

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

MINUTES

Tuesday, December 15, 2015
3:30 p.m.

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

MEMBERS PRESENT:

Daniel Brewer, Adam DeVon, Steve Vojtko John
DeLee, Robert Hawley, Karl King, John R.
McNamara, Elizabeth Maradik, Gerry Phipps, Phil
Sutton, Martin Madigan

MEMBERS ABSENT:

Oliver Davis, Thomas England, Jerry
Thacker

ALSO PRESENT:

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

KARL KING: All of you have been following the Regional Cities Initiative for the State of Indiana. You will be glad to know that our region is one of those that will be receiving the 42 million dollar grants. It is a really big deal for St. Joseph, Elkhart and Marshall Counties.

Another good thing that happened some time ago, but has happened since our last meeting. One of our members, Liz Maradik, passed the really tough examination to become a member of the American Institute of Certified Planners. Those of you who know about this business know that is a really big deal.

PUBLIC HEARING - 3:30 P.M.

1. REZONINGS:

- A. A combined public hearing on a proposed ordinance of DAFIR Realty, LLC to zone from R: Single Family District to C: Commercial District and seeking the following three variances: 1) from the required Type 2: full screening landscaping of side and rear yards abutting residential districts to no landscaping on the rear and no landscaping on the south for the first 200' east of Fir Road, Type 1: open landscaping on the north starting at a point 400' east of Fir Road, and Type 1: open landscaping on the south starting at a point 700' east of Fir Road and continuing along the property that runs parallel to Fir Road; 2) from the required 40 parking spaces to 5; and 3) from the required foundation landscaping to none along the western facades of the storage buildings, property located at 54486 Fir Road, St. Joseph County, AS TABLED - APC# 2760-15.

KARL KING: We have a request to table this to the January 19, 2016 meeting of the Area Plan Commission. There have been some changes to this that I think will be a better presentation and petition when it comes through.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by John McNamara and unanimously carried, the proposed ordinance of DAFIR Realty, LLC to zone from R: Single Family District to C: Commercial District, property located at 54486 Fir Road, is TABLED until the January 19, 2016 meeting of the Area Plan Commission.

B. A proposed ordinance of Mark and Sandra Cracco to zone from C: Commercial District to R: Single Family District, property located at 52031 State Road 933, St. Joseph County - APC# 2767-15.

MATTHEW CHAPPUIES: The petitioner is requesting a zone change from C: Commercial District to R: Single Family District. On site is an existing single family house. To the north is a multi-tenant shopping plaza zoned C: Commercial District. To the east across SR 933 is a car sales lot zoned C: Commercial District. To the south is a vacant lot owned and an auto body repair shop zoned C: Commercial District. To the west is the undeveloped portion of the lot to the north zoned C: Commercial District. The R: Single Family Districts are established to protect, promote and maintain the development of single family dwellings as well as provide for other limited residential, public and institutional uses that are compatible with residential development located at the periphery of an urban area. Rezoning and petitions to R: Single Family District do not require a site plan. This site and the adjacent properties have been zoned C: Commercial since 1984. Prior to 1984, the site was zoned B Business. The car lot to the east was zoned from R: Single Family and C: Commercial to C: Commercial in 2014 to allow the commercial portion of the site to be expanded to the east. State Road 933 has four lanes and a center turn lane. The site will continue to be served by private well and septic. County Surveyor, County Engineer, and County Health Department recommend approval. The petitioner is not proposing any written commitments. The petition is not consistent with the Comprehensive Plan for South Bend and St. Joseph County, Indiana (April 2002), however, changes in lending underwriting guidelines have required property owners to rezone their property in order to maintain long established residential uses. The future land use map identifies this area as commercial. No other plans exist for this area. State Road 933 is a heavily travelled commercial corridor with a mix of retail and residential. The most desirable use for this site is one that is compatible with the mixed-use nature of the area. Surrounding property values should not be adversely affected due to the low-impact nature of a single family residence. It is responsible development and growth to allow this property to be zoned to a residential district, which would reflect its original use. The staff has no additional comments. Based on information available prior to the public hearing, staff recommends the rezoning petition be sent to the County Council with a favorable recommendation. This rezoning will allow a home, which was in existence prior to the adoption of the current zoning map, to remain in place as a permitted use.

ROBERT HAWLEY: Has this property been used over the years as a residence?

MATTHEW CHAPPUIES: Yes it has. It has only been used as a residence as far as I understand.

ROBERT HAWLEY: Is it occupied now?

MATTHEW CHAPPUIES: It is occupied now, yes.

MARK CRACCO: I reside at 52031 SR 933, South Bend. That is the house that we are asking for the rezoning. Matt pretty much covered everything. I can let you know that the purpose for the rezoning is we would like to apply for a home equity line of credit and the bank is unable to do that if the property is zoned commercial. I have lived in the house for fifteen years.

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 Hawley and unanimously carried, the proposed ordinance of Mark and Sandra Cracco to zone from C: Commercial District to R: Single Family District, property located at 52031 State Road 933, St. Joseph County, is sent to the County Council with a FAVORABLE recommendation. This rezoning will allow a home, which was in existence prior to the adoption of the current zoning map, to remain in place as a permitted use.

- C. A combined public hearing on a proposed ordinance of Sonora Properties of Indiana LLC to zone from LB Local Business District to OB Office Buffer District, seeking a Special Exception Use to allow for personal services, and seeking the following two variances: 1) from the required landscaping of required perimeter yards and residential bufferyards for the northernmost 90' of the west property line to the existing landscaping; and 2) from the required off-street parking area screening to none along the north, east, and west parking lot boundaries, property located at 3055 Edison Road, City of South Bend - APC# 2768-15.

MATTHEW CHAPPUIES: The petitioner is requesting a zone change from LB Local Business District to OB Office Buffer District, seeking a Special Exception Use for Personal Services, and seeking two variances from the development standards. On site is an existing single family home equipped as a salon. To the north are the soccer fields of Bohem Park zoned SF1 Single Family & Two Family District. To the east is an open field of Bohem Park zoned SF1 Single Family & Two Family District. To the south across Edison Road are single family homes zoned SF1 Single Family & Two Family District and a church zoned MF2 Urban Corridor Multifamily District. To the west is a single family home zoned SF1 Single Family & Two Family District. The OB - Office Buffer District is established to promote the development of small scale office, professional, business, governmental and quasi-governmental uses. Since the types of permitted uses in the OB District are typically less commercial in appearance and are architecturally more harmonious with residential structures, this district can serve as a buffer between residential districts and more intense commercial or industrial districts. The OB District may also serve as a gradual and reasonable transition between major thoroughfares and residential districts. The OB District development standards are established to assure small scale developments. Existing on this 0.6 acre site is a vacant residential structure which has been modified into a hair salon with an attached garage. A paved lot with 15 parking spaces is provided to the east of the house. The property is surrounded on three sides by mature trees. This property was rezoned in 2005 from SF1 Single Family & Two Family District to LB Local Business District with the written commitment that the use of the property be limited to a full-service beauty salon. Edison Road has four lanes and a center turn lane. The site is served by municipal water and sewer. County Surveyor recommends approval. City Engineer notes that all landscaping must be installed on private property and not located on the public right-of-way. The petitioner is not proposing any written commitments. The petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006): Objective LU 2: Encourage a compatible mix of land uses in the community. The future land use map identifies this area as low density residential. There are no other plans in effect for this area. Edison Road between Rockne and Hickory consists of single family and multifamily residential, with a commercial node near the intersection with Hickory. The most desirable use is residential or low-impact office uses. Surrounding property values should not be negatively impacted due to the fact that this is already zoned for, and being used as, a beauty salon. It is responsible development and growth to allow this property to be down-zoned to the OB Office Buffer District. This is a combined public hearing procedure, which includes a rezoning, a Special Exception Use, and two variances from the development standards. The Commission will forward the rezoning and the Special Exception Use to the Common Council with or without a recommendation and either approve or deny the variances. State statutes and the South Bend Zoning Ordinance require that certain standards

must be met before a variance or Special Exception Use can be approved. The Special Exception Use is for Personal Services. A Special Exception Use may only be granted based upon the evidence presented at a public hearing, that: (1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare. This site has previously been used as a beauty salon. The proposed Special Exception Use is low-impact and appropriate for a major corridor. It should not generate additional traffic to the site. (2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein. The property was previously used for non-residential uses. With proper screening, adjacent properties should not be adversely impacted. (3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein. The proposed use is an adaptive reuse of an existing building. No major modifications are planned that would change the character of the area. (4) The proposed use is compatible with the recommendations of the Comprehensive Plan. The comprehensive plan encourages a compatible mix of uses in the community. The variances are as follows: 1) from the required landscaping of required perimeter yards and residential bufferyards for the northernmost 90' of the west property line to the existing landscaping; and 2) from the required off-street parking area screening to none along the north, east, and west parking lot boundaries. State statutes and the South Bend Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows: (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The property is already screened on three sides by dense vegetation. Because the property to the north and east is a large open park area, it would not be injured by lack of parking screening where other screening already exists. (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. Surrounding property values will not be adversely affected because the perimeter landscaping will effectively screen the parking lot. (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Strict application of the landscape regulations would require the site to have redundant landscaping. Based on information available prior to the public hearing, staff recommends that the rezoning petition and Special Exception Use be sent to the Common Council with a favorable recommendation. Staff recommends approval of both variances. Rezoning this site to OB Office Buffer District with the limited Special Exception Uses permitted will allow for a responsible adaptive-reuse while providing a buffer between the residential neighborhood and Edison Road.

STEVE VOJTKO: On the screening you said an exception or variance. What happens in the future if those trees are taken down? Will that variance still be in place?

MATTHEW CHAPPUIES: That variance will still be in place, that is correct.

STEVE VOJTKO: So will they need to be replaced?

LARRY MAGLIOZZI: If those trees come down they will need to be replaced at least minimally to cover the variance. They are given a variance for what they have and if a storm comes along and the trees are blown down, they die, they need to be cut down, those have to be replaced. The variance does not grant them the right to not replace the trees in case something happens.

STEVE VOJTKO: So if a storm came along and knocked all the trees down would they have to replant them at the current specifications or to what they have right now?

LARRY MAGLIOZZI: I am not sure that has ever come up, but that is why I say at the minimum they would have to replace them according to the variance.

STEVE VOJTKO: Ok.

KARL KING: According to the standards.

LARRY MAGLIOZZI: Right.

STEVE VOJTKO: Well the variance that we will give them today is not to the normal standards.

LARRY MAGLIOZZI: Correct. The standards of the variance.

KARL KING: Right. If I am right Matt, the conditions on this property are exactly as they were when Ron's Hair Salon was in existence?

MATTHEW CHAPPUIES: Nothing has changed.

JANIS HENSELL: My sister and I own Sonora Properties, which currently owns the property at 3055 Edison Road in South Bend. We purchased the property in 2005 after successfully gaining approval by the City of South Bend to rezone from residential to zoning for a beauty salon. This property was used for a beauty salon up until July 2014 when the salon closed that location for good. The property has been for sale since April 2014. We have been unsuccessful in selling the property, even at a price well below our investment and an extremely competitive price. The current zoning only allows it to be used as a beauty salon, which has made it very difficult to sell. We have not received even one written offer. We had it listed with three different realtors trying to find someone who could find a buyer for the property. We have had two prospective buyers very interested, but both walked away when they discovered that the property was not zoned for office use and only a beauty salon. They did not want to wait for the time and the uncertainty of rezoning this property and opted for other properties already zoned for their use. Therefore, at the advisement of our current realtor, we thought it would be beneficial in getting the property sold to again request rezoning this property to allow general office use. It is also important to maintain the option to use it as a beauty salon because it is still configured and equipped for that. We are asking for that exception to the office buffer zoning. In order to get it sold, we need to have it available to both categories of users. Since we first purchased the property we have made several improvements, including hooking up to city sewer, putting in a paved parking lot, bringing the building up to commercial code, including handicap access ramp, restroom, and widening doors and hallways. The property is an asset to the neighborhood and will continue to be an ideal location for a small business. We ask that you respond favorably to our request as we believe this will enable us to sell the property quicker. We are a very small company and I have had to carry the burden for a mortgage without revenue coming in for seventeen months. Taxes have gone unpaid, but will be paid in full upon the sale of the property. We have a verbal offer from an investor right now and he is anxiously awaiting the outcome of today's meeting in making his final decision with regards to purchasing 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 DeLee, being seconded by Robert Hawley and unanimously carried, the proposed ordinance of Sonora Properties of Indiana LLC to zone from LB Local

Business District to OB Office Buffer District, property located at 3055 Edison Road, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. Rezoning this site to OB Office Buffer District with the limited Special Exception Uses permitted will allow for a responsible adaptive-reuse while providing a buffer between the residential neighborhood and Edison Road.

Upon a motion by Dan Brewer, being seconded by Robert Hawley and unanimously carried, the Special Exception Use to allow for personal services was sent to the Common Council with a FAVORABLE recommendation.

Upon a motion by John DeLee, being seconded by Robert Hawley and unanimously carried, the following two variances: 1) from the required landscaping of required perimeter yards and residential bufferyards for the northernmost 90' of the west property line to the existing landscaping; and 2) from the required off-street parking area screening to none along the north, east, and west parking lot boundaries were approved, subject to the rezoning being approved by the Common Council.

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Miscellaneous:

- A. Alternate Development Standards – Ameriplex at Interstate 80/90, Area C, southeast quadrant of Adams Road and US 31 – APC #2306-05

LARRY MAGLIOZZI: The petitioner is requesting approval of alternate development standards for signs. The Portage Prairie PUD was originally heard by the Area Plan Commission in March 2005. In April 2008, alternate development standards for signs were approved by the Commission. In October 2012, alternate development standards for signs and landscaping were approved. In 2014, alternate development standards for outdoor storage and renaming of the PUD to AmeriPlex at Interstate 80/90 were approved. In November 2015, alternate development standards for signs and landscaping were approved. The AmeriPlex at Interstate 80/90 PUD ordinance provides the developer the opportunity to submit alternate development standards for the approval by the Area Plan Commission. The alternate development standards being proposed by the developer include removing the previous standards for wall signs on the front façade and replacing them with the allowance of 10% of the façade area for the front façade and 5% of the façade area for side and rear facades. The proposed wall sign calculations are consistent with the standards of the LI Light Industrial District. Staff recommends approval of the proposed alternate development standards. The proposed standards are consistent with the intent and design of the original PUD while allowing flexibility and adapting to current design standards.

TYLER KELSEY: I am with Holladay Properties. The intent behind this petition is really to just basically provide our current building owner and tenant some flexibility in building signs. Previously it handcuffed us to a limited amount of signage. We have recently come across this with an industrial user, Chase Plastics. There was some discrepancy on frontage. They were west of Dylan but east of the 31 bypass. They have a pretty long access drive. The frontage is technically U.S. 31 and they really wanted signs on Dylan. Even from a fire marshal's consideration, the signage really makes more sense to be on the Dylan side. That is what they are treating as their frontage. This would be consistent with their light industrial uses throughout the City of South Bend. We do apologize for the oversight on not having this as part of our proposed amendment on the November agenda as well.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Dan Brewer and unanimously carried, the Alternate Development Standards – Ameriplex at Interstate 80/90, Area C, southeast quadrant of Adams Road and US 31 was approved.

- B. Findings of Facts for Granting of Variances for property located at 1637 and 1641 Portage Avenue, City of South Bend – APC #2759-15

LARRY MAGLIOZZI: This is the Findings of Facts for Dr. Mai, the Dentist on Portage Avenue.

After due consideration, the following action was taken:

Upon a motion by Dan Brewer being seconded by Robert Hawley and unanimously carried, the Findings of Facts for Granting of Variances for property located at 1637 and 1641 Portage Avenue, City of South Bend were approved.

KARL KING: I want to comment here, there are Plan Commissions around the state who have gotten themselves into trouble by approving variances and never doing what we just did. They have ended up in court and there have not been findings of facts and they have had to rely on their minutes. Our staff needs to be commended, I think, for making sure we take this extra step, writing them up carefully, and having us formally approve them. That provides a solid record of why we did what we did. Even if all of us were gone, anyone could go to the file and be able to tell what and why we did what we did.

2. Executive Director's Report:

LARRY MAGLIOZZI: I have nothing today except on behalf of the staff we wish you a Very Merry Holiday and safe travels if you are traveling.

KARL KING: Before we finish up the meeting, I want to let you know that this is my last meeting as a member of the Area Plan Commission. My term ends on December 31st and because I am now 73 years old, I suggested to the Mayor that he should appoint a younger person to replace me. I have been on the Commission for over 16 years and I have enjoyed every bit of it. I think it is a real privilege to participate in making land use decisions that are important to St. Joseph County's future economic vitality and quality of life. Never the less, I firmly believe that replacing me with a younger person would be good for the Commission and good for the Community. Future leaders of our community can only take on their appropriate roles if those of us who are older step aside so they can step up. That is what I am doing. I have enjoyed working with all of you and I wish you all Happy Holidays and the best of everything in the future.

JOHN MCNAMARA: I first ran into Mr. King fifteen to twenty years ago when we were trying to investigate the Geographic Information System for St. Joseph County. We couldn't get the powers that be in the building to see the merits of the system, which was frustrating for both the head of the Plan Commission and myself, because we could see where we were headed. Mr. King did a report on it that was just as insightful today as it was then. In fact if you pulled it out today you could use it. I just appreciate the fact that Mr. King has been there whenever we needed him and has always had an intelligent response and always had a companionate response. I will applaud you on your leaving.

DAN BREWER: I always would like to commend you, Karl, for the way you conduct the meetings.

You make it look easy and I know it is not. There are times I would not have known what to do to get out of a pickle that we found ourselves in or large groups of remonstrators and you handled it very well and very professionally. The work of the Commission is able to go forward because of your talent in that regard.

KARL KING: Thank you very much. Thanks to all of you. It has been a pleasure working with you and I hope to see all of you around. I enjoy being with you and this isn't the end of seeing each other. It is just the end of me coming to these meetings.

JOHN DELEE: I really think you are too young.

3. Minutes and Expenditures:

- A. Approval of the minutes from the November 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 November 17, 2015 meeting of the Area Plan Commission were approved.

- B. Approval of the expenditures from November 18, 2015 through December 15, 2015

Gates Toyota - \$180.52; South Bend Tribune - \$87.97; \$9.10; Wex Bank \$52.74

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously carried, the expenditures from November 18, 2015 through December 15, 2015 were approved.

4. Adjournment: 3:55 p.m.

JOHN E. DELEE,
VICE PRESIDENT OF THE COMMISSION

LAWRENCE MAGLIOZZI,
SECRETARY OF THE COMMISSION