

## ORDINANCE NO. 1206

### AN ORDINANCE RECLASSIFYING CERTAIN REAL ESTATE IN THE TOWN OF MUNSTER, INDIANA, AS PLANNED UNIT DEVELOPMENT FOR ZONING PURPOSES, AND AMENDING THE TOWN OF MUNSTER ZONING ORDINANCE (CFNI BUSINESS PLANNED UNIT DEVELOPMENT)

WHEREAS, the Town Council of the Town of Munster, Indiana (hereinafter the "Council"), did previously adopt an ordinance known as the Munster Municipal Code Chapter 29, and also known as the Town of Munster, Indiana Zoning Ordinance, in 1961 (hereinafter the "Zoning Ordinance");

WHEREAS, Community Foundation of Northwest Indiana, Inc. (hereinafter "Community"), filed a petition with the Plan Commission of the Town of Munster, Indiana (hereinafter the "Plan Commission") to re-zone certain real estate within the Town of Munster, Indiana, as a Planned Unit Development, which real estate is legally described on Exhibit A attached hereto and made a part hereof (hereinafter the "Real Estate");

WHEREAS, said petition was assigned Plan Commission Docket No. 2002-018, and considered initially at the regular meeting of November 12, 2002;

WHEREAS, following notice by publication and notice to interested parties as required by Indiana Code Section 36-7-4-604(b) and Indiana Code Section 5-3-1-2(b), and the rules and regulations of the Plan Commission, a public hearing was held by the Plan Commission on December 10, 2002;

WHEREAS, the Plan Commission, after public hearing, has recommended that the Zoning Ordinance be amended pursuant to Section 26-751 and has certified said recommendation to the Council pursuant to Indiana Code Section 36-7-4-605, as required by Indiana Code Section 36-7-4-608(b) so as to provide that the Real Estate be classified as a Planned Unit Development, and has made the following findings as required by Section 26-754 of the Zoning Ordinance; and:

- 1) The uses proposed will not be detrimental to present and potential surrounding uses but will have a beneficial affect which could not be achieved under any other district.
- 2) An amendment to the terms of this Chapter 26 of the Zoning Ordinance is warranted by the design and amenities incorporated in the development plan.
- 3) Land surrounding the proposed development either can be planned in coordination with the proposed development or will be compatible in use.
- 4) The proposed change to a Planned Unit Development district is in conformance with the general intent of the comprehensive master plan.

- 5) Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed district and in the vicinity of the proposed district.
- 6) Existing and proposed utility services are adequate for the proposed development.
- 7) The development, as it is proposed to be completed, contains sufficient parking spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.
- 8) The proposed Planned Unit Development district and all proposed building, parking spaces, landscape and utility areas can be completely developed within five (5) years of the establishment of the district.

NOW, THEREFORE, BE IT ordained by the Council that the Zoning Ordinance is hereby amended and modified and that the Real Estate, all lying within the municipal corporate limits of the Town of Munster, Lake County, Indiana, be re-zoned as a Commercial Planned Unit Development and the Zoning Map of the Town of Munster should be amended accordingly.

SECTION 1. REZONING. The Real Estate is hereby zoned as a Planned Unit Development as designated subject to the use restrictions and developmental requirements herein provided.

SECTION 2. USE RESTRICTION. Use of the Real Estate shall be limited to those permitted uses permitted in a commercial "C2" zoning district, pursuant to Chapter 26 of the Munster Town Code.

SECTION 3. DEVELOPMENT REQUIREMENTS. The Real Estate is described as Lots 1, 2 and 3 of Block 2 of Community Foundation, Inc. addition to the Town of Munster, Lake County, Indiana; all as shown on the plat submitted by Community Foundation to the Plan Commission in these proceedings. The Planned Unit Development consists of three (3) separate lots and three (3) buildings to be constructed on said lots in accordance with the Applicant's letter of intent, plats, plans and specifications which were submitted to the Plan Commission and are incorporated herein by reference and shall constitute the development plan of the Planned Unit Development required by the Munster Town Code Chapter 26. Final engineering approval shall be required prior to construction of any building in accordance with the development plan.

SECTION 4. UTILITIES. Within the development, petitioner shall be required to construct and maintain all municipal utilities in accordance with the development plan, engineering plan and all applicable ordinances of the Town of Munster.

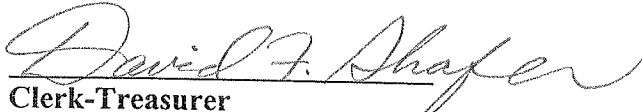
SECTION 5. COMPLIANCE WITH THE MUNSTER ZONING CODE. In all other respects, the property shall be subject to and shall comply with all other provisions of the Munster Town Code, Chapter 26.

13<sup>TH</sup> PASSED AND ADOPTED by the Town Council of Munster, Lake County, Indiana, this  
day of JANUARY, 2003, by a vote of 4 in favor and 0 opposed.

TOWN COUNCIL OF THE TOWN  
OF MUNSTER, LAKE COUNTY,  
INDIANA

  
President

ATTEST:

  
Clerk-Treasurer

**DISTRIBUTED**  
TCRM 12-23-02

## MEMORANDUM

To: Town Council, Town Manager

From: James M. Mandon, PE, Town Engineer *JMM*

Subject: Plan Commission Petition 2002-018

Meeting Date: December 10, 2002

At a regular meeting of the Plan Commission held on November 12, 2002, the Commission members first heard a request from Community Foundation of Northwest Indiana to rezone property located along the east side of Columbia Avenue, north of Hagburg Drive, as a Planned Unit Development, including office uses. The 7.797-acre site is intended for office development on three (3) lots. At the public hearing held December 10, 2002, there were no remonstrances from the public concerning the request. At this same meeting, the Commission voted 5-0 in favor of the request.

Enclosed for the Council's consideration are:

1. A certification of the action taken by the Plan Commission;
2. A copy of the Application for the Planned Unit Development;
3. A copy of the Statement of Intent;
4. Copies of approved minutes from the November 12, and draft minutes from the December 10 meetings.

**Recommendation:** The Staff recommends that the request to rezone the subject property be approved.

TOWN OF MUNSTER)

) SS:

LAKE COUNTY

# CERTIFICATION

The undersigned states that he is duly appointed Executive Secretary of the Munster Plan Commission, and certifies to the Town Council of the Town of Munster, Indiana that a petition filed by Community Foundation Northwest Indiana, to rezone property bounded by Columbia Avenue on the west, Hagburg Drive on the south, and Powers Drive on the east, was considered by the Munster Plan Commission on the 10<sup>th</sup> day of December, 2002, after due notice and hearing, and received a favorable recommendation to the Town Council of Munster, Indiana by a vote of 5 in favor and 0 opposed.

Dated this 17<sup>th</sup> day of December, 2002

James M. Mandon

James M. Mandon, PE, Executive Secretary  
Munster Plan Commission

PC 2002-018  
DATE 11/6/02  
FEE \$ 200.00

## TOWN OF MUNSTER APPLICATION FOR PLAN UNIT DEVELOPMENT APPROVAL

NOTE: APPLICATION MUST BE COMPLETED AND FILED WITH THE CLERK-TREASURERS OFFICE, 1005 RIDGE ROAD, MUNSTER INDIANA, AT LEAST 10 DAYS PRIOR TO PLAN COMMISSION MEETING AT WHICH THE COMMISSION IS TO CONSIDER SUCH APPLICATION. IF THE APPLICANT IS OTHER THAN THE OWNER OF THE PROPERTY, OWNER MUST ALSO SIGN THE APPLICATION, OR SUBMIT A LETTER AUTHORIZING APPLICANT TO ACT ON OWNER'S BEHALF.

### DEVELOPMENT

NAME CENT Business Planned Unit Development

PETITIONER Community Foundation of Northwest Indiana, Inc. PHONE (219) 836-0200

ADDRESS 907 Ridge Road, Munster, Indiana

PROPERTY OWNER Community Foundation of Northwest Indiana, Inc. PHONE (219) 836-0130

OWNER'S ADDRESS 907 Ridge Road, Munster, Indiana

GENERAL LOCATION OF SUBJECT PROPERTY South of Temple Beth-El, West of Powers Drive, North of Hagberg Drive, East of Columbia Avenue, Munster, Indiana

AREA 7.797 ACRES 3 NO. OF LOTS 3 CURRENT ZONING C-2

ARE MODIFICATIONS TO THE SUBDIVISION OR ZONING REGULATIONS BEING REQUESTED? X YES NO

IF SO, PLEASE EXPLAIN Rezone to P.U.D.

### PLEASE PROVIDE A BRIEF DESCRIPTION OF PROPOSED IMPROVEMENTS:

DRAINAGE Storm sewers exist at property lines

STREET CUTS Two required on Powers; one on Hagberg

SANITARY SEWERS Exist at property lines

WATER SUPPLY Exist at property lines

LANDSCAPING As shown on landscaping plan

SIGNAGE To be submitted and approved

NAME OF REGISTERED ENGINEER OR LAND SURVEYOR Bachman Partnership, P.C.

ADDRESS 8145 Kennedy Avenue, Highland, IN 46322 PHONE (219) 923-8008

ATTACHMENTS: APPLICANT MUST SUBMIT TEN (10) COPIES OF THE PROPOSED PLAT IN ACCORDANCE WITH THE REQUIREMENTS LISTED IN THE TOWN OF MUNSTER SUBDIVISION AND ZONING ORDINANCES.

SIGNATURE OF APPLICANT Palmer C. Singleton, Jr., Attorney for Community Foundation of Northwest Indiana, Inc. DATE 11/6/02

SINGLETON, CRIST, AUSTGEN & SEARS, LLP

ATTORNEYS AT LAW

THE FAIRMONT

SUITE 200

9245 CALUMET AVENUE

MUNSTER, INDIANA 46321

STEVEN R. CRIST  
TERENCE M. AUSTGEN  
MICHAEL D. SEARS  
ELIZABETH M. BEZAK\*  
PATRICK B. McEVEN  
JASON M. MASSARO

CHERYL A. ZIC  
MARYANN KUSIAK McCAULEY  
BARBRA A. STOOKSBURY

\*ALSO LICENSED IN ILLINOIS

PALMER C. SINGLETON, JR.  
OF COUNSEL

TELEPHONE 219-836-0200  
CHICAGO LINE 773-731-9567  
FACSIMILE 219-836-2544

November 6, 2002

Plan Commission  
Town of Munster  
1007 Ridge Road  
Munster, IN 46321

**RE: Proposed Business PUD - Lots 1, 2 & 3, Block 2,  
Community Foundation, Inc. Addition, Town of Munster**

Greetings:

On behalf of Community Foundation of Northwest Indiana, Inc., the beneficial owner of the above described real estate, application for approval of a business planned unit development is hereby made.

The proposed planned unit development consists of three (3) subdivided lots. They are located west of Columbia Avenue, north of Hagberg Drive, east of Powers Drive and south of the location of Temple Beth-El, all in the Town of Munster, Lake County, Indiana.

Adequate copies of the Preliminary Development Plan have been submitted as required by ordinance. Such plans indicate:

- (1) The proposed site plan, showing building locations and land use area;
- (2) Proposed traffic circulation, parking areas, pedestrian walks. Landscaping is shown on a separate plan submitted directly to the Plan Commission;
- (3) Proposed constructural sequence consists of Building No. 1 on Lots 1 & 2 construction of which is to start in early 2003. Construction of Building No. 2, which is on the east portion of Lot 3 will be in the Spring of 2003 and Building No. 3, which is located on the west portion of Lot 3 construction will begin in the Fall of 2003; and
- (4) Parking spaces and landscaping of the areas pertaining to each building will be included in the construction schedule.

Plan Commission  
Town of Munster  
November 6, 2002  
Page Two

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The property has been subdivided, all utilities are readily available and installed, streets and curbs are installed, and the existing zoning is C-2. The proposed uses as shown on the preliminary development plan is for the construction of two (2) story buildings to be used for professional, business and administrative offices. Such uses are in conformity with the present zoning but the development of the property would be best if zoning was a business planned unit development. As shown on the development plan:

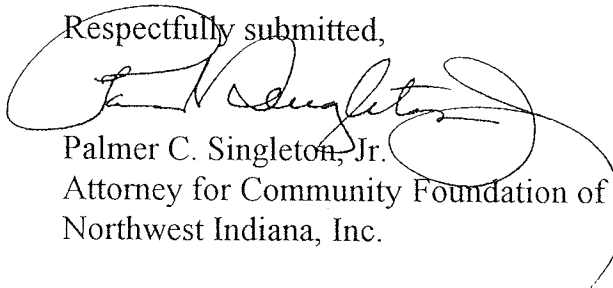
- (1) The district area is more than two (2) acres;
- (2) The width far exceeds two hundred (200) feet;
- (3) The depth exceeds two hundred (200) feet;
- (4) The rear yard is more than twenty-five (25) feet and the property does not abut on residentially zoned property;
- (5) A side yard of more than twenty-five (25) feet is provided.

Legal title to the property is currently held by Mercantile National Bank of Indiana as Trustee of Trust No. 3523. The Petitioner is the sole beneficiary of said trust and has the power to direct the Trustee.

Community Foundation of Northwest Indiana, Inc. respectfully prays that the Plan Commission of the Town of Munster hold a preliminary hearing to review the request and to cause a public hearing to be held in December, 2002.

Applications as required by the ordinance are submitted herewith.

Respectfully submitted,



Palmer C. Singleton, Jr.  
Attorney for Community Foundation of  
Northwest Indiana, Inc.

PCS/tsoc  
Enclosures



**MUNSTER PLAN COMMISSION  
REGULAR MEETING MINUTES  
TUESDAY, NOVEMBER 12, 2002, 7:30 P.M.  
MUNSTER TOWN HALL**

**1. Call meeting to order** - The meeting was called to order at 7:30 p.m., by Richard Cantwell, Chairman of the Plan Commission.

<b><u>2. Roll call</u></b> -	<b><u>Members present:</u></b> Helen Brown Richard Cantwell Stuart Friedman John Hluska George Glendening David Nellans Dale Schoon	<b><u>Members absent:</u></b>	<b><u>Staff present:</u></b> Steve Kennedy James Mandon
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**3. Approval of Minutes** – Mr. Nellans made a motion to approve the minutes of September 24, without amendment. The motion was seconded by Mr. Schoon, and then approved by unanimous vote of the members present.

**4. Preliminary Hearings –**

**Petition 2002-018 - Community Foundation Northwest Indiana**

Palmer Singleton, representing Community Foundation of Northwest Indiana, explained the request to rezone property bounded by Columbia Avenue on the west, Hagburg Drive on the south, Powers Drive on the east, containing 7.797 acres, from a 3-lot C2 subdivision to a 3-lot Planned Unit Development. Mr. Schoon asked whether the office buildings were planned as one or two story. Mr. Singleton answered that all three buildings will be two story. Mrs. Brown asked for Mr. Singleton to point out the green area around the buildings, which he did. Mrs. Brown made a motion to move this petition to a public hearing at the next scheduled meeting. The motion was seconded by Mr. Friedman, and then approved by unanimous vote of the members present.

**Petition 2002-017 - Whole Foods**

Craig Kouri, architect on behalf of Becknell, LLC, explained the request to subdivide property at 480 45<sup>th</sup> Street (Whole Foods), Midwest Central Business Park, containing 9.5578 acres, from 1 to 2 lots. Mr. Glendening made a motion to move this petition to a public hearing at the next scheduled meeting. The motion was seconded by Mr. Nellans, and then approved by unanimous vote of the members present.

**5. Public Hearings – none**

**6. Tabled Petitions -**

**Petition 2002-015 – ATG Development Corporation**

Vlad and Eric Gastevich, presented a revised plan to rezone property on Calumet Avenue, north of Lake Business Center, named Cambridge Court and Cambridge Center, from M-Manufacturing to Planned Unit Development, containing 18.421 acres. The proposal was changed in the residential portion of the development from 152 condo units in 19 8-unit buildings, to 144, located in 18 8-unit buildings. A 6-foot masonry wall has been added on the north, west, and east perimeter of the residential site, with a 10 to 12-foot berm along the south property line. The retention pond was modified to be more of an aesthetic feature with an aeration fountain.

Landscaping was increased in the commercial portion of the site. Also an emergency driveway connection was added from the commercial lots to the residential. Eric Gastevich stated that if traffic data identified the need for pavement widening on Fisher Street adjacent to the commercial access drive, that he would agree to make the necessary improvements as part of the cost of the development. At the request of the Plan Commission, Vlad Gastevich presented demographic data concerning the purchaser of Wildwood Court and White Oak Woods. He also indicated that the commercial lot adjacent to the residential property was proposed to be a 92-room Hampton Inn and Suites, with about a third of the rooms being suites.

James W. Calvo, Staubach, indicated that Walgreen's has tentatively approved this site for a new store. Mr. Friedman asked if Walgreen's would abandon the 45<sup>th</sup> Street site if they located in Cambridge Center. Mr. Calvo said he did not know. Mr. Friedman reiterated his objection to the hotel portion of the project. Mr. Hluska said that the development would create a positive situation for the area. He said he thought this was a good location for a Walgreen's. Mr. Glendening said he agreed with Mr. Hluska. Mr. Schoon asked if it would be better to locate the emergency entrance/exit on the west side of the property to allow direct access to the fire station. Mr. Nellans commented that there would be a problem with this because there will be a fence around the fire station/public works facility. In addition, the fire trucks exit the station from the north, so they would have to pull all the way around the building to access the site. Mr. Nellans thought that the emergency connection was better located on the east. He said that the changes made by ATG during the last 2 months were very positive. He said he supports the development because he believes that it provides a good transition from manufacturing on the south, to single family on the north. Mrs. Brown repeated her objection to the residential portion because it was so close to the Lake Business Center.

Mr. William Roser, who is a resident at 523 Fisher, said he supports ATG's proposal because it is much better than having a warehouse that much closer to his house. Mr. Reed repeated several of the objections, which he raised at the public hearing, and submitted in writing.

Mr. Glendening made a motion to send a favorable recommendation to the Town Council concerning this petition with the condition that Fisher Street be widened in accordance with the Town Engineer's recommendation. Mr. Glendening added that compliance with the contents of both the submitted development plan and statement of intent are also a condition of his motion. The motion was seconded by Mr. Schoon, and then approved by a 5-2 vote of the members present. Mr. Glendening, Mr. Nellans, Mr. Hluska, Mr. Schoon, and Mr. Cantwell voted in favor of the motion, while Mrs. Brown and Mr. Friedman vote against the motion.

#### **5. Final Approvals** – none

**7. Discussion** – Mr. Mandon asked the Plan Commission if they would prefer not meeting on November 26, and holding the December meeting on 10<sup>th</sup>. Mr. Cantwell, hearing no objection from the members, announced the revised meeting schedule as presented.

**8. Adjournment** - The meeting was adjourned by Mr. Cantwell at approximately 8:45 p.m.

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Richard Cantwell, Chairman, Munster Plan Commission

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Date

**MUNSTER PLAN COMMISSION  
REGULAR MEETING MINUTES  
TUESDAY, DECEMBER 10, 2002, 7:30 P.M.  
MUNSTER TOWN HALL**

**1. Call meeting to order** - The meeting was called to order at 7:30 p.m., by Richard Cantwell, Chairman of the Plan Commission.

<b><u>2. Roll call</u></b> -	<b><u>Members present:</u></b> Helen Brown Richard Cantwell Stuart Friedman John Hluska (arrived late) George Glendening David Nellans	<b><u>Members absent:</u></b> Dale Schoon	<b><u>Staff present:</u></b> Steve Kennedy
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**3. Approval of Minutes** – Mr. Glendening made a motion to approve the minutes of November 12, without amendment. The motion was seconded by Mrs. Brown, and then approved by unanimous vote of the members present.

**4. Preliminary Hearings** – none

**5. Public Hearings** –

**Petition 2002-018 - Community Foundation Northwest Indiana**

Palmer Singleton, William Bachman, and Jerry Grannato, representing Community Foundation of Northwest Indiana, explained the request to rezone property bounded by Columbia Avenue on the west, Hagburg Drive on the south, Powers Drive on the east, containing 7.797 acres, from a 3-lot C2 subdivision to a 3-lot Planned Unit Development. Mr. Kennedy confirmed that proper notice was issued for the public hearing. Mr. Bachman presented the landscape plan, which showed more green area than the code, required. Mr. Kennedy then read the staff recommendation, which was favorable. Mr. Cantwell opened the public hearing. Since there was no public comment, Mr. Cantwell then closed the public hearing. Mr. Glendening asked for copies of the plans, which Mr. Grannato provided. Mr. Glendening made a motion to recommend the petitioner's request for rezoning to the Town Council. The motion was seconded by Mr. Friedman, and then approved by unanimous vote of the members present.

**Petition 2002-017 - Whole Foods**

Craig Kouri, architect on behalf of Becknell, LLC, explained the request to subdivide property at 480 45<sup>th</sup> Street (Whole Foods), Midwest Central Business Park, containing 9.5578 acres, from 1 to 2 lots. Mr. Kennedy confirmed that proper notice was issued for the public hearing. Mr. Kennedy then read the staff recommendation, which was favorable. Mr. Cantwell opened the public hearing. Since there was no public comment, Mr. Cantwell then closed the public hearing. Mr. Glendening made a motion to grant preliminary and final subdivision approval. The motion was seconded by Mr. Nellans, and then approved by unanimous vote of the members present.

**Petition 2002-019 – Fence Ordinance Amendment**

An amendment to Section 26-986 of the Zoning Ordinance, regulating fences in the front yard was discussed. Mr. Cantwell opened the public hearing. Since there was no public comment, Mr. Cantwell then closed the public hearing. Mr. Kennedy suggested deleting the words "under any circumstances" and changing "in a way as" to "so as". Mr. Hluska asked if the town had allowed 42" fences previously, and Mr. Cantwell said that the prior code provision permitted these fences. Mr. Friedman made a motion to recommend the adoption of this ordinance, as

amended, to the town council. The motion was seconded by Mrs. Brown, and then approved by unanimous vote of the members present.

## **6. Final Approvals –**

### **Petition 2002-014 - First Metropolitan Estates of White Oak**

Mr. Kennedy reported that the engineering drawings for the subdivision known as First Metropolitan Estates of White Oak have been approved by the town engineer. The engineer has also set the amount of the financial security based on contractor agreements. Mr. Kennedy said he has been in contact with the financial institution, which will issue the Letter of Credit. This financial security instrument is required to guarantee the installation of public improvements in the subdivision. Language to be incorporated into the document was suggested by Mr. Kennedy, however, he is waiting to receive and review it. He said final approval should be conditioned on the town attorney's approval of the Letter of Credit. Only then should the mylars be signed. Mr. Glendening made a motion to grant final approval to the subdivision subject to the town attorney's final approval of the Letter of Credit. The motion was seconded by Mr. Friedman, and then approved by unanimous vote of the members present.

### **Petition 2002-015 – ATG Development Corporation**

Mr. Kennedy presented the Findings of Fact for the Subdivision and Rezoning request. The subdivision findings were discussed first. Mr. Friedman requested that the following language be deleted from paragraph 5: "and not detrimental to surrounding properties." Mr. Kennedy said that this language is not critical. Mr. Glendening made a motion to approve the Subdivision Findings of Fact, with the deletion of the language discussed above. The motion was seconded by Mr. Hluska, and then approved by a 4-2 vote of the members present. Mr. Glendening, Mr. Nellans, Mr. Hluska, and Mr. Cantwell voted in favor of the motion, while Mrs. Brown and Mr. Friedman voted against the motion.

The rezoning findings were addressed next. Mr. Friedman questioned the language, which stated that the rezoning was not detrimental to the surrounding properties, is in conformity with the master plan, and existing and proposed streets are suitable and adequate to carry the anticipated traffic. Mr. Kennedy noted that the Findings are a matter of opinion, and that the 5 to 2 favorable recommendation meant that a majority of the Plan Commission felt these ordinance requirements were met. Mr. Glendening pointed out that the motion to send the favorable recommendation to the Town Council concerning this petition included the condition that street improvements are required in accordance with the Town Engineer's recommendation. Mr. Glendening made a motion to approve the Rezoning Findings of Fact, with the addition of language in paragraph 7, page 5. The language should be inserted after "proposed streets", and should say, "including the conditions as to street improvements included in the motion of the Plan Commission for favorable recommendation for the rezoning." The motion was seconded by Mr. Hluska, and then approved by a 4-2 vote of the members present. Mr. Glendening, Mr. Nellans, Mr. Hluska, and Mr. Cantwell voted in favor of the motion, while Mrs. Brown and Mr. Friedman voted against the motion.

## **8. Discussion – none**

## **9. Adjournment** - The meeting was adjourned by Mr. Cantwell at approximately 8:45 p.m.

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Richard Cantwell, Chairman, Munster Plan Commission

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Date