

AGENDA  
ELKHART CITY PLAN COMMISSION  
MONDAY, June 3, 2024 AT 1:45 P.M.  
COUNCIL CHAMBERS – MUNICIPAL BUILDING

THIS MEETING WILL BE HELD ELECTRONICALLY VIA WEBEX.

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter 2310 506 8344 as the meeting number and "PLAN" as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting or may be submitted to [Carla.Lipsey@coei.org](mailto:Carla.Lipsey@coei.org) prior to the meeting.

1. ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF MINUTES APRIL 2024
4. APPROVAL OF PROOFS OF PUBLICATION

5. NEW BUSINESS

24-ANX-03 PETITIONER IS JENWAY MAJESTIC LLC & WRANGLER REAL ESTATE INC  
PROPERTY IS LOCATED AT VACANT LAND

As prescribed by Section 29.11.B, a request to annex parts of four (4) vacant parcels located at east end of Vernon Avenue and land fronting Greenleaf Boulevard (3300 bl.), land containing approximately 2.64 acres.

24-TXT-01 PETITIONER IS THE CITY OF ELKHART INDIANA  
PROPERTY IS LOCATED AT all properties located with the Special Flood Hazard Area (SFHA)  
Plan Commission approval of the following proposed text amendments:

The City of Elkhart seeks the review and adoption of updated language in Section 21, Special Flood Hazard Area Overlay District. These efforts are required for the City of Elkhart to participate in the National Flood Insurance Program.

24-PUDA-02 PETITIONER IS RIDGEWOOD DRIVE, LLC  
PROPERTY IS LOCATED AT 2700 Ridgewood Drive

Per Section 20.10.B.2, a major amendment to the approved site plan that permitted a total of 169 units where one (1) unit is reserved for management for a total of 168 dwelling units for lease, to allow for the conversion of two (2) apartments to office space. Bringing the total number of units for lease to 166 units for lease.

24-MSUB-09 PETITIONER IS HTIW PROPERTIES, LLC  
PROPERTY IS LOCATED AT 1931 W MISHAWAKA ROAD

Per Article 4 of the Subdivision Ordinance, approval of a Preliminary Plat to be known as 'HTIW 1931 Subdivision.' This request represents +/-17.26 acres and will total two (2) lots with an ingress/egress easement on Lot 1 for the benefit of Lot 2 and a proposed drainage easement on Lot 2 for the benefit of Lot 1.

24-X-04 PETITIONER IS MALIK ENTERPRISE, LLC  
PROPERTY IS LOCATED AT 1710 LEER DR

A Special Exception per Section 13.3, Special Exception Uses in the B-3, Service Business District, to allow for a Trade School.

24-FSP-04 PETITIONER IS EW MARINE INC.  
PROPERTY IS LOCATED AT LOT 15 OF PARKWAY AT 17

As required by Section 20.7.B seeking approval for a Final Site Plan for a new 306-space parking lot on Lot 15 of the Parkway at 17 development. This lot is to serve the buildings at 1101 and 1115 Parkway Avenue.

Staff Item

24-SI-01- ADDRESSING

Approval of proposed addresses for the City of Elkhart.

6. ADJOURNMENT

PLEASE REMEMBER TO USE YOUR MICROPHONE WHEN SPEAKING.  
ERRORS IN THE MINUTES MAY RESULT DUE TO VOICES BEING INAUDIBLE.

**PLAN COMMISSION**  
**-MINUTES-**  
**Monday, April 1, 2024 - Commenced at 1:45 P.M. & adjourned at 2:30 P.M.**  
**City Council Chambers – Municipal Building**

Elkhart City Plan Commission was called to order by Tory Irwin at 1:45 P.M.

**MEMBERS PRESENT**

Tory Irwin  
Dave Osborne  
Ron Davis  
Dan Boecher  
Diana Lawson  
Christopher Baiker  
Aaron Mishler-WebEx

**MEMBERS ABSENT**

Rochali Newbill

**REPRESENTING THE PLANNING DEPARTMENT**

Eric Trotter, Assistant Director of Planning

**LEGAL DEPARTMENT**

, Corporation Counsel

**RECORDING SECRETARY**

Hugo Madrigal-Robles

**APPROVAL OF AGENDA**

Motion to approve by Lawson; Second by Osborne. Voice vote carries

**APPROVAL OF MINUTES**

Motion to approve by Lawson; Second by Davis. Voice vote carries.

**OLD BUSINESS**

None

**NEW BUSINESS**

**24-X-03 PETITIONER IS NM VYT, LLC (d/b/a Voyant Beauty)**

**PROPERTY IS LOCATED AT 1919 Superior St.**

A Special Exception per Section 18.3.L, Special Exception Uses in the M-1, Limited Manufacturing District, for the storage of any liquid or gas in excess of 10,000 gallons, to allow for the addition of 2 – 10,000 gallon tanks and 2- 5,000 gallon tanks.

**STAFF ANALYSIS**

The petitioner is requesting a special exception to allow for the addition of four (4) new tanks as a part of an expansion project at the Superior Street facility. The petitioner, d.b.a. Voyant Beauty, is a manufacturing and packaging plant for aerosol blend configurations and specialty viscous liquids in bottles, tubes and jars; for use in hair, body, face, sun and natural formulations.

The plan is to add additional product lines to increase capacity. The tanks are proposed to be used as a part of the product line expansion. No new chemicals are being added – just additional capacity. Based on plans submitted to the City for review, the tanks will be contained within an enclosure that will have a drain connected to the existing monitored sanitary sewer line, should the tank need to be drained.

The construction plans have been submitted for review and approval at Tech Review for a +/- 60,000 square foot addition on the south side of the current building on Superior Street. This addition is adjacent to the Norfolk Southern Railroad.

## **STAFF RECOMMENDATION**

Staff recommends **approval** of the request based on the following findings of fact:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare **will be** protected because all tanks will be built all applicable codes, located within the building and have the necessary floor drains connected to the sanitary sewer system;
2. The Special Exception **will not** reduce the values of other properties in its immediate vicinity because the additional tanks will not change the use of the property and will not impact the adjacent uses;
3. The Special Exception **shall** conform to the regulations of the zoning district in which it is to be located because the tanks will not generate adverse effects on adjacent properties with noise, emissions or vibrations.

Irwin asks if there are questions from the Commission.

Davis is asking if they have met all the state requirements.

Trotter responds yes

Mishler inquired Irwin about any concerns regarding the capacity of the existing sanitary sewer connected to the expansion.

Irwin confirmed that Voyant Beauty is working on resolving concerns identified during tech review.

Irwin calls the petitioner forward.

Bryan McMorrow from V3 Company is representing Voyant Beauty and speaking on behalf of the petitioner. The petitioner is seeking a special exception to expand their Superior Street facility by adding four new tanks. Chemical storage tanks requires a special exception from the plan commission and the board of zoning appeals. During our meeting with the Public Works Department, we received feedback on Tech Review and are excited to do business in Elkhart.

Irwin asked the petitioner about the future usage of the site.

Irwin asks if there are questions from the Commission.

Osborne is inquiring about the contents of the liquid gas tanks.

McMorrow deferred the question to Jon Jones.

Jon Jones from Voyant Beauty says that the chemicals are water-based and the chemistry is like spray aerosol scents from room deodorizing, with the same mix.

Irwin mentioned that Voyant Beauty would work with our City Sanitary Public Works in the event their tanks are released under permit.

Baiker inquires about the proposed location of new tanks. Can you confirm if they will be located inside a building or enclosure.

Jones replied inside the building.

Baiker stated that he drove by the site location and asked whether the tanks were comparable in size.

Jones replied yes approximately.

Irwin calls for a motion.

Osborne makes a motion to approve 24-X-03 with a Do-Pass Recommendation to BZA; Second by Davis. Motion carries

Davis-Yes  
Boecher-Yes  
Lawson-Yes  
Baiker-Yes  
Mishler-Yes  
Osborne-Yes  
Irwin-Yes

Irwin states at a special meeting of the plan commission on March 20th, 2024 a public hearing was held on this item. While there will be an opportunity for public comment today, the official hearing took place on March 20th.

## **NEW BUSINESS**

### **24-PLAN-01**

#### **PROPERTY IS LOCATED AT ELKHART DOWNTOWN MASTER PLAN**

### **STAFF ANALYSIS**

This Downtown Master Plan was designed through an iterative Charrette process with distinguished consultants from across the country. In December of 2022, the design team initiated a rigorous analysis of Elkhart's current opportunities and constraints. The preliminary work included thorough study of the city's history, morphology, ecology, walkability, and parking demands. This effort also included documentation of the Central Green site and precedent analysis for a proposed amphitheater that would act as a catalyst quality of place project.

From January 6–11, 2023, the client, architect, and consultant team convened a five-day charrette in Elkhart, where professional expertise was combined with local insights to craft a new vision for the long-term growth of the downtown. Community members and City staff were invited to participate in working sessions throughout the week. Three open-house stakeholder meetings, one morning and two evening, were hosted at the charrette space to solicit feedback and engage in meaningful dialogue about the direction of the project. Over the course of five days, the team developed the Master Plan, addressing issues of urban form, street design, circulation, parking, and catalytic opportunities—the amphitheater being the first and most prominent.

One key element of the Master Plan is the inclusion of an Illustrative Plan created to show a hypothetical, long-range build-out after several decades of implementation. This Illustrative Plan is not intended to dictate the precise design of future projects in Downtown Elkhart, rather, to contextualize the vision for Downtown Elkhart and its Development Code. Desired Outcomes to be achieved from the implementation of the plan include:

- Increase vibrancy and economic activity in the downtown
- Make downtown more walkable and in turn more livable
- Restore the density beyond Main Street through preservation of existing fabric and complementary new building development

Metrics for measuring the success of the plan will include:

- increasing residents living in downtown and in the City
- increase in new and expanded business density
- increases in assessed value of downtown properties

The Illustrative Plan highlights five key elements in order to provide a framework for implementation over time.

- Robust Open Space (Public Realm and landscape)
- Multi-modal Transportation & Parking Strategy (streets, parking, transportation, public realm)
- One Downtown, Two Districts – walkable access (zoning/land use, infill housing/retail, parking)
- Great Civic Amenities (public realm/landscape, historic preservation, transportation)
- Preservation & Context-Sensitive Mixed Use Infill (historic preservation, infill housing/retail)

Collectively, these elements incorporate strategies that will lead to improvements in the public realm (streets, parking, landscape and transportation), balancing increased infill retail and housing development opportunities with historic preservation, and guiding future development form through a regulating plan and updates to the zoning code.

A second primary component of the Master Plan is a series of priority development components. As noted above, the development of a new outdoor amphitheater venue at the Central Green location coupled with a new mixed-use development on the Civic Plaza site have been identified as a key catalyst project to build on downtown's current positive momentum and combine with the Lerner to amplify this space as an anchor of arts and entertainment in downtown. An expanded River walk on the west bank of the Elkhart River will work to support the amphitheater project and expand the existing recreation amenities on the East Bank to help create a signature recreation experience. Other development components include:

- Depot Square - This is the area adjacent to the historic Train Station. The Plan calls for enhancing the presence of this important transit node by culminating 2nd Street in a new transit plaza, lined by commercial buildings
- Civic Center - This is the area centered on High Street and Second Street. The site which currently contains the County Courts Building will become a new redevelopment site. The plan identifies an opportunity to centralize a new public parking structure and Police Station as a part of a new distinct Civic Center that will consolidate and cluster civic facilities that are currently scattered into an identifiable central location within the Downtown making them more accessible to all.
- Neighborhood Edge - These are the areas at the western and southeastern fringe of the Downtown adjacent to single-family neighborhoods. It is imperative that new infill development in these area are regulated to ensure massing and frontage compatibility with their single-family neighbors. This Plan therefore identifies these areas as significant transitional zones that can attract new multi-family residential development, bringing more residents closer to the Downtown and offering them an urban lifestyle that is different from that of single-family neighborhoods.

The Elkhart Comprehensive Plan is the official statutory document that serves as Elkhart's guide for land use and development policies for development and redevelopment in the study area, and includes the long range goals, objectives and recommendations, along with the supporting maps, intended to guide development decisions towards the community's collective vision for the future. This Downtown Master Plan is intended to provide additional guidance specific to the development of Downtown Elkhart. It should be clarified that as an advisory amendment to the Comprehensive Land Use Plan, the regulating plan and zoning code recommendations included in the Downtown Plan are provided as recommendations only. The City's Zoning Ordinance is the statutory document that has the authority to regulate building use and design standards – it is the intent of staff to incorporate these elements into the forthcoming update to the City's zoning ordinance later this year.

Members of the city staff, Plan Commission and City Council should keep in mind that this Downtown master Plan, much like the Comprehensive Land Use Plan, reflects the community's values. City officials cannot expect to control all circumstances. However, the spirit of this plan should be adhered to in order to ensure the community's values are maintained.

#### **STAFF RECOMMENDATION**

The Staff recommends **approval** of the Downtown Elkhart Master Plan as an advisory document to the Comprehensive Land Use Plan based on the following findings of fact:

- 1) The plan provides a statement of objectives for the Downtown Elkhart's future development;
- 2) The plan provides a statement of policy for the land development of Downtown Elkhart;
- 3) The plan provides a statement of policy for the development of public ways, place, lands, structures and utilities in the downtown.

Irwin asks if there are questions from the Commission.

Inaudible

Trotter confirmed that there will be public hearings and feedback sessions during the summer. The adoption of the proposal is expected in the fall, and it will require approval by this body.

Mishler requested Osborne to speak into his microphone.

Osborne inquires if the advisory plan will be included and whether some advice will be integrated into the statutory plan.

Trotter responds yes.

Irwin opens for public comments in favor or opposition to the petition

Hearing none, Irwin closes the public portion of the meeting.

Irwin calls for a motion.

Boecher makes a motion to approve 24-PLAN-01 (DOWNTOWN MASTER PLAN) with a Do-Pass Recommendation to Common Council; Second by Davis. Motion carries

Boecher-Yes

Mishler-Yes

Davis-Yes

Baiker-Yes

Lawson-Yes

Osborne-Yes

Irwin-Yes

During the meeting, Irwin mentioned that the Plan Commission member of the BZA is no longer on the BZA and we will have to find another member to the BZA. We won't take any action today.

**ADJOURNMENT**

Irwin calls for a motion to adjourn the meeting. Osborne approves motion to adjourn and is seconded by Boecher. Meeting is adjourned and all are in favor.

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Tory Irwin, President

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Dave Osborne, Vice-President



# Staff Report

Planning & Zoning

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**PETITION #:** 24-TXT-01

**PETITION TYPE:** Text Amendment

**DATE:** June 3, 2024

**PETITIONER:** City of Elkhart, Indiana

**SITE LOCATION:** All properties located with the Special Flood Hazard Area (SFHA)

**REQUEST:** Plan Commission approval of the following proposed text amendments:  
  
The City of Elkhart seeks the review and adoption of updated language in Section 21, *Special Flood Hazard Area Overlay District*. These efforts are required for the City of Elkhart to participate in the National Flood Insurance Program.

**EXISTING ZONING:** N/A

**SIZE:** N/A

**THOROUGHFARE(S):** N/A

**SCHOOL DISTRICT:** N/A

**UTILITIES:** N/A

**PLAN COMMISSION ACTION:** Recommendation to Common Council

**SURROUNDING LAND USE AND ZONING:** N/A

**APPLICABLE SECTIONS OF THE ZONING ORDINANCE:**  
  
Section 21, *Special Flood Hazard Area Overlay District*

# Staff Analysis

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In 2011, the City of Elkhart adopted new Flood Insurance Rate Maps (FIRM) and new language for Section 21, Flood Hazard Areas for Elkhart, Indiana, in order to bring the city's local ordinance into compliance with both the State and Federal minimum standards for flood hazard protection for the City. The City is now being asked to update the language adopted in 2011 to comply with updated minimum standards as prescribed by Federal Emergency Management Agency (FEMA) in order for the City to participate in the NFIP (National Flood Insurance Program).

By keeping our local ordinance compliant with the minimum standards established by FEMA, it allows the city to continue to participate in the National Flood Insurance Program (NFIP) which provides communities, like Elkhart, flood insurance, floodplain management and flood hazard mapping. Communities across the United States and its territories participate in the NFIP by adopting and enforcing floodplain management ordinances to reduce future flood damage. In exchange, the NFIP makes federally backed flood insurance available to homeowners, renters, and business owners in these communities. Community participation in the NFIP is voluntary.

The City of Elkhart currently has 67 total flood policies, 54 of which are in A Zones, written within the City limits. The dollar amount of annual premiums paid is \$64,024 for a total coverage dollar amount of \$14,010,000.

All of the jurisdictions in Elkhart County that participate in the NFIP are in the process of updating their respective ordinance language. Elkhart County, Nappanee, Middlebury, Bristol, Goshen and Elkhart all participate in the National Flood Insurance Program and are taking similar measures to adopt the updated ordinance language.

This updated model ordinance provides additional clarity on the requirements for application and finished construction for development in the Special Flood Hazard Area, duties of the local floodplain administrator, as well as variance procedures and requirements. Many new definitions were added and a number of current definitions were updated for clarity – this should help to guide both the lay person and the professionals on having a common understanding of the regulation.

Article 5, Section A, (1) (d) was added to comply with the minimum requirements of the NFIP (National Flood Insurance Program). It requires in floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting the technical requirements for submittal. Conditional Letters of Map Revision cannot be issued for development that will cause an increase in flood levels affecting structures and should not be permitted.

Manufactured home development standards were updated to meet state requirements, specifically around the enclosed area below the structure.

For clarification, the updated model ordinance requires base flood elevation data for all development which is greater than the lessor of fifty (50) lots or five (5) acres. The base flood elevation requirement was added to the general requirements and is not just for subdivisions and mobile home parks it applies to all developments.

The following is a summary of a number of new and updated requirements not currently found in the existing ordinance. They are listed below:

## Article 1 - Statutory Authorization, Findings of Fact, Statement of Purpose, and Objectives

- Statutory Authorization – Power granted by the state to local governments to control land use;
- Findings of Fact – The findings of a body on issues of fact; can be used in formulating a decision or judgment;
- Statement of Purpose – The promotion of public health, safety and general welfare and to minimize losses due to flood conditions (expanded to twelve (12) from six (6) combined with the objectives for the enforcement of the ordinance from the prior ordinance language);



- Methods of Reducing Flood Loss – List of five (5) methods for accomplishing the purpose of the ordinance;

#### Article 2 - Definitions

- Definitions – The updated ordinance has expanded the total number of terms defined from previous version as well as updating several definitions for additional clarity;

#### Article 3 – General Provisions

- Addresses, in part, the land to which this ordinance applies, the Basis for Establishing Regulatory Flood Data, Establishment of Floodplain Development Permit, Compliance, Abrogation and Greater Restrictions, how to address the Discrepancy between Mapped Floodplain and Actual Ground Elevations, Interpretation and application of ordinance, Warning and Disclaimer of Liability and Penalties for Violation. The items contain some new language that provides greater detail than the current ordinance.

#### Article 4 - Administration

- Designation of Administrator, Floodplain Development Permit and Certification Requirements, Duties of the Floodplain Administrator – This section has been expanded to greatly explain what is required in order to apply for a development permit. This section clarifies and itemizes with detail the duties and expectations of the floodplain administrator, expanding on the current duties found in the ordinance for inspection and verification of information provided. New elements to this section are Administrative Procedures that outline inspection criteria, stop work orders and revocation processes and mandatory record maintenance procedures. Finally, Map Maintenance Activities that proscribes the procedure for submitting technical data for development that impacts floodway delineations and Variance procedures that expands the standards that must be met in order to grant a variance.

#### Article 5 – Provisions for Flood Hazard Reduction

- This section has been reorganized to emphasize the rigorous regulation within areas designated as floodways within the SFHA. This section covers necessary steps for DNR review that must be met by the applicant prior to any development occurring, including the new requirement of no rise in elevation affecting a structure. There are also greater detail of the areas labeled on the FIRM maps as Fringe and SFHAs without established Base Flood Elevations. It also outlines for the floodplain administrator the process for areas near waterways with no SFHA identified on the map. This section also outlines in great detail the requirements for development in flood hazard areas with individual regulations for residential, non-residential, manufactured home and recreational vehicle and accessory structures.

#### Article 6 – Legal Status Provisions

- This section describes the validity of remaining ordinance language in the event any portion of the ordinance is found to be invalid and the last is the effective date of the ordinance.

### **STAFF RECOMMENDATION**

Staff recommends that the Plan Commission approve the proposed text amendment approving Section 21 as described above and send to the Common Council with a “Do Pass” recommendation.

### **ATTACHMENTS**

Proposed Ordinance amending the text of the Zoning Ordinance Section 21 to allow the changes described above.

**ORDINANCE NO.**

**AN ORDINANCE REPEALING AND REPLACING ORDINANCE 5263, AN ORDINANCE REPEALING AND REPLACING SECTION 21 AND SECTION 29.9(B) OF ORDINANCE NO. 4370, "THE ZONING ORDINANCE OF THE CITY OF ELKHART, INDIANA"**

WHEREAS, Ordinance No. 4370, "the Zoning Ordinance of the City of Elkhart" ("Zoning Ordinance") was enacted by the Common Council on July 20, 1998, and signed by the Mayor on July 30, 1998; and

WHEREAS, Ordinance No. 4370 includes regulations for the flood hazard areas within the City of Elkhart, Indiana; and

WHEREAS, the United States Federal Government has set minimum Federal regulations that govern community participation in the National Flood Insurance Program (NFIP), as well as minimum regulations for State floodplain regulations for development within Special Flood Hazard Areas (SFHA); and

WHEREAS, Ordinance No. 5263 amended Ordinance No. 4370 in order to meet the regulations that govern the NFIP; and

WHEREAS, Ordinance No. 4370, as amended by Ordinance No. 5263, is no longer in compliance with the minimum Federal regulations that are required by the Federal Government to participate in the NFIP; and

WHEREAS, Ordinance No. 4370, as amended by Ordinance No. 5263 is not in compliance with the minimum Federal regulations required by the Federal Government for the State of Indiana's floodplain regulations for development within SFHA; and

WHEREAS, this Ordinance shall be referred to as, "THE FLOOD DAMAGE PREVENTION ORDINANCE."

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. Ordinance No. 4370, as amended, is hereby further amended by repealing and replacing the sections added by Ordinance 5263, with the following:

## FLOOD DAMAGE PREVENTION ORDINANCE

### ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND METHODS

- Section A. Statutory Authorization
- Section B. Findings of Fact
- Section C. Statement of Purpose
- Section D. Methods of Reducing Flood Loss

### ARTICLE 2. Definitions

### ARTICLE 3. General Provisions

- Section A. Lands to Which This Ordinance Applies
- Section B. Basis for Establishing the Areas of Special Flood Hazard
- Section C. Establishment of Floodplain Development Permit
- Section D. Compliance
- Section E. Abrogation and Greater Restrictions
- Section F. Discrepancy between Mapped Floodplain and Actual Ground Elevations
- Section G. Interpretation
- Section H. Warning and Disclaimer of Liability
- Section I. Penalties for Violation

### ARTICLE 4. ADMINISTRATION

- Section A. Designation of Administrator
- Section B. Floodplain Development Permit and Certification Requirements
- Section C. Duties and Responsibilities of the Administrator
- Section D. Map Maintenance Activities
- Section E. Variance Procedures

### ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

- Section A. Floodplain Status Standards
  1. Standards for Identified Floodways
  2. Standards for Identified Fringe
  3. Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringe
  4. Standards for SFHAs not Identified on a Map
- Section B. General Standards
- Section C. Specific Standards
  1. Building Protection Requirement

- 2. Residential Construction (excluding manufactured homes)
  - 3. Non-Residential Construction
  - 4. Manufactured Homes and Recreational Vehicles
  - 5. Accessory Structures
  - 6. Pavilions, Gazebos, Decks, Carports, and Similar Development
  - 7. Above Ground Gas or Liquid Storage Tanks
- Section D. Standards for Subdivision Proposals
- Section E. Standards for Critical Facilities

**ARTICLE 6. LEGAL STATUS PROVISIONS**

- Section A. Severability
- Section B. Effective Date

**Article 1. Statutory Authorization, Findings of Fact, Purpose, and Methods**

**Section A. Statutory Authorization**

The Indiana Legislature has in IC 36-1-4-11 granted the power to local government units to control land use within their jurisdictions. Therefore, the City Council of the City of Elkhart does hereby adopt the following floodplain management regulations.

**Section B. Findings of Fact**

The flood hazard areas of the City of Elkhart are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

**Section C. Statement of Purpose**

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health.
- (2) Minimize expenditure of public money for costly flood control projects.

- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (4) Minimize prolonged business interruptions.
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight area.
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas.
- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained.
- (10) Minimize the impact of development on the natural, beneficial values of the floodplain.
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible.
- (12) Meet community participation requirements of the National Flood Insurance Program.

#### **Section D. Methods of Reducing Flood Loss**

In order to accomplish its purposes, these regulations include methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities.
- (2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters.

- (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage.
- (5) Preventing or regulating the construction of flood barriers, which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

## **Article 2. Definitions**

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them meaning they have in common usage and to give these regulations the most reasonable application.

**Accessory Structure** means a structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation.

- (1) Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
- (2) Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses.
- (3) The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:
  - a. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence.
  - b. Structures used by the public, such as a place of employment or entertainment.
  - c. Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples include, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

**Addition** (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

**Alteration of a watercourse** means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard, or change the direction and/or velocity of the flow of water during conditions of the base flood.

**Appeal** means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

**Area of special flood hazard** is the land within a community subject to a one percent (1%) or greater chance of being flooded in any given year.

**Base flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.

**Base Flood Elevation (BFE)** means the water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

**Basement** means that portion of a structure having its floor sub-grade (below ground level) on all sides.

**Best Available Flood Layer (BAFL)** means floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

**Building** – See "Structure."

**Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

**Critical facility** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes,

hospitals, police, fire, and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

**Development** means, for floodplain management purposes, any man-made change to improved or unimproved real estate including but not limited to:

- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than 180 days;
- (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) mining, dredging, filling, grading, excavation, or drilling operations;
- (6) construction and/or reconstruction of boat lifts, docks, piers, and seawalls;
- (7) construction and/or reconstruction of bridges or culverts;
- (8) storage of materials; or
- (9) any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting; re-roofing; resurfacing roads; or, gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

**Elevation Certificate** means a FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act that is encouraged to be used to collect certified elevation information.

**Enclosed area** (enclosure) is an area of a structure enclosed by walls on all sides.

**Enclosure below the lowest floor.** See "Lowest Floor" and "Enclosed Area."

**Existing manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation



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

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

**FEMA** means the Federal Emergency Management Agency.

**Fill** for floodplain management purposes, means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

**Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

**Flood hazard area** means areas subject to the one percent (1%) annual chance flood. (See "Special Flood Hazard Area")

**Flood Insurance Rate Map (FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study (FIS)** means the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

**Flood prone area** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Floodplain")

**Flood Protection Grade (FPG)** is the BFE plus two (2) feet at any given location in the SFHA.

**Floodplain or flood prone area** means any land area susceptible to being inundated by water from any source. (See "Flood")

**Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**Floodplain management regulations** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing (dry floodproofing)** is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

**Floodproofing certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG.

**Floodway** is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulative increasing the water surface elevation more than a designated height.

**Freeboard** means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

**Fringe** or **Flood Fringe** is the portion of the floodplain lying outside the floodway.

**Functionally dependent use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Hardship** (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The City requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**Highest adjacent grade** means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**Historic structure** means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

**Hydrologic and hydraulic engineering analysis** means analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

**International Code Council-Evaluation Service (ICC-ES) Report** means a document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified, installed.

**Letter of Final Determination (LFD)** means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

**Letter of Map Change (LOMC)** is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

- (1) **Conditional Letter of Map Revision (CLOMR)** means FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
- (2) **Conditional Letter of Map Revision Based on Fill (CLOMR-F)** means a letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
- (3) **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a building or area of land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
- (4) **Letter of Map Amendment Out as Shown (LOMA-OAS)** means an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.

(5) **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

(6) **Letter of Map Revision Based on Fill (LOMR-F)** means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

**Lowest adjacent grade** means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**Lowest floor** means, for floodplain management purposes, the lowest elevation described among the following:

(1) The lowest floor of a building.

(2) The basement floor.

(3) The garage floor if the garage is connected to the building.

(4) The first floor of a structure elevated on pilings or pillars.

(5) The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:

a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.

b. At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.

(6) The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

**Manufactured home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

**Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mitigation** means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

**Natural grade** for floodplain management purposes means the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

**New construction** for floodplain management purposes means any structure for which the "start of construction" commenced on or after the effective date of a floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

**North American Vertical Datum of 1988 (NAVD 88)** as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

**Obstruction** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**One-percent annual chance flood** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. See "Regulatory Flood".

**Physical Map Revision (PMR)** is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

**Prefabricated Building** is a building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

**Principally above ground** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**Recreational vehicle** means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

**Regulatory flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3, B of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

**Repetitive loss** means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

**Riverine** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Solid waste disposal facility** means any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also

includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

**Special Flood Hazard Area (SFHA)**, synonymous with “areas of special flood hazard” and floodplain, means those lands within the jurisdiction of the City subject to a one percent (1%) or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, A99, or VE. The SFHA includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

**Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

**Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred *“repetitive loss” or*



“substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

**Variance** is a grant of relief from the requirements of this ordinance consistent with the variance conditions herein.

**Violation** means the failure of a structure or other development to be fully compliant with this ordinance.

**Walled and roofed** means a building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

**Watercourse** means a lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

### **Article 3. General Provisions**

#### **Section A. Lands to Which This Ordinance Applies**

This ordinance shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of the City of Elkhart, Indiana as identified in Article 3, Section B, including any additional areas of special flood hazard annexed by the City of Elkhart, Indiana.

#### **Section B. Basis for Establishing the Areas of Special Flood Hazard**

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the City of Elkhart, delineated as an “AE Zone” on the Elkhart County and Incorporated Areas Flood Insurance Rate Map dated August 2, 2011 shall be determined from the one-percent annual chance flood profiles in the Flood Insurance Study of Elkhart County and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated August 2, 2011 as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an “AE Zone”, the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.

- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the City of Elkhart, delineated as an "A Zone" on the Elkhart County and Incorporated Areas Flood Insurance Rate Map, dated August 2, 2011, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
- (3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best available flood layer as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.
- (4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

### **Section C. Establishment of Floodplain Development Permit**

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

### **Section D. Compliance**

- (1) No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations.
- (2) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed

structure; or for other developments, affecting any part of the area of the development.

- (3) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

### **Section E. Abrogation and Greater Restrictions**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **Section F. Discrepancy between Mapped Floodplain and Actual Ground Elevations**

- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or lacustrine Zone A or AE) on the FIRM and the actual ground elevations, the elevation provided on the profiles or table of still water elevations shall govern.
- (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (3) If the natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR-FW is not subsequently superseded or invalidated.

### **Section G. Interpretation**

In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the governing body.
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

### **Section H. Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the City of Elkhart, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance, or any administrative decision made lawfully thereunder.

### **Section I. Penalties for Violation**

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the City of Elkhart. All violations shall be punishable by a fine not exceeding \$2,500.00.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) The City of Elkhart shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (3) Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

### **Article 4. Administration.**

#### **Section A. Designation of Administrator**

The Common Council of Elkhart hereby appoints the Planning Department to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

#### **Section B. Floodplain Development Permit and Certification Requirements**

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be

made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Such applications shall include, but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Application Stage.

- a. A description of the proposed development.
- b. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
- c. A legal description of the property site.
- d. For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure.
- e. A site development plan showing existing and proposed development locations and existing and proposed land grades.
- f. A letter from a licensed professional surveyor or engineer noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met.
- g. Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
- h. Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A and AE. Elevation should be in NAVD 88.
- i. Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed.
- j. Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade.

- k. Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant.
- l. Plans showing how any proposed structure will be anchored to resist flotation or collapse.
- m. Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88.
- n. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis is required, and any watercourse changes submitted to DNR for approval. Once DNR approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction. (See Article 4, Section C (8) and Article 4, Section E for additional information.)
- o. Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

(2) Construction Stage.

- a. Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator shall review the elevation certificate. Any deficiencies detected during the review shall be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(3) Finished Construction.

- a. Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the "as-built" lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor and certified by the same.

- b. Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
- c. Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.

### **Section C. Duties and Responsibilities of the Floodplain Administrator**

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

- (1) Enforce the provisions of this ordinance.
- (2) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.
- (3) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (4) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
- (5) Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
- (6) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

- (7) For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:
- a. Verify and document the market value of the pre-damaged or pre-improved structure.
  - b. Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community.
  - c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage.
  - d. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in Article 5 of this ordinance are required.
- (8) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.
- (9) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section A (1), Section A (3) (a) and Section A (4) of this ordinance. Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).



- (10) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if Article 4, Section C (9) is applicable.
- (11) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (12) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4, Section B.
- (13) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.
- (14) Make on-site inspections of projects in accordance with Article 4, Section D.
- (15) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.
- (16) Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
- (17) Provide information, testimony, or other evidence as needed during variance hearings.
- (18) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with Article 4, Section D.
- (19) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance in accordance with Section Article 4, Section D.
- (20) Coordinate map maintenance activities and associated FEMA follow-up in accordance with Article 4, Section E.

- (21) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (22) Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

#### **Section D. Administrative Procedures**

- (1) Inspections of Work in Progress. As the work pursuant to a permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
- (2) Stop Work Orders.
  - a. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
  - b. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- (3) Revocation of Permits.
  - a. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
  - b. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.
- (4) Floodplain Management Records.

- a. Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance shall be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.
- b. These records shall be available for public inspection at Elkhart City Hall, 229 South 2<sup>nd</sup> Street, Elkhart, Indiana 46516

(5) Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

### **Section E. Map Maintenance Activities**

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that The City of Elkhart flood maps, studies and other data identified in Article 3, Section B accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

#### **(1) Requirement to Submit New Technical Data**

- a. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
  - i. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries.

- ii. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area.
  - iii. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large-scale development proposals requiring the establishment of base flood elevations.
- b. It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
  - c. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.
  - d. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

(2) Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of Elkhart and may be submitted to FEMA at any time.

(3) Annexation / Detachment

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Elkhart have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Elkhart County and Incorporated Areas Flood Insurance Rate Map accurately represent the City of Elkhart boundaries, include within such notification a copy of a map of the City of

Elkhart suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Elkhart has assumed or relinquished floodplain management regulatory authority.

## **Section F. Variance Procedures**

- (1) The Board of Zoning Appeals (the board) as established by Common Council of Elkhart shall hear and decide appeals and requests for variances from requirements of this ordinance.
- (2) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Elkhart County Circuit or Superior Court.
- (3) In considering such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  - a. the danger to life and property due to flooding or erosion damage.
  - b. the danger that materials may be swept onto other lands to the injury of others.
  - c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - d. the importance of the services provided by the proposed facility to the community.
  - e. the necessity to the facility of a waterfront location, where applicable.
  - f. the compatibility of the proposed use with existing and anticipated development.
  - g. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
  - h. the safety of access to the property in times of flood for ordinary and emergency vehicles.

- i. the expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
  - j. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (4) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (5) Variances from the provisions of this ordinance shall only be granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following:
- a. A showing of good and sufficient cause.
  - b. A determination that failure to grant the variance would result in exceptional hardship as defined in Article 2.
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (6) No variance for a residential use within a floodway subject to Article 5, Section A (1), Section A (3) (a) or Section A (4) of this ordinance may be granted.
- (7) Any variance granted in a floodway subject to Article 5, Section A (1), Section A (3) (a) or Section A (4) will require a permit from the Indiana Department of Natural Resources. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (8) Variances to the Provisions for Flood Hazard Reduction of Article 5 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (9) Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

- (10) Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
- (11) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (12) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (13) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (14) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

## **Article 5. Provisions for Flood Hazard Reduction**

### **Section A. Floodplain Status Standards**

#### **(1) Floodways (Riverine)**

Located within SFHAs, established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (IC 14-28-1) a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

- a. If the site is in a regulatory floodway as established in Article 3, Section B, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC 10).
- b. No action shall be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The Floodplain Development Permit shall meet the provisions contained in this article.
- c. The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) shall take precedence.
- d. In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of Article 4, Section E (1). A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.
- e. In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.
- f. For all projects involving channel modifications or fill (including levees) the city shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.



**(2) Fringe (Riverine)**

If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this article have been met.

**(3) SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)**

- a. Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this section have been met.

- b. Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require

the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this article have been met.

#### (4) SFHAs not Identified on a Map

- a. If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
- b. No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
- c. Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this article have been met.

### Section B. General Standards

In all areas of special flood hazard, the following provisions are required:

- (1) All new construction, ***reconstruction or repairs made to a repetitive loss structure***, and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

- (2) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- (3) New construction and substantial improvements must incorporate methods and practices that minimize flood damage.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- (5) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.
- (9) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.
- (10) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (11) Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.

- (12) Non-conversion agreements shall be required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, and open-sided shelters.
- (13) Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in areas of special flood hazard.

### **Section C. Specific Standards**

In all areas of special flood hazard where base flood elevation data or flood depths have been provided, as set forth in Article 3, Section B, the following provisions are required:

- (1) **Building Protection Requirement.** In addition to the general standards described in Article 5, Section B, structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
  - a. Construction or placement of a residential structure.
  - b. Construction or placement of a non-residential structure.
  - c. Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes.
  - d. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost).
  - e. Installing a manufactured home on a new site or a new manufactured home on an existing site.
  - f. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
  - g. Reconstruction or repairs made to a repetitive loss structure.

- h. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

**(2) Residential Construction.**

- a. New construction or substantial improvement of any residential structures shall meet provisions described in Article 5, Section A and applicable general standards described in Article 5, Section B.
- b. In **Zone A and Zone AE**, new construction or substantial improvement of any residential structure shall have the lowest floor; including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section C (2) (c). Should fill be used to elevate a structure, the standards of Article 5, Section C (2) (d) must be met.
- c. **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
  - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
    - A. Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
    - B. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
    - C. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.

- D. If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG.
  - E. Doors and windows do not qualify as openings.
  - F. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - G. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
- ii. The floor of such enclosed area must be at or above grade on at least one side.
- d. A residential structure may be constructed on a **fill** in accordance with the following:
- i. Fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
  - ii. Fill shall extend ten feet beyond the foundation of the structure before sloping below the BFE.
  - iii. Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
  - iv. Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
  - v. Fill shall be composed of clean granular or earthen material.
- e. A residential structure may be constructed using a **stem wall foundation** (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

**(3) Non-Residential Construction.**

- a. New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in Article 5, Section A and applicable general standards described in Article 5, Section B.
- b. In **Zone A and Zone AE**, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) shall either have the lowest floor, including basement and, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section C (3) (c). Should fill be used to elevate a structure, the standards of Article 5, Section C (3) (d) must be met.
- c. **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
  - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
    - A. Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
    - B. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
    - C. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.

- D. If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG.
  - E. Doors and windows do not qualify as openings.
  - F. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - G. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
- ii. The floor of such enclosed area must be at or above grade on at least one side.
- d. A nonresidential structure may be constructed on **fill** in accordance with the following:
    - i. Shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
    - ii. Shall extend ten feet beyond the foundation of the structure before sloping below the BFE.
    - iii. Shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
    - iv. Shall not adversely affect the flow of surface drainage from or onto neighboring properties.
    - v. Shall be composed of clean granular or earthen material.
  - e. A nonresidential structure may be **floodproofed** in accordance with the following:
    - i. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into



account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator.

- ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- f. A nonresidential structure may be constructed using a **stem wall foundation** (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

#### (4) **Manufactured Homes and Recreational Vehicles.**

- a. These requirements apply to all manufactured homes to be placed on a site in the SFHA:
  - i. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section C (2) (c).
  - iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- b. Recreational vehicles placed on a site in the SFHA shall either:
  - i. Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or
  - ii. Meet the requirements for “manufactured homes” as stated earlier in this section.

#### (5) **Accessory Structures**

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

- a. Shall have a floor area of 400 square feet or less.
- b. Use shall be limited to parking of vehicles and limited storage.
- c. Shall not be used for human habitation.
- d. Shall be constructed of flood resistant materials.
- e. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
- f. Shall be firmly anchored to prevent flotation.
- g. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
- h. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section C (3) (a).
- i. Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

**(6) Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development.**

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

- a. Shall have open sides (having not more than one rigid wall).
- b. Shall be anchored to prevent flotation or lateral movement.
- c. Shall be constructed of flood resistant materials below the FPG.
- d. Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG.

- e. Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

**(7) Above Ground Gas or Liquid Storage Tanks.**

Within SFHAs, all newly placed aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in Article 5, Section C (3).

**Section D. Standards for Subdivision and Other New Developments**

- (1) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres, whichever is less.
- (5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- (6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
- (7) Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

**Section E. Standards for Critical Facilities**

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

## **Article 6. Legal Status Provisions**

### **Section A. Severability.**

If any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

### **Section B. Effective Date.**

This ordinance shall be in full force and effect from and after its passage by the Common Council, its approval by the Mayor, and the fulfillment of all statutory requirements.



# Staff Report

## Planning & Zoning

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<b><u>Petition:</u></b>	24-MSUB-09
<b><u>Petition Type:</u></b>	Subdivision
<b><u>Date:</u></b>	June 3, 2024
<b><u>Petitioner:</u></b>	HTIW Properties, LLC
<b><u>Site Location:</u></b>	1931 W. Mishawaka Road
<b><u>Request:</u></b>	Per Article 4 of the Subdivision Ordinance, approval of a Preliminary Plat to be known as 'HTIW 1931 Subdivision.' This request represents +/-17.26 acres and will total two (2) lots with an ingress/egress easement on Lot 1 for the benefit of Lot 2 and a proposed drainage easement on Lot 2 for the benefit of Lot 1.
<b><u>Existing Zoning:</u></b>	M-1, Limited Manufacturing District
<b><u>Size:</u></b>	+/- 17.26 Acres
<b><u>Thoroughfares:</u></b>	W Mishawaka Road
<b><u>School District:</u></b>	Concord Community Schools
<b><u>Utilities:</u></b>	Available and provided to site.

### **Surrounding Land Use & Zoning:**

The property is surrounded by a mix of industrial uses zoned M-1, Limited Manufacturing District.

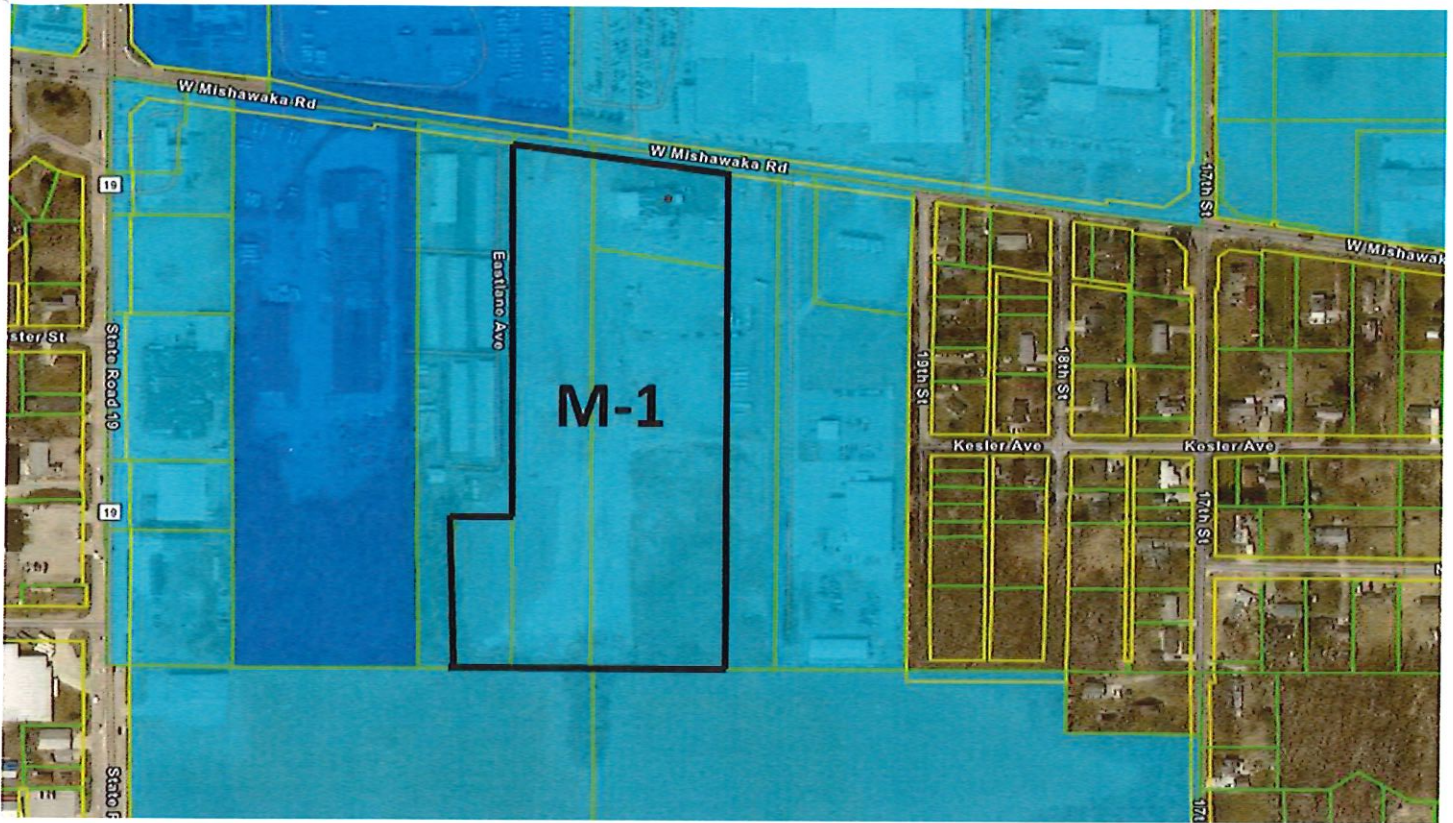
### **Applicable Sections of the Zoning Ordinance:**

Article 4 of the Subdivision Ordinance

### **Comprehensive Plan:**

The Comprehensive Plan calls for the land to be developed with industrial uses.

**Plan Commission Action:** Recommend approval or denial of request- forward to Plat Committee



## Staff Analysis

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The petitioners is requesting approval of a two (2) -lot minor subdivision of land that is a portion of the East Half of Section 18, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana. The proposed subdivision would establish two lots from the existing five (5) parcels, and create an ingress-egress easement on Lot 1 benefiting Lot 2. A drainage easement is proposed on Lot 2 for the benefit of Lot 1 that connects to an existing retention basin.

The zoning for this property is M-1; the layout of the subdivision meets the requirements of the subdivision ordinance.

# Recommendation

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The Staff recommends **approval** of the subdivision, to be known as 'HTIW 1931 Subdivision,' a two (2)-lot minor subdivision; a part of the East Half of Section 18, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana, based on the following findings of fact:

- 1) The lots meet the minimum lot area requirements for the M-1, Limited Manufacturing District;
- 2) The proposed request results in the creation of two (2) lots as defined by the Zoning and Subdivision Ordinance.
- 3) The proposed subdivision will not compromise any existing development.

## **Conditions:**

- 1) The approval is preliminary only. The applicant must submit the required application materials for Final Plat Approval to the Plat Committee as per Article 5 of the Subdivision Ordinance prior to the issuance of any permits for construction or sale of property.
- 2) Subsequent approvals may be required from the appropriate City Departments. Those approvals may include plans for water supply, storm water retention, sewage disposal, grading, roadway construction and other infrastructure prior to final plat approval.
- 3) Approval is tentative and shall be valid for a maximum period of twelve (12) months. The City Plan Commission may grant an extension upon written request. If the final plat has not been recorded within the time limit, the primary approval is null and void and the preliminary subdivision plan must be resubmitted for approval.
- 4) The project must be reviewed and approved through the City's Technical Review process prior to the submission of the final plat to the Plat Committee.

# Photos

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# Attachments

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Petition and primary plat.

PETITION #: 24-MSUB-09 FILING FEE: \$ 500.00

### PETITION to the PLAN COMMISSION

**PETITION TYPE: MAJOR SUBDIVISION**

Property Owner(s): HTIW Properties LLC

Mailing Address: P.O. Box 744 Wakarusa IN 46573

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: Marion Schrock

Mailing Address: P.O. Box 744 Wakarusa IN 46573

Phone #: [REDACTED] Email: [REDACTED]

**Subject Property Address:** 1931 Mishawaka Road Elkhart IN 46517

Zoning: M-1

Present Use: Auto Repair and RV storage yard Proposed Use: Auto Repair and RV storage yard

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Marion Schrock, Member, HTIW Properties LLC

SIGNATURE(S):  DATE: 9-11-2024

**STAFF USE ONLY:**

Staff Checklist for the applicant's submittal of a complete Petition to the Plan Commission docket:

- A completed Petition form signed by the legal owner of record (or approved representative).
- A completed Application for Approval of a New Subdivision.
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property. If larger than 11" x 17", 12 copies must be submitted.
- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property. (Optional)
- Any other information listed in the Instructions and Filing Procedure for this type of Petition.

Ordinance Requirement: Section(s): \_\_\_\_\_

Map #: \_\_\_\_\_ Area: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_



# Staff Report

Planning & Zoning

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**Petition:** 24-PUDA-02

**Petition Type:** Major Amendment to PUD

**Date:** June 3, 2024

**Petitioner:** Ridgewood Elkhart, LLC

**Site Location:** 2700 Ridgewood Dr

**Request:** Per Section 20.10.B.2, a major amendment to the approved site plan that permitted a total of 169 units where one (1) unit is reserved for management for a total of 168 dwelling units for lease, to allow for the conversion of two (2) apartments to office space. Bringing the total number of units for lease to 166 units for lease.

**Existing Zoning:** PUD – Planned Unit Development

**Size:** +/- 9.87 Acres

**Thoroughfares:** East Hively Avenue

**School District:** Concord Community Schools

**Utilities:** Available and provided to site.

**Plan Commission Action:** Recommendation to Common Council.

**Surrounding Land Use & Zoning:**

Properties to the west are Elkhart County Zoning. Properties to the east are R-2 One Family Dwelling District. Properties to the north are R-4 Multiple Family Dwelling District and R-1 One Family Dwelling District. Properties to the south are PUD Planned Unit Development and R-2 One Family Dwelling District.

**Applicable Sections of the Zoning Ordinance:**

See enumerated in request.

**Comprehensive Plan:**

The Comprehensive Plan does not yet take this area into account but is anticipated to call for it to be developed with high density residential use.



## Staff Analysis

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The petitioner owns approximately 9.87 acres of the current Planned Unit Development known as Ridgewood Apartments. This PUD was constructed in two (2) phases. The property is subject to three ordinances: #3632, #3650, and #3721. Ordinance 3632 permitted Phase I of the residential development with a maximum of 71 rentable units. It was amended by ordinance 3650 to permit the maximum rentable units to 69. Ordinance 3721 permitted Phase II of the residential development with a maximum of 99 rentable units. Phase I and Phase II are located on two distinct plots of land adjacent to each other therefore the entire development is currently permitted to have a total of 168 rentable units and one unit as a professional office with a total of 169 units within the entire development.

The petitioner is requesting a major amendment to the PUD to allow the conversion of two (2) apartment units to allow the use of two (2) professional offices. Once the conversions are complete it will leave a total of 166 rentable units therefore creating a change in density of use of the PUD. Per Section 20.10.B.2 board action is required when a proposed change to an approved PUD final site plan will change the density of use of the PUD.

# Recommendation

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The Staff recommends **approval** of the major amendment to the Planned Unit Development, per Section 20.10.B.2, a major amendment to the approved site plan that permitted a total of 169 units where one (1) unit is reserved for management for a total of 168 dwelling units for lease, to allow for the conversion of two (2) apartments to office space. Bringing the total number of units for lease to 166 units for lease, based on the following findings of fact:

- 1) The Comprehensive Plan calls for this area to be developed with high density residential use. The proposed use is compatible with high density residential uses.
- 2) The proposed uses should not impact the other permitted uses approved for this PUD. The proposed use should not negatively impact surrounding properties.
- 3) The change in density will not adversely impact the land within the area of the Planned Unit Development as the proposed use is compatible with other activity already permitted by right within the Planned Unit Developments existing uses.

# Photos

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PETITION #: 24-PUD A-02 FILING FEE: \$ 200.00

### PETITION to the PLAN COMMISSION

**PETITION TYPE: MAJOR PLANNED UNIT DEVELOPMENT AMENDMENT**

Property Owner(s): Ridgewood Elkhart, LLC

Mailing Address: 3039 N Post Road Ste 1200 Indianapolis, Indiana 46226

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: David Gilman, Authorized Agent for Owner

Mailing Address: 211 South Ritter Ave, Ste H

Phone #: [REDACTED] Email: [REDACTED]

**Subject Property Address:** 2700 Ridgewood Drive Elkhart, Indiana 46517

Zoning: PUD

Present Use: Multi-family Proposed Use: Multi-family/Change of Density

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): David Gilman, Authorized Agent for Owner

SIGNATURE(S): *David Gilman* DATE: 4/26/2024

**STAFF USE ONLY:**

Staff Checklist for the applicant's submittal of a complete Petition to the Plan Commission docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 25 copies must be submitted.
- Any other information listed in the Instructions and Filing Procedure for this type of Petition.

Ordinance Requirement: Section(s): \_\_\_\_\_

Map #: \_\_\_\_\_ Area: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

Professional Surveyor's Report

IN ACCORDANCE WITH TITLE 36S, ARTICLE 1, RULE 12, SECTIONS 1 THROUGH 30 OF THE INDIANA ADMINISTRATIVE CODE, THE FOLLOWING REPORT IS SUBMITTED REGARDING THE VARIOUS UNCERTAINTIES IN THE LOCATIONS OF THE LINES AND CORNERS ESTABLISHED ON THIS PARCEL AS A RESULT OF:

- (A) VARIANCES IN REFERENCE MONUMENTS.
(B) DISCREPANCIES IN RECORD DESCRIPTIONS AND/OR PLATS.
(C) INCONSISTENCIES IN LINES OF OCCUPATION AND/OR POSSESSION.
(D) RELATIVE POSITIONAL ACCURACY (RPA): THE ACCEPTABLE RELATIVE POSITIONAL ACCURACY FOR THE VARIOUS SURVEY CLASSIFICATIONS ARE AS FOLLOWS:
(1) URBAN SURVEYS: 0.25 FEET PLUS 50 PARTS PER MILLION.
(2) SUBURBAN SURVEYS: 0.25 FEET PLUS 100 PARTS PER MILLION.
(3) RURAL SURVEYS: 0.25 FEET PLUS 200 PARTS PER MILLION.

PROFESSIONAL SURVEYOR'S REPORT, GENERAL INFORMATION

COURTESY, GENERATION OF DOCUMENTS AND LIMITED REVOCABLE LICENSE FOR THE USE OF THIS PLAT OF SURVEY. THE PLAT OF SURVEY, INCLUDING BUT NOT LIMITED TO, PLANS, NOTES, BY-LINES, LEGENDS, REPORTS, CERTIFICATIONS AND ANY RELATED PRODUCTS IS AN ORIGINAL CREATIVE WORK PRODUCT PREPARED BY FORESIGHT CONSULTING, LLC AND IS PROTECTED UNDER THE INDIANA UNIFORM TRADE SECRET ACT. THIS ORIGINAL CREATIVE WORK PRODUCT IS THE SOLE PROPERTY OF FORESIGHT CONSULTING, LLC. NEITHER THE PLAT OF SURVEY, OR ANY INFORMATION HEREON, SHALL BE USED BY ANY PERSON FOR ANY PURPOSE BEYOND THE PARTIES TO THIS CONTRACT AND ANY INFORMATION HEREON, INCLUDING BUT NOT LIMITED TO, ANY USE OR PURPOSE WITHOUT THE EXPRESS WRITTEN PERMISSION OF FORESIGHT CONSULTING, LLC.

ADDITIONALLY, THE SURVEY, CERTIFICATION AND DECLARATIONS MADE HEREON ARE LIMITED TO THE IDENTIFIED PARTIES CONTAINED WITHIN THE SURVEY, CERTIFICATION, AND REPRESENT A LIMITED REVOCABLE LICENSE FOR USE ONLY IN THE PROPOSED REAL ESTATE TRANSACTION. THESE CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS, PARTIES OR SUBSEQUENT OWNERS AND ENTITIES. THIS LICENSE FOR USE AUTOMATICALLY EXPIRES, AND IS REVOKED, NINETY (90) DAYS AFTER THE ISSUE DATE OF SURVEY DOCUMENTS.

BOUNDARY REGULATION - BASIS OF THE ESTABLISHED BOUNDARY OF THE SUBJECT PARCEL. THIS SURVEY IS CONDUCTED IN ACCORDANCE WITH AN INDIANA LAND SURVEYOR'S RESPONSIBILITY TO CONDUCT A SURVEY IN ACCORDANCE WITH LAW OR A PRECEDENT (66S IAC 12-2-13). THE RULES OF THE INDIANA STATE BOARD OF REGISTRATION FOR LAND SURVEYORS. SINCE INDIANA HAS NO STATUTE ADDRESSING HOW A SOLUTION BASED ON PRINCIPLES DERIVED FROM COMMON LAW PRECEDENT MUST BE RELIED UPON AS THE BASIS FOR A BOUNDARY REGULATION.

BOUNDARY LINE CONFLICTS. THE REPRESENTATION OF ANY POTENTIAL BOUNDARY LINE CONFLICTS SHOWN EITHER BY LINES OF OCCUPATION OR POSSESSION OR BY LINES OF OCCUPATION AND POSSESSION WITHIN THE AREA OF CONFLICT. THE CLIENT IS STRONGLY ADVISED TO CONSULT WITH A COMPETENT REAL ESTATE ATTORNEY AND/OR TITLE COMPANY TO REVIEW THE BOUNDARY CONFLICTS.

TITLE OWNERSHIP AND EASEMENT DOCUMENT REFERENCES REPRESENTED ON THIS PLAT OF SURVEY ARE BASED UPON RECORD DOCUMENT RESEARCH WITHIN THE OFFICE OF THE RECORDER IN WHICH THE SURVEYED PROPERTY IS LOCATED. THE DOCUMENT RESEARCH WAS CONDUCTED BY THE OFFICE OF FORESIGHT CONSULTING, LLC AND DOES NOT CONSTITUTE A COMPLETE AND ACCURATE REPRESENTATION OF TITLE OWNERSHIP AND EASEMENT ENCUMBRANCES THAT MAY AFFECT THE SUBJECT PROPERTY. THE RESEARCH PERFORMED BY FORESIGHT CONSULTING, LLC COMPLES WITH THE LOCAL STANDARD OF CARE ESTABLISHED BY PROFESSIONAL STANDARDS WITHIN THE STATE OF INDIANA, AND CONFORMS TO THE REQUIREMENTS OF INDIANA ADMINISTRATIVE CODE TITLE 36S, ARTICLE 1, RULE 12 (COMPETENT PRACTICE OF LAND SURVEYING) SECTIONS 1 THROUGH 30.

VARIANCES IN DEED VS. MEASURED DIMENSIONS AND THE MEASURED DIMENSIONS ALONG THE ESTABLISHED BOUNDARY LINES SHOWN BETWEEN THE PLAT OF SURVEY, LIKEWISE, THERE MAY BE FOUND SURVEY MONUMENTS, BUT NOT NECESSARILY AT SOME BOUNDARY CORNERS. WHEN THE MAGNITUDE OF THESE VARIANCES ARE LESS THAN THE RELATIVE POSITIONAL ACCURACY IDENTIFIED FOR THE REFERENCE MONUMENTS, THE DIFFERENCES HAVE BEEN CONSIDERED INSIGNIFICANT AND ARE SHOWN ONLY FOR THE PURPOSES OF MATHEMATICAL CLOSURE. WHEN SUCH MEASURED VARIANCES ARE GREATER THAN THE RELATIVE POSITIONAL ACCURACY AND THE MAGNITUDE OF THESE VARIANCES ARE WORTHY OF DISCUSSION AND ARE ADDRESSED IN THIS REPORT.

HORIZONTAL POSITIONING METHODOLOGY. THE HORIZONTAL LOCATION OF ALL FOUND AND ESTABLISHED MONUMENTS ARE BASED UPON STANDARD SURVEYING METHODOLOGY USING A TOTAL STATION OR TOTAL STATION EQUIPMENT CALIBRATED TO THE NATIONAL HORIZONTAL REFERENCE FRAME (NAD 83). OBSERVATIONS WERE TAKEN USING A TOTAL STATION WITH THE INDIANA DEPARTMENT OF TRANSPORTATION (INDOT) VIRTUAL REFERENCE LAND SURVEYING NETWORK.

BASE OF BEARING. THE BASIS OF BEARING FOR THIS SURVEY IS BASED UPON INDIANA STATE PLANE COORDINATE ZONE EAST GEOODETIC GRID BEARING VALUES AS SHOWN AND REPRESENTED ON THE PLAT OF THIS SURVEY.

PROFESSIONAL SURVEYOR'S REPORT, SURVEYED PROPERTY REPORT

TITLE COMMITMENT. STEWART TITLE GUARANTY COMPANY TITLE COMMITMENT ISSUED BY HATERSIDE TITLE AGENCY, LP AS FILE NUMBER NTHN174350A WITH AN EFFECTIVE DATE OF JUNE 14, 2022 HAS BEEN UTILIZED AND RELIED UPON FOR THE PURPOSE OF COMPLETING THIS ALTA/NSPS LAND TITLE SURVEY.

FLOOD HAZARD STATEMENT. THE ENTIRETY OF THE SUBJECT PROPERTY LIES OUTSIDE OF THE SPECIAL FLOOD HAZARD AREA, LAYING COMPLETELY WITHIN ZONE 'X' AS DESIGNATED ON FLOOD INSURANCE RATE MAP 18054C051D WITH AN EFFECTIVE DATE OF AUGUST 2ND, 2011. ZONE 'X' IS DEFINED AS AN AREA OF MINIMAL FLOOD HAZARD.

RECORD OF SURVEY. THE RECORD OF SURVEY WAS TO RETRACE THE BOUNDARIES OF THE LANDS OF RIDGEMOOD I GARDENS, LP AS RECORDED IN DOCUMENT NUMBER 2021-14009 WITHIN THE OFFICE OF RECORDER OF ELKHART COUNTY, INDIANA FOR A REAL ESTATE TRANSACTION.

REFERENCE INFORMATION UTILIZED IN THIS SURVEY. THE RECORD DOCUMENTS FOR THE SURVEYED PROPERTY AND THE ADJOINING PARCELS WERE UTILIZED DURING THE COURSE OF THIS BOUNDARY SURVEY.

PREVIOUS SURVEY BY MARGACH DATED FEBRUARY 21ST, 2014, RECORDED AS DOCUMENT NUMBER 2014-0108 WITHIN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

AVAILABILITY AND CONDITION OF REFERENCE MONUMENTS. THE BOUNDARIES OF THE LANDS OF RIDGEMOOD I GARDENS, LP AS RECORDED IN DOCUMENT NUMBER 2021-14009 WITHIN THE OFFICE OF RECORDER OF ELKHART COUNTY, INDIANA ARE DEPENDENT ON THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 31 NORTH, RANGE 5 EAST, ELKHART COUNTY, INDIANA.

COUNTY REFERENCED HARRISON MONUMENTS WERE FOUND AT THE SOUTHWEST AND SOUTHWEST CORNERS OF THE SOUTHWEST QUARTER OF SECTION 16, AND WERE HELD AS CONTROLLING MONUMENTS.

A SPINDLE WAS FOUND AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 16. THIS MONUMENT WAS CALLED FOR ON PREVIOUS MARGACH SURVEY, CORRELATED WELL WITH RECORD DIMENSIONS, AND WAS HELD AS A CONTROLLING MONUMENT.

THE INTERSECTION OF HIVELEY AVENUE AND PRAIRIE STREET WAS UNDER CONSTRUCTION AT THE TIME OF LAND SURVEYING FIELD OPERATIONS. A SPINDLE WAS NOT ACCESSIBLE IN ADEQUATE LOCATION AT THE INTERSECTION. A SPINDLE WAS FOUND AT THE INTERSECTION. A SPINDLE WAS FOUND AT THE INTERSECTION. A SPINDLE WAS FOUND AT THE INTERSECTION. A SPINDLE WAS FOUND AT THE INTERSECTION.

A 1" PIPE WITH "M&M" IDENTIFICATION CAP WAS FOUND AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16. THIS MONUMENT CORRELATED WELL WITH RECORD DIMENSIONS, AND WAS CALLED FOR ON PREVIOUS MARGACH SURVEY. A CONTROLLING MONUMENT WAS HELD AS A CONTROLLING MONUMENT.

THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16 HAS ESTABLISHED ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER ESTABLISHED BETWEEN THE SPINDLE AND THE RECORD LOCATION OF A SPINDLE AT THE NORTHEAST AND NORTHWEST CORNERS OF THE SOUTHWEST QUARTER, RESPECTIVELY, AND HOLDING A 3/4" REBAR WITH "MEYER" IDENTIFICATION CAP FOUND 30.94 FEET SOUTH OF THIS CORNER AT THE EAST-EAST LOCATION.

A 3/4" PIPE WAS FOUND AT THE SOUTHWEST CORNER OF THE SUBJECT PROPERTY. THIS MONUMENT CORRELATED EXTREMELY WELL WITH RECORD DIMENSIONS, APPEARED TO BE LONG STANDING, AND WAS HELD AS A CONTROLLING MONUMENT.

A 1/2" REBAR WAS FOUND AT THE SOUTHWEST CORNER OF THE SUBJECT PROPERTY. THIS MONUMENT WAS CALLED FOR ON PREVIOUS MARGACH SURVEY, CORRELATED WELL WITH RECORD DIMENSIONS, AND WAS HELD AS A CONTROLLING MONUMENT.

A 3/8" REBAR WAS FOUND NEAR THE INTERSECTION OF THE APPARENT SOUTH 50 FOOT RIGHT OF WAY LINE OF HIVELEY AVENUE AND THE EAST LINE OF THE SUBJECT PROPERTY. THIS MONUMENT CORRELATED WELL WITH RECORD DIMENSIONS, AND WAS HELD AS A CONTROLLING MONUMENT IN THE EAST-WEST DIRECTION.

A 3/4" PIPE WITH "M&M" IDENTIFICATION CAP WAS FOUND AT THE NORTHEAST CORNER OF THE 50 FOOT DEED OVERLAP. THIS CORNER WAS CALLED FOR IN PREVIOUS MARGACH SURVEY, AND WAS HELD AS A CONTROLLING MONUMENT IN THE NORTH-SOUTH DIRECTION.

DISCREPANCIES IN RECORD DESCRIPTIONS AND/OR PLATS. THERE IS A 50 FOOT DEED OVERLAP BETWEEN TRACT II OF THE SUBJECT PROPERTY AND THE SOUTH ADJOINING PROPERTY OWNED BY THE CITY OF ELKHART. THIS OVERLAP HAS ALSO SHOWN ON PREVIOUS SURVEY BY MARGACH. THE MARGACH SURVEY SHOWS THIS STRIP BEING OWNED BY THE CITY OF ELKHART. OWNERSHIP OF THIS AREA IS UNCERTAIN. A CHAIN OF TITLE FOR BOTH THE SUBJECT PROPERTY AND SOUTHERN ADJOINING PROPERTY IS NEEDED TO TRACE BACK OWNERSHIP TO WHEN THE PARCELS WERE CREATED TO DETERMINE WHO OWNS THIS PROPERTY.

DISCREPANCIES IN LINES OF OCCUPATION AND/OR POSSESSION. THE 50 FOOT DEED OVERLAP AREA IS NOT OWNED BY THE SUBJECT PROPERTY, THEN THE TWO APARTMENT BUILDINGS, SHEP, ASPHALT PAVEMENT, CONCRETE SIDEWALK, AND ELECTRIC TRANSFORMER ENCROACH ONTO THE SOUTH ADJOINING PROPERTY AS SHOWN.

THE HOOD FENCE NEAR THE WESTERN PORTION OF THE SUBJECT PROPERTY APPEARS TO BENEFIT, AND LIES WITHIN THE SUBJECT PROPERTY.

NO OTHER SIGNIFICANT DISCREPANCIES WERE FOUND IN LINES OF OCCUPATION DURING THE COURSE OF LAND SURVEYING FIELD OPERATIONS.

THEORY OF LOCATION. THE BOUNDARIES OF THE LANDS OF RIDGEMOOD I GARDENS, LP AS RECORDED IN DOCUMENT NUMBER 2021-14009 WITHIN THE OFFICE OF RECORDER OF ELKHART COUNTY, INDIANA ARE DEPENDENT ON THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 31 NORTH, RANGE 5 EAST, ELKHART COUNTY, INDIANA.

THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 16, BEING ONE AND THE SAME AS THE NORTH LINE OF THE SUBJECT PROPERTY, WAS ESTABLISHED ALONG THE SPINDLE FOUND AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 16.

THE EAST LINE OF THE SOUTHWEST QUARTER WAS ESTABLISHED BETWEEN THE SPINDLE FOUND AT THE NORTHEAST CORNER AND THE HARRISON MONUMENT FOUND AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 16.

THE SOUTH LINE OF THE SOUTHWEST QUARTER WAS ESTABLISHED AS A LINE BETWEEN THE HARRISON MONUMENTS FOUND AT THE SOUTHWEST AND SOUTHWEST CORNERS OF THE SOUTHWEST QUARTER OF SECTION 16.

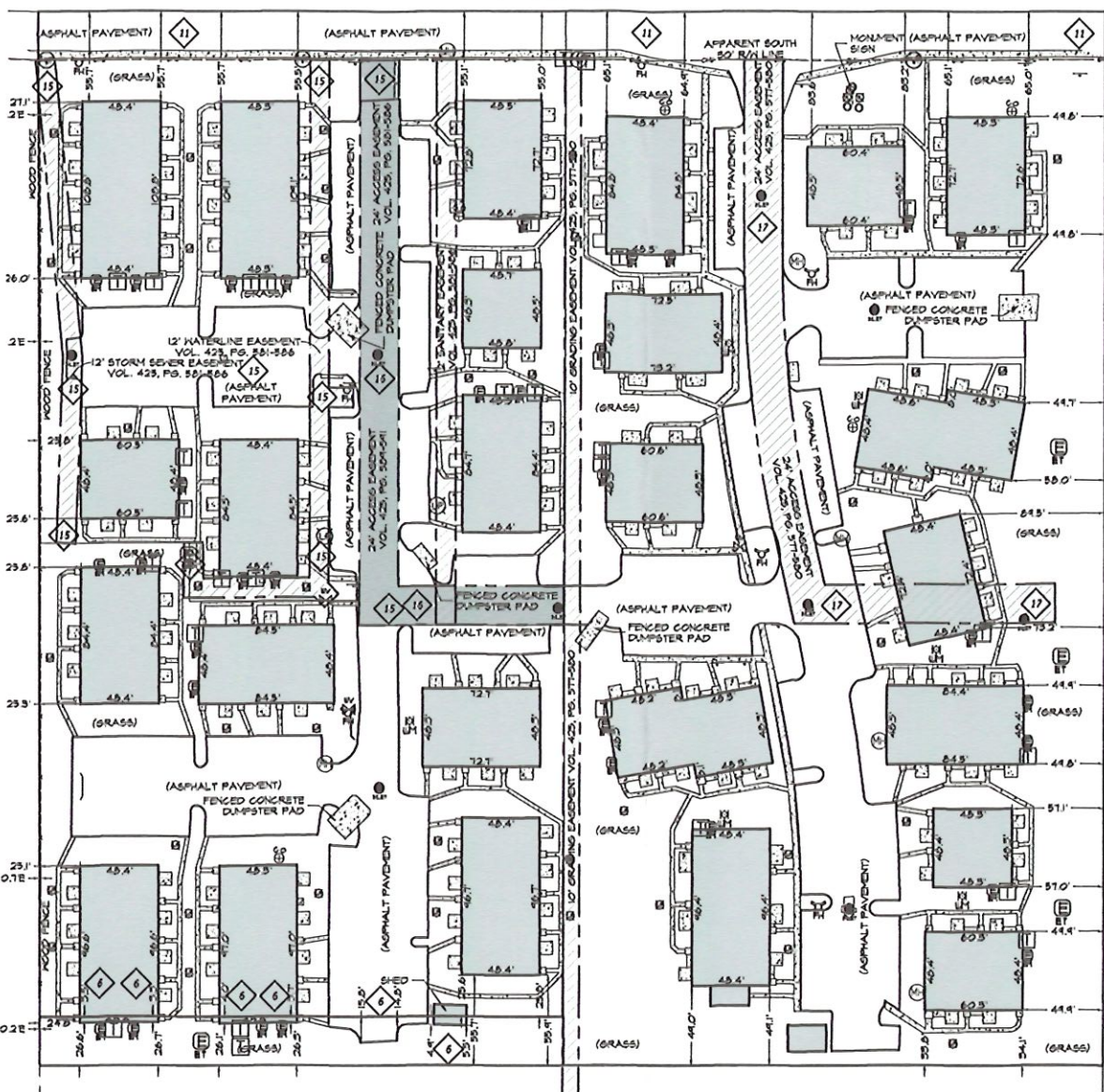
THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, BEING ONE AND THE SAME AS THE WEST LINE OF THE SUBJECT PROPERTY, WAS ESTABLISHED AS A LINE BETWEEN THE 1" PIPE WITH "M&M" IDENTIFICATION CAP FOUND AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE 3/8" REBAR WITH "MEYER" IDENTIFICATION CAP FOUND NEAR THE INTERSECTION OF THE WEST LINE OF THE SUBJECT PROPERTY AND THE APPARENT 50 FOOT SOUTHERN RIGHT OF WAY LINE OF HIVELEY AVENUE. THIS LINE HAS THEN EXTENDED NORTH TO THE PREVIOUSLY ESTABLISHED NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 16.

THE EAST LINE OF THE SUBJECT PROPERTY WAS ESTABLISHED AS A LINE BETWEEN THE 3/4" REBAR FOUND NEAR THE INTERSECTION OF THE APPARENT 50 FOOT SOUTHERN RIGHT OF WAY LINE AND THE EAST LINE OF THE SUBJECT PROPERTY, AND THE 3/4" PIPE FOUND AT THE SOUTHWEST CORNER OF THE SUBJECT PROPERTY. THIS LINE HAS THEN EXTENDED NORTH TO THE PREVIOUSLY ESTABLISHED NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 16.

THE SOUTH LINE OF THE SUBJECT PROPERTY WAS ESTABLISHED AS A LINE BETWEEN THE 3/4" PIPE FOUND AT THE SOUTHWEST CORNER OF THE SUBJECT PROPERTY AND THE 1/2" REBAR FOUND AT THE SOUTHWEST CORNER OF THE SUBJECT PROPERTY.

THE NORTH LINE OF THE PARCEL OVERLAP WAS ESTABLISHED AS A LINE BEGINNING AT THE 3/4" PIPE FOUND AT THE NORTHEAST CORNER OF THIS OVERLAP, RUNNING WEST, PARALLEL TO THE PREVIOUSLY ESTABLISHED SOUTH LINE OF THE SUBJECT PROPERTY, TO THE PREVIOUSLY ESTABLISHED WEST LINE OF THE SUBJECT PROPERTY.

HIVELEY AVENUE



Easements & Improvements Detail SCALE: 1" = 50'

Schedule B - Section II Exceptions

- 1 PUBLIC OR PRIVATE EASEMENTS, OR CLAIMS OF EASEMENTS, NOT SHOWN BY THE PUBLIC RECORD. (NONE FOUND)
2 ANY ENCROACHMENT, ENCUMBRANCE, VIOLATION, VARIATION, OR ADVERSE CIRCUMSTANCE AFFECTING THE TITLE THAT WOULD BE DISCLOSED BY AN ACCURATE AND COMPLETE LAND SURVEY OF THE LANDS. THE TERM ENCROACHMENT INCLUDES ENCROACHMENTS OF EXISTING IMPROVEMENTS LOCATED ON THE LAND ADJOINING LAND, AND ENCROACHMENTS ONTO THE LAND OF EXISTING IMPROVEMENTS LOCATED ON ADJOINING LAND. THERE IS A 50 FOOT DEED OVERLAP BETWEEN TRACT II OF THE SUBJECT PROPERTY AND THE SOUTH ADJOINING PROPERTY OWNED BY THE CITY OF ELKHART. THIS OVERLAP HAS ALSO SHOWN ON PREVIOUS SURVEY BY MARGACH. THE MARGACH SURVEY SHOWS THIS STRIP BEING OWNED BY THE CITY OF ELKHART. OWNERSHIP OF THIS AREA IS UNCERTAIN. A CHAIN OF TITLE FOR BOTH THE SUBJECT PROPERTY AND SOUTHERN ADJOINING PROPERTY IS NEEDED TO TRACE BACK OWNERSHIP TO WHEN THE PARCELS WERE CREATED TO DETERMINE WHO OWNS THIS PROPERTY.
IF THE 50 FOOT DEED OVERLAP AREA IS NOT OWNED BY THE SUBJECT PROPERTY, THEN THE TWO APARTMENT BUILDINGS, SHEP, ASPHALT PAVEMENT, CONCRETE SIDEWALK, AND ELECTRIC TRANSFORMER ENCROACH ONTO THE SOUTH ADJOINING PROPERTY AS SHOWN.
3 NO TITLE IS INSURED TO ANY LAND LYING IN THE BED OF EAST HIVELEY AVENUE AND PRAIRIE STREET, ABUTTING, ADJOINING, PASSING THROUGH OR CROSSING THE PREMISES HEREIN. (THERE IS AN APPARENT 50 FOOT SOUTHERN RIGHT OF WAY OF HIVELEY AVENUE, HOWEVER NO RIGHT OF WAY TAKE DOCUMENTS HAVE BEEN PROVIDED TO INDICATE THAT THIS RIGHT OF WAY HAS EVER TAKEN FIVE FEET. THEREFORE THE NORTH LINE OF THE SUBJECT PROPERTY HAS ESTABLISHED ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 16.)
4 CABLE EASEMENT GRANTED TO HERITAGE CABLEVISION ASSOCIATES RECORDED MAY 4, 1984 IN VOLUME 1600 PAGE 1717. (BLANKET EASEMENT FOR CABLE TELEVISION FACILITIES OVER TRACT I)
5 CABLE EASEMENT GRANTED TO HERITAGE CABLEVISION ASSOCIATES RECORDED MAY 4, 1984 IN VOLUME 1600 PAGE 481. (BLANKET EASEMENT FOR CABLE TELEVISION FACILITIES OVER TRACT I)
6 UTILITY EASEMENT GRANTED TO GENERAL TELEPHONE COMPANY OF INDIANA, INC. RECORDED AUGUST 28, 1984 IN VOLUME 441 PAGE 24. (BLANKET UTILITY EASEMENT OVER TRACT I)
7 WATER LINE SANITARY SEWER, STORM SEWER AND ROADWAY EASEMENTS CONTAINED IN DEED OF EASEMENT GRANTED TO RIDGEMOOD APARTMENTS OF ELKHART, II, LIMITED PARTNERSHIP RECORDED AUGUST 15, 1988 IN VOLUME 423 PAGE 581. (2' WATER LINE EASEMENT LIES WITHIN TRACT II AND III AS SHOWN. 12" SANITARY SEWER EASEMENT LIES WITHIN TRACT III AS SHOWN. 12" STORM SEWER EASEMENT LIES WITHIN TRACT III AS SHOWN. 24" ACCESS EASEMENT LIES WITHIN TRACT III AS SHOWN.)
8 INGRESS, EGRESS AND UTILITY EASEMENT CONTAINED IN DEED OF EASEMENT GRANTED TO RIDGEMOOD APARTMENTS OF ELKHART, II, LIMITED PARTNERSHIP RECORDED AUGUST 15, 1988 IN VOLUME 423 PAGE 584. (24" ACCESS EASEMENT LIES WITHIN TRACT II AS SHOWN. DRIVE ACCESS EASEMENT AS DISCUSSED IN EXCEPTION B ABOVE.)
9 DEED OF EASEMENT GRANTED TO RIDGEMOOD APARTMENTS OF ELKHART, II, LTD. AND RIDGEMOOD APARTMENTS OF ELKHART, II, LIMITED PARTNERSHIP RECORDED AUGUST 15, 1988 IN VOLUME 423 PAGE 577. (24" ACCESS EASEMENT LIES WITHIN TRACT I AS SHOWN. 10 FOOT GRASSY EASEMENT LIES WITHIN TRACT I AS SHOWN. THE 24" ACCESS EASEMENT RUNS THROUGH ONE OF THE APARTMENT BUILDINGS AS SHOWN.)
10 DISTRIBUTION EASEMENT FOR TRANSMISSION OF ELECTRICAL ENERGY GRANTED TO INDIANA MICHIGAN ELECTRIC COMPANY RECORDED DECEMBER 23, 1986 IN VOLUME 424 PAGE 122. (THE DOCUMENT NOTES THAT THE FACILITIES TO BE CONSTRUCTED UNDER THE TERMS OF THE EASEMENT ARE TO BE LOCATED AS SHOWN ON INDIANA MICHIGAN ELECTRIC COMPANY DRAWING NO. RHE 2094 DATED 4-18-86. A COPY OF THIS DRAWING HAS NOT PROVIDED.)

SCHEDULE B SECTION II EXCEPTIONS NOT LISTED ARE NOT A MATTER OF SURVEY

ForeSight Consulting, LLC
Professional Engineers & Surveyors
1910 St. Joe Center Road, Suite #51
Fort Wayne, Indiana 46825
260.484.9900 phone
260.484.9980 fax
www.1-816-biz



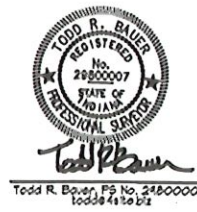
PERFORMED FOR:
ALTA/NSPS LAND TITLE SURVEY FOR:
Ridgewood Apartments
2729 Ridgewood Drive, Elkhart, IN 46517

ALTA/NSPS Land Title Survey General Notes:

- 1. THE LOCATION AND DIMENSIONS OF ALL BUILDING STRUCTURES ON THE FACE OF THIS SURVEY (IF APPLICABLE) ARE NOT INTENDED FOR STRUCTURAL DESIGN.
2. UTILITIES DEPICTED ON THE WITHIN PLAT OF SURVEY HERE LOCATED FROM ABOVE-GROUND VISIBLE EVIDENCE AND APPURTENANCES. NO PRIVATE UTILITY LOCATION SERVICES WERE REQUESTED FOR THIS SURVEY. NO RECORD DOCUMENTS WERE PROVIDED FOR USE BY FORESIGHT CONSULTING, LLC FOR THE COMPLETION OF THIS SURVEY.
3. DISTURBING UNDERGROUND UTILITIES MAY RESULT IN SUBSTANTIAL PENALTIES AND DAMAGES FOR WHICH YOU WILL BE LIABLE. BEFORE DIGGING OR EXCAVATING ON YOUR PROPERTY YOU ARE REQUIRED TO CHECK FOR THE PRESENCE OF UTILITIES BY CALLING 1-800-4-A-UTILITY. ADDITIONAL UTILITIES MAY NOT BE INCLUDED IN THE ONE-CALL UTILITY LOCATION SERVICE AND IT IS YOUR ADDITIONAL RESPONSIBILITY TO CONTACT EACH OF THESE UTILITY PROVIDERS.
4. THE PROFESSIONAL SERVICES PROVIDED DO NOT INCLUDE AND SHOULD NOT BE CONSTRUED TO BE AN OPINION OF THE TITLE. RECORD DOCUMENT RESEARCH PERFORMED AS PART OF THE SURVEY PROCESS DOES NOT SUBSTITUTE FOR A TITLE SEARCH AND A TITLE SEARCH BY A TITLE INSURANCE PROVIDER.
5. STEWART TITLE GUARANTY COMPANY TITLE COMMITMENT ISSUED BY HATERSIDE TITLE AGENCY, LP AS FILE NUMBER NTHN174350A WITH AN EFFECTIVE DATE OF JUNE 14, 2022 HAS BEEN UTILIZED AND RELIED UPON FOR THE PURPOSE OF COMPLETING THIS ALTA/NSPS LAND TITLE SURVEY.
6. THE LAND DESCRIBED IN THE SURVEY IS THE SAME AS DESCRIBED IN THE TITLE INSURANCE COMMITMENT.
7. THERE ARE NO PARTY WALLS OR VISIBLE ENCUMBRANCES ON THE SUBJECT PROPERTY BY STREETS, ALLEYS OR BUILDINGS, STRUCTURE OR OTHER IMPROVEMENTS SITUATED ON ADJOINING PROPERTY, EXCEPT AS SHOWN ON THIS SURVEY.
8. NO PROPOSED CHANGES TO STREET RIGHT OF WAY LINES WERE FOUND OR PROVIDED THIS SURVEY.
9. AT THE TIME OF FIELD SURVEYING OPERATIONS NO VISIBLE EVIDENCE OF SIGNIFICANT EARTH MOVING OR DISTURBING WORK WAS OBSERVED WITHIN THE BOUNDARIES OF THE SUBJECT PROPERTY.
10. THE ASPHALT PAVEMENT ON THE SUBJECT PROPERTY WAS IN POOR CONDITION. THE STRIPING WAS EXTREMELY FAINT IN ALL AREAS, IF VISIBLE AT ALL, AND WAS NOT CLEAR ENOUGH TO ACCURATELY LOCATE.

Professional Surveyor's Certification

TO, RIDGEMOOD ELKHART LLC; RIDGEMOOD I GARDENS, LP; STEWART TITLE GUARANTY COMPANY; HATERSIDE TITLE AGENCY, LP; AND UICREDIT UNION.
THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MICHIGAN STANDARD REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 7A, 8, 9, 11, 12, 16, 17, 18, AND 19 OF TABLE A THEREOF. THE FIELDWORK WAS COMPLETED ON JULY 14TH, 2022.
DATE OF PLAT OR MAP: JULY 25TH, 2022
BY: TODD R. BAUER, PS - INDIANA PROFESSIONAL SURVEYOR
COMMISSION NUMBER: 223401
RENEWAL MANAGEMENT DATE OF FIELDWORK: JULY 6TH, 15TH, 16TH, 2022
IN WITNESS WHEREOF, I HEREBY TO PLACE MY HAND AND SEAL, THIS 25TH DAY OF JULY, 2022.
CERTIFICATION AND DECLARATION IS MADE TO THE ORIGINAL PURCHASER OF THE SURVEY AND IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. THIS SURVEY IS VALID ONLY WITH THE SURVEYOR'S ORIGINAL OR ELECTRONIC SIGNATURE AND SEAL, FULL PAYMENT OF INVOICE, AND COMPLETE WITH ALL PAGES OF THE SURVEY DOCUMENTS.
I AFFIRM UNDER THE PENALTIES FOR FALSIFYING THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.



Commission Number 223409
Date July 25th, 2022
Title
Sheet Number S1.2 SHEET 2 OF 2





# Staff Report

## Planning & Zoning

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**Petition:** 24-X-04

**Petition Type:** Special Exception

**Date:** Plan Commission: June 3, 2024; Board of Zoning Appeals June 13, 2024:

**Petitioner:** Malik Enterprise, LLC

**Site Location:** 1710 Leer Drive

**Request:** A Special Exception per Section 13.3, Special Exception Uses in the B-3, Service Business District, to allow for a Trade School.

**Existing Zoning:** PUD, Planned Unit Development – B-3 standards

**Size:** +/- 0.16 Acres

**Thoroughfares:** Leer Drive

**School District:** Elkhart Community Schools

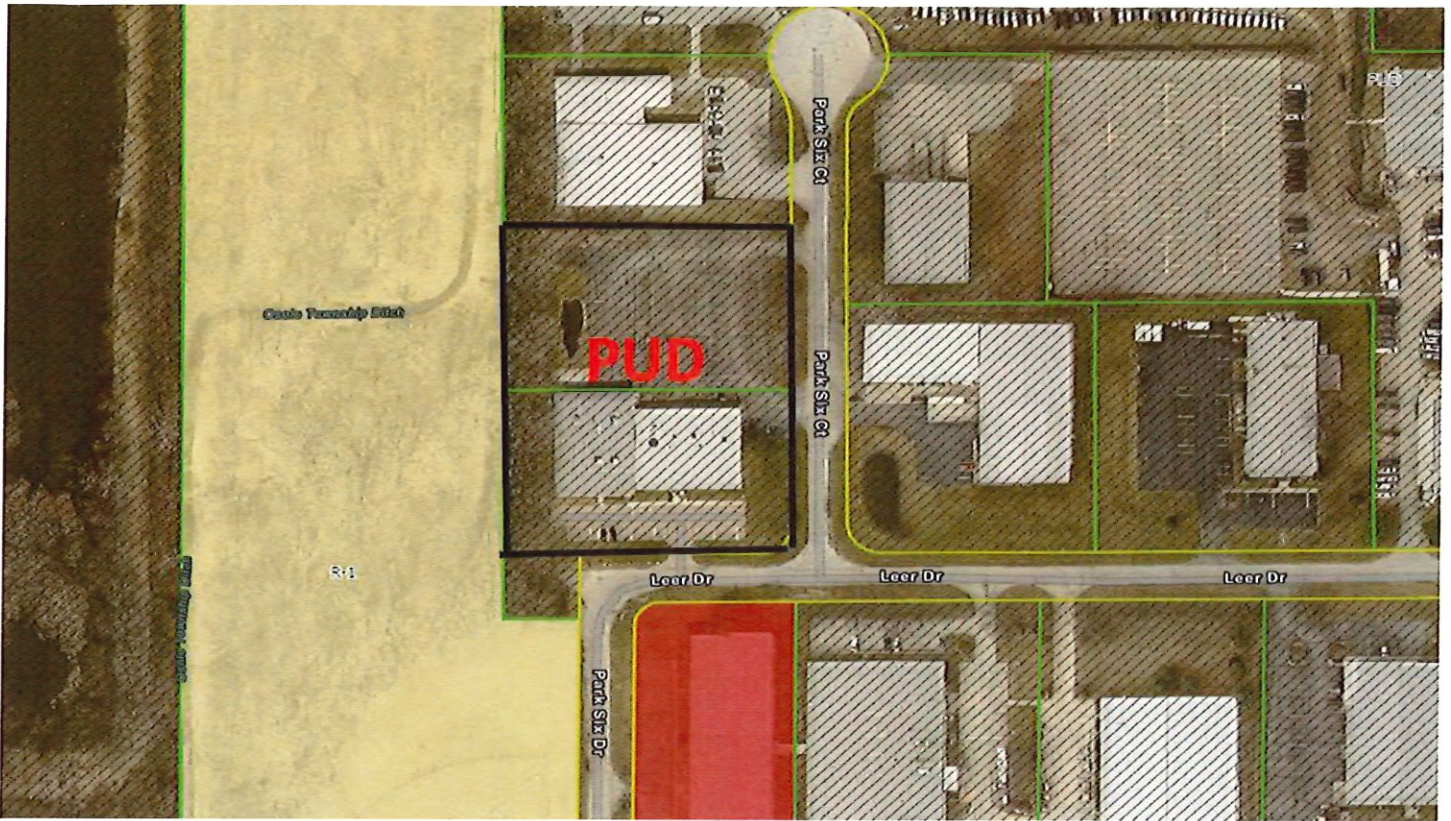
**Utilities:** Available to site.

**Surrounding Land Use & Zoning:**  
The properties to the north, south, east, and west are all zoned Planned Unit Development.

**Applicable Sections of the Zoning Ordinance:**  
Enumerated in request.

**Comprehensive Plan:**  
The Comprehensive Plan calls for this area to be developed with a mix of commercial and industrial uses.

**Plan Commission Action:** Recommendation to Board of Zoning Appeals.



## Staff Analysis

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The petitioners are submitting an application to establish a trade school at 1710 Leer Drive in the Park Six Industrial Park. Trade schools are a special exception use.

The building was most recently used as a home medical equipment facility. The request as a trade school works well for the area along County Road 6, in an area largely populated with industrial users that would benefit from skilled workers completing the program. Based on information provided with the petition, the school is affiliated with Vincennes University and is accredited by NCCER, the National Center for Construction Education and Research.

# Recommendation

---

Staff recommends approval of the request based on the following findings of fact:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare **will be** protected;
2. The Special Exception **will not** reduce the values of other properties in its immediate vicinity because there will be no exterior changes to the existing building;
3. The Special Exception **shall** conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

# Conditions

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If the Board chooses to approve the requested special exception, staff recommends that the following conditions be placed upon the approval:

1. Any/all necessary permits be obtained from the Building Department for interior renovations prior to occupancy.

# Photos

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PETITION #: 24-X-04

FILING FEE: \$ 300

### PETITION for APPEAL to the BOARD of ZONING APPEALS

#### PETITION TYPE: SPECIAL EXCEPTION

Property Owner(s): Malik Enterprise LLC,

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: Crystal Welsh Abonmarche

Mailing Address: 303 River Race Drive, Goshen, IN 46526

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 1710 Leer Drive, Elkhart, In 46514

Zoning: Park Six PUD District with B-3 zoning standards

Present Use: Serenity Home Medical Equipment Proposed Use: Trade School and Office

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Alessandra Malik, Member of Malik Enterprise LLC.

SIGNATURE(S): *Alessandra Malik* DATE: 5/1/2024

#### STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): \_\_\_\_\_

Map #: \_\_\_\_\_ Area: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

**AFFIDAVIT IN SUPPORT OF SPECIAL EXCEPTION PETITION**

I, Alessandra Malik, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my special exception petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at \_\_\_\_\_ Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 1 day of May, 2024.

Alessandra Malik  
Printed: Alessandra Malik

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

Alessandra Malik  
Printed: Alessandra Malik

STATE OF INDIANA )  
 ) SS:  
COUNTY OF ELKHART )

Before me the undersigned, a Notary Public in and for the State of <sup>michigan</sup> ~~Indiana~~, personally appeared Alessandra Malik, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 1 day of May, 2024.

FIDEL MIRELES JR.  
Notary Public, State of Michigan  
County of Berrien  
My Commission Expires Jun. 11, 2025  
Acting in the County of St. Joseph

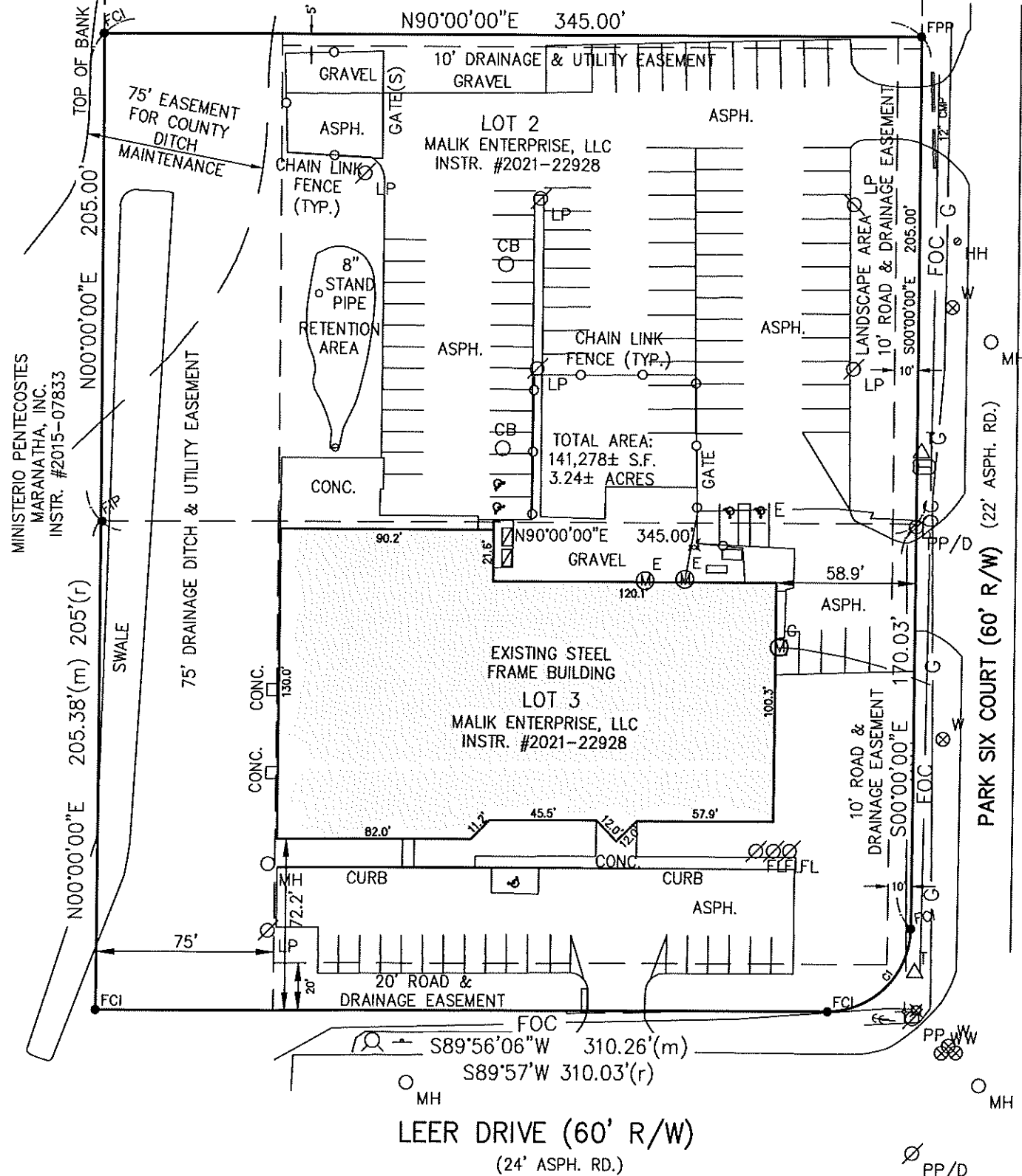
Fidel Mireles Jr.  
Printed: Fidel Mireles Jr.

My Commission Expires:  
6-11-25

Notary Public in and for the State of <sup>michigan</sup> ~~Indiana~~  
Resident of Berrien County, ~~Indiana~~ <sup>MICHIGAN</sup>

# SPECIAL EXCEPTION EXHIBIT

REPLAT PARK SIX P.U.D.  
 PLAT BOOK 17, PAGE 21  
 LOT 1  
 MILLER/HALL INVESTMENTS, INC.  
 INSTR. #2001-38234



## LEGAL DESCRIPTION

### PARCEL 1:

LOT NUMBER THREE (3), AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED REPLAT PARK SIX P.U.D. IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 17, PAGE 21 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

### PARCEL 2:

LOT NUMBER TWO (2), AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED REPLAT PARK SIX P.U.D. IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 17, PAGE 21 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

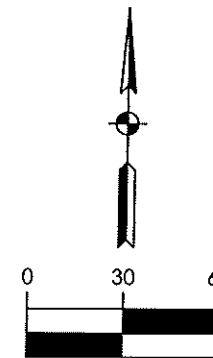
PARCEL NUMBER: 20-02-21-402-002.000-027 (LOT 2); 20-02-21-402-003.000-027 (LOT 3)

ADDRESS: 1710 LEER DRIVE, ELKHART, IN 46514

Curve #	Length	Radius	Delta	Tan
C1	54.95'	35.00'	89°57'	34.97'
C2	55.01'	35.00'	90°03'	35.03'

## LEGEND

- FIP FOUND IRON PIPE
- FCI FOUND CAPPED REBAR "ABONMARCHÉ 0050"
- FPP FOUND PINCHED PIPE
- ▭ AIR CONDITIONING
- ⊙ LP LIGHT POLE
- ⊙ PP POWER POLE
- ⊙ PP/D POWER POLE W/DROP
- ▭ MAILBOX
- GUY ANCHOR
- △ TELEPHONE PEDESTAL
- CB CATCH BASIN/INLET
- ⊙ E ELECTRIC METER
- ⊗ BURIED CABLE MARKER
- ⊙ FIRE HYDRANT
- (d) DEEDED VALUE
- (m) MEASURED VALUE
- + SIGNS
- ⊙ FL FLAG POLE
- ♿ HANDICAP PARKING
- ⊙ FL FLAG POLE
- MH MANHOLE
- ⊙ G GAS METER
- ▭ UTILITY TUB
- CHAIN LINK FENCE
- ASPH. ASPHALT
- CONC. CONCRETE
- ⊗ W WATER VALVE
- FOC — FIBER OPTIC LINE
- G — GAS LINE

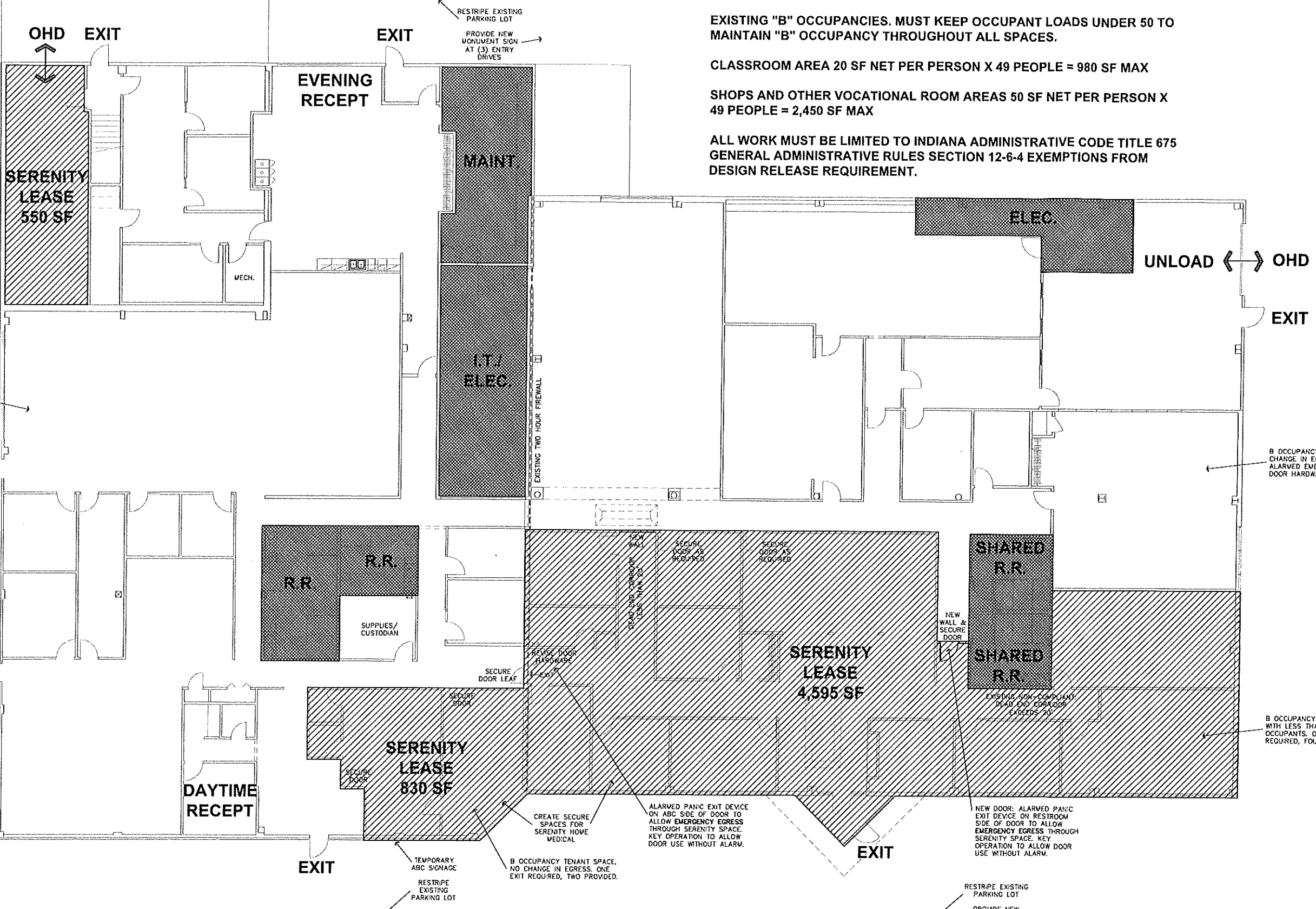


**ABONMARCHÉ**  
 303 River Race Drive, Unit 206  
 Goshen, IN 46526  
 T 574.533.9913  
 F 574.533.9911  
 abonmarche.com  
 Engineering, Architecture, Land Surveying  
 Hobart  
 Benton Harbor  
 Portage  
 South Haven  
 Grand Haven  
 Fort Wayne  
 Goshen

LOTS 2 & 3 IN REPLAT  
 PARK SIX P.U.D.

SPECIAL EXCEPTION  
 EXHIBIT

PROJECT: LOTS 2 & 3 IN REPLAT PARK SIX P.U.D.  
 SHEET TITLE: SPECIAL EXCEPTION EXHIBIT  
 DRAWN BY: TRM  
 DESIGNED BY:  
 PM REVIEW:  
 QA/QC REVIEW: CMW  
 DATE: 4/22/24  
 SCALE: HORZ: 1" = 60' VERT:  
 ACI JOB #: 24-0265  
 SHEET NO. 1 of 1



SHORT-TERM CONCEPT FOR:  
**ASSOCIATED BUILDERS  
 AND CONTRACTORS**  
 ELKHART, INDIANA  
 SCALE: 1/8" = 1'-0" ON 24X36 PAPER



# Staff Report

## Planning & Zoning

---

<b><u>Petition:</u></b>	24-FSP-04
<b><u>Petition Type:</u></b>	Final Site Plan
<b><u>Date:</u></b>	June 3, 2024
<b><u>Petitioner:</u></b>	EW Marine, Inc.
<b><u>Site Location:</u></b>	Lot 15 of Parkway at 17
<b><u>Request:</u></b>	As required by Section 20.7.B seeking approval for a Final Site Plan for a new 306 space parking lot on Lot 15 of the Parkway at 17 development. This lot is to serve the buildings at 1101 and 1115 Parkway Avenue.
<b><u>Existing Zoning:</u></b>	PUD, Planned Unit Development
<b><u>Size:</u></b>	+/- 2.52 acres
<b><u>Thoroughfares:</u></b>	Parkway Avenue
<b><u>School District:</u></b>	Middlebury Community Schools
<b><u>Utilities:</u></b>	Available and provided to site

### **Surrounding Land Use & Zoning:**

The property is surrounded by vacant land to the east and south with existing commercial buildings to the north and west. The land to the east is in Elkhart County. The zoning for the existing commercial buildings is PUD.

### **Applicable Sections of the Zoning Ordinance:**

Section 20.7.B – Final Site Plan

### **Comprehensive Plan:**

The Comprehensive Plan calls for the land to be developed with commercial uses.

**Plan Commission Action:** Approval or denial of request – with or without any additional conditions



## Staff Analysis

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The petitioner owns a 2.52 acre lot (Lot 15) in the Parkway at 17 development off County Road 17. The final site plan requested is a parking lot to serve the commercial buildings on the west side of Parkway Avenue. The plan calls for 173 spaces. These spaces are in addition to the 135 spaces that currently serve 1101 and 1115 Parkway Avenue.

The petitioner has indicated during Technical Review, they have not been able to secure tenants for 1101 and 1115 Parkway because of the lack of adequate parking. The potential users have been mainly corporate and medical.

Because the lot is across Parkway Avenue and not located at an intersection, additional safety mechanisms are proposed to be installed at the petitioner's expense. Additional signage and signals will be installed to alert autos of the potential for pedestrians entering the right of way. There will also be two painted cross walks that connect to sidewalks to move pedestrians from one side of the street to the other.

# Recommendation

---

The Staff recommends approval of the final site plan based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals and general welfare of the community;
2. The proposed use is permitted within the underlying zoning of the Planned Unit Development;
3. The project has passed the City's Technical Review process;
4. The use conforms to the Comprehensive Plan which calls for commercial uses;
5. The proposed use should not be detrimental to the property values of adjacent properties.



# Photos

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PETITION #: 24-FSP-04

FILING FEE: \$ 400

### PETITION to the PLAN COMMISSION

**PETITION TYPE: FINAL SITE PLAN**

Property Owner(s): EW Marine Inc.

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: Matt Schuster W/ JPR

Mailing Address: 325 S Lafayette Blvd., South Bend, IN 46601

Phone #: [REDACTED] Email: [REDACTED]

**Subject Property Address:** Lot 15 of Parkway at 17

Zoning: B3 PUD

Present Use: Vacant lot Proposed Use: Parking lot for 1101 &

1115 Parway Ave.

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Edward Wette

SIGNATURE(S): [Signature] DATE: 4/23/24

**STAFF USE ONLY:**

Staff Checklist for the applicant's submittal of a complete Petition to the Plan Commission docket:

- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property. (Optional)
- Any other information listed in the Instructions and Filing Procedure for this type of Petition.

Ordinance Requirement: Section(s): \_\_\_\_\_

Map #: \_\_\_\_\_ Area: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_



# Staff Report

Planning & Zoning

---

**Petition:** 24-SI-01  
**Petition Type:** Staff Item - Addressing  
**Date:** June 3, 2024  
**Petitioner:** City of Elkhart Planning & Zoning Department  
**Site Location:** City of Elkhart  
**Plan Commission Action:** Approval of proposed addresses for the City of Elkhart.

## Staff Analysis

---

The Planning and Zoning Department is requesting approval of the addresses that have been reserved for structures in the City of Elkhart.

### Residential

None

### Commercial

2412 Benham Avenue          Readdress for Goodwill at Woodland Crossing Mall

### Residential Subdivision

None

## Recommendation

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Staff recommends that the Plan Commission assign the proposed addresses based on staff recommendation.



# Staff Report

## Planning & Zoning

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**Petition:** 24-ANX-03

**Petition Type:** Annexation Request

**Date:** June 3, 2024

**Petitioner:** Jenway Majestic, LC and Wrangler Real Estate, Inc.

**Site Location:** VL Vernon Avenue and VL Greenleaf Boulevard

**Request:** As prescribed by Section 29.11.B, a request to annex parts of four (4) vacant parcels located at east end of Vernon Avenue and land fronting Greenleaf Boulevard (3300 bl.), land containing approximately 2.64 acres.

**Parcel numbers -** Part of 20-02-35-351-017.000-026  
20-02-35-351-013.000-026  
20-02-35-351-014.000-026  
Part of 20-02-35-352-032.000-026

**Existing Zoning:** R-1, One Family Dwelling District (Elkhart County Zoning)

**Size:** +/- 2.64 Acres

**Thoroughfares:** Vernon Avenue and Greenleaf Boulevard

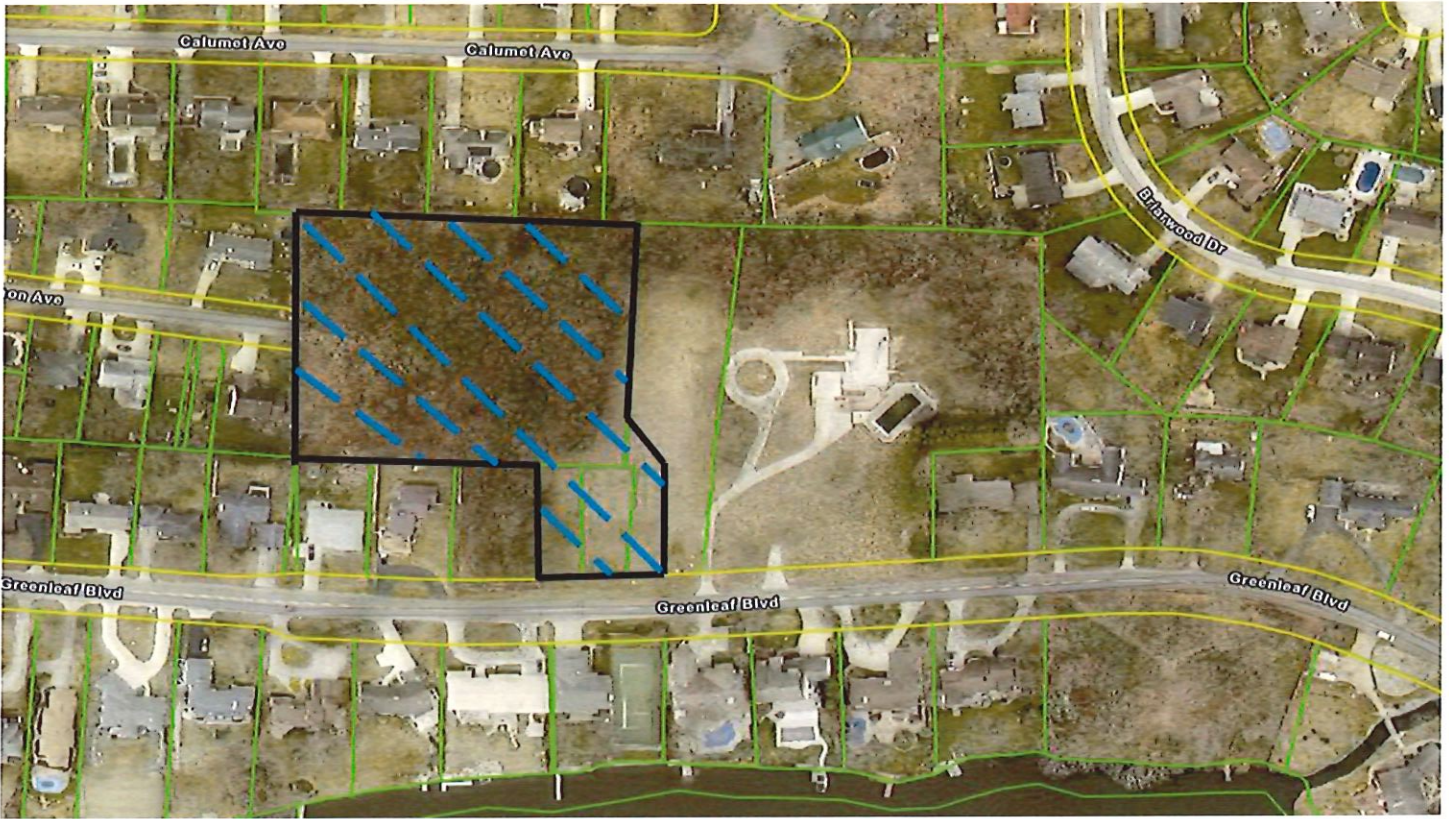
**School District:** Elkhart Community Schools

**Utilities:** Available to the site once extended by petitioner

**Surrounding Land Use & Zoning:**  
Surrounding properties are residential and zoned for residential uses.

**Applicable Sections of the Zoning Ordinance:**  
Section 29: Administration and Enforcement, 29.11 Amendments

**Comprehensive Plan:**  
The Comprehensive Plan does not take this area into account but is anticipated to call for the land to be developed with residential uses.



## Staff Analysis

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This staff report is being prepared for annexation 24-ANX-03 to annex approximately 2.64 acres of land in Osolo Township at the end of Vernon Avenue and vacant land adjacent on the north of Greenleaf Boulevard.

The land is currently zoned R-1, One Family Dwelling District and will remain the R-1 zoning after the annexation. The petitioner is proposing to construct seven (7) single family dwellings – six (6) homes in a newly built cul de sac at the end of Vernon Avenue. The seventh home will be accessed from Greenleaf.

This request will continue to add dwelling units which helps to reduce the housing deficit addressed and highlighted in the Zimmerman Volk study. The value of the proposed homes is conservatively valued at \$250,000 each, which is taken from the current assessed values in the adjacent neighborhood. It is anticipated, once construction begins, the values of the homes will be higher based on current market pricing.

Currently there is water and sewer available to the site which would be extended at the expense of the petitioner. The petitioner will also pay for the extension of Vernon Avenue as a part of this development project.

The annexation request is voluntary. The property meets the contiguity requirement in order to file a petition to seek annexation. The territory to be annexed is 33.82% contiguous to the current city limit, which more than the 12.5% contiguous to the current City limits as required in Indiana Code.

As identified in the Fiscal Plan prepared by Baker Tilly, the annexation will result in no capital costs for the City. The planned expenses will be minimal for street maintenance and trash and recycling services.

# Recommendation

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Staff recommends approval of the annexation as described in the Legal Description contained in the Petition based on the fact that it meets all applicable requirements of IC 36-4-3, and on the following findings of fact:

1. The area to be annexed meets all applicable requirements of IC 36-4-3-4(b);
2. The Comprehensive Plan map has not been approved for this area; it is anticipated that the revised map will designate its future land use as residential.
3. The current conditions and the character of current structures under construction and future structures is consistent and the City will be enhanced by the annexation;
4. The annexation is in accordance with the most desirable use;
5. The annexation will conserve property values throughout the jurisdiction; and
6. The annexation represents responsible growth and development of the City of Elkhart.

# Photos



# Attachments

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Petition, Legal Description, narrative, affidavit, site plan, and Fiscal Plan.



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**ANNEXATION FISCAL PLAN  
FOR THE  
CITY OF ELKHART**

**Greenleaf Boulevard Annexation**

**May 28, 2024**

*Prepared by:*



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## INTRODUCTION

The following fiscal plan (the "Fiscal Plan") is for the proposed annexation of parcels to the north, south, and east of the existing corporate limits on the east side of Elkhart (the "Annexation Area"). The Annexation Area is adjacent to the City of Elkhart (the "City"). The requirements of the Indiana Code mandate the development and adoption of a written fiscal plan and the establishment of a definite policy by resolution of the City Council. The Indiana Code 36-4-3-13(d) states that this fiscal plan must include and provide:

- 1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency;
- 2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants and other funding to be used;
- 3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin;
- 4) That planned services of a non-capital nature, including police protection, fire protection, street and road maintenance and other non-capital services normally provided within the corporate boundaries will be provided within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those non-capital services provided in areas within the corporate boundaries regardless of similar topography, patterns of land use and population density;
- 5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities and storm water drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use and population density and in a manner consistent with federal, state and local laws, procedures and planning criteria;
- 6) The estimated effect of the proposed annexation on taxpayers in each of the political subdivisions to which the proposed annexation applies, including the expected tax rates, tax levies, expenditure levels, service levels and annual debt service payments in those political subdivisions for four (4) years after the effective date of the annexation;
- 7) The estimated effect the proposed annexation will have on municipal finances, specifically how municipal tax revenues will be affected by the annexation for four (4) years after the effective date of the annexation;
- 8) Any estimated effects on political subdivisions in the county that are not part of the annexation and on taxpayers located in those political subdivisions for four (4) years after the effective date of the annexation; and

INTRODUCTION

- 9) A list of all parcels of property in the annexation territory and the following information regarding each parcel:
- (A) The name of the owner of the parcel.
  - (B) The parcel identification number.
  - (C) The most recent assessed value of the parcel.
  - (D) The existence of a known waiver of the right to remonstrate on the parcel.

This Fiscal Plan may include additional materials in connection with the foregoing. It was developed through the cooperative efforts of the City's various administrative offices and the City's financial advisors, Baker Tilly. This Fiscal Plan is the result of an analysis of the proposed Annexation Area.

The Annexation Area is contiguous to the City for the purposes of Indiana Code 36-4-3-1.5, and there is a written Fiscal Plan, herein provided, that has been approved by the City Council.

## SECTION I

### AREA DESCRIPTION

#### A. Location, Area Size and Contiguity

The proposed Annexation Area is located on the north, south, and east sides of the existing corporate boundaries on the east side of the City. A map and legal description of the area to be annexed has been included in attached Appendix II.

The Annexation Area is approximately 3 acres. The perimeter boundary of the Annexation Area is more than 12.5% contiguous to the existing corporate boundaries of the City.

#### B. Current Land Use

The Annexation Area consists of vacant land.

#### C. Zoning

Existing Zoning: Residential (R-1)

Proposed Zoning: Residential (R-1 District)

#### D. Current Population

The current population of the Annexation Area is estimated at 0, as there are no occupied homes within the Annexation Area.

#### E. Real Property Assessed Valuation

The estimated net assessed valuation for land and improvements in the Annexation Area is \$33,800. This represents the net assessed value as of January 1, 2023 for taxes payable 2024.

## SECTION II

### NON-CAPITAL SERVICES

#### A. Cost of Services

The current standard and scope of non-capital services being delivered within the City and the Annexation Area were evaluated by each municipal department to determine the personnel and equipment necessary to provide such non-capital services in a manner equivalent in standard and scope to services that are currently provided within the existing City's municipal boundary.

The City will provide all non-capital services to the Annexation Area within one (1) year after the effective date of the annexation in a manner equivalent in standard and scope to those non-capital services provided to areas within the City regardless of topography, patterns of land use, and population density.

#### B. Police Protection

The Elkhart County Sheriff's Department currently provides police protection and law enforcement services to the Annexation Area. However, all non-capital services of the Elkhart Police Department will be made available in the Annexation Area within 1 year of the effective date of this annexation and will be extended in a manner equivalent in standard and scope to the services provided to the other areas within the corporate boundaries of the City.

The City of Elkhart Police Department's primary purpose is the prevention of crime. The department is manned 24 hours per day, and it consists of over 100 officers. The Police Department consists of several divisions with many specialty units. For example, the patrol division includes a special response team, an explosive ordinance disposal unit, a dive team and a canine unit. The Police Department patrols within the boundaries of the City on a daily basis and responds to all alarm calls. In addition, the Police Department provides other services such as detection and apprehension of offenders, traffic control and preservation of civil order. The Police Department does not distinguish between different areas of the City. The same services are provided throughout the City. Due to the location and character of the Annexation Area, the City does not anticipate needing to hire additional officers as a result of the annexation. It is anticipated that an increase in fuel and vehicle maintenance will be necessary in the amount of approximately \$35 (plus inflation) per year as a result of the annexation. The Police Department's budget within the City's General Fund will fund any additional costs.

#### C. Fire Protection and Emergency Medical Services

The Annexation Area is currently served by the Osolo Township Fire Department. However, all non-capital services of the Elkhart Fire Department ("E.F.D.") will be made available in the Annexation Area within 1 year of the effective date of this annexation and will be extended in a manner equivalent in standard and scope to the services provided to the other areas within the corporate boundaries of the City.

## SECTION II

(Cont'd)

### NON-CAPITAL SERVICES

#### C. Fire Protection and Emergency Medical Services (Cont'd)

The E.F.D. serves within the corporate boundaries of the City and provides mutual aid to surrounding communities and townships, including the Annexation Area. The department consists of 1 chief, 1 assistant chief, 2 division chiefs, 2 chief inspectors, 3 battalion chiefs, 3 assistant battalion chiefs and over 100 additional firefighters, which includes 47 who are state certified paramedics. The firefighters staff 7 fire stations 24 hours per day, 365 days per year. Located within these stations, the department's active fleet of apparatus is comprised of 6 engines companies, 2 truck companies and 3 paramedic ambulances. The E.F.D. also has 3 reserve engines and 2 reserve ambulances for use in times of extreme emergency or when mechanical issues occur. The E.F.D. provides fire and emergency medical response services to citizens within the City limits. Due to the location and character of the Annexation Area, the E.F.D. does not anticipate needing to hire additional employees as a result of the annexation. Any increase in costs as a result of the annexation will be funded by the E.F.D.'s budget.

#### D. Communications Center

Any dispatch calls within the Annexation Area are currently handled by Elkhart County 9-1-1 Communications Center. Within the City, Elkhart Communications Center dispatches all Police, Fire and EMS calls within the City limits. The Center has at least three dispatchers on duty at all times. Dispatchers answer all incoming 9-1-1 calls within the City, all non-emergency and business lines, as well as several direct dial private lines. The Elkhart Communications Center does not anticipate any additional costs as a result of the annexation.

#### E. Street Maintenance

There are currently no streets within the Annexation Area for which the City will be responsible for maintenance; however, the addition of a new cul de sac will add an estimated 0.035 miles of streets to the City's road mileage. The City anticipates additional operating costs for supplies and repairs and maintenance of approximately \$200 (plus inflation) per year once the construction is complete. Regardless, all non-capital services of the Elkhart Street Department will be made available in the Annexation Area within 1 year of the effective date of the annexation and will be extended in a manner equivalent in standard and scope to the services provided to the other areas within the corporate boundaries of the City.

#### F. Trash Collection and Recycling

Elkhart County does not provide solid waste disposal to the Annexation Area. This service is provided to residents outside of the City by private firms. A comprehensive survey was not undertaken, but based on available information it appears as if private firms charge approximately \$60 or more per quarter for residential trash pick-up.

## SECTION II

(Cont'd)

### NON-CAPITAL SERVICES

#### F. Trash Collection and Recycling (cont'd)

Within 1 year of the effective date of this annexation, all non-capital services of the Elkhart Street and Public Works Departments, including trash collection, recycling, yard refuse and limb pick up, will be made available in the Annexation Area and will be extended in a manner equivalent in standard and scope to the services provided to the other areas within the corporate boundaries of the City. Any additional costs to the City will be offset by additional related revenues.

#### G. Storm Drainage

Storm water and drainage facilities throughout the Annexation Area will be consistent with the City's current storm water and drainage system throughout the City. The City and County have maintained their drainage areas very similarly, as the City is a part of the Greater Elkhart County Storm Water Partnership for which the Elkhart County Soil and Water Conservation District acts as supervisor. The City currently charges \$50 annually per ERU, which is collected through property taxes. Any future development in the area will have to have its storm water plan approved by the City engineer or the City's Department of Storm Water Management, and any associated storm water and drainage costs will be borne by the developers. All non-capital services of the Department of Storm Water Management will be made available in the Annexation Area within 1 year of the effective date of this annexation and will be extended in a manner equivalent in standard and scope to the services provided to the other areas within the corporate boundaries of the City.

#### H. Parks

There are currently nineteen community parks, ten neighborhood parks, one water park and one swimming pool within City limits. High Dive Park and McNaughton Park are both located along the river front and have amenities for tennis, hiking and fishing, as well as pavilions with full kitchens. Studebaker Park features a soccer field, tennis courts, a basketball court, a baseball diamond, a large multi-purpose field, playgrounds and trails for hiking. Ideal Beach is also part of the City's park system. It is a large, water park that contains a wading pool, water slide, swimming beach, sand volleyball court, miniature golf, a public boat ramp and concessions. The NIBCO Ice & Water Park is another featured destination of the Parks Department, with skate rentals, an outdoor ice path, picnic areas and concessions. It is anticipated that no additional parks will be added as a result of annexation, therefore there will be no additional costs to the City.

Nevertheless, all non-capital services of the Parks Department will be made available in the Annexation Area on the date the annexation becomes effective and will be extended in a manner equivalent in standard and scope to the services provided to the other areas within the corporate boundaries of the City.



SECTION II

(Cont'd)

NON-CAPITAL SERVICES

I. Street Lighting

Elkhart County does not provide street lights in the Annexation Area. After annexation, the City may approve street lighting on a case-by-case basis. If approved, the City pays all costs for installation and maintenance of streetlights. At this time, the City anticipates adding at least one streetlight within the Annexation Area with a cost that is currently unknown.

J. Building and Code Enforcement

The Building and Code Enforcement Department of the City of Elkhart is responsible for conducting building, electrical, plumbing, HVAC and structural inspections. It is anticipated that any additional costs associated with inspections in the Annexation Area will be offset by revenues from the associated building permits.

K. Governmental Administrative Services

The City does not anticipate that the addition of the Annexation Area will result in a demand for Governmental Administrative Services that cannot be met by the existing staffing of the City's offices, agencies and departments. All non-capital services of the administration of the City will be made available in the Annexation Area on the date the annexation becomes effective and will be extended in a manner equivalent in standard and scope to the services provided to the other areas within the corporate boundaries of the City.

The Governmental Administrative Services of the City include, but are not limited to, the services provided by the following:

- Mayor's Office
- City Council
- Redevelopment Commission
- Elkhart Environmental Center
- Economic Development Commission
- Finance Department
- Human Resources
- Planning and Zoning Department
- Emergency Management Department
- Information Technology Department

## SECTION III

### CAPITAL IMPROVEMENTS

#### A. Cost of Services

The Annexation Area was evaluated to determine the services and facilities required to provide the same type of services in the same manner as services that are currently provided within the existing City's corporate limits.

The City will provide the following capital services to the Annexation Area no later than three (3) years after the effective date of the annexation in the same manner as those capital services provided to areas within the City regardless of topography, patterns of land use and population density and in a manner consistent with federal, state and local laws, procedures and planning criteria. It is currently assumed that the annexation will be effective as soon as practically possible, but no later than December 31, 2024.

#### B. Water Service

The Annexation Area is not currently served. The Elkhart Municipal Water Utility provides water service in the immediately surrounding area and has the capacity and capability to provide service to the Annexation Area if and when connection is desired. It is anticipated that new customers will pay the applicable tap fee and water assessment charges. It is important to note that the Water Utility is a separate proprietary fund of the City that maintains separate books and records, and extensions in service are typically borne by the respective property owner or developer. Regardless, all capital services of the Water Department will be extended to the Annexation Area within 3 years of the effective date of this annexation in the same manner as those services are provided to areas inside the corporate limits and in a manner consistent with federal, state and local laws, procedures and planning criteria.

#### C. Wastewater Service

The Annexation Area is currently not served. The Elkhart Municipal Sewage Works provides wastewater service in the immediately surrounding area and has the capacity and capability to provide service to the Annexation Area if and when connection is desired. It is anticipated that new customers will pay the applicable tap fee and sewer assessment charges. It is important to note that the Sewage Works is a separate proprietary fund of the City that maintains separate books and records, and extensions in service are typically borne by the respective property owner or developer. Regardless, all capital services of the Wastewater Department will be extended to the Annexation Area within 3 years of the effective date of this annexation in the same manner as those services are provided to areas inside the corporate limits and in a manner consistent with federal, state and local laws, procedures and planning criteria.

## SECTION III

(Cont'd)

### CAPITAL IMPROVEMENTS

#### D. Storm Water and Drainage

Storm water and drainage facilities throughout the Annexation Area will be consistent with the City's current storm water and drainage system throughout the City. The City and County have maintained their drainage areas very similarly, as the City is a part of the Greater Elkhart County Storm Water Partnership for which the Elkhart County Soil and Water Conservation District acts as supervisor. The City currently charges \$50 annually per ERU, which is collected through property taxes. Any future development in the area will have to have its storm water plan approved by the City Engineer or the City's Department of Storm Water Management, and any associated storm water and drainage costs will be borne by the developers. Regardless, all capital services of the Department of Storm Water Management will be extended to the Annexation Area within 3 years of the effective date of this annexation in the same manner as those services are provided to areas inside the corporate limits and in a manner consistent with federal, state and local laws, procedures and planning criteria.

#### E. Street Construction

Construction of any new streets within the developments in the Annexation Area will be the responsibility of the appropriate developer in accordance with the applicable City Code. The existing streets within the Annexation Area are in very similar condition to existing City streets; it is not anticipated that any additional costs will be required to improve them to City standards. Regardless, all capital services of the Elkhart Street Department, including evaluation and construction services, will be extended to the Annexation Area within 3 years of the effective date of this annexation in the same manner as those services are provided to areas inside the corporate limits and in a manner consistent with federal, state and local laws, procedures and planning criteria.

## SECTION IV

### FISCAL IMPACT

As a result of this annexation, based on estimated assessed values as of January 1, 2024, the net assessed value for the City is anticipated to increase by \$33,800, or approximately 0.0009%. The net impact of increasing the City's net assessed value will result in additional property tax revenues to the City, which may be used to offset the cost of providing services to the Annexation Area.

It is assumed that the effective date of this annexation will be as soon as practically possible, but no later than December 31, 2024. Based on the assumed effective date, Annexation Area property owners will not pay property taxes to the City until 2025 payable 2026. However, the City will begin providing non-capital municipal services to the property owners within one (1) year after the effective date of the annexation, and it will begin providing capital municipal services to the property owners within three (3) years after the effective date of the annexation.

It is anticipated that there will be minimal additional costs to the City as a result of the annexation, which are discussed on prior pages.

It is anticipated that the City will realize an increase in its levy of approximately \$595 (\$576 net of circuit breaker) as a result of the annexation. However, the percentage increase in the levy will not exceed the percentage increase in the City's assessed value; therefore, there is not anticipated to be a tax rate increase as a direct result of this annexation. If there is a shortfall in revenue from the annexation, the services described in this plan can be provided using funds on hand.

Based on the assumed annual growth factors noted on page 12, the additional levy will be approximately \$621 (\$602 net of circuit breaker) in 2027, \$643 (\$624 net of circuit breaker) in 2028, and \$669 (\$650 net of circuit breaker) in 2029. The estimated additional property tax cap losses for the overlapping taxing units based on current assessed values will be minimal (less than \$10).

## SECTION V

### ASSUMED INDEBTEDNESS

As required by Indiana Code 36-4-3-10, the City will assume and pay any unpaid bonds or other obligations of Osolo Township existing at the effective date of the annexation of the Annexation Area in the same ratio as the assessed valuation of the property in the Annexation Area bears to the assessed valuation of all property in Osolo Township, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the City is already liable for the indebtedness.

Osolo Township currently has a fire truck loan with \$134,158 outstanding at an interest rate of 2.08%. Payments are due semi-annually on January 15th and July 15th and will be paid off on January 15, 2025. As a result of the annexation, the City will not be responsible for any the remaining loan payments because the City will not receive tax revenues from the Annexation Area until after the last debt service payment is made.

CITY OF ELKHART, INDIANA

*Greenleaf Boulevard Annexation*

**ESTIMATED ASSESSED VALUE AND TAX RATE IMPACT**

(Assumes first year of tax collections from Annexation Area is 2025 pay 2026)

<u>Assessment Year</u>	<u>Estimated Net Assessed Value of Annex. Area</u> (1)	<u>Estimated Net Assessed Value of City</u> (2)	<u>Total Est. Net Assessed Value of City</u> (3)	<u>Est. Property Tax Levy of City</u> (4),(5),(6)	<u>Total Est. Property Tax Rate</u> (7)
2023 Pay 2024	N/A	\$3,276,097,001	\$3,276,097,001	\$60,601,243	\$1.8498
2024 Pay 2025	N/A	3,439,901,851	3,439,901,851	62,955,509	1.8302
2025 Pay 2026	\$50,600	3,611,896,944	3,611,947,544	65,949,002	1.8259
2026 Pay 2027	1,800,600	3,792,491,791	3,794,292,391	68,768,690	1.8124
2027 Pay 2028	1,800,600	3,982,116,381	3,983,916,981	71,245,215	1.7883
2028 Pay 2029	1,800,600	4,181,222,200	4,183,022,800	74,086,922	1.7711

- (1) Based on the current net assessed value of the real property in the Annexation Area as gathered from the Elkhart County Assessor's office and an additional \$1,750,000 in estimated value of development in the Annexation Area. Per information provided by the City, we have assumed development will first be assessed in 2026 pay 2027.
- (2) Assumes the assessed value for the City of Elkhart, excluding the Annexation Area, grows at a rate of 5%.
- (3) Represents the net assessed value for the City, including the Annexation Area, used to calculate the tax rate.
- (4) Assumes controlled property tax levies increase by an annual growth factor as follows:

<u>Year</u>	<u>Controlled Levy Growth</u>
2024	4.0%
2025	3.9%
2026	4.8%
2027	4.3%
2028	3.6%
2029	4.0%

- (5) Assumes that the Park Bond levy remains constant. Also, assumes the CCD rate remains constant, which results in additional levy due to NAV growth.
- (6) Assumes the City receives an automatic increase in its levy equal to its percentage increase in net assessed value as a result of the annexation.
- (7) Based on the Est. Property Tax Levy of City divided by the Total Est. Net Assessed Value of City.

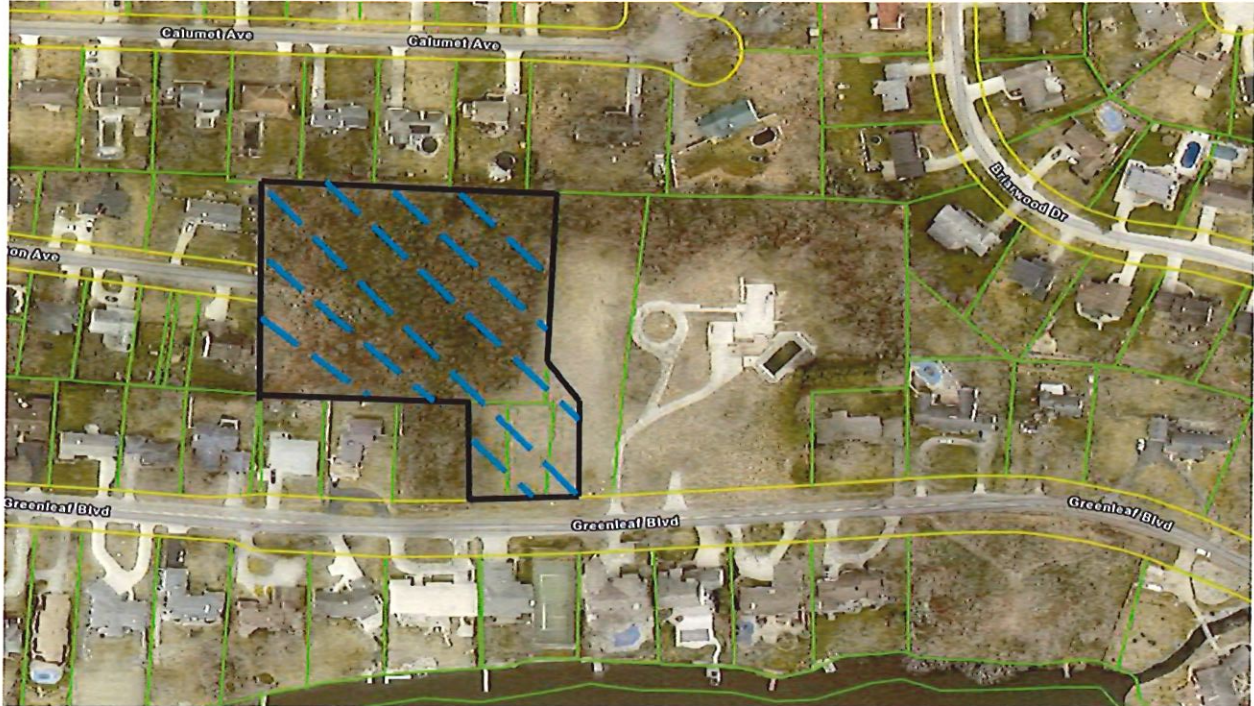
CITY OF ELKHART, INDIANA  
*Greenleaf Boulevard Annexation*

PARCEL LIST

<u>Parcel ID</u>	<u>Owner</u>	<u>'23 Pay '24 Net Assessed Value</u>	<u>Remonstrance Waiver</u>
20-02-35-351-017.000-026	Jenway Majestic LLC	\$ 19,300 *	No
20-02-35-351-014.000-026	Wrangler Real Estate Inc	15,900	No
20-02-35-352-032.000-026	Wrangler Real Estate Inc	<u>15,400 *</u>	No
	Total	<u>\$ 50,600</u>	

\*Based on the legal description, only a portion of the parcel is going to be annexed.

## Map of annexation area



### LEGAL DESCRIPTION:

A PART OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION THIRTY-FIVE (35), TOWNSHIP THIRTY-EIGHT (38) NORTH, RANGE FIVE (5) EAST, OSOLO TOWNSHIP, ELKHART COUNTY, STATE OF INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 474 IN BROADMOOR EXTENDED (ELKHART COUNTY PLAT BOOK 2, PAGE 65); THENCE NORTH  $01^{\circ}24'31''$  WEST ALONG THE EAST LINE OF SAID LOT 474 AND THE NORTHERLY EXTENSION THEREOF, 184.20 FEET TO THE SOUTHEASTERLY CORNER OF LAND CONVEYED TO MATTHEW STEWART AND MEGAN FERRIS (ELKHART COUNTY

INSTR, #2022-14727); THENCE NORTH  $01^{\circ}31'35''$  EAST ALONG THE EASTERLY LINE OF SAID STEWART/FERRIS LAND, 124.85 FEET TO THE SOUTHERLY LINE OF LOT 5 IN RUNYAN'S FIRST ADDITION (ELKHART COUNTY PLAT BOOK 7, PAGE 63); THENCE SOUTH  $88^{\circ}20'47''$  EAST ALONG THE SOUTH LINE OF LOTS 5, 6, 7 AND 8 IN SAID RUNYAN'S FIRST ADDITION, A DISTANCE OF 282.44 FEET TO A 5/8 REBAR WITH CAP STAMPED "ABONMARCHÉ 0050", THENCE SOUTH  $00^{\circ}44'13''$  EAST, 233.27 FEET TO A 5/8 REBAR WITH CAP STAMPED "ABONMARCHÉ 0050"; THENCE SOUTH  $69^{\circ}21'06''$  EAST, 139.61 FEET TO A 5/8 REBAR WITH CAP STAMPED "ABONMARCHÉ 0050;" THENCE SOUTH  $00^{\circ}44'13''$  EAST, 165.56 FEET TO A POINT ON THE NORTH LINE OF THE RIGHT OF WAY OF GREENLEAF BOULEVARD; THENCE SOUTH  $87^{\circ}26'45''$  WEST ALONG THE NORTH LINE OF SAID GREENLEAF BOULEVARD, 30.00 FEET; THENCE SOUTH  $02^{\circ}12'23''$  WEST ALONG THE LINE OF DEDICATED RIGHT OF WAY OF GREENLEAF BOULEVARD, 10.03 FEET TO THE NORTH LINE OF GREENLEAF BOULEVARD; THENCE SOUTHWESTERLY ALONG A 3274.11 FOOT RADIUS CURVE TO THE RIGHT, 99.51 FEET (CHORD BEARING SOUTH  $88^{\circ}35'37''$  WEST, CHORD DISTANCE 99.51 FEET) ALONG SAID NORTH LINE OF GREENLEAF BOULEVARD RIGHT OF WAY TO THE SOUTHEAST OF A PARCEL DEEDED TO GORDON & WENDY FROST IN INSTRUMENT #2020-17564; THENCE NORTH  $00^{\circ}44'13''$  WEST ALONG THE EAST LINE OF SAID FROST PARCEL,



154.63 FEET TO A 5/8 REBAR WITH CAP STAMPED "ABONMARCHE 0050" ON THE SOUTH UNE OF A PARCEL OF LAND DEEDED TO

JENWAY MAJESTIC, LLC (ELKHART COUNTY INSTR. #2022-09988); THENCE SOUTH 89°30'51" WEST ALONG THE SOUTH LINE OF SAID JENWAY MAJESTIC, LLC PARCEL, 238.66 FEET TO A 1/2 INCH IRON PIPE; THENCE NORTH 79°44'05" WEST ALONG SAID JENWAY MAJESTIC, LLC PARCEL, 47.40 FEET TO THE PLACE OF BEGINNING,

CONTAINING 2.64 ACRES, MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS, RESTRICTIONS, AND PUBLIC RIGHTS OF WAY OF RECORD.

PETITION #: 24-ANX-03

FILING FEE: \$ 200

### PETITION to the PLAN COMMISSION

**PETITION TYPE: ANNEXATION**

This action requires final approval from the Common Council

Property Owner(s): Jenway Majestic LLC & Wrangler Real Estate Inc

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: Abonmarche Consultants, Crystal Welsh

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

parts of 20-02-35-351-017.000-026, 20-02-35-351-014.000-026 & 20-02-35-352-032.000-026  
**Subject Property Address:** \_\_\_\_\_

Zoning: R-1

Present Use: Vacant Land Proposed Use: 7-lot residential subdivision

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Conway Hershberger

SIGNATURE(S): [Signature] DATE: 3/20/2024

**STAFF USE ONLY:**

Staff Checklist for the applicant's submittal of a complete Petition to the Plan Commission docket:

One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.

A completed Petition form signed by the legal owner of record (or approved representative).

\_\_\_\_\_ If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.

A full and accurate legal description of the property.

One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 25 copies must be submitted.

\_\_\_\_\_ Any other information listed in the Instructions and Filing Procedure for this type of Petition.

Ordinance Requirement: Section(s): \_\_\_\_\_

Map #: \_\_\_\_\_ Area: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_



March 28, 2024

To: Honorable Members of the City of Elkhart Plan Commission and City Council

The undersigned petitioner respectfully shows the Council and the Plan Commission:

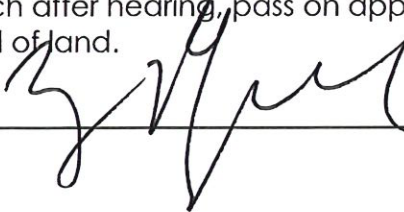
1. I, Conway Hershberger, as a Member of Jenway Majestic LLC and President of Wrangler Real Estate Inc., I am the owner of the following described real estate located within Osolo Township, Elkhart County, State of Indiana, to-wit:

parts of 20-02-35-351-017.000-026, 20-02-35-351-014.000-026 & 20-02-35-352-032.000-026,  
see attached legal description.

2. The above described real estate presently has a zoning classification of R-1 under the Elkhart County Zoning Ordinance.
3. Petitioner proposed to develop the above described property as a Single Family Residential Subdivision.
4. Petitioner desires to annex and rezone the said real estate to R-1 District under the City of Elkhart Zoning Ordinance for that purpose.
5. Petitioner has presented evidence to the City Engineer that the property to be annexed is contiguous to the City limits and therefore eligible for annexation.
6. Petitioner believes the annexation will be mutually beneficial because it will allow for the development of additional housing in the City jurisdiction. This development will help to reduce the documented housing shortage in the City of Elkhart. It will also allow for the development of these homes utilizing City of Elkhart Sanitary Sewer and Water which is preferred to private septic and well systems that could create unwanted environmental concerns in the area.

Wherefore, Petitioner prays and respectfully requests a hearing on this annexation request and that after such hearing, the Plan Commission make a do pass recommendation to the Council, which after hearing, pass on appropriate ordinance annexing the above described parcel of land.

Signature of Property Owner: \_\_\_\_\_



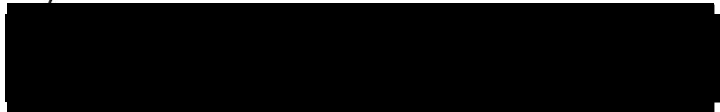
Printed Name: Conway Hershberger,  
Member of Jenway Majestic LLC and  
President of Wrangler Real Estate Inc.

Contact Person: Abonmarche Consultants

Name: Crystal Welsh

Address:

Phone number:



# Memo



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**To:** Eric Trotter, Assistant Director for Planning  
**From:** Timothy D. Reecer; Assistant Director of Public Works *TR*  
**Date:** April 4, 2024  
**Re:** Vernon Avenue - Annexation Contiguity

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The parcels identified the Annexation Exhibit for Vernon's Reserve have an approximate perimeter of 1,714.50 feet and a contiguous edge of approximately 580 feet. Based on these measurements the parcel in question is approximately 33.82% contiguous to the current City limits. This percentage exceeds the minimum requirement of 12.5% and is eligible for annexation.

Parcel ID	Current Assessed Value
Part of 20-02-35-351-017.000-026	\$ 19,300
20-02-35-351-014.000-026	\$ 15,900
Part of 20-02-35-352-032.000-026	\$ 15,400
Proposed 7-lot subdivision	Estimated Assessed Value
Lot 1	\$ 250,000
Lot 2	\$ 250,000
Lot 3	\$ 250,000
Lot 4	\$ 250,000
Lot 5	\$ 250,000
Lot 6	\$ 250,000
Lot 7	\$ 250,000
	\$ 1,750,000
based on surrounding properties and estimated construction costs	

, &

# ANNEXATION EXHIBIT VERNON'S RESERVE

A PART OF THE SOUTHWEST QUARTER OF SECTION 35,  
TOWNSHIP 38 NORTH, RANGE 5 EAST,  
OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA.  
OWNER: WRANGLER REAL ESTATE & JENWAY MAJESTIC, LLC  
TAX ID#: 20-02-35-351-017.000-026; 20-02-35-351-013.000-026  
20-02-35-351-014.000-026 AND PT. 20-02-35-352-032.000-026

### LEGAL DESCRIPTION-AREA TO BE ANNEXED

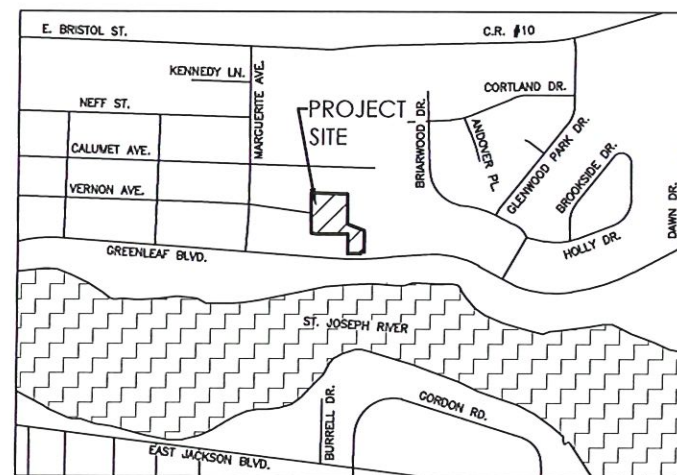
A PART OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION THIRTY-FIVE (35), TOWNSHIP THIRTY-EIGHT (38) NORTH, RANGE FIVE (5) EAST, OSOLO TOWNSHIP, ELKHART COUNTY, STATE OF INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 474 IN BROADMOOR EXTENDED (ELKHART COUNTY PLAT BOOK 2, PAGE 65); THENCE NORTH 01°24'31" WEST ALONG THE EAST LINE OF SAID LOT 474 AND THE NORTHERLY EXTENSION THEREOF, 184.20 FEET TO THE SOUTHEASTERLY CORNER OF LAND CONVEYED TO MATTHEW STEWART AND MEGAN FERRIS (ELKHART COUNTY INSTR. #2022-14727); THENCE NORTH 01°37'35" EAST ALONG THE EASTERLY LINE OF SAID STEWART/FERRIS LAND, 124.85 FEET TO THE SOUTHERLY LINE OF LOT 5 IN RUNYAN'S FIRST ADDITION (ELKHART COUNTY PLAT BOOK 7, PAGE 63); THENCE SOUTH 88°20'47" EAST ALONG THE SOUTH LINE OF LOTS 5, 6, 7 AND 8 IN SAID RUNYAN'S FIRST ADDITION, A DISTANCE OF 282.44 FEET TO A 5/8 REBAR WITH CAP STAMPED "ABONMARCHE 0050"; THENCE SOUTH 00°44'13" EAST, 233.27 FEET TO A 5/8 REBAR WITH CAP STAMPED "ABONMARCHE 0050"; THENCE SOUTH 69°21'06" EAST, 139.61 FEET TO A 5/8 REBAR WITH CAP STAMPED "ABONMARCHE 0050"; THENCE SOUTH 00°44'13" EAST, 165.56 FEET TO A POINT ON THE NORTH LINE OF THE RIGHT OF WAY OF GREENLEAF BOULEVARD; THENCE SOUTH 87°26'45" WEST ALONG THE NORTH LINE OF SAID GREENLEAF BOULEVARD, 30.00 FEET; THENCE SOUTH 02°12'23" WEST ALONG THE LINE OF DEDICATED RIGHT OF WAY OF GREENLEAF BOULEVARD, 10.03 FEET TO THE NORTH LINE OF GREENLEAF BOULEVARD; THENCE SOUTHWESTERLY ALONG A 3274.11 FOOT RADIUS CURVE TO THE RIGHT, 99.51 FEET (CHORD BEARING SOUTH 88°35'37" WEST, CHORD DISTANCE 99.51 FEET) ALONG SAID NORTH LINE OF GREENLEAF BOULEVARD RIGHT OF WAY TO THE SOUTHEAST OF A PARCEL DEEDED TO GORDON & WENDY FROST IN INSTRUMENT #2020-17564; THENCE NORTH 00°44'13" WEST ALONG THE EAST LINE OF SAID FROST PARCEL, 154.63 FEET TO A 5/8 REBAR WITH CAP STAMPED "ABONMARCHE 0050" ON THE SOUTH LINE OF A PARCEL OF LAND DEEDED TO JENWAY MAJESTIC, LLC (ELKHART COUNTY INSTR. #2022-09988); THENCE SOUTH 89°30'51" WEST ALONG THE SOUTH LINE OF SAID JENWAY MAJESTIC, LLC PARCEL, 238.66 FEET TO A 1/2 INCH IRON PIPE; THENCE NORTH 79°44'05" WEST ALONG SAID JENWAY MAJESTIC, LLC PARCEL, 47.40 FEET TO THE PLACE OF BEGINNING.

CONTAINING 2.64 ACRES, MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS, RESTRICTIONS AND PUBLIC RIGHTS OF WAY OF RECORD.

Line #	Bearing	Length
L1	S87°26'45"W	30.00'
L2	S2°12'23"W	10.03'
L3	N79°44'05"W	47.40'

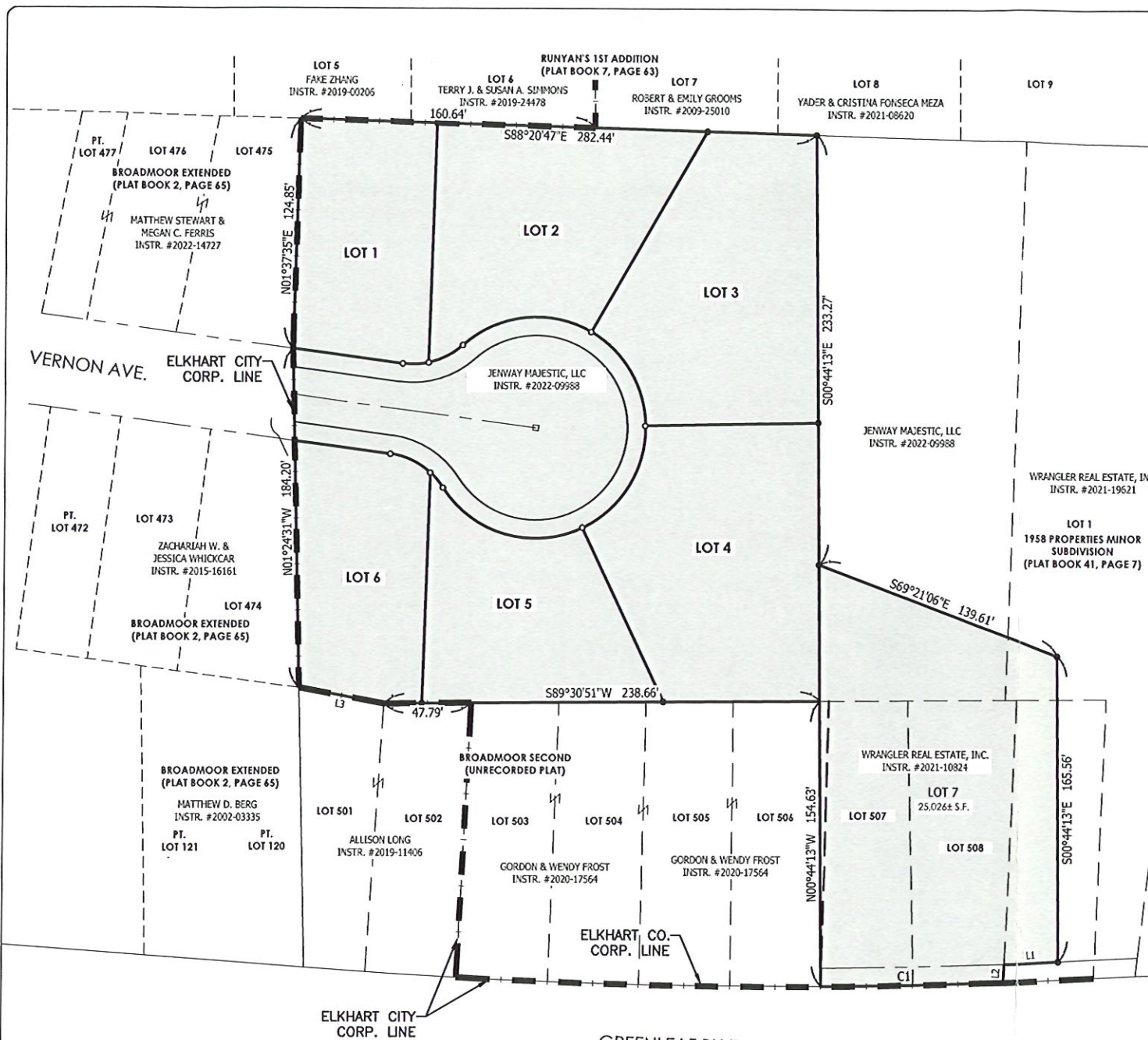
Curve #	Length	Radius	Delta	Chord Bearing	Chord
C1	99.51'	3274.11'	1°44'29"	S88°35'37"W	99.51'



LOCATION MAP  
N.T.S.

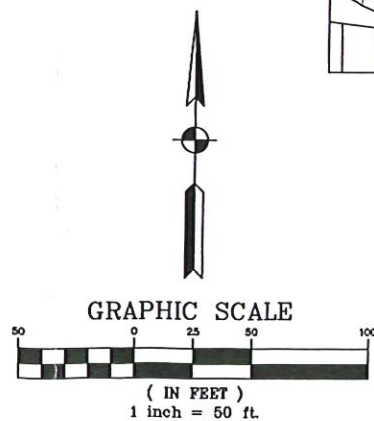
OWNER/DEVELOPER  
WRANGLER REAL ESTATE, INC.  
21063 CHELTON GLEN BLVD.  
BRISTOL, IN 46507

JENWAY MAJESTIC, LLC  
21063 CHELTON GLEN BLVD.  
BRISTOL, IN 46507



### LEGEND

--- LIMITS OF ELKHART CITY CORPORATION LINE



**ABONMARCHE**  
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Engineering - Architecture - Land Surveying  
Valparaiso  
Hobart  
Lafayette  
South Bend  
Grand Haven  
Goshen  
Benton Harbor  
Parage  
South Haven  
Fort Wayne

### VERNON'S RESERVE

### ANNEXATION EXHIBIT

PROJECT:

SHEET TITLE:

DRAWN BY:

TRM

DESIGNED BY:

PM REVIEW:

CMWE

QA/QC REVIEW:

CSB

DATE:

3/19/24

SCALE:

HORIZ: 1" = 50'

VERT:

ACI JOB #

24-0070

SHEET NO.

1 of 1