sign, canopy sign or marquee sign* shall be allowed subject to the following provisions:

- i. Total Area – The total area of the *awning, canopy or marquee* (i.e., the combined two dimensional surface area of all sides of the *awning, canopy or marquee*) shall not exceed the *sign surface area* allocated to lower level *building identification signs* on the *facade* of the *building* upon which the *awning, canopy or marquee* is attached.
- ii. *Sign Surface* – The portion of the *awning, canopy or marquee* which includes a *sign surface* shall not exceed:
- fifty (50) percent of the total area of an *awning or canopy*;
or,
 - seventy-five (75) percent of the total area of a *marquee*.
- iii. Clearance to Grade – The bottom edge of the:
- *awning or canopy* shall:
 - not be less than eight foot – six inches (8' – 6") above *grade* over a *walkway* for any portion of a rigid framing; and,
 - not less than seven foot – six inches (7' – 6") above *grade* over a *walkway* for any portion of a flexible cloth, canvas or similar skirt which may be suspended below the rigid framing a maximum of one (1) foot;
 - *marquee* shall not be less than nine (9) feet above *grade* over a *walkway*; or,

- *awning, canopy or marquee* shall not be less than fifteen (15) feet above *grade* over a *driveway, interior access drive or alley*.
 - iv. Projection from *Building* – The maximum projection of an *awning, canopy or marquee* shall not exceed eight (8) feet from or beyond its supporting *building* and shall not project beyond any *walkway* adjacent to the *building*.
 - v. *Marquee Sign* – A *marquee sign* may include a non-changeable copy *sign* attached to or mounted on top of a *marquee*, subject to the *sign surface area* limitations set forth above.
 - vi. Encroachment Over *Public Right-of-Way* – No *awning, canopy or marquee* shall encroach into the air rights of any *public street right-of-way*.
- (8) *Incidental Signs.*
- (A) Type of *Signs*.
Incidental signs shall be *monument signs* or *wall signs*.
 - (B) Number of *Signs*.
 - i. If a *lot* has one (1) *driveway*, two (2) *incidental directional signs* shall be permitted at the *driveway* entrance or exit;
 - ii. If a *lot* has more than one (1) *driveway*, one (1) *incidental directional sign* shall be permitted for each *driveway*; and,
 - iii. One (1) *incidental directional sign* or one (1) *incidental parking and loading sign* shall be permitted at each critical turning point along an *interior access drive* when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee *parking area*; or, a delivery or *loading area*).

(C) Maximum *Sign Surface Area* of *Incidental Signs*.

The maximum *sign surface area* of *incidental signs* shall not exceed:

- i. Fifteen (15) square feet in *sign surface area* per *sign*.

(D) Minimum *Front Yard Setback*, *Side Yard Setback* and *Rear Yard Setback* for *Freestanding Incidental Signs*.

There shall be no minimum required front yard setback, side yard setback or rear yard *setback* for *freestanding incidental signs*, provided, however, such *signs* shall not encroach into any *public right-of-way*.

(E) Maximum Height of *Freestanding Incidental Signs*.

The maximum height of a *freestanding incidental monument sign* shall not exceed four (4) feet in height above *grade*.

(9) *Suspended Signs*.

Suspended signs shall be permitted on any *building* containing two or more individual, non-related and separately operated *uses* subject to the following regulations:

- (A) There shall be no more than one (1) *suspended sign* per *front facade* of the *structure* or tenant space of each grade-level tenant.

- (B) The maximum *sign surface area* of a *suspended sign* shall not exceed ten (10) square feet.

- (C) All portions of the *suspended sign* or *sign structure* shall be not less than eight foot – six inches (8' – 6") above finished *grade* if made of rigid construction, or seven foot – six inches (7' – 6") above *grade* if made of a flexible cloth, canvas or similar material.

Section 21-08.02 **Special Regulations for *Controlled Uses*.**

Controlled uses are hereby recognized as having objectionable secondary impacts. A concentration of *controlled uses* in a particular area can increase the impact of those objectionable secondary impacts to the point where a deleterious impact is created on area properties. In order to prevent the concentration of *controlled uses* and to prevent such deleterious impacts from leading to the development of blighted areas, any *controlled use*, in addition to the *permitted use* and *development standard* regulations specified in any applicable Commercial / Mixed Use *District* or Industrial *District*, shall also be subject to the following additional regulations:

(a) Permitted:

The following *Controlled uses* shall be allowed as *primary uses*: *Amusement Arcade, Bar/Tavern, Nightclubs, Cabaret – 21 and Over, Pawnshop, Billiard Hall, Public Dance Hall, Tattoo, Body Piercing, Scarifying and Branding Establishment*

(b) Exemption:

In order to promote the use of the downtown and East Bank area as a regional retail business and convention center, any Class A cabaret or restaurant which sells beer or intoxicating liquor for consumption on the premises, any pool hall or billiard hall facility is exempt from the locational restrictions in the South Bend Zoning Ordinance Section 21- 08.02(b)(1)(A)

Landscape Regulations.

(a) **General Landscaping Provisions.**

- (1) Location of Landscaping – Required landscaping areas shall consist of four (3) locations on a site: (i) landscaping of required perimeter (ii) interior *parking area* landscaping; and, (iii) *parking area* screening.
- (2) Live Vegetation - All trees and shrubs required by this Section shall be living vegetation.
- (3) Ground Cover - Ground cover within landscape areas may consist of: grasses; preserved existing natural vegetation (i.e., thickets); or, mulch, chipped bark or other natural forms of ground cover. Loose stone, rock or gravel may be used as a landscaping accent, but shall not exceed twenty (20) percent of the area of the required landscape area in which it is used.

(b) **Landscaping of Required Perimeter Yards and Residential Bufferyards.**

- (1) The following landscaping requirements apply to any portion of a *front yard*, *side yard* or *rear yard* which *yard* is not occupied by *improvements* permitted in the sub-Section "Use of *Minimum Yards*":
 - (A) Deciduous Shade Trees:

A minimum of one (1) shade tree planted for every forty (40) feet of the applicable *lot line*. Such trees may be evenly spaced at forty (40) feet on center or grouped together, provided however, in no case shall spacing between trees exceed eighty (80) feet; or,
 - (B) Deciduous Ornamental Trees:

A minimum of one (1) ornamental tree planted for every twenty-five (25) feet of the applicable *lot line*. Such trees may be evenly spaced at twenty-five (25) feet on center or grouped together, provided however, in no case shall spacing between trees exceed fifty (50) feet.
- (2) Utility Easement Landscaping – In those instances where overhead utilities are located within required *yards* or required *residential bufferyards*, plant material selections shall be limited to small growing trees which typically do not exceed twenty-five (25) feet in height at maturity. Appropriate utility easement plant materials include: ornamental trees, such as the redbud, dogwood and crabapple; or, evergreen trees (narrow spread), such as the emerald green

arborvitae. See Alternate Landscape Plan Approval for additional limitations.

Note: See Alternate Landscape Plan Approval for alternate landscape materials or landscape design options.

(c) ***Interior Off-Street Parking Area Landscaping.***

All new surface, *off-street parking areas* containing sixty (60) *parking spaces* or more and all expanded surface *off-street parking areas* which are increased by sixty (60) *parking spaces* or more, whether such increase occurs at one (1) time or in successive stages, shall be subject to the following regulations:

- (1) All such *off-street parking areas* shall include at least one (1) required interior landscape island for every fifteen (15) *parking spaces* (or fraction thereof), or five-thousand (5,000) square feet of *off-street parking area*, whichever yields the greater number.
- (2) Each required interior landscape island shall contain a minimum of one (1) deciduous shade tree, one (1) deciduous ornamental tree or one (1) evergreen tree.
- (3) Interior landscape islands shall be located at the end of parking bays so as to define vehicular and pedestrian traffic patterns.
- (4) All trees shall comply with the size at time of planting as indicated in Table: Minimum Size at Time of Planting.
- (5) Area devoted to interior landscape islands shall be in addition to any required perimeter *yard landscaping*, *foundation landscaping* or *parking area screening* required by this Section.



Example of Interior Off-Street Parking Area Landscaping

- (6) *Off-street parking areas* shall include areas used for the parking or display of automobiles, boats, truck or farm equipment associated with a dealership or leasing business.
- (7) *Off-street parking areas* shall not include areas used for semi-truck *loading areas*,

semi-truck maneuvering areas and semi-truck *parking areas*.

(d) ***Off-Street Parking Area Screening.***

In addition to perimeter *yard* landscaping and interior *parking area* landscaping, if an *off-street parking area* is located: between a *front building line* and a *front lot line*, the edge of the *parking area* facing such *front lot line*, *side residential bufferyard* or *rear residential bufferyard* shall be screened by a compact row of shrubs/hedge plants planted three feet on-center (3' o.c.) across the front of the *parking area* located between such *front lot line* and the edge of the *parking area*.



Minimum planting size shall meet the requirements of Table B for Hedge Plants / Shrubs, and be maintained at a maximum allowable growth height of thirty-six inches (36").

(e) ***Minimum Plant Material Sizes at Time of Planting.***

All plant materials specified by this Landscape Regulations shall comply with the minimum sizes at time of planting as specified in Table B: Minimum Size at Time of Planting.

TABLE B: MINIMUM SIZE AT TIME OF PLANTING	
<u>Plant Category</u>	<u>Minimum Size</u>
Deciduous Shade Tree (a.k.a. Overstory Tree)	2 ½ inch caliper at 6" above the ground
Deciduous Ornamental Tree (a.k.a. Understory Tree)	1 ½ inch caliper at 6" above the ground
Evergreen Tree	6' high
Evergreen Tree (Narrow Spread)*	4' high
Hedge Plants / Shrubs	24" high

* – Evergreen Tree (Narrow Spread), such as arborvitae, may only be used as an alternate plant material subject to the provisions of Alternate Landscape Plan Approval.

(f) ***Installation of Landscaping.***

All landscaping required by this Section shall be installed prior to the issuance of a final *certificate of occupancy* for the use on the real estate. If seasons, weather conditions or other conditions beyond the applicants' control create a situation which is not appropriate for the installation of landscaping immediately prior to the issuance of a final *certificate of occupancy*, the *Zoning Administrator* may issue a temporary *certificate of occupancy* pending the installation of landscaping required by this Section not later than three (3) months after the start of the next planting season after the use of the real estate is commenced. The start of planting seasons shall be March 15 and August 15 of each year.

(g) ***Maintenance of Landscaping.***

The owner shall be responsible for the replacement of any required planting, which is removed or dies after the date of planting. Such replacement shall occur within three (3) months after the start of the next planting season.

Failure to maintain required landscape areas shall constitute a violation of this Ordinance enforceable under the provisions of City of South Bend Zoning Ordinance Section 21-10 – Enforcement.

(h) *Alternate Landscape Plan Approval.*

The *Executive Director of the Area Plan Commission*, upon request by an applicant, shall have the authority to approve an alternate landscape plan prepared in accordance with the following requirements:

- (1) Redistribution of Plant Materials – The *Executive Director of the Area Plan Commission* may approve a redistribution of plant materials required for perimeter *yard* landscaping to other locations on the *lot*, or, a redistribution of plant materials required for a *foundation landscaping area* to other locations on the *lot*. The *Executive Director of the Area Plan Commission* shall not have the authority to modify the landscape requirements of this Section 21-07.01 pertaining to required *residential bufferyards*.
- (2) Credit for Preservation of Existing Trees and Vegetation – In order to encourage the preservation of existing trees and vegetation, the *Executive Director of the Area Plan Commission* may approve a Preservation Landscape Plan which utilizes the designation of one or more Tree Save Areas in lieu of new plantings within a required *yard*, a required *residential bufferyard*, a required *foundation landscaping area* or an interior *parking area* island. Such Preservation Landscape Plan shall:
 - (A) demonstrate that sufficient trees or vegetation shall be preserved to equal or exceed the level of screening required by the basic provisions of this Section 21-07.01 – Landscape Regulations; and,
 - (B) provide that, in the event trees designated for saving in the Tree Save Area are damaged or die within three (3) years of completion of construction on the site, replacement trees shall be planted in the designated Tree Save Area sufficient to provide landscaping which is, at a minimum, equivalent to the minimum requirements of this Section 21-07.01 – Landscape Regulations for new plantings.
- (3) Alternatives for *Front Yard, Side Yard and Rear Yards* – In order to provide flexibility and creativity in landscape designs, the *Executive Director of the Area Plan Commission* may approve the following plant substitutions in a required *front yard, side yard or rear yard*:
 - (A) Hedge plants or shrubs may be substituted for a maximum of twenty-five (25) percent of the required number of shade trees (rounded down to the nearest whole number) at a rate of ten (10) hedge plants or shrubs for each shade tree so replaced.

- (B) Hedge plants or shrubs may be substituted for a maximum of twenty-five (25) percent of the required number of ornamental trees (rounded down to the nearest whole number) at a rate of six (6) hedge plants or shrubs for each ornamental tree so replaced.
 - (C) Evergreen trees may be substituted for ornamental trees at a rate of one (1) evergreen tree for each ornamental tree so replaced.
 - (D) Evergreen trees may be substituted for shade trees at a rate of three (3) evergreen trees for every two (2) shade tree so replaced.
 - (E) Ornamental trees and shade trees may be substituted with each other at a rate of three (3) ornamental trees for every two (2) shade trees.
 - (F) Evergreen trees (narrow spread) may be substituted for evergreen trees at a rate of three (3) evergreen trees (narrow spread) for each evergreen tree.
- (4) *Parking Area Screening Alternatives* – In order to provide flexibility and creativity in landscape designs, the **Executive Director of the Area Plan Commission** may approve a *parking area* screening plan which includes hedge plants or shrubs in combination with: an ornamental or decorative fence; a masonry wall; or, an earthen berm, provided that:
- (A) Between a *front building line* and a *front lot line*:
 - i. the ornamental or decorative fence or masonry wall is not less than twenty-four inches (24") in height nor more than thirty-six inches (36") in height, with an open space percentage equal to or less than seventy (70) percent; or,
 - ii. the earthen berm is not less than twenty-four inches (24") in height nor more than thirty-six inches (36") in height; or,
 - (B) the total number of shrubs/hedge plants shall not be reduced by more than fifty (50) percent of the number of shrubs/hedge plants required in Section 21-07.01 (e) - Off-Street Parking Area Screening, above.
- (5) *Fence, Wall or Berm Alternatives* – In order to provide flexibility and creativity in landscape designs, the **Executive Director of the Area Plan Commission** may approve a fence, wall or berm installed in compliance with the following regulations as a substitute for up to fifty (50) percent of the number of shade trees, ornamental trees or evergreen trees required to be installed in a perimeter *yard*.
- (6)

(A) Fence or Wall in a *Front Yard*.

An ornamental, decorative fence or masonry wall may be used in conjunction with the landscaping required in a *front yard*, *front residential bufferyard* or in a residential *district* for a *special exception use*, provided such fence or wall used in a *front yard* shall:

- i. maintain a minimum height of three (3) feet with a maximum open space of twenty (20) percent;
- ii. not exceed three (3) feet in height if the open space of the fence is less than twenty (20) percent; or,
- iii. not exceed four (4) feet in height if the open space of the fence is less than fifty (50) percent but greater than twenty (20) percent.

(B) Fence or Wall in a *Side Yard, Rear Yard*.

An ornamental, decorative fence or masonry wall may be used in conjunction with the landscaping in a required *side yard*, *rear yard*, *side residential bufferyard*, *rear residential bufferyard* or in a residential *district* for a *special exception use*, provided such fence or wall shall not exceed:

- i. maintain a minimum height of six (6) feet with a maximum open space of twenty (20) percent;
- ii. six (6) feet in height if the open space of the fence is less than twenty (20) percent;
- iii. ten (10) feet in height in any Commercial / Mixed Use District or Industrial District if the open space of the fence is less than fifty (50) percent but greater than twenty (20) percent or greater.

- (7) Interior Landscape Island Design Alternatives – The **Executive Director of the Area Plan Commission** may approve a design in which the area devoted to individual interior landscape islands may be aggregated into one or more larger landscape islands. When aggregated into one or more larger landscape islands, such larger landscape islands shall, at a minimum, include the number of trees and area of landscaping as required for individual interior landscape islands, and shall function to: preserve existing trees; create boulevard treatments; create landscape features; create common open space areas for passive recreational activities; or, define vehicular and pedestrian traffic patterns.



Example of Aggregating Interior Off-Street Parking Area Landscaping

- (8) Appeals – If the **Executive Director of the Area Plan Commission** disapproves of a proposed alternative landscape plan, the applicant may, within five (5) business days, appeal the **Executive Director of the Area Plan Commission**'s decision by filing an Administrative Appeal with the *Board of Zoning Appeals or the City Council*, stating the reasons and justification for the appeal. Such petition shall be filed consistent with the provisions of Section 21-09.03 of the South Bend Zoning Ordinance and any applicable Rules of Procedure.

Staff Report

9/8/2016

APC # 2795-16
Owner: Mark Osler
Location: 10261, 10289 and 10343 McKinley Highway
Jurisdiction: St. Joseph County
Public Hearing Date: 9/20/2016

Requested Action:

The petitioner is requesting a zone change from R: Single Family District, C: Commercial District and M: Manufacturing Industrial District to M: Manufacturing Industrial District; a Special Use: and 7 variances from the development standards.

Land Uses and Zoning:

- On site: On site is the existing Indiana Earth complex and a single family residence zoned M: Manufacturing Industrial District, R: Single Family District, and C: Commercial District.
- North: To the north is a railroad line and farmland zoned R: Single Family District.
- East: To the east is a motor vehicle business zoned M: Manufacturing Industrial.
- South: To the south across McKinley Highway are single family residences zoned R: Single Family District.
- West: To the west is a fire station zoned M: Manufacturing Industrial District, single family residences zoned R: Single Family District, and businesses zoned C: Commercial District.

District Uses and Development Standards:

The M: Manufacturing 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:

The site is located on approximately 19.21 acres. On site there is a 14,975 sq. ft. one story building, a 3,360 sq. ft. office, three storage buildings, a 7,700 sq. ft. pole barn, and a watchman house. There are several areas shown as material storage and processing. There is also an area designated as equipment storage on the north side of the site behind the neighboring single-family home. These areas are all located behind the primary buildings on the site and start approximately 425' back from the front property line.

Zoning and Land Use History And Trends:

The current Indiana Earth property was zoned to "C" Commercial from "R" Residential in 1990. The property was rezoned to "M" Manufacturing in 1995. The south portion of the former Kare Bear site was rezoned to "C" Commercial in 1983 for retail and was residential prior to that. The single family residence has been zoned residential since 1976.

Traffic and Transportation Considerations:

McKinley Highway has 2 lanes.

Utilities:

This site will be served by private well and septic.

Agency Comments:

INDOT commented that engineers will look to approve the drives when applying for a permit.

The County Health Department recommends approval and commented that the proposed "office" sewage disposal method and water source is not indicated. The buildings are surrounded by concrete pavement. To develop, document method of sewage disposal and water source. If intending to connect to existing well, add to plans. To connect to existing septic system, must provide number of potential employees in each building with facilities, obtain septic inspection from a licensed contractor to evaluate and document the current system and submit to the Indiana State Department of Health to determine the required daily design flow and if the existing septic system is sufficient to meet these requirements. The County Engineer recommends approval however, prior to final site plan approval the following will need to be submitted for review and approval: 1) Provide drainage and volume calculations for entire site that meet requirements. 2) Driveway construction shall conform to standards. 3) McKinley Highway is to be reconstructed and widened in this area in the near future. Plan preparer shall coordinate with DLZ (Ryan Carrington) to ensure driveway locations are correctly updated. 4) If land disturbing activities are over 1 acre, then a Storm Water Pollution Prevention Plan shall be required.

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 Comprehensive Plan for South Bend and St. Joseph County, Indiana (April 2002) Goal 2 Encourage the economic development of the County and its municipalities. Objective A: Ensure that suitable areas are available for future industrial development.

Land Use Plan:

The future land use map identifies this area as Industrial Reserve.

Plan Implementation/Other Plans:

There are no other plans in effect for this area.

2. Current Conditions and Character:

The site is currently operating as an excavating business. Although there are single family homes abutting the property, to the east is a motor vehicle service, sales, and salvage yard, and multiple commercial businesses to the west.

3. Most Desirable Use:

The most desirable use is industrial.

4. Conservation of Property Values:

The surrounding property values may be affected. Impact on surrounding properties should be reduced through screening and buffering.

5. Responsible Development And Growth:

It is responsible development and growth to maintain and establish the area as industrial.

Combined Public Hearing

This is a combined public hearing procedure, which includes a rezoning, a special exception use, and seven 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 seeking a Special Use to allow:

storage, loading and hauling of sand, gravel of other aggregate and processing facility

A Special Use may only be granted upon making a written determination, 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;

This use is already in place on one of the properties and should not be injurious to the public health, safety, or welfare if allowed to expand.

(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;

With proper landscape buffering along the residential properties, those property values should not be adversely affected.

(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 surrounding area is mainly commercial and industrial, so the character should not be altered.

(4) The proposed use is compatible with the recommendations of the Comprehensive Plan.

The petition is consistent with Comprehensive Plan for South Bend and St. Joseph County, Indiana (April 2002) Goal 2 Encourage the economic development of the County and its municipalities. Objective A: Ensure that suitable areas are available for future industrial development.

The petitioner is seeking the following variance(s):

- 1) from the required 50' minimum yards and building setback adjacent to residential to 40' for the front and 10' for side and rear
- 2) from the required 50' minimum setback from any property line for material storage and processing to 10'
- 3) from the required screening of outdoor storage and operations to fencing and landscaping as shown on site plan

- 4) to allow the outdoor storage to exceed the height of the fence, provided the storage does not exceed 30' in height
- 5) from the required type 2 landscaping of required yards abutting residential to as shown on site plan
- 6) from the required foundation landscaping to none
- 7) from the required parking area screening of a side lot line abutting a residential district or use to none

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:

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

With proper landscape screening, the approval should not be injurious to the public health, safety, or welfare.

(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;

There will be adequate landscape buffering along the residential properties that should protect those property values. The north property line is bordered by a railroad embankment, which will provide additional screening.

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property

The strict application of terms would render a large portion of the property unusable and the current use would likely be unable to continue due to the height of the material storage.

Staff Comments:

The staff has no additional comments.

Recommendation:

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

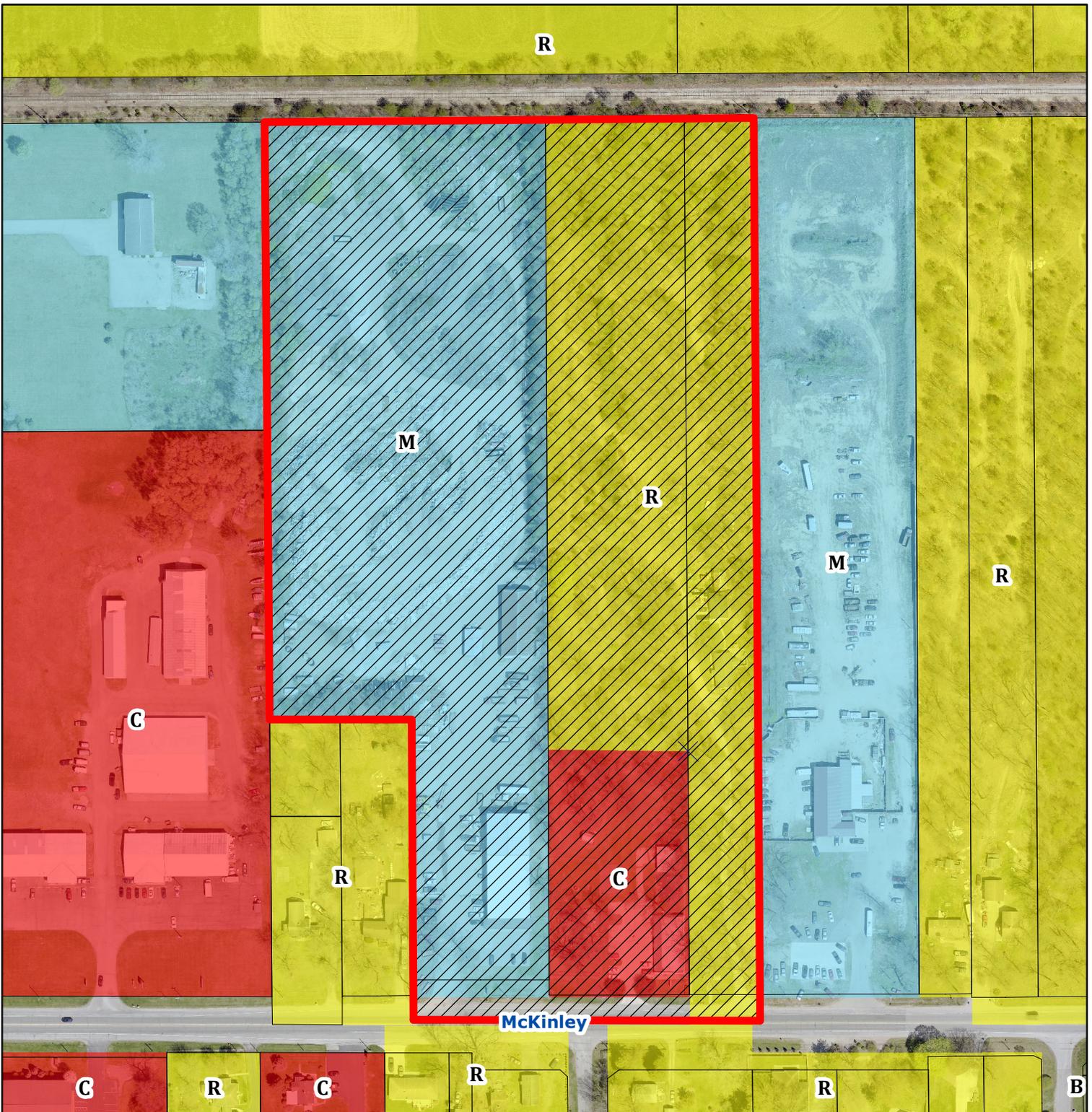
Analysis:

Rezoning these properties to M: Manufacturing Industrial will allow for the extension of an existing industrial business in an area surrounded with multiple commercial and industrial uses.



1 inch = 200 feet
PENN TOWNSHIP

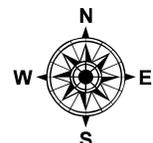




**Rezoning from: ST. JOSEPH COUNTY
"R" RESIDENTIAL DISTRICT, "C" COMMERCIAL DISTRICT,
and "M" MANUFACTURING INDUSTRIAL DISTRICT to
"M" MANUFACTURING INDUSTRIAL DISTRICT**

MASTER ZONING KEY

-  COUNTY "R" SINGLE FAMILY DISTRICT
-  COUNTY "C" COMMERCIAL DISTRICT
-  COUNTY "M" MANUFACTURING INDUSTRIAL DISTRICT



1 inch = 200 feet

APC # 2795-16

FINDINGS OF FACT

APC# 2789-16
Justin Bogunia
202 Bartlett Street
City of South Bend

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

- 1) from the required landscaping of the required perimeter yards to none on the South, East, and West sides of the property,
- 2) from the required foundation landscaping to none on the West side of the property; and
- 3) from the required minimum 6 required off-street parking spaces to none

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

Due to existing landscaping and the availability of on street parking, the variances should not be injurious to the public health, safety, morals and general welfare.

(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 house has existed in its current state for many years. Legalizing the use as a three-unit structure should not adversely affect adjacent properties.

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

Due to the small size of the lot and the large size of the home, strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

The Minutes of the August 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 20th day of September, 2016.

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

ATTEST:

Lawrence P. Magliozzi, Secretary