

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

**MINUTES**

Tuesday, November 17, 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, Jerry Thacker

**MEMBERS ABSENT:**

Ted Penn, Thomas England, Oliver Davis, Robert Schrock

**ALSO PRESENT:**

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

**KARL KING:** We have several items on the agenda for public hearing today. All of which will be heard as scheduled. However, I want to mention now that the last several items are all text amendments that have to do with the definition of the floodplain. What I suggest we do, and I would like someone on the Commission make a motion to this, is that we just have one public hearing on all of those petitions and then vote on each of those separately.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Phil Sutton and unanimously carried, the six text amendments will be read and heard as one public hearing with motion being acted on separately was approved.

**KARL KING:** Did you have something you wanted to bring up?

**LARRY MAGLIOZZI:** Yes sir, item B, we received a message that they are requesting that this be tabled until the December 15, 2015 meeting of the Area Plan Commission.

**KARL KING:** That is the one at Fir Road, right?

**ANGELA SMITH:** Correct.

**PUBLIC HEARING - 3:30 P.M.**

**1. REZONINGS:**

- A. A combined public hearing on a proposed ordinance of Dr. Trang Mai DDS to zone from SF2 Single Family & Two Family District to OB Office Buffer District, and seeking the following four variances: 1) from the required 15' minimum front yard setback to 5' for an interior access drive and parking; 2) from the required 15' side residential bufferyard to 5'; 3) from the required foundation landscaping to the existing landscaping; and 4) from the required Type: B Landscaping along the alley to none, property located at 1637 and 1641 Portage Avenue, City of South Bend - APC# 2759-15.

**MATTHEW CHAPPUIES:** The petitioner is requesting a zone change from SF2 Single Family & Two Family District to OB Office Buffer District, and seeking 4 variances from the development standards. On

site is an existing dental office and a vacant lot. To the north is a single family home zoned SF2 Single Family & Two Family District. To the east across Portage Avenue are single family and multifamily homes zoned SF2 Single Family & Two Family District and MF2 Urban Corridor Multifamily District. To the south is a dental clinic zoned OB Office Buffer District; across Kinyon Street is a video rental store zoned LB Local Business District. To the west across the alley is a single family home zoned SF2 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. The site plan is part of a larger development that includes an existing dental office (1,232 square feet) with a proposed structural addition of 1,070 square feet. Additional parking and an access drive is proposed on the north, with access to the alley. The required parking for one dentist is 5 spaces. The total number of spaces being provided is 13. The northern portion of the lot, which abuts a residential use, is approximately 3 feet lower in elevation than the adjacent property. It will be separated by a retaining wall and both off-street parking area screening and perimeter landscaping. Site access is off of Kinyon Street, with the on-site traffic pattern directing vehicles out to the alley. The property to the south across Kinyon Street was rezoned in 2001 to LB Local Business District to allow for a video rental store. Kinyon Street has two lanes; Portage Avenue has two lanes and on-street parking. This site will continue to be served by municipal sewer and water. County Surveyor recommends approval. City Engineer recommends approval subject to: 1) submittal of a satisfactory drainage plan; 2) the paving of the rear alley from Kinyon Street to the lot's north line; and 3) that no landscaping be installed on the site's west property line which abuts the alley, for line-of-sight concerns. Department of Community Investment offers a favorable recommendation. The petitioner is not proposing any written commitments. This petition is consentient with City Plan, South Bend Comprehensive Plan (November 2006): Policy PF 7.1.1: Support the provision of services that effectively meet the changing healthcare needs of residents. The future land use map identifies this area as medium density residential. The Portage Avenue Commercial Corridor Revitalization Action Plan (November 1999) identifies this area as a "Shopping Node". Portage Avenue between Angela and Kinyon has developed as a local commercial node for the surrounding neighborhood. The most desirable use is one that buffers the single family residential to the north from the commercial properties to the south and limits any negative impact on surrounding residential properties. Based on the fact that the dental office is already existing, surrounding property values should not be adversely affected. The change of elevation between this property and the property to the north, in conjunction with substantial landscaping along the north property line, will significantly limit any light or noise pollution from the office and its clients. It is responsible development and growth to allow this dental office to expand in a limited manner to better serve the health of neighborhood residents. This is a combined public hearing procedure, which includes a rezoning and 4 variances from the development standards. The Commission will forward the rezoning to the Common Council with or without a recommendation and either approve or deny the variances. The variances are as follows: 1) from the required 15' minimum front yard setback to 5' for an interior access drive and parking; 2) from the required 15' side residential bufferyard to 5'; 3) from the required foundation landscaping to the existing landscaping; and 4) from the required Type: B Landscaping along the alley to none. 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 proposed setbacks will allow parking and access on site to meet the demands of the use and will be consistent with what is existing on site. (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 by the building

addition or the parking lot due to the change in elevation and landscaping which will serve as a noise and light buffer. (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Due to the unique configuration of, and the relatively small depth of the site, the strict application of the residential bufferyard setbacks would not allow the dental office to expand. Based on information available prior to the public hearing, the staff recommends that the rezoning petition be sent to the Common Council with a favorable recommendation. Staff recommends approval of variances 1, 2, and 4, however requests that variance #3 be subject to providing foundation landscaping for any new buildings or additions. This rezoning will allow an existing dental office, which is currently split-zoned, to be properly zoned and modified in a way that allows for expansion of an existing use and a more efficient traffic flow for patrons and employees. This rezoning is a natural expansion of a minimally-invasive zoning district which borders a commercial hub to the south.

We did receive a letter of support from a neighbor. It just came in today. They state that everything that the owner of the property has done up to this point has been quality work. They feel that anything that they do from here on out will be quality and won't be a nuisance to the neighborhood.

DAN BREWER: Does the petitioner have any objection to the condition for foundation landscaping?

MATTHEW CHAPPUIES: I don't believe so. It wouldn't really affect them at this time anyway. They would have to put it on the new addition. They are not proposing any other changes that would require foundation landscaping.

KARL KING: When you were giving your report you said that your objection to variance number three was the way it was worded. That this would apply to some future building. Is your recommendation that we try to get the request for variance #3 re-worded, or do you just want us to deny this variance?

MATTHEW CHAPPUIES: No, we would just like to see a subject-to, providing landscaping for any new buildings included in the approval. We are ok with them not having to put up the foundation landscaping here. That is really what they are looking for. There is already paving that goes up there. That would make it difficult to put in any new landscaping at this point.

KARL KING: Could you suggest some wording?

MATTHEW CHAPPUIES: The way that it is worded in the recommendation in the Staff Report. Variance number three could be, "from the required foundation landscaping to the existing landscaping and subject to providing foundation landscaping for any new buildings or additions."

KARL KING: My point is, is there a way to make it so that this petitioner can get what he needs without having to deny variances?

ANGELA SMITH: You could approve it subject to providing foundation landscaping for any future buildings or additions. That subject-to would only kick in at that time. It would satisfy what they need now and it would protect any future additions that might come onto the building.

GERRY PHIPPS: Does future addition include that addition in yellow up there (pointing to the powerpoint)?

MATTHEW CHAPPUIES: That would be a future addition that they would be required to landscape.

LES GREEN: I am the contractor for this project. I reside at 58867 County Road 105, Elkhart.

KARL KING: Do you have anything that hasn't come out in the staff report that you would like us to know about this project?

LES GREEN: No. Angela and I met and worked on this project quite a bit, so I have no problem.

KARL KING: You heard our conversation about the variances and you are ok with that?

LES GREEN: No problem with that.

#### 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 Dr. Trang Mai DDS to zone from SF2 Single Family & Two Family District to OB Office Buffer District, property located at 1637 and 1641 Portage Avenue, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. This rezoning will allow an existing dental office, which is currently split-zoned, to be properly zoned and modified in a way that allows for expansion of an existing use and a more efficient traffic flow for patrons and employees. This rezoning is a natural expansion of a minimally-invasive zoning district which borders a commercial hub to the south.

Upon a motion by John DeLee, being seconded by Dan Brewer and unanimously carried, the following variances: 1) from the required 15' minimum front yard setback to 5' for an interior access drive and parking; 2) from the required 15' side residential bufferyard to 5'; and 4) from the required Type: B Landscaping along the alley to none were approved.

Upon a motion by John DeLee, being seconded by John McNamara and unanimously carried, the following variance 3) from the required foundation landscaping to the existing landscaping, subject to providing foundation landscaping for all new buildings or additions was approved.

- B. 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, - APC# 2760-15.

KARL KING: We have a request from the petitioner to table this till the December 15, 2015 meeting of the Area Plan Commission.

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 December 15, 2015 meeting of the Area Plan Commission.

## 2. TEXT AMENDMENTS

- C. A proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Common Council of the City of South Bend, Indiana, amending Chapter 21 Zoning of the Municipal Code of the City of South Bend, Indiana by repealing and replacing Article 12 Floodplain Regulations, in order to adopt the most recent Federal and State requirements - APC# 2761-15.

MATTHEW CHAPPUIES: An Ordinance initiated by the Area Plan Commission of St. Joseph County, amending Chapter 21, Zoning, Section 21-12, Floodplain Regulations, Of the Municipal Code Of The City Of South Bend, St. Joseph County, Indiana. The Federal Emergency Management Agency (FEMA) has made a number of changes to the Model Floodplain Ordinance, and has requested that communities that participate in the National Flood Insurance Program adopt the changes. The Department of Natural Resources is coordinating that effort for Indiana communities. A new floodplain ordinance must be adopted by December 16, 2015 in order for communities to remain in compliance with the National Flood Insurance Program. The primary purpose of this replacement ordinance is to specifically include within identified Special Flood Hazard Areas (SFHA's) and other flood prone areas insured by the Federal Emergency Management Agency (FEMA), those locations identified on the St. Joseph County Flood Insurance Rate Map dated January 6, 2011 and on any future updates, amendments or revisions prepared by FEMA. It should be noted that this replacement ordinance does not change or in any other way affect the existing penalties. The substantive changes consist solely in adding and deleting certain definitions, rephrasing and clarifying some language, and most importantly, incorporating FEMA's Flood Insurance Rate Map of January 6, 2011 and assuring that all updates amendments and revisions prepared by FEMA shall be included within designated floodplain areas. All changes are per recommendation of either FEMA or IDEM, so there was little discretion in drafting. Chuck Bulot, Floodplain Administrator, has reviewed the changes and recommends approval. As of the date of this Report, the Department of Natural Resources is still reviewing the ordinance for conformity to the model floodplain ordinance. The FIRM maps, effective as of January 6, 2011, remain in place. Based on information available prior to the public hearing, the staff recommends that the petition be sent to the Common Council with a FAVORABLE recommendation. This ordinance addresses required changes in the community's floodplain ordinance, and is required for continued eligibility in the National Flood Insurance Program.

LARRY MAGLIOZZI: There is an addendum to the staff reports. It took DNR a few weeks to get back with us on any corrections that they may have wanted. As of this morning they have recommended approval for passage of all of the Floodplain Ordinances by the various jurisdictions. I believe Chuck Bulot will have a comment during the public portion.

JOHN MCNAMARA: Is there any reason why we left out Walkerton and New Carlisle?

LARRY MAGLIOZZI: Walkerton is not a member of the Area Plan Commission, so they need to take care of their own as well as Mishawaka. New Carlisle does not have any floodplains within the Town, so they do not have a Floodplain Ordinance.

KARL KING: I wanted to ask, my understanding Matt is that all though there are some definitions, it sounds as if the effect on anything having to do with land use or anything of that nature is generally of concern, to us is not going to be affected by this Is that a fair statement?

LARRY MAGLIOZZI: That is a fair statement.

DAN BREWER: So the maps are not changing?

LARRY MAGLIOZZI: The maps are not changing. The maps, effective January 6, 2011, remain in place. There were some changes to the federal code on floodplains, which is what this reflects. It doesn't change the way we approach the floodplain, the way we calculate floodplains, affect any of the houses or structures within the floodplain.

JOHN DELEE: What do you mean it doesn't affect any of the houses? With this 2011 map a lot of areas in South Bend and the County which were built above the floodplain are now in the floodplain because there is a portion of their property that is in the floodplain. This has a bunch of strict regulations about what they can do. If they wanted to add on a room, they almost have to have a complete survey, and substantiate that their property or whatever they are adding on is not in the floodplain. It looks like a very, very difficult ordinance for the people who live in that little part of a floodplain that their houses are not involved. If they want to do some improvements they are going to have some difficulty.

LARRY MAGLIOZZI: They are in that situation now as they were in that situation on January 6, 2011. There are no further restrictions applied to those properties, and there are no less restrictions applied to those properties. As a matter of fact, before 2011 the maps that were approved, I believe 1987-1986 also applied the same conditions. The conditions to rebuild your structure if it gets flooded and the conditions if you wanted to add an addition remain in place. Those standards don't change at all. Again, it's a matter of certain definitions that FEMA took out of the ordinance, a few more that they added, but the development standards have not changed at all. Those folks in the floodplain today, stay in the floodplain unless they have gotten a letter of map amendment or change or they certified their property to be out of the floodplain. In addition, since 2011 the section of the St. Joseph River between the Elkhart County Line and the Mishawaka Dam has been redrawn by FEMA. That is really an amendment to the 2011 maps. Maybe Chuck can answer this question a little better, but I believe some properties came out of the floodplain. This ordinance would not have affected this. That is a separate process that is available now.

JOHN DELEE: I know it has been a hardship for many of those property owners, because now they have to pay flood insurance even though their house is way above the floodplain. It forces them to go through the process of hiring a surveyor, applying for the variance and then I don't know how that works, if the whole property is exempt then or if it is just the house.

LARRY MAGLIOZZI: Again, Chuck could probably answer that question. I believe the whole property was affected back then, but I think they just look at the house now.

KARL KING: It sounds like the things you are talking about John actually have been in effect since January 6, 2011.

JOHN DELEE: I think so.

KARL KING: What we are being asked to do today doesn't really affect that. How often are these maps redrawn and regulations revisited?

LARRY MAGLIOZZI: I think they have only been done twice.

KARL KING: In the history of...

LARRY MAGLIOZZI: I believe the initial maps were 1986-1987 and then the latest ones were 2011. They did 2011 maps based on improved methodology and improved engineering on how they could actually do this on a nationwide basis. There is no guarantee when they will be done next, if they are done next. That is why they have a procedure in place and have always had a procedure in place, as you said Mr. DeLee, to remove your property from the floodplain.

DAN BREWER: There is a sentence here it says, “ as of the date of this report DNR is still reviewing the ordinance for conformity to the model floodplain ordinance.”

KARL KING: That is what Larry mentioned earlier.

LARRY MAGLIOZZI: Correct. I mentioned that at the end of Matthew’s report. As of this morning DNR has completed its review of all six ordinances and has given their approval for adoption.

DAN BREWER: Ok.

### IN FAVOR

CHUCK BULOT: I am the Building Commissioner for St. Joseph County and the City of South Bend, also the Floodplain Administrator for both St. Joseph County and the City of South Bend. Offices located at 125 S. LaFayette Boulevard. This ordinance change before you is merely a reflection of what the requirements are from FEMA, which is the umbrella agency that has overview for both DNR and indirectly for the local department here. Before 2011 there was an incident on the north side of the St. Joseph River where the elevation was about 30 feet above the floodplain and someone requested an addition to their house. When I looked at the map I realized they could not be in a floodplain. It was impossible. In order for that parcel to flood it would have to flood at the bypass by about 12 feet, which is an impossibility. I contacted DNR. We met with both Osceola and another jurisdiction. We contacted FEMA and got them to look seriously at changing the floodplain maps. As a result that area along the river is now out of the floodplain. That was an actual benefit. There are places within the county that are still in the floodplain and will remain in the floodplain until they are proven otherwise. There is a process for that. If someone wants to do an improvement on the property that is in the floodplain, they contact me. I look at the mapping first. If the structure is not in the floodplain and the addition or improvement is not in the floodplain, I will go ahead and issue a permit and then deal with DNR’s query which will generally happen after the fact. As long as it is not in the floodway we are good to go. We can go ahead and streamline that process for the homeowner. If it is in the designated floodway, we now have to prove the elevation at the site. Sometimes it is a matter of feet. We are just following the guide set by FEMA in order to be compliant, in order to accommodate the NFIP so that people will have the ability to have flood insurance, if they so choose or are required.

KARL KING: Thank you Chuck. The bottom line is the individual property owner does have an avenue for recourse. If they think that they don’t belong in the floodplain, you can initiate action.

CHUCK BULOT: Yes. That is correct.

KARL KING: It is not as though we are having to deal with Washington D.C. or something, this is local.

CHUCK BULOT: Yes.

KARL KING: That is good to know.

## REMONSTRANCE

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

LARRY MAGLIOZZI: Mr. King, excuse me, I have some additional staff comments. Just to clarify, all six of these ordinances were filed the last week of October or first week of November. Therefore, we want to clarify as you vote on this that you are voting on the most current version of the ordinance as reviewed and approved by the Department of Natural Resources (DNR). We could even put a date today as of November 17, 2015, because all of these are going to be substitute ordinances that we send back to the Towns, County and City.

KARL KING: Is that different than what was distributed to the members of this Commission?

LARRY MAGLIOZZI: Yes. It is also different than what was posted because DNR had not completed their review at the time we filed.

KARL KING: Are there any differences that we should know about before we vote on these?

LARRY MAGLIOZZI: As I mentioned earlier, the changes were bad citations or the wrong citations in some cases, and some typographical errors. That is really it. There were some formatting issues with two or three of the ordinances. The wording remains the same essentially.

KARL KING: I am asking because none of us here has evidentially seen the most current version that you are asking us to approve.

LARRY MAGLIOZZI: I just got the final versions for the last two this morning. I was not able to distribute those.

KARL KING: I will ask the members for any comments on this.

DAN BREWER: Would it make sense to delay this until next month?

LARRY MAGLIOZZI: No.

KARL KING: We have to have it done by December 16.

JOHN DELEE: Can we somehow incorporate those changes into this ordinance?

KARL KING: That is what he is asking us to do, by specifying that we are adopting these changes to the most current version of each of them.

DAN BREWER: That is what you are asking?

LARRY MAGLIOZZI: Yes sir.

KARL KING: When you send it to the legislative bodies, you are going to send the most current versions, right? Not the one that was in our packets?

LARRY MAGLIOZZI: That is correct. There will be a brief explanation of what those changes were.

KARL KING: I want to be sure that these legislative bodies will get the version with the changes and the one that we voted to give a favorable recommendation.

LARRY MAGLIOZZI: Yes sir.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Dan Brewer and unanimously carried, the proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Common Council of the City of South Bend, Indiana, amending Chapter 21 Zoning of the Municipal Code of the City of South Bend, Indiana by repealing and replacing Article 12 Floodplain Regulations, in order to adopt the most recent Federal and State requirements, is sent to the Common Council with a FAVORABLE recommendation. This ordinance addresses required changes in the community's floodplain ordinance, and is required for continued eligibility in the National Flood Insurance Program.

- D. A proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Council of St. Joseph County, Indiana amending Title XV: Land Usage, Chapter 154: Planning and Zoning of the St. Joseph County, Indiana Code of Ordinances, by repealing Sections 154.290 through 154.296 FP: Floodplain Regulations, and adding new Sections 154.290 through 154.297, in order to adopt the most recent Federal and State requirements - APC# 2762-15.

MATTHEW CHAPPUIES: An Ordinance initiated by the Area Plan Commission of St. Joseph County, amending Title XV, Land Usage, Planning and Zoning, Sections 154.290 through 154.302, FP: Floodplain Regulations, Of Chapter 154 of the St. Joseph County, Indiana Code, St. Joseph County, Indiana. The Federal Emergency Management Agency (FEMA) has made a number of changes to the Model Floodplain Ordinance, and has requested that communities that participate in the National Flood Insurance Program adopt the changes. The Department of Natural Resources is coordinating that effort for Indiana communities. A new floodplain ordinance must be adopted by December 16, 2015 in order for communities to remain in compliance with the National Flood Insurance Program. The primary purpose of this replacement ordinance is to specifically include within identified Special Flood Hazard Areas (SFHA's) and other flood prone areas insured by the Federal Emergency Management Agency (FEMA), those locations identified on the St. Joseph County Flood Insurance Rate Map dated January 6, 2011 and on any future updates, amendments or revisions prepared by FEMA. It should be noted that this replacement ordinance does not change or in any other way affect the existing penalties. The substantive changes consist solely in adding and deleting certain definitions, rephrasing and clarifying some language, and most importantly, incorporating FEMA's Flood Insurance Rate Map of January 6, 2011 and assuring that all updates amendments and revisions prepared by FEMA shall be included within designated floodplain areas. All changes are per recommendation of either FEMA or IDEM, so there was little discretion in drafting. Chuck Bulot, Floodplain Administrator, has reviewed the changes and recommends approval. As of the date of this Report, the Department of Natural Resources is still reviewing the ordinance for conformity to the model floodplain ordinance. The FIRM maps, effective as of January 6, 2011, remain in place. Based on information available prior to the public hearing, the staff recommends that the petition be sent to the County Council with a FAVORABLE recommendation. This ordinance addresses required changes in the community's floodplain ordinance, and is required for continued eligibility in the National Flood Insurance Program.

LARRY MAGLIOZZI: There is an addendum to the staff reports. It took DNR a few weeks to get back with us on any corrections that they may have wanted. As of this morning they have recommended approval for passage of all of the Floodplain Ordinances by the various jurisdictions. I believe Chuck Bulot will have a comment during the public portion.

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KARL KING: I wanted to ask, my understanding Matt is that all though there are some definitions, it sounds as if the effect on anything having to do with land use or anything of that nature is generally of concern, to us is not going to be affected by this Is that a fair statement?

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JOHN DELEE: What do you mean it doesn't affect any of the houses? With this 2011 map a lot of areas in South Bend and the County which were built above the floodplain are now in the floodplain because there is a portion of their property that is in the floodplain. This has a bunch of strict regulations about what they can do. If they wanted to add on a room, they almost have to have a complete survey, and substantiate that their property or whatever they are adding on is not in the floodplain. It looks like a very, very difficult ordinance for the people who live in that little part of a floodplain that their houses are not involved. If they want to do some improvements they are going to have some difficulty.

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JOHN DELEE: I know it has been a hardship for many of those property owners, because now they have to pay flood insurance even though their house is way above the floodplain. It forces them to go through the process of hiring a surveyor, applying for the variance and then I don't know how that works, if the whole property is exempt then or if it is just the house.

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KARL KING: That is what Larry mentioned earlier.

LARRY MAGLIOZZI: Correct. I mentioned that at the end of Matthew's report. As of this morning DNR has completed its review of all six ordinances and has given their approval for adoption.

DAN BREWER: Ok.

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KARL KING: I want to be sure that these legislative bodies will get the version with the changes and the one that we voted to give a favorable recommendation.

LARRY MAGLIOZZI: Yes sir.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously carried, the proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the St. Joseph County Council of St. Joseph County, Indiana amending Title XV: Land Usage, Chapter 154: Planning and Zoning of the St. Joseph County, Indiana Code of Ordinances, by repealing Sections 154.290 through 154.296 FP: Floodplain Regulations, and adding new Sections 154.290 through 154.297, in order to adopt the most recent Federal and State requirements, is sent to the County Council with a FAVORABLE recommendation. This ordinance addresses required changes in the community's floodplain ordinance, and is required for continued eligibility in the National Flood Insurance Program.

- E. A proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Town Council of the Town of Roseland, Indiana, amending Title XV Land Usage, Chapter 151 Zoning, of the Code of Ordinances of the Town of Roseland, Indiana, by repealing Sections 151.205 through 151.236 Floodplain regulations, and adding new Sections 151.205 through 151.212 in order to adopt the most recent Federal and State requirements - APC# 2763-15.

MATTHEW CHAPPUIES: An Ordinance initiated by the Area Plan Commission of St. Joseph County, amending Chapter 10, Zoning, Article 8, Floodplain Regulations Of The Town Code Of The Town Of Roseland, St. Joseph County, Indiana. The Federal Emergency Management Agency (FEMA) has made a number of changes to the Model Floodplain Ordinance, and has requested that communities that participate in the National Flood Insurance Program adopt the changes. The Department of Natural Resources is coordinating that effort for Indiana communities. A new floodplain ordinance must be adopted by December 16, 2015 in order for communities to remain in compliance with the National Flood Insurance Program. The primary purpose of this replacement ordinance is to specifically include within identified Special Flood Hazard Areas (SFHA's) and other flood prone areas insured by the Federal Emergency Management Agency (FEMA), those locations identified on the St. Joseph County Flood Insurance Rate Map dated January 6, 2011 and on any future updates, amendments or revisions prepared by FEMA. It should be noted that this replacement ordinance does not change or in any other

way affect the existing penalties. The substantive changes consist solely in adding and deleting certain definitions, rephrasing and clarifying some language, and most importantly, incorporating FEMA's Flood Insurance Rate Map of January 6, 2011 and assuring that all updates amendments and revisions prepared by FEMA shall be included within designated floodplain areas. All changes are per recommendation of either FEMA or IDEM, so there was little discretion in drafting. Chuck Bulot, Floodplain Administrator, has reviewed the changes and recommends approval. As of the date of this Report, the Department of Natural Resources is still reviewing the ordinance for conformity to the model floodplain ordinance. The FIRM maps, effective as of January 6, 2011, remain in place. Based on information available prior to the public hearing, the staff recommends that the petition be sent to the Town Council with a FAVORABLE recommendation. This ordinance addresses required changes in the community's floodplain ordinance, and is required for continued eligibility in the National Flood Insurance Program.

LARRY MAGLIOZZI: There is an addendum to the staff reports. It took DNR a few weeks to get back with us on any corrections that they may have wanted. As of this morning they have recommended approval for passage of all of the Floodplain Ordinances by the various jurisdictions. I believe Chuck Bulot will have a comment during the public portion.

JOHN MCNAMARA: Is there any reason why we left out Walkerton and New Carlisle?

LARRY MAGLIOZZI: Walkerton is not a member of the Area Plan Commission, so they need to take care of their own as well as Mishawaka. New Carlisle does not have any floodplains within the Town, so they do not have a Floodplain Ordinance.

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DAN BREWER: So the maps are not changing?

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JOHN DELEE: What do you mean it doesn't affect any of the houses? With this 2011 map a lot of areas in South Bend and the County which were built above the floodplain are now in the floodplain because there is a portion of their property that is in the floodplain. This has a bunch of strict regulations about what they can do. If they wanted to add on a room, they almost have to have a complete survey, and substantiate that their property or whatever they are adding on is not in the floodplain. It looks like a very, very difficult ordinance for the people who live in that little part of a floodplain that their houses are not involved. If they want to do some improvements they are going to have some difficulty.

LARRY MAGLIOZZI: They are in that situation now as they were in that situation on January 6, 2011. There are no further restrictions applied to those properties, and there are no less restrictions applied to those properties. As a matter of fact, before 2011 the maps that were approved, I believe 1987-1986 also applied the same conditions. The conditions to rebuild your structure if it gets flooded and the conditions if you wanted to add an addition remain in place. Those standards don't change at all. Again, it's a matter of certain definitions that FEMA took out of the ordinance, a few more that they added, but the

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KARL KING: That is what Larry mentioned earlier.

LARRY MAGLIOZZI: Correct. I mentioned that at the end of Matthew's report. As of this morning DNR has completed its review of all six ordinances and has given their approval for adoption.

DAN BREWER: Ok.

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Upon a motion by John McNamara, being seconded by Dan Brewer and unanimously carried, the proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Town Council of the Town of North Liberty, Indiana, amending Title 8 of the Town of North Liberty Code by repealing and replacing Article 6: Floodplain regulations, in order to adopt the most recent Federal and State requirements, is sent to the Town Council with a FAVORABLE recommendation. This ordinance addresses required changes in the community's floodplain ordinance, and is required for continued eligibility in the National Flood Insurance Program.

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KARL KING: I wanted to ask, my understanding Matt is that all though there are some definitions, it sounds as if the effect on anything having to do with land use or anything of that nature is generally of concern, to us is not going to be affected by this. Is that a fair statement?

LARRY MAGLIOZZI: That is a fair statement.

DAN BREWER: So the maps are not changing?

LARRY MAGLIOZZI: The maps are not changing. The maps, effective January 6, 2011, remain in place. There were some changes to the federal code on floodplains, which is what this reflects. It doesn't change the way we approach the floodplain, the way we calculate floodplains, affect any of the houses or structures within the floodplain.

JOHN DELEE: What do you mean it doesn't affect any of the houses? With this 2011 map a lot of areas in South Bend and the County which were built above the floodplain are now in the floodplain because there is a portion of their property that is in the floodplain. This has a bunch of strict regulations about what they can do. If they wanted to add on a room, they almost have to have a complete survey, and substantiate that their property or whatever they are adding on is not in the floodplain. It looks like a very, very difficult ordinance for the people who live in that little part of a floodplain that their houses are not involved. If they want to do some improvements they are going to have some difficulty.

LARRY MAGLIOZZI: They are in that situation now as they were in that situation on January 6, 2011. There are no further restrictions applied to those properties, and there are no less restrictions applied to those properties. As a matter of fact, before 2011 the maps that were approved, I believe 1987-1986 also applied the same conditions. The conditions to rebuild your structure if it gets flooded and the conditions if you wanted to add an addition remain in place. Those standards don't change at all. Again, it's a matter of certain definitions that FEMA took out of the ordinance, a few more that they added, but the development standards have not changed at all. Those folks in the floodplain today, stay in the floodplain unless they have gotten a letter of map amendment or change or they certified their property to be out of the floodplain. In addition, since 2011 the section of the St. Joseph River between the Elkhart County Line and the Mishawaka Dam has been redrawn by FEMA. That is really an amendment to the 2011 maps. Maybe Chuck can answer this question a little better, but I believe some properties came out of the floodplain. This ordinance would not have affected this. That is a separate process that is available now.

JOHN DELEE: I know it has been a hardship for many of those property owners, because now they have to pay flood insurance even though their house is way above the floodplain. It forces them to go through the process of hiring a surveyor, applying for the variance and then I don't know how that works, if the whole property is exempt then or if it is just the house.

LARRY MAGLIOZZI: Again, Chuck could probably answer that question. I believe the whole property was affected back then, but I think they just look at the house now.

KARL KING: It sounds like the things you are talking about John actually have been in effect since January 6, 2011.

JOHN DELEE: I think so.

KARL KING: What we are being asked to do today doesn't really affect that. How often are these maps redrawn and regulations revisited?

LARRY MAGLIOZZI: I think they have only been done twice.

KARL KING: In the history of...

LARRY MAGLIOZZI: I believe the initial maps were 1986-1987 and then the latest ones were 2011. They did 2011 maps based on improved methodology and improved engineering on how they could actually do this on a nationwide basis. There is no guarantee when they will be done next, if they are done next. That is why they have a procedure in place and have always had a procedure in place, as you said Mr. DeLee, to remove your property from the floodplain.

DAN BREWER: There is a sentence here it says, "as of the date of this report DNR is still reviewing the ordinance for conformity to the model floodplain ordinance."

KARL KING: That is what Larry mentioned earlier.

LARRY MAGLIOZZI: Correct. I mentioned that at the end of Matthew's report. As of this morning DNR has completed its review of all six ordinances and has given their approval for adoption.

DAN BREWER: Ok.

#### IN FAVOR

CHUCK BULOT: I am the Building Commissioner for St. Joseph County and the City of South Bend, also the Floodplain Administrator for both St. Joseph County and the City of South Bend. Offices located at 125 S. LaFayette Boulevard. This ordinance change before you is merely a reflection of what the requirements are from FEMA, which is the umbrella agency that has overview for both DNR and indirectly for the local department here. Before 2011 there was an incident on the north side of the St. Joseph River where the elevation was about 30 feet above the floodplain and someone requested an addition to their house. When I looked at the map I realized they could not be in a floodplain. It was impossible. In order for that parcel to flood it would have to flood at the bypass by about 12 feet, which is an impossibility. I contacted DNR. We met with both Osceola and another jurisdiction. We contacted FEMA and got them to look seriously at changing the floodplain maps. As a result that area along the river is now out of the floodplain. That was an actual benefit. There are places within the county that are still in the floodplain and will remain in the floodplain until they are proven otherwise. There is a process for that. If someone wants to do an improvement on the property that is in the floodplain, they contact me. I look at the mapping first. If the structure is not in the floodplain and the addition or improvement is not in the floodplain, I will go ahead and issue a permit and then deal with DNR's query which will generally happen after the fact. As long as it is not in the floodway we are good to go. We can go ahead and streamline that process for the homeowner. If it is in the designated floodway, we now have to prove the elevation at the site. Sometimes it is a matter of feet. We are just following the guide set by FEMA in order to be compliant, in order to accommodate the NFIP so that people will have the ability to have flood insurance, if they so choose or are required.

KARL KING: Thank you Chuck. The bottom line is the individual property owner does have an avenue for recourse. If they think that they don't belong in the floodplain, you can initiate action.

CHUCK BULOT: Yes. That is correct.

KARL KING: It is not as though we are having to deal with Washington D.C. or something, this is local.

CHUCK BULOT: Yes.

KARL KING: That is good to know.

### REMONSTRANCE

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

LARRY MAGLIOZZI: Mr. King, excuse me, I have some additional staff comments. Just to clarify, all six of these ordinances were filed the last week of October or first week of November. Therefore, we want to clarify as you vote on this that you are voting on the most current version of the ordinance as reviewed and approved by the Department of Natural Resources (DNR). We could even put a date today as of November 17, 2015, because all of these are going to be substitute ordinances that we send back to the Towns, County and City.

KARL KING: Is that different than what was distributed to the members of this Commission?

LARRY MAGLIOZZI: Yes. It is also different than what was posted because DNR had not completed their review at the time we filed.

KARL KING: Are there any differences that we should know about before we vote on these?

LARRY MAGLIOZZI: As I mentioned earlier, the changes were bad citations or the wrong citations in some cases, and some typographical errors. That is really it. There were some formatting issues with two or three of the ordinances. The wording remains the same essentially.

KARL KING: I am asking because none of us here has evidentially seen the most current version that you are asking us to approve.

LARRY MAGLIOZZI: I just got the final versions for the last two this morning. I was not able to distribute those.

KARL KING: I will ask the members for any comments on this.

DAN BREWER: Would it make sense to delay this until next month?

LARRY MAGLIOZZI: No.

KARL KING: We have to have it done by December 16.

JOHN DELEE: Can we somehow incorporate those changes into this ordinance?

KARL KING: That is what he is asking us to do, by specifying that we are adopting these changes to the most current version of each of them.

DAN BREWER: That is what you are asking?

LARRY MAGLIOZZI: Yes sir.

KARL KING: When you send it to the legislative bodies, you are going to send the most current versions, right? Not the one that was in our packets?

LARRY MAGLIOZZI: That is correct. There will be a brief explanation of what those changes were.

KARL KING: I want to be sure that these legislative bodies will get the version with the changes and the one that we voted to give a favorable recommendation.

LARRY MAGLIOZZI: Yes sir.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously carried, the proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Town Council of the Town of Lakeville, Indiana, amending Title 8 of the Town of Lakeville code by repealing and replacing Article 6: Floodplain Regulations, in order to adopt the most recent Federal and State requirements, is sent to the Town Council with a FAVORABLE recommendation. This ordinance addresses required changes in the community's floodplain ordinance, and is required for continued eligibility in the National Flood Insurance Program.

H. A proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Town Council of the Town of Osceola, Indiana, repealing and replacing Chapter 14 Floodplain Regulations of the Town of Osceola Zoning Ordinance in order to adopt the most recent Federal and State requirements. - APC# 2766-15.

MATTHEW CHAPPUIES: An Ordinance initiated by the Area Plan Commission of St. Joseph County, amending Chapter IV, District Regulations, Section 4.80 Floodplain Regulations, Of The Zoning Ordinance of The Town Of Osceola, St. Joseph County, Indiana. The Federal Emergency Management Agency (FEMA) has made a number of changes to the Model Floodplain Ordinance, and has requested that communities that participate in the National Flood Insurance Program adopt the changes. The Department of Natural Resources is coordinating that effort for Indiana communities. A new floodplain ordinance must be adopted by December 16, 2015 in order for communities to remain in compliance with the National Flood Insurance Program. The primary purpose of this replacement ordinance is to specifically include within identified Special Flood Hazard Areas (SFHA's) and other flood prone areas insured by the Federal Emergency Management Agency (FEMA), those locations identified on the St. Joseph County Flood Insurance Rate Map dated January 6, 2011 and on any future updates, amendments or revisions prepared by FEMA. It should be noted that this replacement ordinance does not change or in any other way affect the existing penalties. The substantive changes consist solely in adding and deleting certain definitions, rephrasing and clarifying some language, and most importantly, incorporating FEMA's Flood Insurance Rate Map of January 6, 2011 and assuring that all updates amendments and revisions prepared by FEMA shall be included within designated floodplain areas. All changes are per recommendation of either FEMA or IDEM, so there was little discretion in drafting. Chuck Bulot, Floodplain Administrator, has reviewed the changes and recommends approval. As of the date of this Report, the Department of Natural Resources is still reviewing the ordinance for conformity to the model floodplain ordinance. The FIRM maps, effective as of January 6, 2011, remain in place. Based on information available prior to the public hearing, the staff recommends that the petition be sent to the Town Council with a FAVORABLE recommendation. This ordinance addresses required changes in the community's floodplain ordinance, and is required for continued eligibility in the National Flood Insurance Program.

LARRY MAGLIOZZI: There is an addendum to the staff reports. It took DNR a few weeks to get back with us on any corrections that they may have wanted. As of this morning they have recommended approval for passage of all of the Floodplain Ordinances by the various jurisdictions. I believe Chuck Bulot will have a comment during the public portion.

JOHN MCNAMARA: Is there any reason why we left out Walkerton and New Carlisle?

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LARRY MAGLIOZZI: Yes sir.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously carried, the proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Town Council of the Town of Osceola, Indiana, repealing and replacing Chapter 14 Floodplain Regulations of the Town of Osceola Zoning Ordinance in order to adopt the most recent Federal and State requirements. is sent to the Town Council with a FAVORABLE recommendation. This ordinance addresses required changes in the community's floodplain ordinance, and is required for continued eligibility in the National Flood Insurance Program.

#### 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

ANGELA SMITH: The petitioner is requesting approval of alternate development standards for signs and landscaping. 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 by the Commission. In 2014, alternate development standards for outdoor storage and renaming of the PUD to AmeriPlex at Interstate 80/90 were approved. The AmeriPlex at Interstate 80/90 PUD ordinance provides the developer the opportunity to submit alternate development standards for approval by the Area Plan Commission. The alternate development standards being proposed by the developer include the following:

- Provisions to allow a lot without street frontage to have the ability to place a monument sign in a signage easement on an adjacent parcel;
- Perimeter yard planting will no longer be required for sections of a front yard that face the rear

of an existing building or in side yards where the equivalent is already installed by the adjacent property owner;

- Disturbed areas located behind a building are allowed to use ground cover, stone, or mulch in lieu of sod or hydro seed;
- 100% coverage of Irrigation systems are only required for plantings between the front building and concrete curb of the street;
- Maintenance of landscape areas within the site development's boundary shall be maintained by the individual site development (formerly the responsibility of AmeriPlex at Interstate 80/90); and
- Additional plant materials were added to the approved list.

The way the PUD was originally set up is that if there was a change that would affect the entire development they could come to the Plan Commission and ask for alternate development standards, if it was something on a site by site basis, they would go to the Area Board of Zoning Appeals. In this case the developer felt it was appropriate to change the entire PUD to accommodate some of those things. One of the things that came up as the property is developed is some of the parcels do not have direct frontage onto a street. Therefore, if they wanted to put a sign at the entrance, it would be considered an off-premise sign, which was not provided for in the PUD. The text change will allow for them to put a sign on an adjacent property provided they share an entrance. There are some separation requirements, and it would still have to meet the design standards. This parcel here (pointing to the powerpoint) is where Chase Plastics is developing right now. They share a drive out this direction that meets up with Dylan, but because their property does not actually touch Dylan they would not technically be allowed a sign to let people know to turn into there. I think they would have gotten eight square feet to tell people to turn there to get to Chase Plastics. These changes would allow them to put a monument style sign out there at the entrance so they know that shared drive would go back to Dylan. We expect to see similar things on the other side of Dylan Drive as this property develops. There is a potential project developing here that would have a shared drive and even some future developments in the quadrants that may have shared drives as well. 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.

KARL KING: In the case of Chase Plastics, where would this sign that has their name on it be?

ANGELA SMITH: They are developing a road right about here (pointing to the powerpoint), so they might have a sign on one side of the entranceway and the other building might have another on north or south. Generally it is where the shared drive intersects with a main street. There is nothing that requires it to be there, but that is generally where they are located. That is one of the main changes that has come up. A couple of the other things relate to landscaping. We have seen this in other developments in South Bend, where you are required perimeter landscaping around your entire yard, you have two industrial properties that are side by side. Both are required to put up perimeter landscaping. Now there is a provision that if the first parcel went in and put it up, the second parcel would not have to then put a second layer of perimeter landscaping to buffer between them and the adjacent properties. In the case where this property might develop behind another property, the portion of their property behind a building would not have to put up front perimeter landscaping. It is really trying to address how these landscaping requirements were intended to be applied. The maintenance of those will also change to the property owner in which the common areas are adjacent to, as opposed to the AmeriPlex at Interstate 80/90 being responsible for the maintenance of it. One of the other changes was to the requirement for disturbed areas to be fully sodded and planted out. This would allow them, if it is behind the building, to use a ground cover or stone instead of being required hydro seed. We are really trying to deal with some of the things that were not anticipated where you might have a building located behind another one. Because it is an industrial park, not every lot has to have frontage, so there were some things that were not anticipated in

the original PUD. This tries to bring all those in to compliance and figure out a way to deal with those issues. The staff recommends approval of the proposed alternate development standards; it is consistent with the intent and design of the original PUD and will allow flexibility and adapting to current design standards for the industrial park.

After due consideration, the following action was taken:

Upon a motion by John McNamara, 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 were approved.

- B. Alternate Development Standards– Ignition Park, 85 acres southeast of Sample Street and Prairie Avenue – APC #2671-13

ANGELA SMITH: The petitioner is requesting approval for alternate development standards for signs. Ignition Park PUD was originally heard by the Area Plan Commission in 2010. In 2013, a new petition was approved that added the site at the northeast corner and removed a lot at the southwest corner, creating the current configuration of the Ignition Park PUD. The Ignition Park PUD Ordinance provides the developer the opportunity to submit alternate development standards for approval by the Area Plan Commission. The alternate development standards being proposed by the developer include the following:

- Updating the terminology from monument sign to freestanding sign, where applicable;
- Increasing the maximum height of an Ignition Park Campus Freestanding sign from 8' to 25';
- Adding a provision that allows freestanding identification signs the ability to be located on an adjacent lot provided they share a common drive;
- Adding a provision that will allow 3-dimensional works of art to be included with the approval of the Architectural Review Board and the Board of Public Works.

The City has had an opportunity to meet with some marketing consultants and come up with an image and marketing plan for the signs. When they did this it required some changes to the sign standards. They are all highlighted in the packet for you. One of the things that we did change was something we are thinking of changing in the South Bend Zoning Ordinance. The use of the word pole sign and monument sign have created some confusion because there are standards in the definition that limit what we can do with those signs. The PUD took out the word monument and used the word freestanding instead, so we don't have to worry about how tall the base is. As part of this, the main ID sign for the Ignition Park exceeded what they originally anticipated for the development, so they would like to request that that be increased to a 25 foot. This is a representation of the image of what that sign might look like (pointing to the powerpoint). They have developed a large sign on the far left and then some smaller signs there throughout. This kind of gives you an idea of where they might be located. The other thing we added was to allow for a three dimensional work of art to not be considered a sign. Currently in the South Bend regulations, three and two dimensional works of art are often considered a sign and it is unlimited in size. They are not sure if this will actually be built, but the consultant recommended it and so they wanted to make sure there was a provision to install some type of art work of this nature, if they decided to pursue it. Staff recommends approval of the proposed alternate development standards. The proposed standards are consistent with the intent and design of the original PUD and provide the ability to continue the branding and marketing image created for the industrial park.

KARL KING: A three dimensional work of art is considered a sign. So the Ricci sculpture that we have in Downtown is a sign?

ANGELA SMITH: It is very complicated in the sign ordinance on how they look at that.

KARL KING: Does it make a difference if the sign moves or not?

ANGELA SMITH: No. It is very complicated. The two dimensional art creates more of a problem than the three dimensional art.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously carried, the Alternate Development Standards– Ignition Park, 85 acres southeast of Sample Street and Prairie Avenue were approved.

- C. Findings of Facts for Granting of Variances for property located at 13460 E. McKinley and 56020 Currant Road, St. Joseph County – APC #2755-15.

LARRY MAGLIOZZI: This is for the McKinley and Current Road property. This is a car lot that received some discussion at the meeting last month. We ask for your ratification of the Findings of Facts.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Robert Hawley and unanimously carried the Findings of Facts for Granting of Variances for property located at 13460 E. McKinley and 56020 Currant Road, St. Joseph County were approved.

- D. Findings of Facts for Granting of Variances for property located at 1619 & 1623 Franklin Street, City of South Bend – APC #2756-15.

LARRY MAGLIOZZI: This is the industrial building that was expanding into one or two residential lots to the south.

After due consideration, the following action was taken:

Upon a motion by Dan Brewer, being seconded by John McNamara and unanimously carried the Findings of Facts for Granting of Variances for property located at 1619 & 1623 Franklin Street, City of South Bend were approved.

- E. Findings of Facts for Granting of Variances for property located at 1714 and 1716 South Michigan Street, City of South Bend – APC #2757-15.

LARRY MAGLIOZZI: This is a conversion of an older building into a liquor store.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley, and unanimously carried, the Findings of Facts for Granting of Variances for property located at 1714 and 1716 South Michigan Street, City of South Bend were approved.

F. Approval of the 2016 Rezoning, Subdivision and Executive Committee meeting schedules.

KARL KING: We have the 2016 schedules for next year

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously carried, the 2016 Rezoning, Subdivision and Executive Committee meeting schedules were approved.

2. Executive Director's Report:

LARRY MAGLIOZZI: If you recall the first petition, the Dr. Mai petition we received a letter in favor and we have a specific request to read that letter. We handed it out to you instead of reading it so you would see what it is. In the past, all we have told you really are how many pieces of correspondence we receive in favor or against. This raises the issue and a question for you. Do you want us to actually hand out that correspondence to you so you can actually read it yourself. We can do that. It has never been done, for whatever reason. We get phone calls also. We don't share that though. It is just a question. I don't know if this helped you to get to that letter or not.

DAN BREWER: I would suggest that the public hearing is the place for us to hear those things.

LARRY MAGLIOZZI: So we can pass it out to you at the meeting.

DAN BREWER: I am thinking out loud here.

MITCH HEPPENHEIMER: Passing it out does not make it part of the public record. Are you asking that it be read?

DAN BREWER: I am suggesting that we don't need to even see it. If they have something they want to say, they have an opportunity at the public hearing.

ANGELA SMITH: Because our public hearing is in the middle of the day and some individuals can't come to the meeting, we have told them if they could not make it that we had to have something in writing. If it was in writing we would at least let you know what happened and summarize the letter. That is generally what we tell the people who can't come to a 3:30 hearing in the middle of the day but still feel the need to express their opinion.

KARL KING: In the case of the letter that brings this up, you had someone specifically request that it be put into the public record. It seems to me that when you get a letter like that, it needs to get into the public record to give those people due process.

MITCH HEPPENHEIMER: It hasn't been put in yet.

ANGELA SMITH: Because it was on the petition that was tabled. The one that was specifically asked to be read into the record is the one that was tabled.

MITCH HEPPENHEIMER: I am sorry; I thought it was on the Doctor's office.

LARRY MAGLIOZZI: I am sorry, that was my fault.

MITCH MEPPENHEIMER: Did you each get a letter about the Dr. one?

LARRY MAGLIOZZI: Right, but there was some other correspondence too.

KARL KING: You had one that explicitly requested that it be put in the public record.

LARRY MAGLIOZZI: Yes.

KARL KING: I think we should honor a request like that.

DAN BREWER: How do you do that if you have 300 of them?

KARL KING: Someone reads it.

DAN BREWER: How many do we get?

LARRY MAGLIOZZI: How many did we get on Dr. Mai?

ANGELA SMITH: On Dr. Mai we had three phone calls and one letter. On the Fir Road one we had received one letter that was requested to be read in and then there were some phone calls. We tend to get more phone calls than letters. Out of every three petitions we might get one or two letters.

DAN BREWER: It seems to me I could be way off base here, but seems to me that those letters are really meant for the staff as you prepare for the meeting. It really does not seem to be something that needs to come to us.

ANGELA SMITH: We often don't get those until after the staff reports go out to you.

LARRY MAGLIOZZI: When they come in, some are addressed to the Area Plan Commission, some addressed to me (Larry Magliozzi) and some addressed to the staff.

KARL KING: I kind of agree with Dan on those phone calls that you get or emails that are sent to you. I am just thinking that if there is one thing that we can be sure to do right is that we give people due process. When someone says I specifically request that my letter be read into the record, it just seems if they are expressing an opinion to the Staff they really want it to be in the record that we take the time to make that happen.

ADAM DEVON: Isn't that really more of a City or County Council issue? Don't we just give our recommendation. Isn't that type of thing more for the Councils?

KARL KING: I think you are right, but the record of what we do here goes to that legislative body.

ANGELA SMITH: All the letters that we receive do go to the Councils.

MITCH HEPPENHEIMER: If the letter specifically requests that it is read in, it needs to be read in.

PHIL SUTTON: Like you said, we have listened to people here and we have gone opposite of what the staff has recommended. It seems to me that if you are only getting one or two, you attach it to the report so we can read those as we...

MITCH HEPPENHEIMER: Here is the only thing I am worried about, if someone asks it to be made as a record...

PHIL SUTTON: No. That is fine.

MITCH HEPPENHEIMER: If you don't do it, and the person doesn't agree it is going to come back.

KARL KING: They are talking about the other stuff.

MITCH HEPPENHEIMER: The other stuff I don't disagree with I am sorry.

PHIL SUTTON: We should have a count 5 nay, 2 for on the phone calls. We should have some sort of a number.

ANGELA SMITH: We do not typically report on the phone calls. In the past we have only reported on things that we have gotten in writing. We have not, in the past, identified the phone calls. We do discuss it so we do know what those are and we track those.

PHIL SUTTON: You mentioned those before.

ANGELA SMITH: As a point of reference any letters the ABZA receives they distribute to the board ahead of time so they have those to read.

PHIL SUTTON: I can just see the ones that are to go to the public record that were just sent, it would still be nice for us to see those.

ANGELA SMITH: It doesn't take much for us to provide the copies for you to see.

KARL KING: Let me suggest this. You asked a question and you have heard all of our opinions so how about we have the staff work out a procedure that you think is practical and workable and honors citizen requests and let us know that is the way it is going to be done in the future.

LARRY MAGLIOZZI: I think we mentioned this to you earlier. We were working on changing our internal procedures as far as how petitions come in to us. The current method is that as part of the filing for all of the zonings the petitioner has to submit several pieces of documentation. Two of them being a petition, which lists the name and address. Then an Ordinance that would eventually go through the process that gets stamped by the Council. We spend a lot of time on those Ordinances. They are just put together by lay people in different manners. We have decided that we are going to prepare the ordinances. They will still submit the petition. We usually, 99% of the time, know what is coming into the office so we will work with the petitioners ahead of time. This way we get ordinances that are consistent in format and the legal descriptions are correct. The citations are correct. It will actually probably reduce the time we spend as we review these. It is nothing you need to act on just a piece of paperwork and it just again as we evolve into other things that we may want to do.

KARL KING: Would you require the petitioner to sign off on the ordinance that you draft?

LARRY MAGLIOZZI: The petitioner actually signs the petition, so we know that is a legitimate petition. The ordinance consists of really; I am going from R to O and that is part of the petition. There is a legal description and we usually work with them very closely on the legal description to begin with. Sometimes there are meets and bounds and the translation gets lost. So as we prepare it we will save it and then the rest of it is just the format that the individual council's use.

MITCH HEPPENHEIMER: It is a governmental document. I am sure 75% of the time it is Mike Danch, or Lang Feeney.

ANGELA SMITH: Actually from what we have heard from Janice in the City Clerk's office, she actually has to retype the majority of these to fit her formatting. So she is spending a significant amount of time retyping these and we spend a significant amount of time correcting where someone put the wrong zoning jurisdiction or something in there.

KARL KING: I was just wondering who would be held responsible if there was a typo in there.

ANGELA SMITH: It is a form field document. So they pick a drop down box. If there is a typo in the legal, then there maybe some issues.

KARL KING: The legal description is where you would have the problem.

ANGELA SMITH: Right.

LARRY MAGLIOZZI: I got a phone call just before I came down today. I handed a piece of paper out. I have been asked to provide a letter of support to the Bicentennial Nature Trust. They are working with the Shirley Heinz Land Trust. This is an organization that buys land throughout Indiana, for preservation. They have been looking at St. Joseph County for a while on suitable land. The description of what they do is kind of imbedded with the project description that I handed out. I was going to sign that letter as the Executive Director, but I thought it would mean a lot more to their support from us if it came on behalf of the Area Plan Commission. I wanted to take this opportunity and get your blessing to sign the letter on behalf of the Area Plan Commission.

DAN BREWER: What does the letter ask, Larry?

LARRY MAGLIOZZI: The Shirley Hintz Land Trust as they seek funding and support to do their program, they ask for letters of support from the communities and other folks around the area.

KARL KING: In essence the letter would be that the Area Plan Commission is in support of preserving this land.

LARRY MAGLIOZZI: Yes. And supports the Shirley Hintz Land Trust to purchase the property for preservation purposes.

KARL KING: John (McNamara) you would be the one to know if there are wetland or drainage issues that we need to be concerned about here.

JOHN MCNAMARA: Oh yes, there are a lot of them.

KARL KING: It is ok for us to...

JOHN MCNAMARA: That is why they are doing this.

KARL KING: So it is a good thing for us to do this.

JOHN MCNAMARA: Yes.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously carried, authorization is given to the staff to write such a letter on behalf of the Area Plan Commission.

3. Minutes and Expenditures:

A. Approval of the minutes from the October 20, 2015 meeting of the Area Plan Commission.

JENNIFER PARCELL: We have some amendments to the minutes. One is on the first page, taking Steve Vojtko off of being absent and making him present, the other in on page 9 Ms. Maradik's last name was misspelled. All have been corrected.

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 October 20, 2015 meeting of the Area Plan Commission were approved.

B. Expenditures:

Adams Remco - \$414.00; ARC - \$31.77; Gates Toyota – \$145.42; Indiana APA - \$140.00; South Bend Tribune - \$69.01, \$9.10; Wex Bank – \$18.06

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 October 20, 2015 through November 17, 2015 were approved.

4. Adjournment: 4:45 p.m.

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KARL G. KING,  
PRESIDENT OF THE COMMISSION

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LAWRENCE MAGLIOZZI,  
SECRETARY OF THE COMMISSION