

**THE AREA PLAN COMMISSION OF
ST. JOSEPH COUNTY, INDIANA**

MINUTES

Tuesday, April 21, 2015
3:30 p.m.

4th Floor, Council Chambers
County-City Building, South Bend, IN

MEMBERS PRESENT:

Adam DeVon, Steve Vojtko, John DeLee, Robert
Hawley, Thomas England, Karl King, John R.
McNamara, Gerry Phipps, Robert Schrock, Phil
Sutton, Jerry Thacker

MEMBERS ABSENT:

Daniel Brewer, Oliver Davis, Ted Penn, Patrick
Henthorn

ALSO PRESENT:

Larry Magliozzi, Angela Smith, Matthew
Chappuies, Jennifer Parcell; Staff,
Mitch Heppenheimer, Counsel

PUBLIC HEARING - 3:30 P.M.

1. REZONINGS:

- A. A proposed ordinance of South Bend Public Transportation Corp. to zone from MU Mixed Use District and MF1 Urban Corridor Multifamily District to SF2 Single Family & Two Family District and seeking the following three variances: 1) From the required Minimum Lot Width of 40' to 29' for Parcels B & F; 2) From the required 25' minimum front yard building setback to 15' for all lots; and 3) From the required minimum side yard of 5' or 10% of lot width, whichever is greater, to 4' for all lots, property located at the intersections of Northside Boulevard with Notre Dame Avenue and Frances Street (commonly known as the TRANSPO Site), as tabled, City of South Bend - APC# 2735-15.

KARL KING: We have a request to table this until the May 19, 2015 meeting of the Area Plan Commission.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Robert Hawley and unanimously carried, the proposed ordinance of South Bend Public Transportation Corp. to zone from MU Mixed Use District and MF1 Urban Corridor Multifamily District to SF2 Single Family & Two Family District and seeking the following three variances: 1) From the required Minimum Lot Width of 40' to 29' for Parcels B & F; 2) From the required 25' minimum front yard building setback to 15' for all lots; and 3) From the required minimum side yard of 5' or 10% of lot width, whichever is greater, to 4' for all lots, property located at the intersections of Northside Boulevard with Notre Dame Avenue and Frances Street (commonly known as the TRANSPO Site), is TABLED until the May 19, 2015 meeting of the Area Plan Commission.

- B. A proposed ordinance of Mohammad I. Rasul to zone from MF1 Urban Corridor Multifamily District to SF2 Single Family & Two Family District, property located at 1221 Miami Street, City of South Bend - APC# 2736-15.

MATTHEW CHAPPUIES: The petitioner is requesting a zone change from MF1 Urban

Corridor Multifamily District to SF2 Single Family & Two Family District. On site is a two-family home. To the north are multi-family homes zoned MF1: Urban Corridor Multifamily District. To the east across Miami Street is a vacant commercial building and a residential building with a large accessory structure zoned LB: Local Business District. To the south is a multi-family home zoned MF1: Urban Corridor Multifamily District. To the west is a vacant lot zoned CB: Community Business District. The SF2 District is established to protect, promote and maintain the development of single family dwellings and two family dwellings in the urban core of the City of South Bend as well as to provide for limited public and institutional uses that are compatible with an urban residential neighborhood. The availability of public facilities (e.g., public water, public sanitary sewer, storm sewer, natural gas, electricity, telephone, etc.) is required for development within this district. Rezoning's and petitions to SF2 do not require a site plan. Prior to adoption of the current zoning ordinance in 2004, this property was zoned R: Residential. Miami Street has four lanes. This property is served by municipal sewer and water. The City Engineer, County Surveyor, and The South Bend Department of Community Investment recommend approval. The petitioner is not proposing any written commitments. The petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006). Policy H 1.1 - Encourage residential developments to contain a mix of housing types, densities, price ranges, and amenities. Objective H 8: Promote homeownership within city limits. The future land use map identifies this area as Commercial (Office & Retail). The Miami Street Commercial Corridor Revitalization Action Plan (December 2000) identifies this area as a potential development site. Miami Street has a mix of residential and commercial uses. The most desirable use is one that is compatible in a mixed-use area. Since the property is already used for residential purposes, surrounding property values should not be negatively affected. It is responsible development and growth to maintain and preserve the area for a range of compatible uses. The staff has no additional comments. Based on information available prior to the public hearing, the staff recommends that the rezoning petition be sent to the Common Council with a favorable recommendation. The low-density nature of the existing residential home is consistent with the mixed-use character of the area.

A letter of remonstrance was received by an adjacent property owner, but after further discussion with this person it was made clear they were only objecting because they thought their property was also going to be rezoned.

MOHAMMAD RASUL: I reside at 55566 Labrador Point Court, Osceola. I am here to rezone this because I am selling this property.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Phil Sutton and unanimously carried, the proposed ordinance of Mohammad I. Rasul to zone from MF1 Urban Corridor Multifamily District to SF2 Single Family & Two Family District, property located at 1221 Miami Street, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. The low-density nature of the existing residential home is

consistent with the mixed-use character of the area.

- D. A proposed ordinance of The City of South Bend Department of Community Investment and the City of South Bend Parks Department to zone from MU Mixed Use District and GB General Business District to CBD Central Business District, property located at 416 Western Avenue and 501 W. South Street, City of South Bend - APC# 2738-15.

ANGELA SMITH: The petitioner is requesting a zone change from MU Mixed Use District and GB General Business District to CBD Central Business District. On site is a portion of Four Winds Field, a retail store, a parking lot, and a vacant commercial building. To the north across Western Avenue is the VA clinic zoned GB General Business and CBD Central Business District. To the east is land used in conjunction with Four Winds Field zoned CBD Central Business District. To the south is Four Winds Field stadium zoned CBD Central Business District. To the west across William Street is a multi-family structure and a commercial building zoned MU Mixed Use and GB General Business. The CBD Central Business District is established to promote the development of the downtown region of the City of South Bend as a center for trade, finance, government, high density residential and entertainment districts within St. Joseph County and north central Indiana. The regulations of this district are intended to encourage high density, mid-rise and high rise developments which may include a mixture of compatible urban uses. The development standards in this district, while designed to provide for high density development, also encourage a pedestrian friendly environment supportive of urban residential developments, retail, restaurant, theater and similar business and cultural uses associated with major metropolitan areas. The area being rezoned is a portion of the larger Four Winds Field at Coveleski Park. The Cub Den retail store and another commercial building currently exist on the site, as well as a portion of the stadium that contains the Tiki Hut and the Fun Zone. No new structures are proposed at this time. The remainder of the site is parking and open space. In 2007 the City acquired the former Sears Building and Gates Toyota property to allow for the expansion of Coveleski Stadium. Western Avenue and William Street have two lanes plus on-street parking. This site is served by municipal water and sewer. The County Surveyor, City Engineer, and Department of Community Investment recommend approval. The petitioner is not proposing any written commitments. The petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006) Objective AC 3: Establish downtown South Bend as a destination for arts and culture within a multi-state region. The future land use map identifies this area as Commercial (Office & Retail) and Central Business District. There are no other plans for this area. The area immediately around the site has been developed for uses that support the use and enjoyment of the baseball stadium, including other uses compatible with the CBD District. The most desirable use for the land is one that supports the existing uses and developments in the downtown area. Due to the fact that the use of the property will not change, surrounding property values should not be affected. It is responsible development and growth to zone the property CBD Central Business District in order to make it compatible with surrounding properties. The staff has no additional comments. Based on information available prior to the public hearing, staff recommends that the rezoning petition be sent to the Common Council with a favorable recommendation. The City continues to support the development and redevelopment of downtown properties. Zoning these properties to the same zoning classification as the surrounding properties will encourage compatible development opportunities.

MIKE CURRIER: I am with Jones Petrie Rafinski with offices located at 412 S. Lafayette Blvd. Throughout the various improvements to the project through the years it seems to make the most sense at this time. We have replatted the lots to make it more available for sale through Community Investment. At that time it seemed like it would be the right time to make them all the same zoning within that new plat that was recently recorded.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Robert Schrock and unanimously carried, the proposed ordinance of The City of South Bend Department of Community Investment and the City of South Bend Parks Department to zone from MU Mixed Use District and GB General Business District to CBD Central Business District, property located at 416 Western Avenue and 501 W. South Street, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. The City continues to support the development and redevelopment of downtown properties. Zoning these properties to the same zoning classification as the surrounding properties will encourage compatible development opportunities.

- D. A proposed ordinance of Bellprop, LLC to zone from C: Commercial District (County) to C General Commercial District (Town of Lakeville), property located at 67015 US 31, Town of Lakeville - APC# 2739-15.

MATTHEW CHAPPUIES: The petitioner is requesting a zone change from C: Commercial District in unincorporated St. Joseph County to C General Commercial District in the Town of Lakeville. On site is a gas station. To the north across Quinn Trail are vacant lots and an auto repair center zoned C General Commercial District in the Town of Lakeville. To the east across Mangus Drive are two restaurants zoned C General Commercial District in the Town of Lakeville. To the south across U.S. 31 are vacant lots and a public access site for Pleasant Lake zoned A: Agricultural District in the County and a tackle shop and a church zoned C General Commercial District in the Town of Lakeville. To the west is vacant land zoned R: Residential District in the County. The C-General Commercial District is established to provide the full range of commercial activities, including amusements, automobile and other vehicle sales and service, drive-in establishments, general merchandising, hotels and motels, and outdoor advertising shall be permitted in this district. The 1.72 acre lot is separated by the Heston Ditch. All construction will take place on the northeast portion of the lot. The proposed construction will include a remodel and expansion of the existing store from 1,600 square feet to 2,450 square feet, and replacement of the gas station canopy. New parking and landscaping will be constructed. An accessory structure exists within the County Ditch Easement. This property was rezoned from R: Residential District to C: Commercial District in 1981. U.S. 31 has four lanes. Quinn Trail has two lanes. This property is served by private well and septic, but will be connecting to municipal water and sewer. The County Surveyor recommends approval, subject to approval from County Drainage Board to allow accessory structure within the County Ditch Easement. County Engineer recommends approval, subject to SWPPP, drainage plan, and post construction maintenance plan. Town engineer notes that a full development plan will be required before issuance of construction permits. INDOT recommends approval. The petitioner is not proposing any written commitments. This rezoning is consistent with the Town of Lakeville Comprehensive Plan (August 2011) Step 9.1: Work with developers to implement community serving retail. The Town of Lakeville's future land use map identifies this area as Commercial Mix Use. There are no other plans in effect for this area. The intersection of U.S. 31 and Mangus Drive has developed as a small commercial node, including two restaurants, an auto repair center, a tackle shop, and a church. The most desirable use for this site is one that provides goods and services to the Town and stimulates economic growth in the area. Since the site is already used as a gas station, surrounding property values should not be affected. It is responsible development and growth to allow this property to develop for commercial uses. The staff notes that additional parking and landscaping may be required based on the final site plan. The anticipated effective date of annexation is June 21, 2015. Based on information available prior to the

public hearing, the staff recommends that the rezoning petition be sent to the Town Council with a favorable recommendation. This property is being rezoned from C: Commercial District in the County to C General Commercial District in the Town of Lakeville as part of an annexation of the property. The annexation and rezoning of the existing business will provide an increase in tax revenue for the Town and allow the property owner to access municipal utilities.

CHRISTOPHER G. WALTER: I am an attorney with offices located at 1051 E. Market Street, Nappanee. We believe at this time the Town does want us in the Town, so we have asked for the annexation so we could hook into the City utilities. It is important in the rezoning part of this that we stay on track as we are shooting for an annexation in June. Then it will be an expansion of the TIF District that will allow us to continue construction this summer and get his project forward.

JOHN DELEE: Is it normal procedure to be rezoned and annexed at the same time?

CHRISTOPHER G. WALTER: Yes.

JOHN DELEE: Thank you.

IN FAVOR

MARCEL LEBBIN: I am with May Oberfell, Lorber with offices located at 4100 Edison Lakes Parkway, Mishawaka. We represent the Town of Lakeville who is in favor of the annexation and working with the petitioner in moving into the Town of Lakeville. It is common to do the zoning request along with the petition to grant annexation.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

LARRY MAGLIOZZI: Just to expand on Mr. DeLee's question about combining the zoning and annexation. We try to do that as much as possible. It does not have to be done that way. We have been doing that for a lot of the City of South Bend zoning and annexations and whenever the Towns have them too. The annexation process is a separate process aside from our process here for zoning. Then the Town Board hears the zoning and annexation under the same date and hearing. There are some other documents they have to do in connection with the annexation, but it is just a way to speed things up.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Robert Schrock and unanimously carried, the proposed ordinance of Bellprop, LLC to zone from C: Commercial District (County) to C General Commercial District (Town of Lakeville), property located at 67015 US 31, Town of Lakeville, is sent to the Town Council with a FAVORABLE recommendation. This property is being rezoned from C: Commercial District in the County to C General Commercial District in the Town of Lakeville as part of an annexation of the property. The annexation and rezoning of the existing business will provide an increase in tax revenue for the Town and allow the property owner to access municipal utilities.

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Miscellaneous:

- A. Findings of Facts for Granting of Variances for property located at 13197, 13183 and vacant property east of and adjacent to 13183 S.R. 23, St. Joseph County- APC# 2733-15.

LARRY MAGLIOZZI: This is the expansion of the optometrist. These are the findings of facts for the variances you approved last month.

After due consideration the following action was taken:

Upon a motion by Phil Sutton, being seconded by Robert Schrock and unanimously carried, the Findings of Facts for Granting of Variances for property located at 13197, 13183 and vacant property east of and adjacent to 13183 S.R. 23, St. Joseph County were approved.

- B. Findings of Facts for Granting of Variances for property located at 3408 Ardmore Trail, City of South Bend - APC #2734-15.

LARRY MAGLIOZZI: This is the St. Vincent de Paul site, which is the Career Academy. The old Target site. These are the findings of fact for the variances that you approved last month.

After due consideration the following action was taken:

Upon a motion by John DeLee, being seconded by Phil Sutton and unanimously carried, the Findings of Facts for Granting of Variances for property located at 3408 Ardmore Trail, City of South Bend were approved.

- C. Presentation - John Carlson, GIS Manager on the new SJC GIS Website.

JOHN CARLSON: For those who do not know me, I am John Carlson, the GIS Manager for St. Joseph County. What I would like to show you today is a new GIS Website that we have created for quick access maps. Basically, we have always had a GIS Website, and on that GIS Website there have been at least twenty to thirty layers of information. I have heard over the years, "I am just looking for one specific answer". Like "What Council District or Commissioner District am I in?" We have come up with a new GIS Website that lets you get that quick answer. We call it the Quick Access Maps. Right here I am on the County Website. There is a link on the right hand side for the quick access maps. When you click on that it goes right to the website. Each one of these are an individual map layout with that information that it pertains to. If I wanted to look up my County Commissioner, you could type in your address and one feature that I like about this is it will start to autofill for you. I have a match for my address, it will zoom right to it. I can click on the property and then I have my information that I am looking for. Each one of these layouts will have three tabs associated with them, there is a legend of what content is in it, a brief description, and there is a layers list. We have the parcel list as the base for each map

layout that is within the quick access site. If I turn on the parcel layer I can click on the property and it gives me some brief information. One thing I wanted to try to do when we designed this is not taking away from the main GIS website that has a lot more interactive ways to access the data and look at the data, print out maps and so on. I created a couple of quick links one is the property record card per property. That is coming from the Assessor's website. A link to the GIS website that the County has and this will actually open up the website for you and zoom right to the property that you originally accessed in quick access maps, so you don't have to go through the procedure of trying to look it up again in the GIS website. Then you can go in and start doing all the different tools and so forth within the GIS website. As of right now we have 22 different map layouts, there are different ways you can access them, four at a time or if you click on gallery you would see twelve at a time. Each one of these interacts the same way with that information for that layout. A different type of layout we have is for the libraries, it is called a story map. What we designed here shows all the public libraries within St. Joseph County, the City of South Bend, and Towns. It will give you information on what it looks like, where it is located maybe some amenities it may have and it falls on the map to the right of where it is geographically. It gives you an idea of what kind of libraries might be in the area. We will also be developing more story maps. Some of the other ideas that we have come up with is the polling locations, historic sites and buildings, we are also going to do all the parks within the County and City, Schools, Golf Courses, County owned buildings. We are going to have a lot more story maps out there for people to interact with. We have many different ones and each one of those you can go in and link to their website or the GIS website.

STEVE VOJTKO: You said you have 22 maps.

JOHN CARLSON: This is just showing the first twelve. If you go to the second page there are more.

KARL KING: Where you have the opportunity to sign into ArcGIS, if you do that, it gives the impression that you should be able to extract from the GIS and create a map of your own that is if you had a database that you wanted to match up against.

JOHN CARLSON: Not on this. This is just for viewing only.

KARL KING: I get that, if you sign in to ArcGIS?

JOHN CARLSON: Yes, if you had an actual account with ArcGIS then you can build maps off of your log in.

KARL KING: Right, but could you use as the base one of your quick access maps and add something to it?

JOHN CARLSON: No. I don't have it set up that way. I just have them set up as read only.

MITCH HEPPENHEIMER: The key numbers that you use is like 018 and then there are the newer longer numbers?

JOHN CARLSON: They are both there.

MITCH HEPPENHEIMER: Ok.

JOHN CARLSON: The parcel layer is the base layer for all map layouts except for the story maps. Once you click on the popup it has the Tax ID and the State ID is the second set of numbers.

MITCH HEPPENHEIMER: Can you take a picture from front or is it all top?

JOHN CARLSON: It is aerial photography.

STEVE VOJTKO: When you log into the other screen, is that a pay login?

JOHN CARLSON: This is all open to the public.

STEVE VOJTKO: So when you sign in...

JOHN CARLSON: The sign in part that would be something for the manufacturer of this and that is ESRI. You would have to have an actual account through them.

STEVE VOJTKO: Is that a pay account or you just sign in with a name and password?

JOHN CARLSON: You sign in with your own id.

MITCH HEPPENHEIMER: Why would you do that?

KARL KING: That was the reason I was asking. Suppose you want to do a development of that nature and you wanted to pick out parcels here, extract that and make your own map of the area that you are wanting to develop or that you wanted to seek opportunities to buy. That is why I asked John the question about can I start with your basemap...

MITCH HEPPENHEIMER: He is saying this doesn't allow that.

JOHN CARLSON: This here does not allow that.

KARL KING: What I wanted to know was if you go into ArcGIS, can you take one of John's basemaps and use it as the beginning for the thing you wanted to do?

ANGELA SMITH: Can you export images?

JOHN CARLSON: You can export images, but you can't export the data.

ANGELA SMITH: You can export the image and go over it.

KARL KING: Thank you John. This looks great. How are you going to publicize this and let the public know it is available?

JOHN CARLSON: So far it has been word of mouth.

KARL KING: It seems that this would be worth of an article in the South Bend Tribune or something.

JOHN MCNAMARA: Have you thought about school districts?

JOHN CARLSON: Yes. We are going to do school districts and a story map for the schools themselves.

JOHN MCNAMARA: We have been working on this thing for a long time. We have all the survey data on there, the soils maps are on there, the ditches and watersheds and that kind of stuff. I just couldn't believe when he first showed it to me how easy it is to move around and get what you want.

PHIL SUTTON: So the soil maps are there?

JOHN MCNAMARA: Yes. What we are trying to do is get it out to the public so they don't have to come downtown to try to find a parking place without getting a parking ticket.

MITCH HEPPENHEIMER: Does your office keep track of all the hits.

JOHN CARLSON: No. You can see how many views it has for each layout.

ANGELA SMITH: John has been doing trainings with each department within the County so that they can help identify which maps would best suit them and help the public in their aspect. That also helps get the word out so everyone in this building knows they exist and as they receive customer calls, they will be sending them there. I believe, now that John has some assistance, they have been working on a GIS newsletter to help get that information out there as well.

ADAM DEVON: The active building permits that are shown, is that for Mishawaka too?

JOHN CARLSON: Just whatever the County Building Department administers. That information is updated every month.

2. Executive Director's Report:

LARRY MAGLIOZZI: Just as an information item. Due to staff shortages both in the City Code Enforcement office and the Building Department, zoning enforcement in the county and the city is an effort. It always has been. The building department essentially is the zoning administrator, and traditionally they have had pretty much one full time person doing that for the entire County. The Building Commissioner has, in the past, pitched in whenever he could. Just over the past year, that has become a difficult thing to cover with the Building Department staff not being fully funded. Mark Lyons, who is the Assistant Zoning Administrator, has had to cover a lot of office functions. They have not been able to respond to a lot of zoning calls and issues, and have essentially almost shut down that portion of their operation. Also, the Code Enforcement office has taken over a lot of the zoning enforcement in the city from the Building

Department. I think what is left in the Building Department to enforce is the signs and one more thing, but it is not a big land use issue. There is not much we can do about that here at the Plan Commission level. We are not the zoning administrator. What we can do is when we notice a potential zoning violation or change of uses that we don't think are in the proper zoning district, we can send letters out on behalf of the Commission, giving the owner a heads up that there is a potential zoning violation and for them to contact the Building Department. That at least takes some of the administrative effort off of their shoulders. They still have to respond and react to it and do whatever process that they do. We will probably try to figure out how to do that in an efficient manner. We don't obviously have a lot of staff either, but as we do our rounds for the BZA petitions and the zonings and subdivisions, we do cover a lot of the county so we can at least provide that kind of helpful service to the Building Department.

MITCH HEPPEHEIMER: I got a call from an attorney who represents the Vandergergh County Plan Commission this week and there was a zoning issue and he was telling me that the Staff of APC was the one who does the enforcement of the zoning.

LARRY MAGLIOZZI: Our Plan Commission is one of the few, Plan Commissions in Indiana that does not have zoning authority. In 1966 when the Plan Commission was formed, the zoning administrator was not vested in the Plan Commission. Mitch is right, Vanderbergh, Tippecanoe, all their zoning authority is essentially with the Plan Commission. Some of the smaller Building Departments around the State are part of the Plan Commission. I think in Mishawaka, the Plan Commission is under the umbrella of the Planning and Development Department. It has caused over the years, some difficult issues when we have a difference of opinion with the Building Commissioner about zoning or interpretation of zoning codes. It is not often, but it happens, and then again because we notice a lot of things, we can't do anything about it, we have to rely on another agency to enforce it. That agency has a different funding mechanism than we do. Things fall through the cracks a lot.

STEVE VOJTKO: If you were to make a change in that, who would have to initiate it? Is that something done by legislature or something that you can do within the County?

LARRY MAGLIOZZI: The zoning authority is vested in the zoning ordinance. The State law just says you have to have a zoning authority. It does not say who it has to be. It would have to be a legislative process here locally to make a conscious effort to transfer that authority from the Building Department to the Plan Commission.

MITCH HEPPEHEIMER: The County and City have one Building Department, so both the County and the City Councils would have to vote on it.

STEVE VOJTKO: Is that something that would streamline the process and work better?

LARRY MAGLIOZZI: You would have everything vested in one agency. The zoning fees, text amendments, the translation, the interpretation, and the enforcement. That in one sense streamlines everything. You have essentially one authority to go to. We have a lot of folks over the years that call us they get one interpretation or one idea and we can tell them yes, your business is allowed in this district, but really if you want us to write a letter you need to cross the street to the Building Department, then they have to go through the whole process again and get

the Building Department to react and write a letter. You have some people who play us against each other. We are careful about that but it has happened in the past.

MITCH HEPPENHEIMER: But the coordination, cooperation between the two offices is wonderful.

LARRY MAGLIOZZI: Yes it is good. There is no problem with that.

STEVE VOJTKO: If you could just streamline it to make it simpler for everybody.

LARRY MAGLIOZZI: I am not asking for it. There is a whole range of issues if that discussion does come up. I believe there was discussion this past budget period with the Building Department about their need to hire someone else, but the Building Department's budget, which is controlled by the City, was not allowing that.

MITCH HEPPENHEIMER: Another thing is that the City is trying to get Code Enforcement put in with the Building Department as well. They have plenty of things they are trying to do for economy and efficiency. I don't know if that is on the Cities radar.

JOHN DELEE: When I was Building Commissioner for the City, there were a lot of zoning violations and it took up a good percentage of my time. I was the administrator, but it also took getting information from Area Plan so there is cooperation between the two. Even if Area Plan is administering it they will have to go to the Building Department for information. It's not a cut and dry thing. It used to be quite a bit of work.

LARRY MAGLIOZZI: It is. As Mitch said we coordinate well, but it takes work to do that, no matter how well it's done.

MITCH HEPPENHEMER: Fozo was good, Chuck is good. The Building Commissioners have been good to work with.

LARRY MAGLIOZZI: I have passed out two items, the first one is the PUD. It doesn't really change what we told you about last month about what we would like to see. We are currently in the final re-draft of the PUD ordinance. You did give us permission last month to go ahead and do that and file it. We intend to file the ordinance in time for our June Plan Commission meeting. We have tightened up the intent section to get to the basic points of what we like to look at in PUD's. Building design is important. PUD's are special. We are trying to make the intent special because one of the things that the developer is going to have to do is address each one of these intent sections to prove that he has a legitimate PUD. Building design is important especially when there is adjacent development that is already in place. Land use is an open space that has always been important to us. Even more important now with increased interest in pedestrian/bicycle access between neighborhoods and developments. The rest of it is just allowing the developer flexibility in some of his design. Maybe have some incentives and those incentives are not written in black and white, but it gives us the ability to negotiate with the developer on a wide range of issues without really specifying what those are. So, if he wants to go higher on a building, we may say well ok, but there are some issues with that because of this, that and the other but maybe you do something else. You set it back further from the property

line. That gives us the ability to negotiate at the table. Obviously provide a zoning district that a use is not permitted in any district. Those are rare, but it does happen. Then item C. we picked this up from another jurisdiction that touches us pretty closely and it is that just because you have variances you can't get a special use done, doesn't mean you go for a PUD. We have removed the area requirement for the city it was somewhere near five to ten acres depending on what you had. Sometimes a PUD is going to be small and that is ok especially if it is a mixed use development that is not allowed anywhere else. The concept plan is already in place and now we are formalizing that a little more. They have to submit a concept plan, within at least two weeks of the time they file so we have time to react to them. In the ordinance we have criteria set up that tells the developer what we are looking at in a concept plan. John, if you remember it is like the old tentative plat that we had, they could do it on a napkin if they wanted. Just kind sketch out what they want to do, where they want to do it. Enough information where we can react as far as access, transportation and circulation. We will probably have a fee for that, which will come with the revised fee schedule that you will see, in two to three months. We will give you a draft of the ordinance in your preliminary packet next month, then we will file it with the council sometime next month and have it before you in June.

The quarterly report as you remember we are going from a monthly to a quarterly report. I handed out a sheet because we did change the format a little bit and Karl talked to me this afternoon about some questions he had, and when I started to look at it I said well maybe we reformatted that not quite the way it should be. It gives you the same information but I think in this newer format you have to search for it a little bit more. We just have to talk to our programmer and maybe get it back to what it looked like before.

KARL KING: I didn't have any trouble finding information, I have a question about something. One of the items that you have in here is BZA Appeals filed. We are talking about the new format, which if I am reading this right, between 2014 and 2015 have more than doubled. See what I am talking about?

LARRY MAGLIOZZI: Yes.

KARL KING: In the appeals field for variances has almost tripled. Gone from 25 to 65 between 2014 and 2015. What I am wondering is if in-fact we have that many requests for variances, does this tell us something about our zoning code? Do we have holes in the code or things in the code that even we recognize are obsolete or invalid and therefore we are granting variances? When you have a request for variances almost triple in a year over year comparison and the overall BZA Appeals more than double in a year to year comparison doesn't that suggest that something is wrong?

LARRY MAGLIOZZI: Yes. It does and that is why we have been talking to you about the Zoning Ordinance. We keep track of the variances so we know what variances are being filed and how many of those same types of variances and what districts they are in. That actually prompted us a number of years ago to change the criteria for the height of the monument sign because we were getting a lot of height variances for monument signs. The complaint was when it snows around here it covers the bottom twelve to fourteen inches of the sign. We do keep track of that and we should not have that many variances. If we have a good solid ordinance and the second part of that is, if you had a BZA that was a little bit more stingy, I am trying to be as

polite as possible. Then you would not have that many variances.

KARL KING: That is why I am questioning the fact that they increased so much here over the year.

MITCH HEPPENHEIMER: There is nothing wrong with it, it just needs to be updated. When was the last time they did that?

LARRY MAGLIOZZI: Ten years ago. There were some structural items even back then that if we thought it we wouldn't put in there. For example all the setback variances that we are getting for the new homes in the northeast neighborhood to go to fifteen feet. If we had known or looked at that neighborhood as maybe less of a suburban neighborhood which has 25-30 foot setbacks and looked at the neighborhood as a whole, most of the homes in that neighborhood already violate the 25 foot setback. We probably should have reduced that setback to begin with. There are things like that that is prompting a lot of those variances. Sometimes when you look at a BZA petition there are two or three variances per petition. We have one on the current agenda that they want to increase the footprint of their accessory structure, they also want to go higher. They also want to go closer to the setback line. Now in theory if you have that many variances your building is too big. They have the right to file for that. So we have an issue with the standards maybe they are too tight. Then we have an issue of how we look at variances when they come up for review. Our staff reports have gotten a lot more aggressive over the last couple of years. We have, as you can see from some of the variances that have gone before you, how we have developed our staff reports to address the three standards in State Law to the best of our ability with reasons of why the Plan Commission should or should not approve these variances. We spend a lot of time on that every month, with the staff report that we send to the Board of Zoning Appeals. I must say the BZA has gotten more cognizant of the fact that they should not be a rubber stamp, they should look at these a little more strict, a little bit more in depth. A lot of the variances and the reasons the petitioners give are, "just because I want it." There has to be a real hardship and there is rarely a real hardship. They just want it bigger, or closer because they don't want to take down the big tree next to their new structure. We look at all that. I think back ten years ago, I am not sure how many members of the BZA were part of the restructuring or re-drafting of the zoning ordinance. I think if they had been included and understood and been a part of the process, I think that would have been better. We do have the Indiana Planning Association Conference coming here in October. I think I may have mentioned that to you. Part of that is a training session for BZA. It will be offered hopefully free of charge to any board and board members that may want to understand how they should be looking at petitions and feel comfortable that they can say no. The BZA and variance should not be considered a rubber stamp, there should be a reason to it.

KARL KING: It seems that there could be one or two explanations. My thought was that if this is telling us that our code is obsolete then we need to be doing something about it here in the Plan Commission. If it is that the BZA is too lax and people are saying forget the code and just take it to the BZA and they will approve anything, that is another issue altogether and maybe not our issue to solve. But if it is the Code that needs updating, if this is telling us that, then it seems to me that the Area Plan Commission, that we as commissioners and you as the staff need to be facing up to that and launching something to make it happen.

LARRY MAGLIOZZI: Right. Again, we discussed that with you. We have a schedule going on. The PUD is the first thing, and then we are going to start working on portions of the zoning ordinance.

KARL KING: Ok, I don't want to prolong the issue....you get the point.

LARRY MAGLIOZZI: Yes sir.

3. Minutes and Expenditures:

- A. Approval of the minutes from the March 17, 2015 meeting of the Area Plan Commission.

After due consideration the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously carried, the minutes from the March 17, 2015 meeting of the Area Plan Commission were approved.

- B. Approval of the expenditures for March 17 through April 20, 2015

Adams Remco - \$48.78

After due consideration the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously carried, the expenditures for March 17 through April 20, 2015 were approved.

4. Adjournment: 4:35 p.m.

KARL G. KING,
PRESIDENT OF THE COMMISSION

ATTEST:

LAWRENCE MAGLIOZZI,
SECRETARY OF THE COMMISSION