

ORDINANCE NO. 2018- 597

AN ORDINANCE OF THE VILLAGE OF ST. JACOB, A MUNICIPAL CORPORATION OF THE STATE OF ILLINOIS, ADOPTING THE FINDINGS OF FACT FROM THE HEARING OFFICER, AND AMENDING THE ZONING CODE TO REFLECT THE REZONING OF A PARCEL TO CLASSIFICATION B-1, COMMUNITY BUSINESS

WHEREAS, on or about January 26, 2018, the Village of St. Jacob ("Village") received an application from Todd Lindow (Lindow Properties) to rezone Parcel ID 05-2-23-09-16-4010-008, with mailing address 118 E. US Highway 40, St. Jacob, IL 62281 (the "Subject Property"), to the zoning classification B-1, community business; and

WHEREAS, on about March 6, 2018, the Zoning Hearing Officer for the Village held a public hearing at the St. Jacob Village Hall, pursuant to the St. Jacob Zoning Code (the "Code"), § 40-10-30, *et seq.*, and the laws, relevant to that application; and

WHEREAS, the hearing officer prepared a Recommendation of the Hearing Officer, with included findings of fact, which is attached hereto as Exhibit A, and incorporated herein, and adopted by the Board of Trustees; and

WHEREAS, on March 21, 2018, the Village Board of Trustees held a hearing, to review the Recommendation of the Hearing Officer, and to hear comments from the public; and

WHEREAS, the Village Board of Trustees has determined that the rezoning sought by the applicant would be in the best interests of the community, and in considering all the factors set out in the Code at § 40-10-33, that the proposed use for the Subject Property is consistent with those factors on balance; and

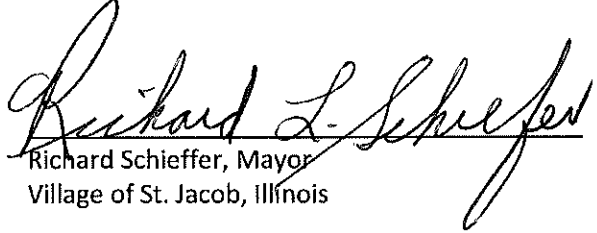
WHEREAS, to the extent that the Code may impose a minimum of 1-acre requirement for the B-1 classification, the Village Board of Trustees is exercising its power to amend the code in this situation (without setting a future precedent relating to this section of the Code).

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES FOR THE VILLAGE OF ST. JACOB, ILLINOIS that the Zoning Code is amended, as requested, and as discussed in the Recommendations of the Hearing Officer, and the Village Clerk is instructed to amend the Code accordingly and in all necessary manner to reflect an amendment to the Zoning Code, identifying Parcel ID 05-2-23-09-16-4010-008, with mailing address 118 E. US Highway 40, St. Jacob, IL 62281, as classified as B-1, Community Business.

ADOPTED this 4th day of April, 2018, pursuant to a roll call vote by the Board of Trustees of the Village of St. Jacob, Madison County, Illinois.

TRUSTEE	AYE	NAY	ABSENT
<u>Bobby Ross</u>	<u>X</u>	<u> </u>	<u> </u>
<u>Mark Eilers</u>	<u>X</u>	<u> </u>	<u> </u>
<u>Chris Tolbert</u>	<u> </u>	<u> </u>	<u>X</u>
<u>Guidon Richeson</u>	<u>X</u>	<u> </u>	<u> </u>
<u>George Gavlick</u>	<u>Y^o</u>	<u> </u>	<u> </u>
Adopted this <u>4th</u> day of April, 2018.		Tim ELLiott	<u>X</u>

APPROVED:


 Richard Schieffer, Mayor
 Village of St. Jacob, Illinois

ATTEST:


 Kathy Becker, Village Clerk

END OF DOCUMENT

RECOMMENDATION OF THE HEARING OFFICER

On March 6, 2018 at 6:00 p.m., a public hearing was held at the St. Jacob Village Hall at 213 N. Douglas, St. Jacob, Illinois (the "Hearing"). The Hearing was held pursuant to Zoning Code § 40-10-30, and the laws generally. My Advisory Report, pursuant to Zoning Code § 40-10-33 follows below:

I. FINDINGS OF FACT

1. The Hearing was in regard to Todd Lindow (Lindow Properties) application requesting to rezone that partial under the St. Jacob Zoning Code, amending the zoning classification from multifamily residential (vacant) to business use (See attached, application.)
2. The special use permit requested relates to the property located at 118 E. US Highway 40, St. Jacob, IL 62281, with Parcel ID 05-2-23-09-16-401-008, (the "Subject Property").
3. Present at the hearing were myself, paralegal Emily Casper, Mayor Richard Schieffer, and Mr. Todd Lindow. Several members of the community appeared to ask questions related to this, and other zoning applications. Questions relating to Lindow Properties special use permit were answered. No written objections were lodged. There were some objections from the floor, generally arguing that the Dollar General store that is planned at the site was generally inconsistent with the "small town atmosphere" of St. Jacob that they sought. However, there were others in the audience who specifically were in support of the project, arguing that such a facility would be a great addition to St. Jacob, since there is no other close facility where one can go to buy small items and groceries.
4. The Hearing was held subject to a Notice of Public Hearing (See attached, notice).
5. The Hearing was in response to a properly submitted Application, pursuant to Zoning Code § 40-10-30 *et seq.* The appropriate fee was paid.
6. The notice of Public Hearing was proper pursuant to Zoning Code § 40-10-32, and notice of the Hearing was given not more than thirty days, nor less than fifteen days before the Hearing, by publication in a newspaper of general circulation within St. Jacob, and by first class mail to all owners of property contiguous to the property affected by the proposed variance.
7. I find that the requested rezoning may be accomplished under the St. Jacob Revised Zoning code.
8. More specifically, I find that Based upon the information submitted, and the public questions / feedback at the *lengthy* hearing, I provide the following findings of fact pursuant to § 40-10-33:

(A) Existing use and zoning of the property in question. The Subject Property is owned by Lindow Properties LLC, and is zoned residential multi-family, vacant. The Subject Property is not being used at this time.

(B) Existing uses and zoning of other lots in the vicinity of the property in question. The property to the north and east of the Subject Property (Parcel Numbers 05-2-23-09-02-203-001 and 05-2-23-09-16-401-009) is currently owned by Lindow Properties LLC, and are zoned residential (vacant). Those properties are also not being used. It may be developed in the future.

The property to the west of the Subject Property (Parcel No. 05-2-23-09-16-401-007) is owned by Melvin E. Potthast, of Glen Carbon. The property is a single family residential parcel.

(C) Suitability of the property in question for uses already permitted under existing regulations. The Subject Property at issue is currently zoned residential, and appears to be suitable for the uses permitted.

(D) Suitability of the property in question for the proposed use. The application asks for an amendment to the zoning code, rezoning the Subject Parcel to B-1, Community Business. The following issues are relevant:

- The minimum area requirement for a parcel to be designated Community Business is 1 acre. The parcel in this case is .44 acres. (§ 40-3-1.)
- One of the permitted uses of a B1 parcel is “commercial establishments, wholesale and retail... (§ 40-10-33), and this use falls within that category.
- The lot and building requirements set out in § 40-4-41 for Business District B-1 uses are met. Specifically, applicant confirms and the data support that (1) the lot area is more than 5,000 sq.ft.; (2) the lot width is greater than 50 ft.; (3) the lot depth is greater than 100 ft.; (4) the depth of the side yard is more than 25 ft., (5) the building height will be less than 45 ft., and (6) the structure will cover less than 50% of the lot. Also, the lot will have at least 25 ft. of setback as required by §§40-4-41(E), 40-4-9.

Thus, with the exception of the apparent 1-acre requirement at § 40-3-1, the property in question appears suitable for the proposed use.

(E) The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since the property was initially zoned or last rezoned.

As noted above, the majority of property in the area is also owned by Lindow Properties LLC, and at this point is undeveloped. As noted above, the lot to the west is owned by

Melvin Potthast who was present at the hearing. It was my understanding that he was not opposing this application, after hearing the information presented at the hearing. There is no indication that Mr. Potthast's property will be used for purposes other than residential purposes in the future. The other property in the area has yet to be developed.

9. No party filed a written protest pursuant to § 40-10-36, and no petition was filed pursuant to § 40-10-35(B).

II. RELIEF RECOMMENDED

The undersigned, serving as Hearing Officer, finds that the proposed use of the Subject Property may be accomplished under the Revised Zoning Code. The only code requirement that may prevent this from being accomplished is the § 40-3-1, which provides that 1 acre is the smallest total area of contiguous parcels that can properly be given the particular district classification. However, I would note that there appear to be many examples throughout the Village where property is zoned for a business use and is less than 1 acre. So, I do not believe this requirement has been enforced consistently in the past.

With the exception of this one issue, I believe that the rezoning sought is valid and allowable under the zoning code. Given that there were verbal objections from some in attendance on the night of the hearing, I will not make a recommendation as to whether the Village Board *should* vote for the rezoning, but will recommend that they *can*. If anyone has any questions, please feel free to contact me.

Respectfully Submitted,

/s

James Craney

St. Jacob Zoning Administrator

ZONING BOARD OF APPEALS
REQUEST FOR REZONING OR VARIANCE CHANGE

VILLAGE OF ST. JACOB
213 N. DOUGLAS STREET
PO BOX 97
618-644-5666
FAX 618/644-9431

REQUEST FOR: REQUEST FOR REZONING

Name of Applicant TOOD LINDOW Phone 618 779-1186
618 644-2589
Address of Applicant 311 N. Douglas #8 St JACOB
Address or Location of Property involved in request 118 - 126 E Highway 40

Description of Request:

Rezone a portion of RR# 126 E. Highway
40 from multi family to commercial
contingent on Dollar General Building commercial
would be in section surveyed for Dollar
General

Use Additional Pages if necessary. Be sure to include a current legal description of Property.

This Request must be accompanied by a building sketch or and for the proposed erection, construction, reconstruction, alteration or use of the involved property. (Same as required for building permit)

The above information is certified to be true and

Signature of property owner(s)

[Signature]
January 26, 2018



REZONING A PORTION
118 & 126 E. Highway 40
CONTINGENT ON
Dollar General Building

www.lindowcontracting.com | 618.644.2589
A lot will be surveyed off

CERTIFICATE OF PUBLICATION

State of Illinois)
County of Madison)

THIS IS TO CERTIFY, that the notice of which a printed copy is hereto annexed, was published 1 consecutive times in the **TIMES-TRIBUNE**, a newspaper of general circulation, published in the City of Troy, in said County and State, by Newsprint Ink, Inc. and that the first insertion was made in the paper published on the 15th day of February A.D. 20 18, and the last in the paper published on the _____ day of _____ A.D. 20 _____, and said newspaper was regularly published for six months prior to date of first publication of said notice.

Printer's Fees \$ 14.70

TIMES - TRIBUNE
Troy • St. Jacob • Marine • Maryville

By Paul R. Ping (dy)
Troy, IL February 15 A.D. 20 18

NOTICE OF ZONING
The Village Board of St. Jacob, Illinois, on Tuesday, August 6, 2018, at the St. Jacob Village Hall, 215 N Douglas, St. Jacob, Illinois, to hear the following petition:
The first petition is that of Kenneth and Diane (Mrs.) Verbeke, 1771 Lincoln St., St. Jacob, Illinois 62281, Parcel ID # 05-22-00-01-001-001, Zoning Classification: R-1 Single Family Residence, requesting a rezoning of the parcel under the St. Jacob Zoning Code, Section 10-11-30 et seq., from residential to a 10-family structure.
The second petition is that of Todd Linnits (Linnits Properties), owners of 118 E. US Highway 20, St. Jacob, IL 62281, Parcel ID # 05-22-00-16-401-000, Zoning Classification: various residential, Petition to rezone that parcel under the St. Jacob Zoning Code, Section 10-11-30 et seq., upgrading the zoning classification from residential to commercial use.
The above rezonings are open to the public and any person who wishes to be heard in favor of or against the rezoning should appear at the public hearing on their respective dates.