

The meeting was called to order at 7:00 p.m. by Mayor Tutaj. Following the Pledge of Allegiance and a moment of silence for the community, roll call was taken.

Present: Mayor Tutaj, Alderpersons Wattawa, Schandel, Brickner, McSweeney, and Klug

Also Present: City Administrator Johnsrud, City Attorney Alexy, City Clerk/Treasurer Uecker, Police Chief Dietrich, City Engineer Dejewski, Public Health Administrator Scott, and interested citizens

Statement of Open Meetings Compliance:

City Clerk/Treasurer Uecker stated that the meeting had been properly posted and noticed.

Public Hearing:

- Comprehensive Plan Amendment

Presentation:

- None

Consent Agenda:

Moved by Alderman Brickner, Alderman Klug seconded by to place on file with reference in the minutes and approve the items as listed under Consent Agenda on the April 4, 2018 Common Council Agenda. Motion carried.

Items Removed from Consent Agenda:

None

Recommendation of Action from Committees/Commissions/Boards:

Moved by Alderman Brickner, seconded by Alderman Wattawa to approve a Beverage Operator's License for Angela Stockland. Motion carried.

Moved by Alderman Brickner, seconded by Alderman Wattawa to approve a Class "B"/"Class B" Retailer's License for the Archdiocese of Milwaukee – Jenni Oliva, Milwaukee Retro Night to be held May 4, 2018 at the Cousins Catholic Center – 3501 South Lake Drive. Motion carried.

Moved by Alderwoman Schandel, seconded by Alderman McSweeney to approve the Certified Survey Map for public access across from 4000 South Lake Drive – The Mariner by Bear Development. Motion carried.

Moved by Alderman McSweeney, seconded by Alderwoman Schandel that based on the recommendation of the Planning Commission to grant the approval of the proposed rezoning of 2125 East Bolivar Avenue from M1 to IU, to amend the IU zoning ordinance as noted in the draft ordinance with the addition of Library as a permitted use and the removal of the reference to single and two family dwellings from F (3) and (4) and to direct the City Clerk to set the Public Hearing. Motion carried.

Resolutions and Ordinances:

Moved by Alderman McSweeney, seconded by Alderman Klug to introduce and adopt a Resolution Approving the Employee Policy Manual as Revised April 4, 2018. Motion carried.

Resolution No. 2757

Moved by Alderman McSweeney, seconded by Alderman Brickner to introduce and adopt an Ordinance to Conditionally Rezone Certain Lands in the City of St. Francis from R-3, Residential Mixed Use District to R-2 Residential Mixed Use District with a Special Use Under §455-23(C) of the City of St. Francis Zoning Code – 3701 South Packard Avenue. Motion carried. **Ordinance No. 1425**

Moved by Alderman McSweeney, seconded by Alderman Klug to introduce and adopt an Ordinance to Conditionally Rezone Certain Lands in the City of St. Francis from B-1, Limited Business District to B-1 Limited Business District with a Special Use Under §455-27(C) of the City of St. Francis Zoning Code – 3801 South Kinnickinnic Avenue. Motion carried. **Ordinance No. 1426**

Moved by Alderman McSweeney, seconded by Alderman Brickner to introduce and adopt an Ordinance to Adopt a Text Amendment to the Comprehensive Plan for the City of St. Francis Pursuant to Sections 62.23 and 66.1001 of the Wisconsin Statutes as amended. Motion carried. **Ordinance No. 1427**

Discussion Items with Possible Action:

Moved by Alderman McSweeney, seconded by Alderman Brickner to place on file the 2017 Annual Report – St. Francis Public Library. Motion carried.

Moved by Alderman McSweeney, seconded by Alderman Brickner to place on file the 2017 Annual Report – St. Francis Police Department. Motion carried.

Appointments to Committees/Commissions/Boards:

Moved by Alderman Klug, seconded by Alderman Brickner to concur with the Mayor's appointments of Terra Scott, Carrie Wisniewski, Angie Behnke and Gail Kolvenbach to the 4th of July Commission. Motion carried.

Correspondence with Possible Action or Referral to Committees/Commissions/Boards:

Moved by Alderman McSweeney, seconded by Alderman Klug to place on file with reference in the minutes the correspondence dated March 29, 2018 from Fire Chief Poplar regarding vehicle retirement and action and to approve the Fire Chief's request. Motion carried.

Moved by Alderman McSweeney, seconded by Alderman Klug to place on file with reference in the minutes the correspondence dated March 19, 2018 from Ramboll Environment and Health regarding Petition for Special Privilege Application for 4051 South Iowa Avenue and to approve the request for a special privilege permit to install 2 monitoring wells in the City right-of-way

subject to the petitioner granting the City access to the data from the monitoring wells within the City right-of-way. Motion carried.

Closed Session:

Moved by Alderman Brickner, seconded by Alderman Klug to convene into closed session pursuant to Wis. Stat. sec. 19.85(1) (c) for purposes of considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility. Items for discussion - City Administrator - 2017 Performance Review. The following voted "aye": Alderman Wattawa, Alderman Klug, Alderman McSweeney, Alderwoman Schandel, and Alderman Brickner. Motion carried.

Time: 8:00 p.m.

Reconvene to Open Session:

Moved by Alderman McSweeney, seconded by Alderman Wattawa to reconvene into Open Session. Motion carried.

Time: 9:23 p.m.

Moved by Alderman Brickner, seconded by Alderman Klug that the discussion regarding City Administrator Johnsrud's performance evaluation should have been done in January but due to unforeseen issues it was delayed and was done tonight with the current Council and that the City Administrator receive a 2.6% increase in wages retroactive to January 1, 2018. Motion carried with Alderwoman Schandel voting "no."

Adjourn:

Moved by Alderman McSweeney, seconded by Alderman Klug to adjourn. Motion carried.

Time: 9:26 p.m.

STATE OF WISCONSIN

CITY OF ST. FRANCIS MILWAUKEE COUNTY

RESOLUTION No. 2757

**RESOLUTION APPROVING
THE EMPLOYEE POLICY MANUAL
AS REVISED APRIL 4, 2018**

WHEREAS, the City of St. Francis has revised the Employee Policy Manual to attract, retain and maintain a quality workforce in the delivery of services to the community; and

WHEREAS, the Employee Policy Manual was last revised in 2012 and changes reflect the current standards for employment policies, procedures, standards, rules and regulations of the City of St. Francis; and

WHEREAS, the Employee Policy Manual is not intended to be construed as an employment contract or to guarantee any rights to employees; and

WHEREAS, to the extent this Employee Policy Manual conflicts with specific language in any applicable collective bargaining agreement, the specific language of the collective bargaining agreement shall control over the language of this Employee Policy Manual and additionally any wages, hours and working conditions referenced within this Employee Policy Manual that are subject to the mandatory duty to bargain are not binding on those parties unless permitted within the collect bargaining agreement; and

WHEREAS, final interpretation and implementation of any of the policies or rules within this Employee Policy Manual are vested solely by the Common Council to the City Administrator acting as the Personnel Director per §105-12(B)(5); and

WHEREAS, the contents of this Employee Policy Manual are not intended to substitute for any controlling ordinances, resolutions, state or federal statute, code or regulation, common law or other legal binding authority, as may be updated or amended from time to time; and

WHEREAS, this Employee Policy Manual supersedes any and all previous Employee Policy Manuals, handbooks, statements, policies, procedures, rules, or regulations given to employees, whether verbal or written; and

NOW THEREFORE BE IT RESOLVED, the Bargaining Committee reviewed the Employee Policy Manual and recommends approval to the Common Council of the City of St. Francis; and

BE IT FURTHER RESOLVED, that the City Clerk/Treasurer and the City Administrator have the authority to effectuate this resolution and this resolution shall take effect immediately upon passage and publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 4th day of April, 2018.

/s/Ken Tutaj

Mayor

ATTEST:

/s/Anne B. Uecker, MMC/WCPC

City Clerk/Treasurer

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1425

AN ORDINANCE TO CONDITIONALLY REZONE CERTAIN LANDS IN THE CITY OF ST. FRANCIS FROM R-3, RESIDENTIAL MIXED USE DISTRICT TO R-3 RESIDENTIAL MIXED USE DISTRICT WITH A SPECIAL USE UNDER § 455-23(C) OF

THE CITY OF ST. FRANCIS ZONING CODE

3701 S PACKARD AVENUE;

WHEREAS, an Application dated December 7, 2017 having been filed by Jean Kelly (“Applicant”) to rezone the lands commonly referred to as 3701 South Packard Avenue in the City of St. Francis, Milwaukee County, Wisconsin, which are more particularly described in the attached Exhibit A (the “Subject Property”) to the R-3 Residential Mixed Use District with a Special Use Permit; and

WHEREAS, the Subject Property is currently zoned as part of the R-3 Residential Mixed Use District; and

WHEREAS, the Applicant seeks to use the Subject Property as a small beauty salon; and

WHEREAS, § 455-61 of the City of St. Francis Code of Ordinances defines a “Personal Service Establishment, General” to include a “beauty salon”; and

WHEREAS, use of Subject Property for a beauty salon is only permitted in the R-3 Residential Mixed Use District if a Special Use is approved by the Common Council under §§ 455-23(C) and 455-48 of the City of St. Francis Zoning Code following a public hearing and receipt of Planning Commission recommendations; and

WHEREAS, the Applicant has supplied all required data pursuant to § 455-48(D) of the City of St. Francis Zoning Code including, but not limited to all information required under § 455-47 of the City of St. Francis Zoning Code, in sufficient detail to permit the evaluation of the approval criteria set forth in § 455-48 of the City of St. Francis Zoning Code; and

WHEREAS, the initial Application and related information provided by Applicant has been available for public inspection in the office of the City Clerk since December 7, 2017; and

WHEREAS, the Application was considered by the City of St. Francis Planning Commission at a regular meeting held on January 24, 2018 upon due notice to the public; and

WHEREAS, pursuant to § 455-48(E), entitled “Review”, prior to making any recommendation to the Common Council regarding the requested Special Use approval, the Planning Commission reviewed the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, street access, traffic generation and circulation, drainage, sanitary and storm sewer, water

systems, landscaping, park requirements and proposed plan of operation in relation to the standards and considerations detailed in § 455-48 of the City of St. Francis Code of Ordinances; and

WHEREAS, § 455-48(F) of the City of St. Francis Code of Ordinances provides that no special use permit shall be recommended or granted pursuant to Chapter 455 of the City Code of Ordinances unless the applicant shall establish the following:

- (1) Chapter and Comprehensive Smart Growth Plan purposes and intent. The proposed use and development will be in harmony with the general and specific purposes for which Chapter 455 was enacted and for which the regulations of the zoning district in question were established and with the general purpose and intent of the City of St. Francis Comprehensive Smart Growth Plan or element thereof.
- (2) No undue adverse impact. The proposed use and development will not have a substantial or undue adverse or detrimental effect upon or endanger adjacent property, the character of the area, or the public health, safety, morals, comfort, and general welfare and will not substantially diminish and impair property values within the community or neighborhood.
- (3) No interference with surrounding development. The proposed use and development will be constructed, arranged, and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable zoning district regulations.
- (4) Adequate public facilities. The proposed use and development will be served adequately by essential public facilities and services, such as streets, public utilities, including public water supply system and sanitary sewer, police and fire protection, refuse disposal, public parks, libraries, schools, and other public facilities and utilities, or the applicant will provide adequately for such facilities.
- (5) No traffic congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) No destruction of significant features. The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.
- (7) Compliance with standards. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Common Council pursuant to the recommendations of the Planning Commission.

WHEREAS, the Planning Commission has recommended to the Common Council for the City of St. Francis ("Common Council") that the requested zoning be made and that the General Development/Site Plan be approved upon satisfaction of certain conditions that are incorporated herein; and

WHEREAS, the Planning Commission in making its recommendation, and the Common Council, having carefully reviewed the recommendation of the Planning Commission in making its determination as to the approval of the zoning requested, have given consideration to the following “considerations” as required by § 455-48(H) of the City of St. Francis Code of Ordinances:

- (1) Public benefit. Whether and to what extent the proposed use and development at the particular location requested are necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.
- (2) Alternative locations. Whether and to what extent such public goals can be met by the location of the proposed use and development at some other site or in some other area that may be more appropriate than the proposed site.
- (3) Mitigation of adverse impacts. Whether and to what extent all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping, and screening.
- (4) Establishment of precedent of incompatible uses in the surrounding area. Whether the use will establish a precedent of, or encourage, more intensive or incompatible uses in the surrounding area.

WHEREAS, notice having been properly given, a public hearing was held before the Common Council on March 20, 2018 as required by said Section 455-48(C); and

WHEREAS, having determined that all procedural and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety, and welfare of the community and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the community as to noise, dust, smoke, odor, and others, hereby determines that the rezoning will not violate the spirit or intent of the Zoning Code for the City of St. Francis, will not be contrary to the public health, safety, or general welfare of the City of St. Francis, will not be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factors and will not, for any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendations found in the City of St. Francis comprehensive plan;

NOW, THEREFORE, the Common Council of the City of St. Francis, Milwaukee County Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: Commencing upon the date hereof, the Zoning Map of the City of St. Francis is hereby conditionally amended to rezone the Subject Property R-3 Residential Mixed Use District–Special Use to permit use of the Subject Property as a beauty salon, subject to initial and continued compliance with each of the conditions stated in Section 2 of this Ordinance being fully met.

SECTION 2: CONDITIONS IMPOSED.

The rezoning of the Subject Property to permit its use as a beauty salon as set forth in the Application dated December 7, 2017 and related plans and materials submitted by the Applicant and on file in the office of the Zoning Administrator is hereby granted subject to initial and continued compliance with each and every one of the following conditions:

1. The Subject Property shall be used in compliance with all applicable provisions of the City Code including, but not limited to, fire safety, noise, parking, public health, sign regulations, and zoning regulations.
2. The Applicant is required and must have all plans current, approved by the Planning Commission for the City of St. Francis, and on file with the Planning Commission for the City of St. Francis. The Applicant shall be entitled to amend or change any plan contemplated herein subject to the aforementioned conditions and subject to the Planning Commission for the City of St. Francis approval and without a public hearing, if such amendments and/or change is not a substantial change from the original plan as approved and as allowed herein.
3. Services provided shall consist of hair treatments and facials. No nail treatment/massage services provided on the Subject Property. No retail sales shall be conducted on the Subject Property unless Applicant obtains approval of an amended Plan of Operation from the Planning Commission.
4. Permitted and accessory uses for the Subject Property shall be as set forth in § 455-23, R-3 Residential Mixed Use District, of the City of St. Francis Zoning Code, as amended from time-to-time.
5. Use of the Subject Property, including but not limited to the lot layout, shall be in substantial conformity with the Application, site plan, plan of operation, and related plans presented to the Planning Commission at its meeting on January 24, 2018 and as such plans may be subsequently approved by the Planning Commission from time to time. Such Site Plan, plan of operation, and related plans shall be deemed incorporated into this Ordinance by reference and violation of the requirements of any such plan(s) shall be deemed to constitute a violation of this Ordinance.
6. Signage on the Subject Property shall conform to the requirements of the City Code. Applicant shall obtain all necessary permit(s).
7. No junk shall be stored or allowed to accumulate on the Subject Property.
8. Applicant shall provide and maintain off-street parking on the Subject Property, including employee parking, in accordance with the provisions of § 455-38 of the City of St. Francis Code of Ordinances. All parking on, and ingress/egress to, the Subject Property shall be in accordance with the site plan approved by the Planning Commission from time-to-time and shall be clearly striped in accordance with the approved Site Plan and permanently maintained. Disabled parking spaces shall be clearly marked and located building on the Subject Property in accordance with applicable statutes.

9. No idling of diesel engines or trucks shall be permitted on the Subject Property except while loading/unloading operations are actively being conducted.
10. Hours of operation on shall be limited to:
 - Monday through Saturday: 10:00 a.m. until 8:00 p.m.
 - Sunday: Closed
11. Applicant shall provide dumpster screening as approved by the Planning Commission.
12. Lighting fixtures shall be of a type and be located in such a manner that no light or reflected glare is directed off-site and shall provide that no light is directed above a horizontal plane passing through the bottom of the fixture. All glare shall be directed onto the Subject Property and away from adjacent properties. All exterior lighting of the Subject Property shall comply with City Code and any applicable FAA regulations.
13. No alterations shall be made to existing grades/drainage without the prior written approval of the City Engineer of plans submitted by the Applicant.
14. Prior to the issuance of an occupancy permit, Applicant shall install landscaping including, but not limited to, landscaping creating a buffer zone between any adjacent residential property in accordance with a landscaping plan prepared by Applicant and approved by the Planning Commission. In addition, Applicant shall, prior to the issuance of an occupancy permit, complete installation of a make-up air flow handling system in accordance with Wisconsin State law;
15. Within eight (8) months of the date of this Ordinance, Applicant shall remove the pavement from the adjacent property owned by the City of St. Francis and install curb and gutter for the parking lot of the Subject Property in accordance with plans approved by the Zoning Administrator.
16. If hazardous substances are used and/or stored, a Applicant shall file a report with the Fire Department explaining the proposed facility's intended methods of operation and all such hazardous materials, their quantities, classifications, locations, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.
17. Applicant shall maintain the Subject Property in a neat appearance and maintained in accordance with all applicable provisions of the City of St. Francis Code of Ordinances and as amended from time-to-time.
18. The Applicant shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property. In the event any applicable law(s), regulation(s), condition(s), restriction(s), and/or ordinance(s) conflict, the more restrictive shall control. No outdoor storage shall be permitted on the Subject Property.
19. The Applicant shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property. In the event any applicable law(s), regulation(s), condition(s), restriction(s), and/or ordinance(s) conflict, the more restrictive shall control.

20. The Applicant is required to properly maintain the Subject Property at all times and in full compliance with the property maintenance ordinance provisions of the City of St. Francis, as amended from time-to-time, to the satisfaction of the Building Inspector.
21. The Applicant must pay all fees, costs, and assessments due and owing to the City of St. Francis and all costs and expenses incurred by the City of St. Francis, including legal and engineering fees and costs, arising out of or related to the Application, the review thereof, this Ordinance, and subsequent development of the Subject Property.
22. Any application for use of, or construction on, the lands described on Exhibit A, is an acknowledgement by Applicant that the Subject Property is subject to these conditions of approval. Applicant waives any claim(s) that it may have against the City of St. Francis, including, but not limited to, claims for damages, costs, and expenses, and claims of vested rights to the proposed development of the Subject Property, in the event any owner(s) of the Subject Property do not agree to the required terms.
23. Applicant shall satisfy all comments and concerns of the Building Inspector, City Engineer, Fire Chief, Police Chief, and Health Department pertaining to the Application and subsequent development and operation on the Subject Property under this Ordinance.
24. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In the case of a question as to the classification of use, the question shall be submitted to the Planning Commission for determination.
25. No use is hereby authorized unless that use is conducted in a lawful, orderly, and peaceful manner. Nothing in this Ordinance shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order, or rule of either the City of St. Francis, the County of Milwaukee, the State of Wisconsin, the United States of America, or other duly constituted authority except only to the extent that it authorizes a nonconforming use of the Subject Property in specific respects expressly described herein. This Ordinance shall not be deemed to constitute a building permit, nor shall this Ordinance constitute any other license or permit required by City Ordinance or other law or regulation.
26. The special use hereby granted shall be subject to all applicable limitations set forth in § 455-48(L) of the City of St. Francis Zoning Code, as amended from time to time.
27. The special use granted under this Ordinance may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in Chapter 455 of the City of St. Francis Zoning Code for its original approval.
28. Any violation of this Ordinance shall constitute a violation of the Zoning Ordinance for the City of St. Francis and shall be subject to the enforcement procedures contained in the City of St. Francis Zoning Code, as amended from time-to-time, and such other remedies as may be available to the City of St. Francis under Wisconsin law.
29. The special use granted under this Ordinance, shall be subject to acceptance in writing by the Applicant.

SECTION 3: SEVERABILITY.

The several sections of this Ordinance are declared to be severable. If any section or provision thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such declaration shall apply only to the specific section(s) or portion(s) thereof directly specified in said declaration, and shall not affect the validity of any other provisions, sections, or portions of the Ordinance, which shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall take effect upon its passage and posting/publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 4th day of April 2018.

City of St. Francis

By: Ken Tutaj
Mayor

ATTEST:

/s/Anne B. Uecker, MMC/WCPC
City Clerk/Treasurer

APPLICANT ACCEPTANCE

I hereby accept the terms of this Ordinance in its entirety.

Dated this _____ day of April 2018.

By: _____
Jean Kelly

Exhibit A

Legal Description of Subject Property

Legal Description For: 3701 S. Packard Avenue

Tax Key Number 544-9998-001

That part of the Southwest $\frac{1}{4}$ of Section 14, Town 6 North, Range 22 East, in the city of St. Francis, Milwaukee County, Wisconsin, bounded and described as follows: Commencing at the Southeast corner of said $\frac{1}{4}$ Section; thence North along the East line of said $\frac{1}{4}$ Section 1235.60 feet to a point; thence S. $89^{\circ} 56' 15''$ W. 33.00 feet to the point of beginning; thence North 73.50 feet to a point; thence S. $89^{\circ} 56' 15''$ W. 132.00 feet to a point; thence South 73.50 feet to a point; thence N. $89^{\circ} 56' 15''$ E. 132.00 feet to the point of beginning.

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1426

AN ORDINANCE TO CONDITIONALLY REZONE CERTAIN LANDS IN
THE CITY OF ST. FRANCIS FROM B-1, LIMITED BUSINESS DISTRICT TO
B-1 LIMITED BUSINESS DISTRICT WITH A SPECIAL USE
UNDER § 455-27(C) OF THE CITY OF ST. FRANCIS ZONING CODE
3801 S KINNICKINNIC AVENUE

WHEREAS, an Application dated December 8, 2017 having been filed by Eustaquio Gutierrez Vargast (“Applicant”) to rezone the lands commonly referred to as 3801 South Kinnickinnic Avenue in the City of St. Francis, Milwaukee County, Wisconsin, which are more particularly described in the attached Exhibit A (the “Subject Property”) to the B-1, Limited Business District with a Special Use Permit; and

WHEREAS, the Subject Property is currently zoned as part of the B-1, Limited Business District; and

WHEREAS, the Applicant seeks to use the Subject Property as a motor vehicle repair garage for automobiles; and

WHEREAS, § 455-61 of the City of St. Francis Code of Ordinances defines a “Motor Vehicle Repair Facility, Light” as: “An establishment providing the repair or servicing of light motor vehicles, including the sale, installation and servicing of related equipment and parts, where all such work is performed within an enclosed building. This term includes, but is not limited to, the repair or servicing of batteries, tires, mufflers, brakes, shocks, transmissions, engines or upholstery. This term includes, but is not limited to, an auto repair shop, wheel and brake shop, tire sales and installation, or upholstery shop. This term does not include vehicle dismantling or salvage, tire retreading or recapping, or body bumping and painting”; and

WHEREAS, use of property for a light motor vehicle repair facility is only permitted in the B-1 Limited Business District if a Special Use is approved by the Common Council under §§ 455-27(C) and 455-48 of the City of St. Francis Zoning Code following a public hearing and receipt of Planning Commission recommendations; and

WHEREAS, the Applicant has supplied all required data pursuant to § 455-48(D) of the City of St. Francis Zoning Code including, but not limited to all information required under § 455-47 of the City of St. Francis Zoning Code, in sufficient detail to permit the evaluation of the approval criteria set forth in § 455-48 of the City of St. Francis Zoning Code; and

WHEREAS, the initial Application and related information provided by Applicant has been available for public inspection in the office of the City Clerk since December 8, 2017; and

WHEREAS, the Application was considered by the City of St. Francis Planning Commission at a regular meeting held on January 24, 2018 upon due notice to the public; and

WHEREAS, pursuant to § 455-48(E), entitled “Review”, prior to making any recommendation to the Common Council regarding the requested Special Use approval, the Planning Commission reviewed

the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, street access, traffic generation and circulation, drainage, sanitary and storm sewer, water systems, landscaping, park requirements and proposed plan of operation in relation to the standards and considerations detailed in § 455-48 of the City of St. Francis Code of Ordinances; and

WHEREAS, § 455-48(F) of the City of St. Francis Code of Ordinances provides that no special use permit shall be recommended or granted pursuant to Chapter 455 of the City Code of Ordinances unless the applicant shall establish the following:

- (8) Chapter and Comprehensive Smart Growth Plan purposes and intent. The proposed use and development will be in harmony with the general and specific purposes for which Chapter 455 was enacted and for which the regulations of the zoning district in question were established and with the general purpose and intent of the City of St. Francis Comprehensive Smart Growth Plan or element thereof.
- (9) No undue adverse impact. The proposed use and development will not have a substantial or undue adverse or detrimental effect upon or endanger adjacent property, the character of the area, or the public health, safety, morals, comfort, and general welfare and will not substantially diminish and impair property values within the community or neighborhood.
- (10) No interference with surrounding development. The proposed use and development will be constructed, arranged, and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable zoning district regulations.
- (11) Adequate public facilities. The proposed use and development will be served adequately by essential public facilities and services, such as streets, public utilities, including public water supply system and sanitary sewer, police and fire protection, refuse disposal, public parks, libraries, schools, and other public facilities and utilities, or the applicant will provide adequately for such facilities.
- (12) No traffic congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (13) No destruction of significant features. The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.
- (14) Compliance with standards. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Common Council pursuant to the recommendations of the Planning Commission.

WHEREAS, the Planning Commission has recommended to the Common Council for the City of St. Francis ("Common Council") that the requested zoning be made and that the General Development/Site Plan be approved upon satisfaction of certain conditions that are incorporated herein; and

WHEREAS, the Planning Commission in making its recommendation, and the Common Council, having carefully reviewed the recommendation of the Planning Commission in making its determination as to the approval of the zoning requested, have given consideration to the following “considerations” as required by § 455-48(H) of the City of St. Francis Code of Ordinances:

- (5) Public benefit. Whether and to what extent the proposed use and development at the particular location requested are necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.
- (6) Alternative locations. Whether and to what extent such public goals can be met by the location of the proposed use and development at some other site or in some other area that may be more appropriate than the proposed site.
- (7) Mitigation of adverse impacts. Whether and to what extent all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping, and screening.
- (8) Establishment of precedent of incompatible uses in the surrounding area. Whether the use will establish a precedent of, or encourage, more intensive or incompatible uses in the surrounding area.

WHEREAS, notice having been properly given, a public hearing was held before the Common Council on March 20, 2018 as required by said Section 455-48(C); and

WHEREAS, having determined that all procedural and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety, and welfare of the community and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the community as to noise, dust, smoke, odor, and others, hereby determines that the rezoning will not violate the spirit or intent of the Zoning Code for the City of St. Francis, will not be contrary to the public health, safety, or general welfare of the City of St. Francis, will not be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factors and will not, for any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendations found in the City of St. Francis comprehensive plan;

NOW, THEREFORE, the Common Council of the City of St. Francis, Milwaukee County Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: Commencing upon the date hereof, the Zoning Map of the City of St. Francis is hereby conditionally amended to rezone the Subject Property B-1, Limited Business District – Special Use to permit use of the Property as a Light Motor Vehicle Repair Facility as defined in § 455-61 of the City of St. Francis Code of Ordinances, subject to initial and continued compliance with each of the conditions stated in Section 2 of this Ordinance being fully met.

SECTION 2: CONDITIONS IMPOSED.

The rezoning of the Subject Property to permit its use as a Light Motor Vehicle Repair Facility as set forth in the Application dated December 8, 2017 and related plans and materials submitted by the Applicant and on file in the office of the Zoning Administrator is hereby granted subject to initial and continued compliance with each and every one of the following conditions:

30. The Subject Property shall be used in compliance with all applicable provisions of the City Code including, but not limited to, fire safety, noise, parking, public health, sign regulations, and zoning regulations.
31. The Applicant is required and must have all plans current, approved by the Planning Commission for the City of St. Francis, and on file with the Planning Commission for the City of St. Francis. The Applicant shall be entitled to amend or change any plan contemplated herein subject to the aforementioned conditions and subject to the Planning Commission for the City of St. Francis approval and without a public hearing, if such amendments and/or change is not a substantial change from the original plan as approved and as allowed herein.
32. Permitted and accessory uses for the Subject Property shall be as set forth in § 455-27, B-1 Limited Business District, of the City of St. Francis Zoning Code, as amended from time-to-time.
33. Use of the Subject Property, including but not limited to the lot layout, shall be in substantial conformity with the Application, site plan, plan of operation, and related plans presented to the Planning Commission at its meeting on January 24, 2018 and as such plans may be subsequently approved by the Planning Commission from time to time. Such Site Plan, plan of operation, and related plans shall be deemed incorporated into this Ordinance by reference and violation of the requirements of any such plan(s) shall be deemed to constitute a violation of this Ordinance.
34. Applicant shall cause primary access for customer vehicles to the existing building to be from the rear of the building, with repaired vehicles exiting from the South Kinnickinnic Avenue side.
35. Applicant shall provide and maintain off-street parking on the Subject Property, including employee parking, in accordance with the provisions of § 455-38 of the City of St. Francis Code of Ordinances. All parking on, and ingress/egress to, the Subject Property shall be in accordance with the site plan approved by City Staff from time-to-time. Upon approval, such Site Plan shall be deemed to be incorporated into the provisions of this Ordinance by reference.
36. Signage on the Subject Property shall conform to the requirements of the City Code. Applicant shall obtain all necessary permit(s).
37. All storage of vehicles waiting for parts or to be worked on shall be stored within the building during the time that the repair shop is not open for business. There shall be no outdoor storage of any vehicle(s), parts, materials, or any other item(s) whatsoever.
38. No junk shall be stored or allowed to accumulate on the Subject Property.
39. All repair work shall be conducted completely within the building and doors used for vehicle access shall remain closed except during ingress/egress of vehicle(s).

40. No vehicle body repair or painting shall be conducted on the Subject Property.
41. Applicant shall provide and maintain off-street parking on the Subject Property, including employee parking, in accordance with the provisions of § 455-38 of the City of St. Francis Code of Ordinances. All parking on, and ingress/egress to, the Subject Property shall be in accordance with the site plan approved by the Planning Commission from time-to-time and shall be clearly striped in accordance with the approved Site Plan and permanently maintained. Disabled parking spaces shall be clearly marked and located building on the Subject Property in accordance with applicable statutes.
42. Outdoor parking of vehicles shall be limited to parking for employee vehicles and short-term customer vehicle parking. Such parking shall only be located in accordance with the approved Site Plan.
43. All parked vehicles shall have currently valid and displayed registration plates.
44. No tow truck(s) shall be parked on the exterior of the Subject Property overnight. Applicant shall not cause any towed vehicle(s) to be delivered to the Subject Property between the hours of 9:00 p.m. and 7:00 a.m. Towed vehicles may only be parked in area(s) designated on the approved Site Plan.
45. No semi-tractor/trailer(s) shall be parked on the Subject Property except while loading/unloading operations are actively being conducted.
46. No idling of diesel engines or trucks shall be permitted on the property except while loading/unloading operations are actively being conducted.
47. Hours of operation on shall be limited to:
 - Monday through Friday: 8:00 a.m. until 5:30 p.m.
 - Saturday: 8:30 a.m. until 2:00 p.m.
 - Sunday: Closed
48. Applicant shall provide dumpster screening as approved by the Planning Commission.
49. Lighting fixtures shall be of a type and be located in such a manner that no light or reflected glare is directed off-site and shall provide that no light is directed above a horizontal plane passing through the bottom of the fixture. All glare shall be directed onto the Subject Property and away from adjacent properties. All exterior lighting of the Subject Property shall comply with City Code and any applicable FAA regulations.
50. No alterations shall be made to existing grades/drainage without the prior written approval of the City Engineer of plans submitted by the Applicant.
51. Prior to the issuance of an occupancy permit, Applicant shall install landscaping including, but not limited to, landscaping creating a buffer zone between any adjacent residential property in accordance with a landscaping plan prepared by Applicant and approved by the Planning

Commission. In addition, Applicant shall, prior to the issuance of an occupancy permit, complete installation of a make-up air flow handling system in accordance with Wisconsin State law;

52. Within eight (8) months of the date of this Ordinance, Applicant shall complete the following in accordance with the plans approved by the Planning Commission:
 - a. Update the exterior façade;
 - b. Install an updated overhead entrance door; and
 - c. Install landscaping.

53. Noise Attenuation. The Planning Commission reserves the right to require additional landscaping and/or screening for noise control, including, but not limited to, berms, vegetation, fencing, or walls, at any time in the event the Planning Commission makes a determination, either at its own initiative or in response to inquiries, that the outdoor noise emanating from the Subject Property is unreasonable and that landscaping and/or screening for noise control will help to resolve the unreasonable condition. If landscaping and/or screening for noise control, is required, it shall be shown on a revised site plan provided to the Zoning Administrator for review and approval prior to a deadline established by the Planning Commission. The revised site plan shall include a reasonable timetable with a completion deadline for installation of the landscaping and/or screening. If the work is not completed by the deadline, the Planning Commission may recommend revocation of the Special Use Permit. The applicant acknowledges and agrees, however, that in the event all efforts listed above fail to control noise as reasonably determined by the City, the City reserves the right to review the conditions set forth in this Ordinance after public hearing if noise or other complaints are received and determined to be legitimate and, if such reduction fails to reasonably control the noise, the Special Use Permit may be revoked by the City after a public hearing is held.

54. Applicant shall install privacy fencing if the Planning Commission determines, in its reasonable discretion, that landscaping does not adequately provide screening to neighboring residential properties.

55. If hazardous substances are used and/or stored, a Applicant shall file a report with the Fire Department explaining the proposed facility's intended methods of operation and all such hazardous materials, their quantities, classifications, locations, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.

56. Waste fluids from vehicles shall be collected and stored in accordance with all applicable statutes, regulations, and code provisions. Spill protection and screening approved in conjunction with the approved Site Plan shall be present prior to any outside storage of any such fluids. No steel or plastic barrels or containers used for any temporary storage of waste fluids shall be stored on the exterior of the Subject Property.

57. Applicant shall maintain the Subject Property in a neat appearance and maintained in accordance with all applicable provisions of the City of St. Francis Code of Ordinances and as amended from time-to-time.

58. No vehicle(s) shall be held out for sale on the Subject Property and no vehicle sales shall be conducted from the Subject Property.
59. The Applicant shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property. In the event any applicable law(s), regulation(s), condition(s), restriction(s), and/or ordinance(s) conflict, the more restrictive shall control.No outdoor storage shall be permitted on the Subject Property.
60. No junk shall be accumulated or stored on the Subject Property.
61. Exterior lighting of the Subject Property shall comply with City Code and applicable FAA regulations.
62. The Applicant shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property. In the event any applicable law(s), regulation(s), condition(s), restriction(s), and/or ordinance(s) conflict, the more restrictive shall control.
63. The Applicant is required to properly maintain the Subject Property at all times and in full compliance with the property maintenance ordinance provisions of the City of St. Francis, as amended from time-to-time, to the satisfaction of the Building Inspector.
64. The Applicant must pay all fees, costs, and assessments due and owing to the City of St. Francis and all costs and expenses incurred by the City of St. Francis, including legal and engineering fees and costs, arising out of or related to the Application, the review thereof, this Ordinance, and subsequent development of the Subject Property.
65. Any application for use of, or construction on, the lands described on Exhibit A, is an acknowledgement by Applicant that the Subject Property is subject to these conditions of approval. Applicant waives any claim(s) that it may have against the City of St. Francis, including, but not limited to, claims for damages, costs, and expenses, and claims of vested rights to the proposed development of the Subject Property, in the event any owner(s) of the Subject Property do not agree to the required terms.
66. Applicant shall satisfy all comments and concerns of the Building Inspector, City Engineer, Fire Chief, Police Chief, and Health Department pertaining to the Application and subsequent development and operation on the Subject Property under this Ordinance.
67. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In the case of a question as to the classification of use, the question shall be submitted to the Planning Commission for determination.
68. No use is hereby authorized unless that use is conducted in a lawful, orderly, and peaceful manner. Nothing in this Ordinance shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order, or rule of either the City of St. Francis, the County of Milwaukee, the State of Wisconsin, the United States of America, or other duly constituted authority except only to the extent that it authorizes a nonconforming use of the Subject Property in specific respects expressly described herein. This

Ordinance shall not be deemed to constitute a building permit, nor shall this Ordinance constitute any other license or permit required by City Ordinance or other law or regulation.

69. The special use hereby granted shall be subject to all applicable limitations set forth in § 455-48(L) of the City of St. Francis Zoning Code, as amended from time to time.
70. The special use granted under this Ordinance may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in Chapter 455 of the City of St. Francis Zoning Code for its original approval.
71. Any violation of this Ordinance shall constitute a violation of the Zoning Ordinance for the City of St. Francis and shall be subject to the enforcement procedures contained in the City of St. Francis Zoning Code, as amended from time-to-time, and such other remedies as may be available to the City of St. Francis under Wisconsin law.
72. The special use granted under this Ordinance, shall be subject to acceptance in writing by the Applicant.

SECTION 3: SEVERABILITY.

The several sections of this Ordinance are declared to be severable. If any section or provision thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such declaration shall apply only to the specific section(s) or portion(s) thereof directly specified in said declaration, and shall not affect the validity of any other provisions, sections, or portions of the Ordinance, which shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall take effect upon its passage and posting/publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 4th day of April 2018.

City of St. Francis

By: /s/Ken Tutaj
Mayor

ATTEST:

/s/Anne B. Uecker, MMC/WCPC
City Clerk/Treasurer

APPLICANT ACCEPTANCE

I hereby accept the terms of this Ordinance in its entirety.

Dated this _____ day of April 2018.

By: _____

Eustaquio Gutierrez Vargast

Exhibit A

Legal Description of Subject Property

Legal Description For: 3801 S Kinnickinnic Avenue

Tax Key Number 545-8950-000

All that part the S.E. $\frac{1}{4}$ of Section 15, T 6 N, R 22 E, in the City of Milwaukee, Milwaukee County, Wisconsin, which is bounded and described as follows: Commencing at the point of intersection of the center line of that certain East and West highway known as East Norwich Avenue and the center line of South Kinnickinnic Avenue; thence Northwesterly along the center line of South Kinnickinnic Avenue 1373.74 ft. to the point of beginning of the land herein to be described; continuing thence Northwesterly along the center line of South Kinnickinnic Avenue 50.00 ft. to a point; thence Southwesterly at right angles to the center line of South Kinnickinnic Avenue 163.00 ft. to a point; thence Southeasterly and parallel to the center line of South Kinnickinnic Avenue 50.00 ft. to a point; thence Northeasterly at right angles to the center line of South Kinnickinnic Avenue 163.00 ft. to the point of beginning, excepting therefrom those parts heretofore dedicated for street purposes.

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1427

**AN ORDINANCE TO
ADOPT A TEXT AMENDMENT TO THE COMPREHENSIVE PLAN
FOR THE CITY OF ST. FRANCIS
PURSUANT TO SECTIONS 62.23 AND 66.1001 OF THE WISCONSIN STATUTES**

WHEREAS, pursuant to Section 62.23(2) and (3) of the Wisconsin Statutes, the City of St. Francis, is authorized to prepare and adopt a comprehensive plan as defined in section 66.1001(1)(a) and 66.1001(2) of the Wisconsin Statutes; and

WHEREAS, the Common Council has adopted the *City of St. Francis Comprehensive "Smart Growth" Plan* in compliance with the requirements set forth in Sections 62.23 and 66.1001 of the Wisconsin Statutes; and

WHEREAS, the City of St. Francis has, in part, conditioned its approval of certain zoning related matters pertaining to the development of certain improvements on South Lake Drive upon the adoption of an amendment to the City's Comprehensive Plan to permit residential apartment buildings on South Lake Drive; and

WHEREAS, on December 13, 2017 the Village Plan Commission, by a majority vote of the entire commission recorded in its official minutes, adopted a resolution pursuant to Section 66.1001(4)(b) of the Wisconsin Statutes recommending the adoption of a text amendment to the *City of St. Francis Comprehensive "Smart Growth" Plan*; and

WHEREAS, a public hearing was held on April 3, 2018 following notices as required by Section 66.1001(4)(e), concerning the proposed adoption of the text amendment to the comprehensive plan for the City of St. Francis as recommended by the Planning Commission; and

WHEREAS, the Common Council finds that, by adoption of the Planning Commission's recommendation, the City's Comprehensive Plan will continue to contain all of the elements specified in Section 66.1001(2) of the Wisconsin Statutes; and

WHEREAS, the Common Council finds that the procedural requirements in Sections 62.23 and 66.1001 of the Wisconsin Statutes have been fully complied with; and

WHEREAS, the Common Council concurs with the Plan Commission's recommendation to adopt a text amendment to the *City of St. Francis Comprehensive "Smart Growth" Plan*;

NOW, THEREFORE, the Common Council of the City of St. Francis, Milwaukee County, State of Wisconsin **DO ORDAIN AS FOLLOWS:**

SECTION 1: The text of the *City of St. Francis Comprehensive "Smart Growth" Plan* is hereby amended pursuant to Section 66.1001(4) (b) of the Wisconsin Statutes to incorporate the recommendation of the Planning Commission of the City of St. Francis that the last bullet point on page H: 24 of Chapter 2 of the *City of St. Francis Comprehensive "Smart Growth" Plan* read as follows:

- Only permit higher-density single-family or multi-family housing consistent with the inherent value of lakeshore property along or near major community corridors

SECTION 2: The City Clerk/Treasurer is directed to transmit one copy of the City of St. Francis Smart Growth Plan, as amended, to each entity enumerated within Section 66.1001(4) (b).

SECTION 3: SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effect immediately upon passage by a majority of the members elect of the Common Council and posting or publication as provided by law.

Dated this 4th day of April 2018.

City of St. Francis

/s/Ken Tutaj

Mayor

ATTEST:

/s/Anne B. Uecker, MMC/WCPC

City Clerk/Treasurer