

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

MINUTES

Tuesday, January 20, 2015
3:30 p.m.

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

MEMBERS PRESENT:

Daniel Brewer, Adam DeVon, Steve Vojtko, Robert
Hawley, Ted Penn, Thomas England, Karl
King, John R. McNamara, Patrick Henthorn, Gerry
Phipps, Robert Schrock, Phil Sutton, Jerry
Thacker

MEMBERS ABSENT:

Oliver Davis, John DeLee

ALSO PRESENT:

Larry Magliozzi, Angela M. Smith, Jennifer
Parcell; Staff, Mitchell Heppenheimer, Counsel

KARL KING: We have two new members to our Commission, Tom England from the Town of North Liberty replacing Rich Warner and Ted Penn from Roseland replacing Michelle Hektor.

PUBLIC HEARING - 3:30 P.M.

MITCH HEPPENHEIMER: We need to appoint a President to the Commission and with that we will take nominations for President for 2015.

EXECUTIVE SESSION

A. Election of Officers:

PHIL SUTTON: I nominate Karl King as President of the Area Plan Commission.

After due consideration, the following action was taken:

Upon a motion by Phil Sutton, being seconded by Robert Hawley and unanimously carried, Karl King has been appointed President of the Commission for 2015.

KARL KING: Now we need to elect a Vice President.

JOHN MCNAMARA: I nominate John DeLee for Vice President.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Steve Vojtko and unanimously carried, John DeLee was elected as Vice President of the Commission for 2015.

B. Appointment of Plat Committee:

KARL KING: Each member of the Plat Committee, for those of you who are not familiar, has

a member and an alternate. Members are: John McNamara, his alternate being John Law of the Surveyor's office; Jessica Clark, her alternate being Adam Bowden of the County Engineer's office; Carl Littrell, his alternate being Tony Molnar from the City Engineer's office; Linda Mauller, her alternate being Marc Nelson from the County Health Department; Phil Sutton, his alternate being Eddie Sutton from the Co-operate Extension office.

After due consideration, the following action was taken:

Upon a motion by Dan Brewer being seconded by Robert Hawley and unanimously carried, John McNamara, his alternate being John Law of the Surveyor's office; Jessica Clark, her alternate being Adam Bowden of the County Engineer's office; Carl Littrell, his alternate being Tony Molnar from the City Engineer's office; Linda Mauller, her alternate being Marc Nelson from the County Health Department; Phil Sutton, his alternate being Eddie Sutton from the Co-operate Extension office were appointed to the Plat Committee of the Area Plan Commission for 2015.

C. Appointment of Executive Committee:

KARL KING: I have the prerogative to appoint the Executive Committee. As you know the President and Vice President are automatically appointed, and the President appoints the three others. Members will be: Myself by virtue of position, John DeLee, John McNamara, Gerry Phipps and Steve Vojtko.

The other item that we have as the Executive Session is the appointment of our representative to the Area Board of Zoning Appeals (ABZA). Gerry Phipps is one member. Bob Hawley is up for re-appointment and he has agreed to serve another term. So I appoint Bob Hawley to the ABZA

1. REZONINGS:

- A. A combined public hearing on a proposed ordinance of Thomas & Peter Limberpoulos and Dean Vellos to zone from C: Commercial District and R: Single Family District to C: Commercial District and seeking the following variance: from the required Type 2: full screening landscaping on the west property line to Type 1: open landscaping, property located at 22905 W. Edison, St. Joseph County - APC# 2728-14.

ANGELA SMITH: The petitioner is requesting a zone change from R: Single Family District and C: Commercial District to C: Commercial District. On site is a wooded lot. To the north is a vacant restaurant zoned C: Commercial District. To the east is a single family home zoned C: Commercial District and R: Residential District. To the south across Edison Road is a single family home zoned R: Residential District in the County and Dickinson Intermediate School zoned SF-1 in the City of South Bend. To the west is a wooded lot zoned R: Residential District. The C: Commercial District is established to provide a location for those retail sales and service functions whose operations are typically characterized by: outdoor display or sales of merchandise; major repair of motor vehicles; commercial amusement and recreational activities; or, activities or operations conducted in structures which are not completely enclosed. The types of uses found in the C: Commercial District are often brightly lighted and noisy. Permitted uses contained in this district are such that this district may be used to form a grouping of similar uses along certain portions of major commercial thoroughfares. Special attention

should be paid to buffering whenever this district is located adjacent to any residential district or residential uses. The 2.28 acre parcel being rezoned is part of a larger 4.25 acre development with frontage on Lincolnway and Edison Road. The petitioner is proposing to use the southern lot for a self-storage commercial development. The proposed site plan includes 50,000 square feet of mini-warehouse storage enclosed within a security fence. Type 2: full screening landscaping is required along the portion of the lot that abuts residential. Along the west property line, adjacent to the vacant lots currently owned by the airport, the petitioner is seeking a variance from the required Type 2: full screening landscaping to Type 1: open landscaping in order to preserve the natural tree line. Additional landscaping is proposed along Edison Road to serve as a buffer between the development and surrounding residential uses. Access will be through an existing drive from the current development to the north, which fronts on Lincolnway. Access is not being proposed from Edison Road. The properties along Lincoln way West have developed as traditional corridor uses. Edison Road has two lanes. Lincolnway West is a four lane road. The project does not require sanitary sewer or water services. The Health Department is unable to determine if the placement of the storage building will impact the existing septic system or whether it is suitable for its current use. Applicant must have a licensed septic contractor or inspector inspect the site and determine location and size of the components of the septic system and location of the water supply well and submit for approval prior to final site approval. The County Engineer noted that Storm Water Pollution Protection Plan (SWPP) and drainage calculations must be completed prior to final site approval. The staff is requesting the following written commitments: 1) Driveway permits or access from Edison Road is prohibited; 2) Landscaping along Edison Road shall be consistent with Type 2: full screening landscaping; 3) Off-premise signs are not permitted; and 4) Auto-oriented and other commercial uses utilizing drive-thru facilities are not permitted. The petition is consistent with the Comprehensive Plan for South Bend and St. Joseph County, Indiana (April 2002) Goal 2, Objective C: Develop quality business areas to meet the retail and service needs of the planning area. The future land use map makes no specific recommendation for this area. There are no other plans for the area. Lincolnway West is a commercial corridor with a mix of businesses and services. Edison Road is primarily residential with a mix of single family homes and a school. The most desirable use is for a low impact commercial or office use that will serve as a transition between the commercial properties along Lincolnway West and the residential neighborhood to the south. With proper screening, the value of adjacent properties should not be impacted. It is responsible development and growth to allow for infill development. This is a combined public hearing procedure, which includes a rezoning and one variance from the development standards. The Commission will forward the rezoning to the Council with or without a recommendation and either approve or deny the variance. The petitioner is also requesting the following variance: 1. from the required Type 2: full screening landscaping on the west property line to Type 1: open landscaping. State statutes and the South Bend Zoning Ordinance require that certain standards must be met before a variance can be approved. (1) The approval will not be injurious to the public health, safety, morals and general welfare of the community. Type 1: open landscaping will be provided to serve as a moderate buffer. The property to the west is currently vacant and owned by the airport. (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. The property west of the site is currently not developed. (3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property. The strict application would require the petitioner to remove existing mature vegetation in order to meet the standards of the landscape chapter. The variance will allow for the application of Type 1: open landscaping to serve as a buffer. Based on information available prior to the public hearing, the staff recommends that the rezoning petition be sent to the County Council with a favorable recommendation subject to the Written Commitments. The staff recommends approval of the variance subject to the rezoning. The land between Lincolnway West and Edison Road serves as a transition between the airport and the residential neighborhood to the south. With proper buffering, extension of the commercial zoning will allow for the site to be developed in a manner that encourages economic development and services in the County without negatively impacting the adjacent properties.

STEVE VOJTKO: You said the southern side would be Type 2. Would that be two rows of trees?

ANGELA SMITH: I believe the petitioner is proposing something that can be handled under the alternate landscape section, which would allow them to put up a fence and a single row of evergreen trees. If not, they could install two rows of evergreen trees staggered so it would be fully screened from the houses.

STEVE VOJTKO: I was more concerned to make sure the property was screened.

ANGELA SMITH: That was part of the commitment that we are asking for.

JOHN MCNAMARA: Access is from Lincolnway?

ANGELA SMITH: It is. They will be coming through the site from Lincolnway to access this property.

PHIL SUTTON: As far as the screening on the west, do they own those trees?

ANGELA SMITH: Actually the property to the west is mostly owned by the Airport Authority. They have had discussion with the Airport to make sure they were ok.

PHIL SUTTON: I am just looking because it is still zoned residential. I was thinking if you didn't have screening and someone went in there, then they would not have screening.

MITCH HEPPENHEIMER: Most of it is owned by the Airport. There really isn't any zoning once the Airport has it.

ANGELA SMITH: They are providing the Type 1, which would be the overstory trees. But not the double row.

PHIL SUTTON: They are not planting trees, they are just assuming the trees on that lot would be their screening.

ANGELA SMITH: They would have to provide the Building Department, when they do the building plans a way to show the trees meet that intent. So they either have to plant them on their own property or utilize what is on their actual property. They can't clear off everything and not replace them.

JOHN MCNAMARA: What is north of that?

ANGELA SMITH: That used to be the Four Season's Restaurant. It is currently vacant.

TED PENN: Is this under the TIF District for the Airport? If it is what kind of tax consequences would that have?

KARL KING: I don't think this is in the Airport TIF.

ANGELA SMITH: This is old Lincolnway here (pointing to the PowerPoint).

TED PENN: I think you made a comment to the fact that the Airport Authority is involved with this area also.

ANGELA SMITH: They own the property to the west.

TED PENN: Is there any future expansion possible from the Airport?

ANGELA SMITH: Not that we are aware of.

LARRY MAGLIOZZI: They have been buying property in this neighborhood for several decades.

TED PENN: Nothing immediate?

LARRY MAGLIOZZI: Not that that I have heard.

DARYL KNIPP: I am with Abonmarche Consultants. Our Office is located at 750 Lincolnway East, South Bend. We are requesting to rezone the property behind the old Four Season's Restaurant from C: Commercial District and R: Single Family District to all C: Commercial District. We are proposing storage buildings on this site with access only through the old restaurant site where the existing curb cut is located now. Both are serviced by municipal water and sewer. The petitioner is in agreement with the proposed written commitments by the staff. We have talked or met with several of the neighbors. None had any concern at this time.

IN FAVOR

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

REMONSTRANCE

CHRISTINE DANNER: I reside at 22288 W. Edison. I am concerned with the screening.

ANGELA SMITH: The variance request is for west side.

CHRISTINE DANNER: But you mentioned the south side.

ANGELA SMITH: They are going to increase their screening on the south to Type 2. They are only required to do Type 1 on the south. So along Edison Road it would be an increased buffering.

CHRISTINE DANNER: Double row?

ANGELA SMITH: The double row or a row with a fence. The setback on Edison for the 1st building would be at least 40 feet.

REBUTTAL

DARYL KNIP: We are sensitive to Edison Road. That's why we thought it would be more valuable to increase the landscaping buffer over there.

TED PENN: I think I heard that the entrance to that is going to be coming off Lincolnway?

ANGELA SMITH: Correct.

TED PENN: With the traffic that is on Lincolnway, would it be just as advisable for the traffic patterns to come in off Edison? If not, why didn't you consider that?

ANGELA SMITH: We actually were in discussions with the petitioner to limit the access off Edison because we did not want the traffic to come through residential neighborhoods. Because the area to the south here is a school and the residential neighborhood, we didn't want the traffic coming in there and there is already an access point onto Lincolnway.

JOHN MCNAMARA: The County Engineer does not want the traffic to come off of Edison.

TED PENN: Ok.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Dan Brewer and unanimously carried, a proposed ordinance of Thomas & Peter Limberpoulos and Dean Velloso to zone from C: Commercial District and R: Single Family District to C: Commercial District, property located at 22905 W. Edison, St. Joseph County, is sent to the County Council with a FAVORABLE recommendation subject to the following written commitments: 1) Driveway permits or access from Edison Road is prohibited; 2) Landscaping along Edison Road shall be consistent with Type 2: full screening landscaping; 3) Off-premise signs are not permitted; and 4) Auto-oriented and other commercial uses utilizing drive-thru facilities are not permitted. The land between Lincolnway West and Edison Road serves as a transition between the airport and the residential neighborhood to the south. With proper buffering, extension of the commercial zoning will allow for the site to be developed in a manner that encourages economic development and services in the County without negatively impacting the adjacent properties.

Upon a motion by Dan Brewer, being seconded by Robert Schrock and unanimously carried, and seeking the following variance: from the required Type 2: full screening landscaping on the west property line to Type 1: open landscaping was approved subject to the rezoning being approved by the County Council.

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Miscellaneous:

- A. Findings of Fact for Granting of Variances for property located at 1430 Mishawaka Avenue, City of South Bend – APC #2726-14

KARL KING: There has been some difficulty communicating with the petitioner, so this is going to be tabled until the February 17, 2015 meeting of the Area Plan Commission.

After due consideration, the following action was taken:

Upon a motion by Phil Sutton being seconded by Robert Hawley, and unanimously carried, Findings of Fact for Granting of Variances for property located at 1430 Mishawaka Avenue, City of South Bend is tabled until the February 17, 2015 meeting of the Area Plan Commission.

- B. A Resolution of the Area Plan Commission of St. Joseph County, Indiana establishing a policy granting authority to the staff of the Area Plan Commission to create, amend and delete forms, certificates and any other documentation required in the administration of the Zoning and Subdivision Ordinances that are under the purview of the Area Plan Commission – R236-14.

LARRY MAGLIOZZI: This is a Resolution that we proposed last month to the Commission. It is going to give the Staff the ability to amend or add forms that are necessary in the continued administration of our Zoning and Subdivision Ordinances. These are things like application forms and certain certificates that are placed on the plats. None of it is really required by State Law, so there is no set format. Every once in a while there is a tweak that we have to do the language to maybe address other points of State Law that have come up. So, instead of coming to you every time we need to change something, this gives us the ability to just do it.

After due consideration, the following action was taken:

Upon a motion by John McNamara being seconded by Robert Hawley and unanimously carried the Resolution of the Area Plan Commission of St. Joseph County, Indiana establishing a policy granting authority to the staff of the Area Plan Commission to create, amend and delete forms, certificates and any other documentation required in the administration of the Zoning and Subdivision Ordinances that are under the purview of the Area Plan Commission was approved.

- C. A Resolution of the Area Plan Commission of St. Joseph County, Indiana releasing committees that no longer have a function and re-establishing the Executive Committee of the Area Plan Commission – R239-14.

LARRY MAGLIOZZI: This is another Resolution that we handed out last month. This is a house cleaning type of Resolution. Doing research on some other things, we found these old resolutions that had set up various committees. As the Resolution indicates several committees are no longer functional or their responsibilities have been taken care of by other departments.

KARL KING: It's not that these committees were not worthwhile; it's just that their responsibilities were accomplished.

After due consideration, the following action was taken:

Upon a motion by Dan Brewer being seconded by Phil Sutton and unanimously carried, the Resolution of the Area Plan Commission of St. Joseph County, Indiana releasing committees that no longer have a function and re-establishing the Executive Committee of the Area Plan Commission was approved.

2. Executive Director's Report:

LARRY MAGLIOZZI: Happy New Year to all of you. We are going to pass a card around to

you for Rich Warner. We were negligent last month in recognizing his service on the Commission for the previous year. This is a way to catch up, so if you don't mind adding a signature or any comments that you would like to make.

We also gave you a copy of the Work Program for 2015. This is part of an annual report that I am still working on and will have ready for you next month. This is our Work Program that we have outlined. Essentially the first part says we will continue to provide the services to the general public that we have always provided since the conception of the Plan Commission. We are enhancing some of those services by the establishment of the Project Advisory Team (PAT) and the launch of some new on-line mapping projects. We are increasing some technology so we will have a better way to inform the public and then also provide some mechanisms for easier access to commission files. The last part of our work program, it is pretty aggressive. I don't know if we will be able to accomplish all of it, but we will definitely work on it. As we talked about earlier, the tasks include revisions to the PUD, in depth reviews of the Ordinances and in depth effort on the From-Based Code effort. We will have more information available later on that. We will need to adopt a multi-year fee schedule for the next few years. There are new GIS projects for the new 911 Dispatch Center. The Indiana Planning Association Fall Conference, will be in South Bend this year for their state wide conference so we will be assisting the committee from the staff level on that.

The only other thing I have today is that we do have a new planner that will be starting with us on January 26. His name is Matthew Chappuies. He is a graduate of the University of Michigan.

KARL KING: How is the PAT going?

LARRY MAGLIOZZI: We had our first meeting on January 8. They meet on the same day as the Plat Committee. We had two folks that filed to meet with the PAT and they both thought that it was very useful and informative. They have told us that they will definitely use that team to start projects at the front end. Since that time, Angela had a conversation with an architect and he mentioned a project that he was working on and she suggested PAT. He was kind of excited that there was something like this, so I think this is going to be useful. It is off to a good start.

3. Minutes and Expenditures:

- A. Approval of the minutes from the December 16, 2014 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 December 16, 2014 were approved.

- B. Approval of the expenditures from December 16, 2014 through January 20, 2015.

Adams Remco – 47.22; COPS - \$94.54; County Commissioners - \$24.00; South Bend Tribune - \$16.61; Wex Bank - \$32.43

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Steve Vojtko and unanimously carried, the expenditures from December 16, 2014 through January 20, 2015 were approved.

4. Adjournment: 4:05 p.m.

Karl G. King,
President of the Commission

Larwence P. Magliozzi,
Secretary of the Commission