

ORDINANCE NO. 26, 2015

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO,
INDIANA, ANNEXING CERTAIN REAL ESTATE INTO THE CITY OF
VALPARAISO, INDIANA, KNOWN AS THE "THE LAKES OF VALPARAISO OUT
LOT 3800 VPR"**

WHEREAS, the Common Council of the City of Valparaiso, Indiana, believes that annexation of the Annexation Territory (as hereinafter defined) into the City of Valparaiso, Indiana ("City"), is in the best interest of the residents and property owners of the Annexation Territory and the City; and

WHEREAS, maps depicting the boundaries of the Annexation Territory, which consists of approximately 1.2 acres, are attached hereto and incorporated into this Ordinance as Exhibit A; and

WHEREAS, a legal description of the Annexation Territory is attached hereto and incorporated into this Ordinance as Exhibit B; and

WHEREAS, to the extent the Annexation Territory includes land contiguous to a public highway, the Annexation Territory shall include the contiguous areas of the public highway and public highway rights-of-way; and

WHEREAS, at least one eighth (1/8) of the aggregate external boundaries of the Annexation Territory are contiguous to the corporate boundaries of the City; and

WHEREAS, it is the intent of this Council to adopt for the Annexation Territory the current City zoning classification that most closely corresponds to the current County zoning classification for the property; and

WHEREAS, responsible planning and state law require adoption of a fiscal plan and policy for the provision of certain services to the Annexation Territory; and

WHEREAS, contemporaneously with the introduction of this Ordinance, and prior to the publication and issuance of notice of public hearing on the annexation, the Common Council of the City of Valparaiso, Indiana, by resolution has adopted a written fiscal plan and policy for the provision of noncapital and capital services to the Annexation Territory; and

WHEREAS, the written fiscal plan and definite policy adopted by resolution includes the provision of services of a non-capital nature within one (1) year after the effective date of the annexation under this Ordinance in a manner equivalent in standard and scope to those non-capital services provided to areas within the present corporate boundaries of the City, regardless of similar topography, patterns of land use and population density; and

WHEREAS, the written fiscal plan and definite policy adopted by resolution includes the provision of services of a capital nature to the Annexation Territory within three (3) years after the effective date of the Annexation under this Ordinance in the same manner as those services are provided to areas within the present corporate boundaries of the city, 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; and

WHEREAS, prior to the adoption of this Ordinance, the Common Council of the City of Valparaiso, Indiana, will conduct a public hearing pursuant to notice published and mailed in accordance with the applicable provisions of Indiana law; and

WHEREAS, the Common Council finds that the annexation of the Annexation Territory pursuant to the terms and conditions of this Ordinance is in the best interest of all owners of land in the annexation territory, is fair and equitable, and should be accomplished.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, THAT;

Section 1. In accordance with Indiana law, the Annexation Territory is hereby annexed to the City of Valparaiso, Indiana, and included within the City's corporate boundaries pursuant to the terms and conditions of this Ordinance.

Section 2. The Annexation Territory is assigned to City Council District No. 5

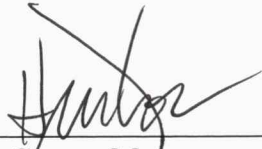
Section 3. The foregoing recitals (or "whereas clauses") are findings of fact by the Common Council and are incorporated into this Ordinance by reference.

Section 4. Upon the effective date of this ordinance, the Annexation Territory shall be classified for zoning purposes as a The Lakes of Valparaiso Planned Unit Development, PUD.

Section 5. The sections, subsections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining sections, subsections, paragraphs, sentences, clause and phrases of this Ordinance.

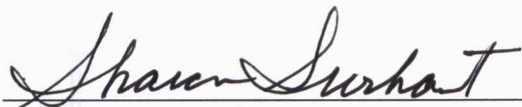
Section 5. This Ordinance shall become effective as soon as allowed by law.

DULY PASSED AND ADOPTED this 28th day of Dec, 2015, by the Common Council of the City of Valparaiso, Porter County, Indiana, having been passed by a vote of 6-0 in favor and 0 opposed.



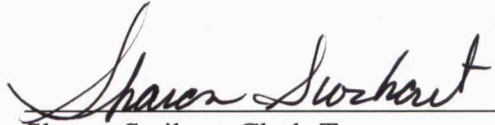
Jon Costas, Mayor

ATTEST:



Sharon Swihart, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this 28th day of Dec, 2015 at the hour of 7:30 o'clock p.m.


Sharon Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this 28th day of Dec, 2015, at the hour of 7:30 o'clock p.m.

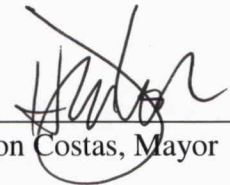
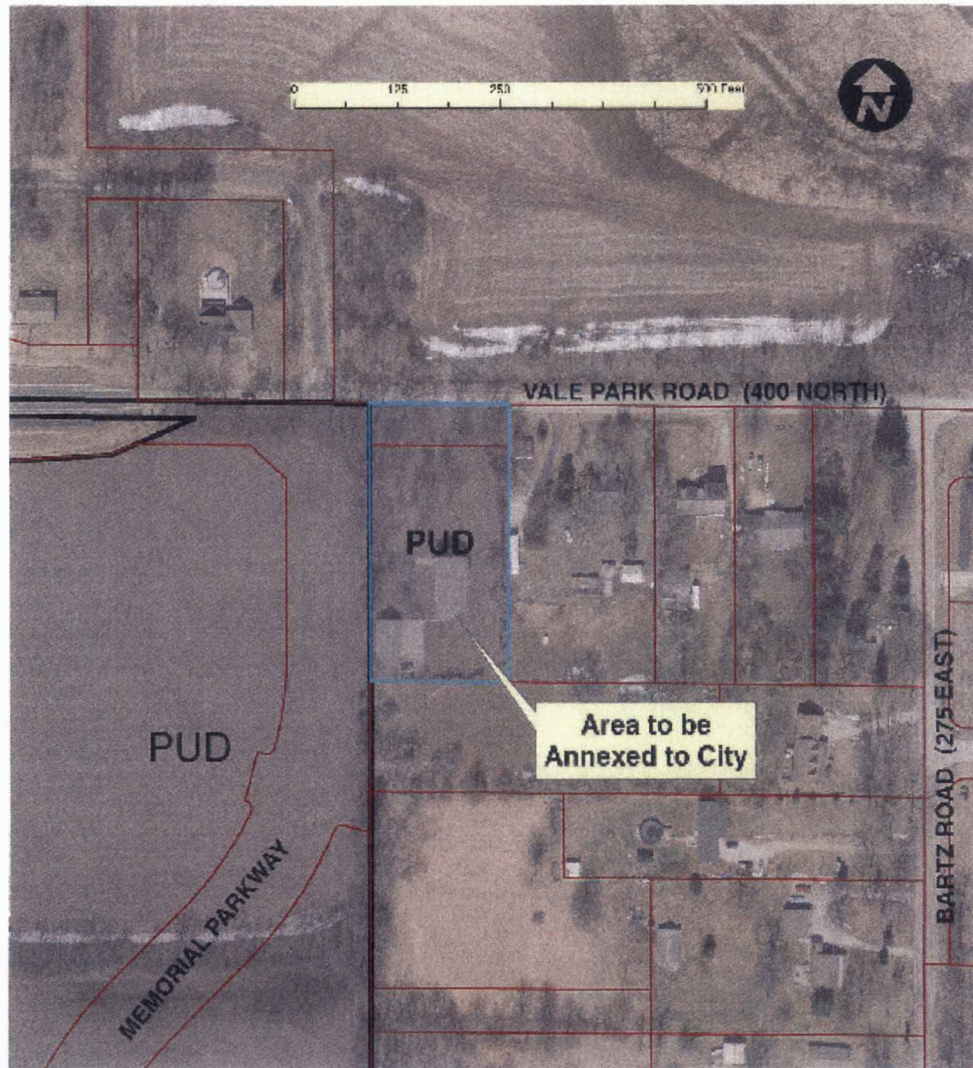

Jon Costas, Mayor

EXHIBIT A

DRAWINGS/PHOTOS OF THE LAKES OF VALPARAISO OUT LOT 3800 VPR TERRITORY



**CASE # A15-002 and RZ15-003
Valparaiso Lakes Pond Annexation**

3800 Vale Park Road

LEGEND

RT - Neighborhood Center/Office	CR - Commercial General
RR - Public Recreation	CR - Office/State/Local/Institutional
ST - Suburban Residential	CT - General Office
RF - Retail General	FT - Residential Tourist Use
UR - Residential Urban	CA - Campus
PS - Public Space	EP - Executive Park
RU - Rural	PO - Office/Industrial
DR - Commercial/Highway	PO - Public Industrial
	PUD - Planned Urban Development



Parcel/Poly
City Limits
November 2014

EXHIBIT B

**LEGAL DESCRIPTION OF THE LAKES OF VALPARAISO OUT LOT 3800
VPR" TERRITORY**

Lot 1 in Washington Minor Subdivision 2231-B-1, as per plat thereof, recorded in Plat File 47-E-4, in the Office of the Recorder of Porter County, Indiana.

The Lakes of Valparaiso

AN ORDINANCE AMENDING THE LAKES OF VALPARAISO PLANNED UNIT DEVELOPMENT

CITY OF VALPARAISO

ORDINANCE NO. 26, 2015



THE
LAKES
OF VALPARAISO



ORDINANCE NO.

**AN ORDINANCE AMENDING THE LAKES OF VALPARAISO
PLANNED UNIT DEVELOPMENT**

AN ORDINANCE of the City of Valparaiso, Indiana amending portions of Official Zoning Map and amending The Lakes of Valparaiso Planned Unit Development pursuant to the Unified Development Ordinance for the City of Valparaiso, Indiana.

WHEREAS, Article 15, Division 15.500 of the Unified Development Ordinance entitled "Procedures and Administration for Planned Unit Development Approval" permits the establishment in the City of Valparaiso of planned unit developments ("PUDs"), in which an area of land is developed as a single scheme which combines a mixture of uses, including residential, business, professional and/or light industrial, and which may not correspond to the development standards otherwise required for such uses by other provisions of the zoning and planning ordinances of the City of Valparaiso; and

WHEREAS, Article 15, Division 15.500 of the Unified Development Ordinance authorizes the Common Council of the City of Valparaiso, by ordinance, to establish and amend PUD Districts and to specify the uses and development requirements that apply in such PUD Districts; and

WHEREAS, the Common Council did, on the 24th day of February, 2014 adopt Ordinance No. 8, 2014 establishing The Lakes of Valparaiso Planned Unit Development for approximately 160 acres in the City of Valparaiso to be governed by the Ordinance No. 8, 2014 which was recorded on May 7, 2014 as Document No. 2014-008297 in the Office of the Recorder of Porter County, Indiana (the "PUD Ordinance"); and

WHEREAS, SJBZ Porter Holding, LLC (hereinafter sometimes referred to as "Developer") has acquired additional real estate contiguous to The Lakes of Valparaiso PUD which is described as (hereinafter referred to as the "Lot 3800VPR"):

Lot 1 in Washington Minor Subdivision 2231-B-1, as per plat thereof, recorded in Plat File 47-E-4, in the Office of the Recorder of Porter County, Indiana.

WHEREAS, an application for an amendment to PUD Ordinance has been filed by Developer and considered by the Valparaiso Plan Commission and the Common Council for the City of Valparaiso, and all of the notice, public hearing and other procedural requirements of the Indiana Code, the Unified Development Ordinance for the City of Valparaiso, and the terms of the PUD Ordinance for the consideration of the application and the establishment of the PUD District have been fulfilled; and

WHEREAS, in preparing and considering proposals under the Ind. Code 36-7-4-600 *et seq.*, the Plan Commission and the legislative body shall pay reasonable regard to (1) the comprehensive plan; (2) current conditions and the character of current structures and uses in each district; (3) the most desirable use for which the land in each district is adapted; (4) the conservation of property values throughout the jurisdiction; and, (5) responsible development and growth; and

WHEREAS, the advisory Plan Commission has sent a favorable recommendation relating to such Application to the Valparaiso Common Council dated the ____ day of _____, 2015; and

WHEREAS, contemporaneously with this Ordinance, the Common Council has adopted an ordinance annexing the Lot 3800VPR herein described into the corporate boundaries and within the zoning jurisdiction of the City of Valparaiso, Indiana.

NOW, THEREFORE, BE IT, AND IT HEREBY IS, ordained by the Common Council of the City of Valparaiso, Indiana, under authority granted by Ind. Code 36-7-4-600 *et seq.* and Ind. Code 36-7-4-1500 *et seq.* and Article 15, Division 15.500 of the Unified Development Ordinance entitled "Procedures and Administration for Planned Unit Development Approval" that The Lakes of Valparaiso PUD District is established as an amendment to the Unified Development Ordinance, pursuant to and subject to the terms, conditions, stipulations and requirements of this Ordinance.

Section 1. Legislative Intent. Section 1 of the PUD Ordinance provides that the Developer shall have the right to seek joinder of additional parcels of land contiguous to the District as part of the District, which such joinder shall occur only upon the approval by the Common Council on such terms and conditions as the Common Council may establish following the written application by Developer and review and recommendation of the Valparaiso Plan Commission. Having given reasonable regard to the Comprehensive Plan and the other matters specified in Article 15, Division 15.500 of the Unified Development Ordinance, the intent of the Common Council in adopting this amendment to the PUD Ordinance is in furtherance of the purposes, goals and plans for The Lakes of Valparaiso Planned Unit Development District established earlier and that the addition of the Lot 3800VPR to the District is in the best interest of the community and City and that this Ordinance and the addition of the Lot 3800VPR to be developed here under satisfies all Indiana statutes and the Valparaiso ordinances relating to planned unit developments and the PUD Ordinance.

Section 2. Applicability of The Lakes of Valparaiso PUD Ordinance.

Section 2.1. Official Zoning Map. The Official Zoning Map, a part of the Unified Development Ordinance, is hereby amended to designate the Lot 3800VPR as a Planned Unit Development District ("PUD") and incorporated into the existing The Lakes of Valparaiso Planned Unit Development District established by Ordinance No. 8, 2014 and the Property described therein. Lot 3800VPR shall be incorporated into the Commercial

Phase "A" of The Lakes of Valparaiso Planned Unit Development as shown on Exhibit "B" to Ordinance No. 8, 2014.

Section 2.2. Controlling Ordinance. Development of Lot 3800VPR shall be governed entirely by the provisions of The Lakes of Valparaiso PUD Ordinance and this amendment thereto except to the extent reference is made to the Unified Development Ordinance. When there is reference to the Unified Development Ordinance in this Amendment, then only the provisions of the Unified Development Ordinance so referenced, as are in effect under the Unified Development Ordinance (as defined in Section 3.2 of the PUD Ordinance shall be applicable to Lot 3800VPR. Lot 3800VPR shall not be governed, in whole or in part, by any future overlay district regulations that may include any part of Lot 3800VPR.

Section 3. "Commercial Area" Definition Revised. The PUD Ordinance shall be amended to delete the definition of "Commercial Area" in Section 3.2(q) in its entirety and in lieu thereof insert the following:

- q. "Commercial Area" shall mean Lots 1, 2 and 3 and Lot 3800VPR of the Business Park District of the Property, or any reconfiguration of Lots 1, 2 and 3 and Lot 3800VPR shown on the Site Improvement Plan, as amended from time to time.

Section 4. Use of Lot 3800VPR, General Requirements, Miscellaneous. Lot 3800VPR shall be located in the Commercial Area within the Business Park District and governed by the PUD Ordinance terms, conditions, restrictions and procedures for such district, with the exception that Lot 3800VPR may not be used as Light Automotive Service, Car Wash or a Restaurant. Lot 3800VPR may be used as a boutique restaurant. A boutique restaurant shall be a restaurant that is (i) no more than 2,200 square feet in size; (ii) not a chain restaurant; (iii) no menu boards may be displayed outside; (iv) no drive through service shall be permitted; and (v) all parking shall be directed away from neighboring residential uses. In addition to the uses allowable under the PUD Ordinance, Lot 3800VPR may (x) continue to be used as a single family residence and/or (y) all or a portion of the Lot 3800VPR used as a construction office for the development of the project anticipated by the PUD Ordinance and the Development Plans. Lot 3800VPR is incorporated into the Development Plans consistent with Exhibit "A" to this Ordinance amending Ordinance No. 8, 2014.

Section 5. Development Schedule. The tentative and preliminary schedule of development of Lot 3800VPR shall be the same as Phase A of the Business Park District.

Section 6. Effect of This Amendment. This Amendment shall not change, modify, amend or revise the terms, conditions and provisions of the PUD Ordinance, the terms and provisions of which are incorporated herein by reference, except as expressly provided herein. The City hereby confirms and ratifies, except as modified by this Amendment, all of the terms, conditions and covenants of the PUD Ordinance.

Section 7. Definitions. Terms defined in the PUD Ordinance which are used in this Amendment shall have the meaning as set forth in the PUD Ordinance unless otherwise expressly specified herein or the context expressly provides otherwise.

Section 8. Other Ordinances. Any Ordinance of the City of Valparaiso in conflict with the provisions of any Ordinance is hereby superseded by this Ordinance. Subject to the foregoing, the passage and approval of this Ordinance shall not in any way except the owner of any land in The Lakes of Valparaiso PUD District from compliance with the provisions of any and all other applicable ordinances of the City of Valparaiso, including without limitation, the Unified Development Ordinance not superseded by this Ordinance. Specifically, that certain Agreement for Written Commitments shall be superseded and made null and void in all respects by the adoption of this Ordinance.

Section 9. Severability. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

Section 10. Effective Date. This Ordinance shall be in full force and effect after its passage and approval by the Common Council for the City of Valparaiso and publication as may be required by law.

PASSED AND ADOPTED by the Common Council for the City of Valparaiso, Indiana, on the ____ day of _____, 2015.

CITY OF VALPARAISO, INDIANA

By: _____
H. Jonathan Costas, Mayor

ATTEST:

By: _____
Sharon Swihart
Clerk-Treasurer

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. *Todd A. Leeth*

This Instrument Prepared By:

Todd A. Leeth
Hoeppner Wagner & Evans LLP
103 E. Lincolnway
Valparaiso, Indiana 46383

**HOEPPNER
WAGNER &
EVANS LLP**
ATTORNEYS AT LAW

EXHIBIT "A"

**REVISED SITE IMPROVEMENT PLAN
BUSINESS PARK**
