

ORDINANCE NO. 11-2006

AN ORDINANCE AMENDING ARTICLE XXII OF THE ZONING ORDINANCE
FOR THE CITY OF VALPARAISO AND REPEALING ORDINANCE 9-2005

WHEREAS, a petition was presented to amend Article XXII of the Zoning Ordinance,
and to repeal Ordinance 9-2005; and

WHEREAS, the Plan Commission duly advertised and held a public hearing on the
proposed hearing on February 14, 2006 and;

WHEREAS, the general public was given an opportunity to comment on the proposed
changes to the ordinances and;

WHEREAS, the Plan Commission voted to recommend the approval of proposed
amendment changes by an 8-0 vote on February 14, 2006.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of
Valparaiso as follows:

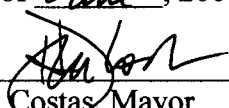
1. That Article XXII of the Zoning Ordinance shall be amended and as follows:

SEE ATTACHED – Exhibit A

2. That Ordinance 9-2005 shall hereby be repealed following the passage of this
ordinance in its entirety.

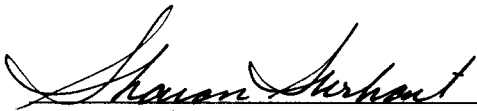
This ordinance shall be in full force and effect from and after its adoption and approval
by the Mayor.

PASSED by the Common Council of the City of Valparaiso, Indiana, by a 6-1 vote
of all members present and voting this 26th day of June, 2006.



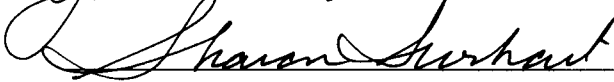
Jon Costas, Mayor

ATTEST:



Sharon Swihart, Clerk-Treasurer

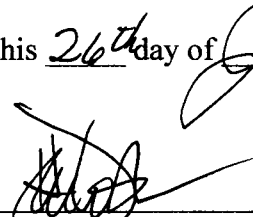
Presented by me to the Mayor of the City of Valparaiso, Indiana, this 26th day of
June, 2006, at 8:00 o'clock p.m.



Sharon Swihart, Clerk-Treasurer

Sharon Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this 26th day of June, 2006, at
8:00 o'clock p.m.



Jon Costas, Mayor

Ordinance 11-2006 "Exhibit A"

MORATORIUM ON RESIDENTIAL CONSTRUCTION IN COMMERCIAL ZONES

History and Recommendation

Because of a growing concern about the construction of apartment complexes and other multi-family development in commercially zoned areas, a moratorium on such construction was declared pending further investigation.

Historically under "cumulative" or "cascading" zoning, less intensive uses were generally permitted in zones for more intense uses. In other words, only a single-family house could be built in a single-family [R-1] zone, but a single-family house could be built in multi-family zones [R-2, R-3, R-4] and could be built in commercial and industrial zones as well. It was typical, then, to see an R-2 zone's "permitted uses" section begin with the language, "all uses permitted in R-1" or to see all commercial and industrial zones' "permitted uses" sections begin with "all residential uses." The Valparaiso Ordinance permits some of this "cumulation" or "cascading" but not all. Nor has concern been registered about any cascading other than multi-family residential uses being built in commercial zones.

After a thorough review of the ordinance and a discussion with many interested persons about the problem, we now believe that the matter can be remedied with one very simple amendment. Residential uses of any kind (single-family or multi-family) are not permitted in C-1, C-2, or C-4 zones except on upper floors as is common downtown, for example. Only in C-3 does the ordinance permit residential uses without exception.

Currently, Section 2210 [Permitted Uses in C-3] reads, in part: "1. All uses permitted in R-1A, R-1, R-2, R-3, R-4, C-1, and C-2 districts." **The recommendation is to amend this language to read as follows: "1. All uses permitted in R-1A, R-1, R-2, R-3, R-4, C-1, and C-2 districts, provided that residential uses shall conform with the lot area requirements of the R-4 district and provided further that no residential use shall occupy the first or ground floor of any structure located in the C-3 general commercial district."**

The language is drawn directly from parallel provisions in the C-1, C-2, and C-4 districts. This language prevents using C-3 zoned land for an apartment complex without ruling out some second-floor uses for apartments, just as provided for in the other commercial districts.

We further recommend that, upon passage of this amendment, the moratorium be lifted.

Bruce Berner, for the Plan Commission Special Committee