

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

MINUTES

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

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

MEMBERS PRESENT:

Steve Vojtko, John DeLee, Thomas England, Karl King,
Elizabeth Maradik, Gerry Phipps, Phil Sutton, Jerry Thacker

MEMBERS ABSENT:

Daniel Brewer, Adam DeVon, Oliver Davis, Robert
Hawley, Ted Penn, Robert Schrock, John McNamara

ALSO PRESENT:

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

PUBLIC HEARING - 3:30 P.M.

1. REZONINGS:

- A. A combined public hearing on a proposed ordinance of Trent Runyon & Leah Hudson-Runyon to zone from MF1 Urban Corridor Multifamily District to SF2 Single Family & Two Family District, and seeking a Special Exception Use to allow for an accessory dwelling unit, property located at 803 West Washington Street, City of South Bend - APC# 2743-15.

KARL KING: We have a request from the petitioner to table this petition until August 18, 2015 Area Plan Commission meeting.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Steve Vojtko and unanimously carried, the combined public hearing on a proposed ordinance of Trent Runyon & Leah Hudson-Runyon to zone from MF1 Urban Corridor Multifamily District to SF2 Single Family & Two Family District, and seeking a Special Exception Use to allow for an accessory dwelling unit, property located at 803 West Washington Street, City of South Bend, is TABLED until the August 18, 2015 meeting of the Area Plan Commission.

- B. A combined public hearing on a proposed ordinance of Mishawaka Federal Bank (a.k.a. Mutual Bank) to zone from LB Local Business District to CB Community Business District and seeking the following five variances: 1) from the required perimeter and residential bufferyard landscaping to the existing landscaping, as shown on the site plan; 2) from the required 30' front yard setback for off-premise signs to 5' along Ireland Road and to 14' along High Street; 3) from the required 200' linear separation between an off-premise sign and a residential district to 0'; 4) from the required 100' radial separation between an off-premise sign and a residential district to 55'; and 5) from the required maximum 2 displays per off-premise sign surface to a maximum of 11 displays, property located at 742 East Ireland Road, City of South Bend - APC# 2744-15.

KARL KING: We have a request from the petitioner to table this petition until the August 18, 2015 meeting of the Area Plan Commission.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Steve Vojtko and unanimously carried, the combined public hearing on a proposed ordinance of Mishawaka Federal Bank (a.k.a. Mutual Bank) to zone from LB Local Business District to CB Community Business District and seeking the following five variances: 1) from the required perimeter and residential bufferyard landscaping to the existing landscaping, as shown on the site plan; 2) from the required 30' front yard setback for off-premise signs to 5' along Ireland Road and to 14' along High Street; 3) from the required 200' linear separation between an off-premise sign and a residential district to 0'; 4) from the required 100' radial separation between an off-premise sign and a residential district to 55'; and 5) from the required maximum 2 displays per off-premise sign surface to a maximum of 11 displays, property located at 742 East Ireland Road, City of South Bend, is TABLED until the August 18, 2015 meeting of the Area Plan Commission.

- C. An ordinance initiated by the Area Plan Commission, amending and supplementing Chapter 21: Zoning Ordinance of the City of South Bend municipal code, as amended, repealing and replacing Article 5, Planned Unit Development Districts - APC# 2745-15.

ANGELA SMITH: The requested action is a text amendment initiated by the Area Plan Commission, amending and supplementing Chapter 21: Zoning Ordinance of the City of South Bend municipal code, as amended, repealing and replacing Article 5, Planned Unit Development Districts. The South Bend Zoning Ordinance has been in place since 2004. The proposed ordinance includes the following changes: 1) The language in the INTENT section has been simplified and strengthened; 2) Removed the Area Requirement; 3) Added a requirement that the Concept Plan be filed at least two weeks prior to the filing of a PUD District ordinance; 4) Re-structured submittal requirements for the Concept Plan, Preliminary Plan and Secondary Approval; 5) Preliminary Plan now has two components: i. The Ordinance which provides all of the development standards formatted as a "report"; and ii. A site plan; 6) Secondary Approvals will be recorded; and 7) Simplified the language where possible. The following revisions have been made since the Ordinance was filed: 1) Section (c) (12) Recording was deleted; and 2) Section (c) (13) was renumbered to (c) (12) accordingly. Based on information available prior to the public hearing, the staff recommends the text amendment be sent to the Common Council with a favorable recommendation. Updating the Planned Unit Development District will continue to allow for creative and unique development while reinforcing the intent, establishing a framework for the process, and modernizing the language contained within.

These additional changes were made after the staff report was sent out. 1) Section (C) (1) (B) Corrected terminology to reflect updated ordinance requirements by replacing "Preliminary Plan" with "Petition for Zone Map Change to PUD District; 3) Section (d) (2) (A) and (C) were amended to add "beyond what was originally approved during the Zone Map Change to PUD". This will clarify the authority to approve minor modifications that meet the development standards specified during the original Petition for Zone Map Amendment.

GERRY PHIPPS: When you say, you are strengthening the intent section, does that mean with the new section we would more often be able to tell a developer that a "PUD is not appropriate, you should proceed with a regular rezoning"?

ANGELA SMITH: We couldn't tell them that they can't file. It will strengthen our basis to recommend unfavorably if they choose to do it in order to get around a process that they could otherwise file. There is

nothing that would prevent them from filing. There is nothing legally that we could do to tell them that

they can't file a petition. It just gives us more of a basis for a recommendation.

KARL KING: Looking back at some of the past ones that we have examined and thought could be handled another way, I can recall a couple - in fact the area where I live was filed as a PUD - and we decided it really could have been handled with variances. There are 52 lots, would you have had to handle the variances, it was setbacks as I recall, parcel or if you had a situation like that would you be able to get variances on all the parcels in one? Would you still go ahead and file a PUD?

ANGELA SMITH: No. You can do it all at once. If you recall, one that we recently did was the TRANSPO site. They had divided the site into areas. The entire TRANSPO location, prior to us strengthening the intent, probably would have originally filed as a PUD because they wanted to seek some different variances. We were able to work with them and develop areas where they knew the entire area was going to have a fifteen foot setback, which is easy to do a variance for the entire property at once. Then we did different areas where they had different side yard setbacks or different criteria that worked with that. That is a good example of where that might have been a PUD and now we were able to handle it through variances.

KARL KING: That is probably a good example to keep in mind. If someone comes in and says I want to do a project like that and files it as a PUD you could say well let's take a look at the TRANSPO site.

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 Steve Vojtko and unanimously carried, the ordinance initiated by the Area Plan Commission, amending and supplementing Chapter 21: Zoning Ordinance of the City of South Bend municipal code, as amended, repealing and replacing Article 5, Planned Unit Development Districts, is sent to the Common Council with a FAVORABLE recommendation. Updating the Planned Unit Development District will continue to allow for creative and unique development while reinforcing the intent, establishing a framework for the process, and modernizing the language contained within.

- D. An ordinance initiated by the Area Plan Commission amending Title XV, Land Usage of the St. Joseph County Code by repealing and replacing Sections 154.225 through 154.231 Planned Unit Development District - APC# 2746-15.

ANGELA SMITH: The requested action is a text amendment initiated by the Area Plan Commission amending Title XV, Land Usage of the St. Joseph County Code by repealing and replacing Sections 154.225 through 154.231 Planned Unit Development District. The St. Joseph County Zoning Ordinance has been in place since 2005. The proposed ordinance includes the following changes: 1) The language in the INTENT section has been simplified and strengthened; 2) Removed the Area Requirement; 3) Added a requirement that the Concept Plan be filed at least two weeks prior to the filing of a PUD

District ordinance; 4) Re-structured submittal requirements for the Concept Plan, Preliminary Plan and

Secondary Approval; 5) Preliminary Plan now has two components: i. The Ordinance which provides all of the development standards formatted as a “report”; and ii. A site plan; 6) Secondary Approvals will be recorded; and 7) Simplified the language where possible. The following revisions have been made since the Ordinance was filed: 1) Section 154.227 (L) Recording was deleted; 2) Section 154.227 (M) Expiration was renumbered to 154.227 (L) Based on information available prior to the public hearing, the staff recommends the text amendment be sent to the County Council with a favorable recommendation. Updating the Planned Unit Development District will continue to allow for creative and unique developments while reinforcing the intent, establishing a framework for the process, and modernizing the language contained within.

One additional change was made since the staff report was sent out: Section 154.227 (A) Corrected terminology to reflect updated ordinance requirements by replacing “Preliminary Plan” with “Petition for Zone Map Change to PUD District.

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 Jerry Thacker and unanimously carried, the ordinance initiated by the Area Plan Commission amending Title XV, Land Usage of the St. Joseph County Code by repealing and replacing Sections 154.225 through 154.231 Planned Unit Development District., is sent to the County Council with a FAVORABLE recommendation. Updating the Planned Unit Development District will continue to allow for creative and unique developments while reinforcing the intent, establishing a framework for the process, and modernizing the language contained within.

ITEMS NOT REQUIRING A PUBLIC HEARING

- A. A Resolution of the Area Plan Commission of St. Joseph County, Indiana, establishing filing fees for subdivisions, rezoning petitions, final site plans and other review items in the unincorporated areas of St. Joseph County, the City of South Bend and participating Towns, all participating members of the Area Plan Commission of St. Joseph County, Indiana to defray the cost of processing these items - APC# R242-15.

LARRY MAGLIOZZI: Resolution 242-15 establishes our fee schedule for the years 2016 and 2017. Our current fee schedule expires at the end of this year. We have had some discussion about the fee schedule the past meeting or two. There has been no changes since our discussion last month and recommend your favorable adoption of the Resolution. Once that is done then I will file an ordinance with the County Council to get this placed in the County Code to be effective January 1, 2016.

KARL KING: County Council knows this is coming?

LARRY MAGLIOZZI: Yes they do. Not officially but informally.

KARL KING: But you did talk to them?

LARRY MAGLIOZZI: Yes.

STEVE VOJTKO: It states that the fee for variances is \$85.00 for one and \$45.00 for each, is that for each additional variance?

LARRY MAGLIOZZI: Yes.

STEVE VOJTKO: So if you had three variances it would be \$85.00 for the first and \$45.00 each for the other two?

LARRY MAGLIOZZI: Yes. That matches the fees that the Building Department charges.

GERRY PHIPPS: You said this goes to the County Council. Is it approved by the County Council but the same rates apply in the City as well?

LARRY MAGLIOZZI: Yes. The fees are submitted to us and deposited into the County General Fund.

GERRY PHIPPS: So the County has jurisdiction of the fee schedule and the same fees apply in the City?

LARRY MAGLIOZZI: Yes.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Jerry Thacker and unanimously carried, the Resolution of the Area Plan Commission of St. Joseph County, Indiana, establishing filing fees for subdivisions, rezoning petitions, final site plans and other review items in the unincorporated areas of St. Joseph County, the City of South Bend and participating Towns, all participating members of the Area Plan Commission of St. Joseph County, Indiana to defray the cost of processing these items, is adopted.

2. Executive Director's Report:

LARRY MAGLIOZZI: The Department of Natural Resources (DNR) has informed us that we have to make a change to the floodplain ordinance that has been affected by the new floodplain panels that had been adopted by FEMA. This covers the St. Joseph River between the county line and the Twin Branch dam in Mishawaka. The maps have been corrected. They were not accurately mapped and some properties that were mapped in the floodplain were not in the floodplain and vice versa. They made some corrections to that. It took about two to three years but they finally got it done. Our ordinance is tied to specific panels, so we need to update the ordinance. In doing so we will update the floodplain ordinance to the most recent format adopted by DNR, so in the future if they do change map panels, that will reduce the change of having us come back and do this again. I believe this only affects St. Joseph County floodplain ordinance, as far as those under our jurisdiction. We did the Osceola one last year and I am pretty sure we used the most recent format, but I may have to go back and bring that one back here. I would like authorization to take a look at the floodplain ordinances and draft the corrections to have it submitted before the end of this year.

KARL KING: When you have done that, does it come back here for a public hearing?

LARRY MAGLIOZZI: Yes. We will have to have a public hearing. It will be a text change. I don't know when I will be able to bring those back, but we will try to accomplish that before the end of the year.

STEVE VOJTKO: Is that going to increase the floodplain area? Or will it be a net wash?

LARRY MAGLIOZZI: It is probably a net wash. It probably will remove the need for a lot of properties to obtain flood insurance. It is probably more than a net wash.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Jerry Thacker and unanimously carried, authorization was granted to draft the text amendment regarding the floodplain Ordinance amendments.

3. Minutes and Expenditures:

A. Approval of the minutes from the June 16, 2015 meeting of the Area Plan Commission.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Steve Vojtko and unanimously carried, the minutes from the June 16, 2015 meeting of the Area Plan Commission were approved.

B. Approval of the expenditures for June 16, 2015 through July 21, 2015.

Adams Remco - \$37.51; COPS - \$6.60; County Commissioners - \$8.00; Lewis Paper - \$24.90; Office 360 - \$45.86; South Bend Tribune - \$12.51; Wright Express (Wex Bank) - \$39.94.

After due consideration the following action was taken:

Upon a motion by John DeLee, and unanimously carried by Steve Vojtko the expenditures from June 16, 2015 through July 21, 2015 were approved.

4. Adjournment: 3:48 p.m.

Karl G. King,
President of the Commission

Lawrence Magliozzi,
Secretary of the Commission