

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

MINUTES

Tuesday, June 16, 2015
3:30 p.m.

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

MEMBERS PRESENT:

Daniel Brewer, Adam DeVon, Steve Vojtko, Oliver
Davis, John DeLee, Robert Hawley, Karl King, John
R. McNamara, Elizabeth Maradik, Gerry
Phipps, Robert Schrock, Phil Sutton,
Jerry Thacker

MEMBERS ABSENT:

Ted Penn, Thomas England

ALSO PRESENT:

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

KARL KING: I would like to introduce a new Plan Commission member, Elizabeth Maradik. She is a member of the Board of Public Works and is a planner with the Department of Community Investment with the City. She is replacing Patrick Henthorn. Welcome Liz.

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 until the July 21, 2015 meeting of the Area Plan Commission.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Oliver Davis 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 July 21, 2015 meeting of the Area Plan Commission.

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Miscellaneous:

- A. Findings of Facts for Granting Variances for property located at the intersections of Northside Boulevard with Notre Dame Avenue and Frances Street (commonly known as the TRANSP0 Site), City of South Bend – APC #2735-15

LARRY MAGLIOZZI: This is for the TRANSPO site. Those variances dealt with setbacks, front and side yard setbacks, and lot size. The use is for single family homes, we ask that you approve the Findings of Facts.

After due consideration, the following action was taken:

Upon a motion by John DeLee being seconded by Oliver Davis and unanimously carried, the Findings of Facts for Granting Variances for property located at the intersections of Northside Boulevard with Notre Dame Avenue and Frances Street (commonly known as the TRANSPO Site), City of South Bend were approved.

- B. Findings of Facts for Granting Variances for property located at 2212 Mishawaka Avenue, City of South Bend – APC #2742-15

LARRY MAGLIOZZI: This is the tattoo parlor that was heard at our last meeting. The variances were for parking and separation between a controlled use and religious use

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 Variances for property located at 2212 Mishawaka Avenue, City of South Bend were approved.

2. Executive Director's Report:

LARRY MAGLIOZZI: We have three items for you today. The first one is a draft resolution to approve our fees for the next two years. We are in the last two year cycle of fees this year. Back in 2009 we approved fees for the next six years. I handed out the current fee schedule so you have a little bit of a history of the last six years. The proposed fee schedule, follows the trend of the subdivisions by increasing the fees from \$15.00 per lot to \$25.00 a lot each year. There are two changes since I handed out the resolution. On page 2 under site plans and PUD Concept Plans instead of \$100.00 we are not going to charge a fee for that. We have decided that for the Concept Plan we will most likely use the Project Advisory Team (PAT) to go over the plans. We don't charge for that review, so we thought that would not be an appropriate fee for Concept Plan. The third PUD item where it says Revised PUD Ordinance, instead of Revised PUD Ordinance, replace that with Minor Modification. Since we have a minor modification process, that is a little more descriptive of what that fee is for. A major modification would be a whole new PUD. What looks like a big fee change on that same second page under rezoning at the top, PUD.

KARL KING: Larry, we don't have a second page.

JENNIFER PARCELL: The fee schedule was e-mailed this morning with your preliminary

packet. It is going to be up at the July meeting for your vote. Because this is just for discussion, I was told to put it in the preliminary packet. Those were e-mailed to you this morning.

KARL KING: I get that, but Larry keeps referring to page 2 and we don't have it.

LARRY MAGLIOZZI: If you look at the handout that I gave you earlier, the schedule for PUD was \$600.00 plus \$30.00 an acre. That is where it is this year. We are proposing to bump that up to \$1,000.00. We found that the average fee for PUD's that we have had in the past is just over \$900.00. Once you add the \$30.00 per acre, that adds up pretty quickly. The PUD's we have had have been fairly large, so the \$1,000.00 fee sounds large, but it is pretty much what they are paying now with a slight increase.

JOHN MCNAMARA: So it is just a flat \$1,000.00, there is no per acre fee?

LARRY MAGLIOZZI: Right.

OLIVER DAVIS: When will that all start?

LARRY MAGLIOZZI: January 1, 2016. We get this done ahead of time so that developers and surveyors, as they get proposals for the following year's developments, have the appropriate fee schedule in place. This would be scheduled for next month's meeting for approval, then we will have to go to the County Council to have that fee schedule approved. Overall, we have only proposed two straight years this time, as opposed to three two year segments because we are in the process of starting to update our zoning ordinance. We are also starting to think about changing procedures in house. We wanted to get those done in the next two years before we determine what would happen after 2017. At some point, in my way of thinking it will probably level out. There is only so high you can go especially in our environment here. For example, the PUD fee, that has probably leveled out for a good many years at least. We will probably phase out the per acre fee once we have a little bit more data. For zonings after 2017, instead of \$400.00 plus \$35.00 per acre we may go up to \$500.00 or \$600.00 and cut out the per acre fee. That is kind of long term after 2017.

OLIVER DAVIS: How do you determine when something is leveled out?

LARRY MAGLIOZZI: We keep track of the fees across the State of Indiana and we are right now towards the top, maybe just underneath the top in fees being assessed. There is no way we can actually charge to recoup the charge of running the department. The fees would be multiple thousands of dollars for just about everything we get in. It's more like what we have done in the past, we look at the trend here locally, what we feel local development can support without feeling that it is excessive. A developer that does stuff up here and he does the same development in, and let's say, Indianapolis or Cincinnati or Louisville area, he may see higher fees. But again, the market is totally different. The development costs and the cost of the overall projects are much, much higher so the fees can probably be better absorbed by those developments.

OLIVER DAVIS: You mean see higher fees with us?

LARRY MAGLIOZZI: No. Down in Cincinnati area.

OLIVER DAVIS: Oh, ok down in that area.

LARRY MAGLIOZZI: Because the projects that we are dealing with, we kind of weigh all that in. It's not overly scientific but we keep track and we want to make sure our fees are fair. I think that fee schedule gets into that realm.

DAN BREWER: Are the fees related to the amount of work that is involved on the part of the staff?

LARRY MAGLIOZZI: We did a study. About three to four years ago now. We kept track of the amount of work it took us to do different types of activities. We cranked in the salary levels at that time hour by hour how much time it took from beginning to end. We essentially came to the conclusion that if you really want to reimburse the County 100% as I mentioned earlier you would be in the multiple thousands of dollars. Most of our time is staff time. That's really it. Although we don't get extravagantly paid, it is still a high number. Again, it kind of defaults back to the average that we see throughout Indiana.

The second item is our interns. We got approval from the Commissioners and the County Council to transfer some of our money from our vacant third planner position to help us pay for interns. The main goal of the interns will be to increase our ability to scan the large number of files we have in our office and to get them to the point to where they can be a lot more useful to us for a GIS standpoint. One of our interns, Calvin King, is in the audience today. He will be starting with us tomorrow. Then we will hire one or maybe two more interns to just crunch through the scanning that we have set up. We have enough money set aside to pay them till the end of the year.

OLIVER DAVIS: Where do the interns come from?

LARRY MAGLIOZZI: Calvin is a student at a small college in Ohio. He is a Civil Engineering student. He just came to us from a referral through my family and professional contacts. The other intern is the same thing. I actually asked a former intern that we used to have a number of years ago if she knew anyone. She said yes and this lady called. The County does post the job on the website. The posting expired yesterday. So if there are others that applied, there is probably enough money to hire a third intern. Calvin will be working full time till he goes back to school. I will, through the Indiana Intern Network, seek another intern hopefully locally going to an Indiana College. If they qualify, the County has the possibility of getting 50% of its fee back, Calvin doesn't qualify for that because he is an out-of-state school. This other intern that we hired is not a student.

It is budget time and we turned in our budget. It is a flat lined budget so there is really nothing new to report on that. We did request that our third vacant planner position be retained and funded. I think we will probably ask the Commissioners to fill that position for at least the second half of next year. We will have enough work, especially after you see the presentation of the Zoning Ordinance, that we could use that third body to help us with that.

We have a Zoning Ordinance presentation that shows you the general overall strategy that we are going to do. Matthew is the one that prepared it so I will turn it over to him.

MATTHEW CHAPPUIES: I just wanted to kind of introduce you to where we are going with the Zoning Ordinance revision for both the City and County, how we are going to get there, and some things that we want to look at. Basically we are going to look at the process and the progress we have made already. Starting with the conceptual process, the four main steps that we have first are to: identify issues that we have currently with the Ordinance, from there take those and turn them into goals of what we want future Ordinances to look like, then we would consider a Zoning Advisory Panel (ZAP), and then some miscellaneous items. The first would be identifying the issues with the current Ordinance. We have already started a list of current issues and possible issues that could arise from the Ordinance. We started taking pictures and making a list from that. We want to turn those into goals with actions that we would create from the goals. The three overarching goals that we have outlined are we want to see the Ordinance be user friendly, modernized, and streamlined. When we say modernized, we mean updated use tables and streamlined. Hopefully it will be easier to read and people can navigate it easier than they can now. The next thing we would consider is to establish a ZAP committee that will consist of personnel from the building department, the Area Plan Commission, City and County Council and people that might have input into what we would like to see in the future Zoning Ordinance. We would also look at other communities to compare what they have done. We would look at a number of them to determine the pros and cons of what other communities have done. We are not the first to go through this. It would be wise to learn from them and figure out what the best practices are. We can consult with those communities, make connections, get consultation from them, and learn from their mistakes. We can also engage other communities the small towns within the counties, as well as Mishawaka and Neighboring counties such as Elkhart, LaPorte, Marshall. Some other issues as we move forward is the public process. We would have Town Hall meetings, design charts, some kind of campaigning to get people involved in this. An on-line survey basically we just want to keep this open and have an open dialog with the community about this. It is going to be important for us to have the support of both the City and County Councils going forward with this, so we would want to keep them updated and create an active role for them. The implementation process would be a question of whether we put it together in segments and present it that way or compile the entire ordinance and then present it that way. These are questions that we are asking right now. Timeframe for this is really going to be determined, as Larry said, by whether or not we have time in the office and, whether or not the other planner position gets filled. The needed next steps here is to identify the issues, which we have started to do, create goals, prioritize the chapters in the order of which we want to write the ordinance, we need to look at who would want to be on the ZAP's, and we need to consider the layout or the design of the actual ordinance itself. I will let Larry talk a little bit about the progress we have made so far.

LARRY MAGLIOZZI: We have had preliminary discussions with the Building Department. Obviously they are our prime folks to talk to first since they deal day-in and day-out with the ordinance. They helped determine the order that we are going to approach the ordinance. We talked to Jamie Woods, the County Attorney, and solicited his help in some legal work that we may want to have done in various sections. Also, we have reached out to Kathy Cekanski, the City Council Attorney, who obviously has been around for a long time and brought her up to

date on what we are doing. That is really the extent of the preliminary discussions we have had. I have talked off and on with some of the surveyors and developers about certain sections. We will need some additional outreach as we go along with the Homebuilders Association. We will probably have a couple meetings with the surveyors and developers on various sections. In our discussions with the Building Department, the sign section of both the county and city zoning ordinances seem to be the most problematic for them. It is difficult to read, it is difficult to interpret, and some signs are not even covered. A lot of signs in there we don't deal with here. They suggest that we take a look at that section first. Shortly after that decision, the County Council has asked us to look at following in the footsteps of the City Council in adopting a Chicken Ordinance, which that means that we will have the opportunity to look at the residential districts at the same time.

These are some graphic examples (referring to the PowerPoint) of what we are looking at. It follows in the footsteps of what we are trying to do. It makes the ordinance a little bit more readable, so we can find things quicker, and we could clean up what we call a "legalese" type of language. A lot of ordinances use a lot of graphics like you see there on the right. The use of tables has become a lot more prominent. We actually did a lot of the tables in the Osceola Ordinance that we passed last year. These are two more examples (referring to the PowerPoint). These are kind of hybrid examples from different jurisdictions looking at ways to make it readable, to have things accessible to people to be able to find what they need quickly, and cut down on the need to interpret various standards. This is kind of surface stuff that we have looked at so far. One of the overall issues that we talked about is our current structure in the ordinance. You have a section, let's say for commercial that lists all the uses and development standards, then you have to go through another section to find out what signs are allowed, then you have to go to another section of the ordinance to determine the landscaping standards, and another section that has parking and loading requirements, and then you have non-conforming use sections spread out and development standards, that kind of thing. We were thinking that when we decide which direction we are going here, one method is to really get everything pertaining to a particular district into one section. So when you walk into the office and to say, "What can I do in LB?", well here it is. Here are the uses, the standards, the signs, and the landscaping. You won't have to page through a 400 page document to find all those. We are toying with that idea too. That's probably it. That is as far as we have gone with it.

OLIVER DAVIS: How many are you planning to be on the ZAP?

LARRY MAGLIOZZI: It's not really a single Advisory Panel. We are thinking of customizing it as we get to each section. We can customize the group so that we get folks that are interested in that particular subject matter, have a professional stake in that subject matter. For example, for signs, we would reach out the sign industry folks, the obvious person I am thinking of on the City Council is Gavin Ferlic, who is in the sign industry and has already expressed an interest in looking at that. When we move onto the residential section, we would maybe look at County and City Councilmen who are interested in that particular aspect, whether they are connected with the industry in some sort in their private capacity, a representative of the Homebuilders Association would be on that particular group.

OLIVER DAVIS: Would there be a list of the particular areas that you could send to the Council that we can all sign on?

LARRY MAGLIOZZI: Once we get to that yes.

OLIVER DAVIS: That way you can figure out what some of our other interests are.

LARRY MAGLIOZZI: At this point, the way we are organizing ourselves is not to come up with a grand list and then get to those folks maybe next year or two years from now. Because of our small staff, if we start on signs, that's all we are going to concentrate on. Again, we will reach out and have you folks assist us in developing lists.

ADAM DEVON: I remember when you talked about the Osceola Ordinance, that some of the cities and towns had different classifications or different names. Is there a way we can use all the same classifications throughout all the different issues or redefine those different things so they are the same across the board?

LARRY MAGLIOZZI: If you have an R-1 District, that means the same across all jurisdictions?

ADAM DEVON: I don't know what we can and can't do.

LARRY MAGLIOZZI: We can do whatever we want frankly. It is kind of handy right now when someone says R-1 we know which jurisdiction you are in.

ADAM DEVON: Right.

LARRY MAGLIOZZI: There is nothing to prevent us from doing that. One thing we would look at is when we look at the sign ordinance and development standards throughout the various districts is to try to get standards that are compatible across jurisdictions so they are not too different. We can do that a lot. In some cases just because of the way those jurisdictions are developed, it may not be possible. We would have an eye on that particular piece just to make a common standard that fits.

GERRY PHIPPS: Larry, is it the goal to develop one ordinance that would be approved by all jurisdictions?

LARRY MAGLIOZZI: That is called a Unified Development Code. There are communities that have done that. That is a tremendous amount of work and coordination. It would probably take us ten years with all the other stuff we have going on. If you want to solicit the Councils to give me three more staff members, I can probably do that. I think with our eye on trying to make standards a lot more compatible, it gets us closer to that. If we can accomplish that, then maybe the next generation six, seven years from now when you want to look at the ordinance again, that is a little easier leap. It's been ten years since we have done the ordinance and we are not really looking at a sizable change. We did that ten years ago. We did a lot of signage stuff. I think as we noted earlier it can be obviously be improved on. We did a fairly intensive landscaping section. Again, that is not going to change a lot so it's not like we need to argue that we need a lot more landscaping. It's more of lets tweak this and see what we did right and wrong. Again, not big changes going on, but probably enough little changes, that someone may think this is a big change.

GERRY PHIPPS: Back a couple of years ago South Bend talked about moving to a Form Based Code, where you would regulate more of what the buildings would look like as opposed to the use. Is that a possible direction here?

LARRY MAGLIOZZI: You put me on the spot. The Department of Community Investment is working on a Form Based Code section specifically geared towards the Lincolnway and Western Avenue Corridors as a follow up to their plans. They have been working on it probably close to a year. We are getting close to a final draft. Angela has been taking the lead on that for our Department. Form Based Codes are difficult. They work very well in Greenfield sites when you have a blank slate. They are a lot more problematic, in my opinion, when you try to impose a Form Based Code on the built environment. Usually the Form Based Code, unless you are in the Downtown, the code forces physical development that doesn't match suburban or semi-suburban development. We are just working through that right now. The answer to your question is what we are thinking of doing here would not be Form Based Code. There are some good examples of techniques in the Form Based Code that actually we already have in place. The Mixed Use District is an example of where certain elements of the Form Based Code, and incorporated like having the buildings at the front setback line and the courtyards and where the parking is. Those are certain elements of Form Based Code that work.

GERRY PHIPPS: So, what you are expecting is a more traditional ordinance, but maybe use Form Based Codes as overlays in certain special districts?

LARRY MAGLIOZZI: That is probably a fair assessment.

DAN BREWER: What is the relationship between this project and the PUD revision that we are going to look at next month?

LARRY MAGLIOZZI: Regardless of which direction we go, the PUD is like a relief valve for a zoning district or uses that aren't contemplated anywhere. It is for really unique projects that don't fit in a traditional zoning district. There is always going to be a project that's not going to fit the mold, especially these days. These days, you see projects that you didn't see 20-30 years ago. Because of the environment that we are in as far as development, there are more mixed uses, there is different types of mixed uses, different mix of mixed uses, and to have a zoning code address all those, is problematic. Central Business District is probably the closest you have to just about allowing anything. You can't have CBD throughout the entire community because you have to consider residential areas and industrial areas. We will always, as far as I can see, need a PUD District. This PUD District draft that we have really takes in the experiences that we have had over the past ten years on how to manage that district as they get submitted to us. We face some of the issues with PUD Districts and we are addressing those too.

KARL KING: I think the question is though, if you change some of the standard provisions of the code, it wouldn't be necessary to have a PUD in order to do your creative development because it is already permitted by the standard provisions of the code.

LARRY MAGLIOZZI: Right.

KARL KING: Have we documented that there have been so many different requests for an exception to this particular provision that it is that leading us to say we need to modernize that provision so that you don't have to do a PUD in order to be able to do that sort of development?

ANGELA SMITH: We are hoping that the revisions will reduce the need for a PUD. The other thing that you will see in the draft that you have for the PUD district, is how we made a first attempt to kind of simplify some of the language. Some of the repetitive language was taken out. That is something that is going to carry through the entire Zoning Ordinance. When we did the Osceola, they have a PUD District but we don't think they will ever need that because of the way their uses pyramid together and how inclusive their zoning districts are for the wide variety of uses. They have that option in there in case there is something really extraordinary, but they may never need it.

LARRY MAGLIOZZI: What you have right now in our districts are silo districts. You have very specific uses and very specific districts. Before ten years ago, uses from the lesser districts would pyramid.

KARL KING: Right.

LARRY MAGLIOZZI: Ten years ago, for whatever reason, that link was broken. We don't think that was a good thing after experiencing that for ten years. We will still have silos. I am not sure we will have a true pyramid but we are going to expand those silos. More uses are going to be allowed in there. Again, that will help to reduce the need for a PUD. Now you have, for example, the multifamily district which does not allow first floor commercial or office. We may add that in there, which would take care of the Dave Matthews project that we saw a few months ago. Those are ideas and concepts that we are going to explore as we go through the ordinance. We will keep you up to date. I won't have a report every month. We will start working at it and during key points we will bring you up to date.

3. Minutes and Expenditures:

- A. Approval of the minutes from the May 19, 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 May 19, 2015 meeting of the Area Plan Commission were approved.

- B. Approval of the expenditures from May 19, 2015 through June 15, 2015.

COPS - \$18.93, \$11.97; South Bend \$9.10, \$17.82, \$24.27; Tiger Direct \$13.78, Wex Bank \$43.14

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 May 19, 2015 through June 15, 2015 were approved.

4. Adjournment: 4:15 p.m.

Karl G. King,
President of the Commission

ATTEST:

Lawrence Magliozzi,
Secretary of the Commission

