

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

MINUTES

Tuesday, October 20, 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, Phil Sutton, Jerry Thacker

MEMBERS ABSENT:

Ted Penn, Thomas England, Steve Vojtko

ALSO PRESENT:

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

PUBLIC HEARING - 3:30 P.M.

1. REZONINGS:

- A. A proposed ordinance of Cornerstone Homes to zone from O Office District to SF1 Single Family & Two Family District, property located at 1151 and 1205 Hickory Road, City of South Bend - APC# 2754-15.

MATTHEW CHAPPUIES: The petitioner is requesting a zone change from O Office District to SF1 Single Family & Two Family District. On site are two existing single family homes. To the north are single family homes zoned SF1 Single Family & Two Family District. To the east across Hickory Road is a dentist office in the City of Mishawaka. To the south is a single family home zoned O Office District. To the west are single family homes zoned SF1 Single Family & Two Family District. The SF1 District is established to protect, promote and maintain the development of single family dwellings and two family dwellings as well as to provide for limited public and institutional uses that are compatible with an urban residential neighborhood. The availability of public facilities (e.g., public water, public sanitary sewer, storm sewer, natural gas, electricity, telephone, etc.) is required for development within this district. Rezoning and petitions to SF1 Single Family & Two Family District do not require a site plan. In 2009, these homes, along with the house to the immediate south were rezoned from SF1 Single Family & Two Family District to O Office District. All three homes have remained in use as single family residences. The west side of Hickory between Catalpa and Corby Boulevard rezoned to O Office District between 1989 and 2009. Hickory Road has four lanes. This site is served by municipal sewer and water. County Surveyor recommends approval. City Engineer recommends approval, but makes the following comments: surface water connections to the sanitary sewer should be severed, if applicable; building should connect to municipal utilities, if not already connected; hard surface pavement should be provided for driveways; the existing curb cuts should be utilized for access, with no additional openings; shrubbery at sidewalk should be trimmed to provide sightlines to pedestrians. The petitioner is not proposing any written commitments. This rezoning petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006): Objective H: Policy 2.6: Encourage homeowners to maintain their homes. The Future Land Use Map identifies this area as mixed use. There are no other plans in effect for this area. Hickory Road is a commercial corridor with a mix of uses. Hickory Road, between Corby Boulevard and Rexford Drive, has developed predominantly with office-type uses. The most desirable use for this site is one that is compatible with the low-impact mixed-use character of the area. Due to the nature of single

and two family homes, adjacent property values should not be adversely affected. It is responsible development and growth to allow these homes to rezone back to a residential district. The staff has no additional comments. 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. Since these homes were never converted into office uses, allowing them to rezone back to a residential district will allow them to continue to be used as residences and be in conformance with the zoning ordinance.

GERRY PHIPPS: Is the house to the south different ownership?

MATTHEW CHAPPUIES: It is different ownership. All three homes are different ownership. The two homeowners for this petition both signed the petition to rezone back to residential.

ERIC DENIGER: I reside at 15404 Hunting Ridge Trail, Granger. I purchased 1151 Hickory as a renovation project. I renovated the home. I went to close the sale and the mortgage company would not finance the sale of this home because of the zoning restriction. I moved to another financing company and they rejected it for the same reason. So that brought me to you to appeal to change the zoning.

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 Oliver Davis and unanimously carried, a proposed ordinance of Cornerstone Homes to zone from O Office District to SF1 Single Family & Two Family District, property located at 1151 and 1205 Hickory Road, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. Since these homes were never converted into office uses, allowing them to rezone back to a residential district will allow them to continue to be used as residences and be in conformance with the zoning ordinance.

- B. A combined public hearing on a proposed ordinance of RBS Properties LLC to zone from C: Commercial District to C: Commercial District, and seeking the following three variances: 1) from the required minimum front yard of 15' for parking to 5' along Currant Road and to 1' along McKinley Road for lots 217, 218, and 219; 2) from the required foundation landscaping to none along the north and east facades of the existing building and 3) from the required off-street parking area screening to none along the north, west, and south property lines, property located at 13460 E. McKinley and 56020 Currant Road, St. Joseph County - APC# 2755-15.

MATTHEW CHAPPUIES: The petitioner is requesting a zone change from C: Commercial District to C: Commercial District and seeking three variances from the development standards. On site is an existing automobile sales lot and a commercial building. To the north across McKinley Highway is an automobile sales lot zoned C: Commercial District. To the east across Miller Avenue is a dentist office zoned B: Business District. To the south are single family homes zoned R: Single Family District. To the west across Currant Road is a trophy shop zoned C: Commercial District. The C: Commercial District is established to provide a location for those retail sales and service functions whose operations are typically

characterized by: outdoor display or sales of merchandise; major repair of motor vehicles; commercial amusement and recreational activities; or, activities or operations conducted in structures which are not completely enclosed. The types of uses found in the C: Commercial District are often brightly lighted and noisy. Permitted uses contained in this district are such that this district may be used to form a grouping of similar uses along certain portions of major commercial thoroughfares. Special attention should be paid to buffering whenever this district is located adjacent to any residential district or residential uses. This site consists of two lots, totaling 0.8 acres. The eastern lot contains a car lot with an existing building for sales and service. The existing commercial building on the western lot will be razed to allow for the display area for car sales to be expanded. Together, the site has frontage on Currant Road, McKinley Highway, and Miller Avenue. The rear of the site abuts a public alley. Access will be from Miller Avenue and Currant Road. Perimeter landscaping will be installed, consisting of Type 1: Open Landscaping along all three frontages, and Type 2: Full Screening Landscaping along the alley. The petitioner is proposing reduced setbacks along Currant and McKinley for the western lot. The display area for the lot on the east is legal non-conforming. The west lot was rezoned from B: Business District to C: Commercial District in 1988, subject to a final site plan for a heating supply store. The east lot was rezoned from B: Business District to C: Commercial District in 1986, subject to a final site plan for a car lot and has since undergone several site plan modifications. The northeast corner of McKinley and Currant rezoned from B: Business District to C: Commercial district for a car lot in 1990, and the southwest corner rezoned from R: Residential District to C: Commercial District for outdoor power equipment sales in 1995. Currant Road has two lanes, with two additional turn lanes at the intersection with McKinley Highway. McKinley Highway has four lanes, a center turn lane, and an additional turn lane at the intersection with Currant Road. Miller Avenue has two lanes. The site will be connecting to municipal sewer and water, as provided by the City of Mishawaka. County Surveyor recommends approval. County Engineer recommends approval, subject to the final drainage plan, and also notes that perimeter trees will not be permitted in the County right-of-way. Mishawaka Engineering notes that water and sewer are available to the site. The petitioner is not proposing any written commitments. This rezoning petition is consistent with the Comprehensive Plan for South Bend and St. Joseph County, Indiana (April 2002): Goal 2: Objective C: Develop quality business areas to meet the retail and service needs of the planning area. The Future Land Use Map makes no specific recommendation for this area. There are no other plans in effect for this area. This portion of McKinley Highway is a mix of business and commercial uses that buffer the industrial area to the north from the residential area to the south. The most desirable use for this site is one that compliments the commercial nature of this area while limiting any negative impact on surrounding residential properties. The site is located in an existing commercial area. With the appropriate buffering, surrounding property values should not be affected. It is responsible development and growth to allow this site to remain commercial. This is a combined public hearing procedure, which includes a rezoning and three variances from the development standards. The Commission will forward the rezoning to the County Council with or without a recommendation and either approve or deny the variances. The variances are as follows: 1) from the required minimum front yard of 15' for parking to 5' along Currant Road and to 1' along McKinley Road for lots 217, 218, and 219; 2) from the required foundation landscaping to none along the north and east facades of the existing building; and 3) from the required off-street parking area screening to none along the north, west, and south property lines. State statutes and the South Bend Zoning Ordinance require that certain standards must be met before a variance can be approved. (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The landscape variances will not be injurious to the public. The setback variance may encroach too closely into the public right-of-way. (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The variances for parking screening and foundation landscaping will not affect the value of surrounding commercial properties. The residential properties to the south will not have line-of-sight to the areas where the landscaping will be absent. This area is already commercial in nature. (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in

the use of the property. Since the site will be used as a car lot, strict application of the landscape regulations would block the visibility of cars from the road and require foundation landscaping on the portions of the building where improvements already exist. The staff notes that it would support a 5' setback along McKinley, since that is what is allowed in the City for car lots (21-03.07(b) (11)), however sees no practical difficulty to warrant a 1' setback. Based on information available prior to the public hearing, the staff recommends that the rezoning petition be sent to the County Council with a favorable recommendation. Staff recommends approval of variances #2 and #3. The staff recommends denial of variance #1. Commercial zoning is appropriate for this location since this area of McKinley is a well-established commercial corridor.

OLIVER DAVIS: So they are asking for 1'?

MATTHEW CHAPPUIES: The setback is fifteen feet.

OLIVER DAVIS: Is that the one you recommend to deny?

MATTHEW CHAPPUIES: Or modify to five feet for both Currant and McKinley. They were asking for five feet along Currant and one foot along McKinley. The staff would be ok with five feet on both.

OLIVER DAVIS: Instead of one foot?

MATTHEW CHAPPUIES: Instead of one foot along McKinley. We would be ok with five feet along Currant.

OLIVER DAVIS: What is your rational?

MATTHEW CHAPPUIES: In part to allow landscaping. If they go up to one foot there isn't any room to install any type of landscaping.

OLIVER DAVIS: Basically, the landscaping issue is the key thing?

ANGELA SMITH: The setback is also in place to help with line of sight, buffering from the street to avoid encroachment. We understand that the petitioner wants to line up the parking with their existing lot, however their drive aisle behind that existing lot is approximately at least 30 feet so they have room if they wanted to move all of the parking back to meet the setback. The setbacks for the parking are essentially in there to help with line of sight and to provide screening and buffering along the street.

GERRY PHIPPS: For a parking area that is used for display of used cars for sale, are they required to comply with the zoning ordinance as far as lot lengths and aisle widths and those things?

MATTHEW CHAPPUIES: Yes they are.

GERRY PHIPPS: It looks to me from the dimensions that we got, if we limited their setback along McKinley to five feet that they wouldn't use a row of parking because there isn't enough room.

MATTHEW CHAPPUIES: You can go down to the architectural standards for parking and not only would the stall lengths be shorter but also aisle widths.

GERRY PHIPPS: If you use the architectural standards provision for that parking in that area that would be ok then?

MATTHEW CHAPPUIES: Yes. And you can do the same along the lot on the east. You could also use standards on the east and they could be moved back to line up with that five foot setback so there is no staggering, if that is what their concern is.

GERRY PHIPPS: They don't need any variances on the east side because that is existing?

MATTHEW CHAPPUIES: Correct.

GERRY PHIPPS: The parking lot looks like it is extending out into the right-of-way.

MATTHEW CHAPPUIES: Yes it does.

GERRY PHIPPS: That is not the proper size.

JOHN DELEE: The lot on the west is a new lot?

MATTHEW CHAPPUIES: That is correct. There is a small portion of it that is paved.

JOHN DELEE: Why don't they install screening to the south of the new lot?

MATTHEW CHAPPUIES: They are installing the Type II landscape screening, which is a full landscape screening with evergreen trees. They are requesting a variance from parking screening on the south property line because it would be redundant. You would have a three foot hedgerow and then six foot double row of evergreens.

OLIVER DAVIS: Are the petitioners in agreement with your recommendation?

MATTHEW CHAPPUIES: Last time we spoke to the petitioner, they were adamant about the one foot setback.

OLIVER DAVIS: That is where the disagreement has come from?

MATTHEW CHAPPUIES: That is correct.

STEVE VOJTKO: The screening on the south side, can you explain that again?

MATTHEW CHAPPUIES: The fence actually belongs to the residential house to the south. It does not extend the entire length of the alley. Since they are abutting residential they are required Type II full screening landscaping, which is a double row of evergreen trees. That would expand the entire south property line. It would provide a visual and sound barrier between the commercial property and the residential property. The ordinance would also require parking area screening on the south. The parking area screening would be the three foot hedge. In this instance, granting a variance would just mean that they don't need the hedge and then the double row of evergreens also.

STEVE VOJTKO: The double row of evergreens would still have to be in there?

MATTHEW CHAPPUIES: That is correct.

JIM GRIGGS: I am with Architects Inc. There are more questions with McKinley. If you look at the little photo in the left hand corner you can see that those lots on the east side were shortened when they're

did this intersection. If the lots had not been shortened then the line would continue across there at the sidewalk. When they redid the intersection, they took that green space as part of that project. In laying this out and then trying to do it in a way that makes sense, having that row of cars continue across, then the green space has already been taken and is part of the road right-of-way now. The setback from the new line is kind of double dipping on this green space. We already have a green space, it has been taken with the road right-of-way. We are simply trying to lay out the parking lot in a way that made sense.

DAN BREWER: Is there a problem with backing up the setback for the property that is on the right side?

JIM GRIGGS: Across the front of the existing?

DAN BREWER: For display purposes, there is a very fine line.

JIM GRIGGS: There is a very large concrete curb there. I would say close to 20 inches tall. Very hefty existing curb and it is paved out there to that point. I haven't taken a measurement to 30 feet. I would question if there is a full 30 feet there. Part of auto sales, which have been around for 100 years now, is to try to put the cars out where they are visible.

OLIVER DAVIS: So you are saying if the green space hadn't been taken before, then everything would be lined up across there?

JIM GRIGGS: Yes.

OLIVER DAVIS: So you would say there is basically no space for the green space now?

JIM GRIGGS: Because those lots are shorter, that space has already been dedicated to green space and wrapping the corner around Currant Road, we are requesting five feet of green space in between the parking. If you follow that line around, you still have that five foot of green space it is just that it is in the road right-of-way versus on their property. If the lot lines had not been adjusted when that intersection was re-worked then backing that five feet would create the exact same layout that you have here. That space was taken from those lots and added into the road right-of-way.

KARL KING: But if it's part of the road, how can you call it green space?

JIM GRIGGS: Because it is grass.

KARL KING: It is grass?

JIM GRIGGS: It is part of the right-of-way.

KARL KING: It is part of the right-of-way, but there is no road there?

JIM GRIGGS: You see the yellow line (pointing to the powerpoint) that is showing the property lines and the lots to the left hand side are shorter because that was taken as part of the road right-of-way.

KARL KING: But not paved?

JOHN MCNAMARA: The problem is, on your site plan it doesn't show that.

KARL KING: Right.

JOHN MCNAMARA: It shows a straight line across McKinley.

JIM GRIGGS: That is because the existing property line lines up with the right-of-way.

JOHN MCNAMARA: You are in the right-of-way on the existing parking lot?

JIM GRIGGS: No. If you go back to the other drawing, where the existing parking lot is, there is a jog with a line that goes out to the north. When they did the road, they did not take that strip of property. Only on the eastern lots did they take property for the right-of-way.

JOHN MCNAMARA: On the western lot?

JIM GRIGGS: Western lots, correct.

JOHN MCNAMARA: How can you line up along McKinley? Are you lining up with the eastern lot, or the western lot? Which line are you using?

JIM GRIGGS: We are using the property line.

JOHN MCNAMARA: Not if the yellow line is the property line, you are not.

MATTHEW CHAPPUIES: I think this line might be a little bit off. I think this line (pointing to the powerpoint) should shift up.

JOHN MCNAMARA: So there is not that much of a jog?

JIM GRIGGS: There is a jog of about five feet there.

ANGELA SMITH: If you see on this one, the line at the top, the property line, is actually up there. That is pretty much even with the roadway or close to.

JOHN MCNAMARA: Something is wrong somewhere.

JOHN DELEE: That yellow line is wrong.

ANGELA SMITH: It is the pictometry. It's a picture over a picture.

JOHN MCNAMARA: If the yellow line is wrong you are ok.

OLIVER DAVIS: If the yellow line is wrong, then why would he have to...

ANGELA SMITH: It is correct on the west half. So the way the illustration is here, the site plan is drawn so the parking would go right up to the property line on the west half of the site. It has a greater setback. However, the County Engineer does not allow landscaping in the right-of-way. In order to get landscaping on their own site, they would need a setback in order to landscape on their property.

OLIVER DAVIS: That is what they are asking for and that is what you recommend the five feet?

JIM GRIGGS: We did comply with the landscaping, we have placed the trees.

OLIVER DAVIS: What is the key difference then?

JIM GRIGGS: The row of cars across the front, if we go to a setback on those western lots, that row would have to shift down on the western side. The row would be going along and then it would shift.

MATTHEW CHAPPUIES: What you see here is the property line that comes down. So the yellow line would just be shifted up a little bit. This is existing line of cars here. If they put pavement up to the zero foot lot line, it would all line up. If they had to go to the five foot setback would push it back five feet from the cars.

OLIVER DAVIS: You want them to line up?

MATTHEW CHAPPUIES: What we are asking is that there is the five foot setback. They can still line up by pushing these cars back five feet and they would still have this 30 some feet here for a drive aisle.

DAN BERWER: Then he has to move the curb.

MATTHEW CHAPPUIES: If the curb is already there.

OLIVER DAVIS: Seems like they would have to have more work doing it your way, than his way.

MATTHEW CHAPPUIES: I am sorry, more work as far as what?

OLIVER DAVIS: So they can line up. Seems like if we go his way, it seems like there is less work to do.

ANGELA SMITH: There is adequate spacing there for them to line the cars up. They don't have to physically pull all the way up to the curb if they don't want to. There is adequate spacing there to line the cars up and meet the drive aisle without having any additional cost to them.

MATTHEW CHAPPUIES: They can just back the cars up five feet and that is it.

OLIVER DAVIS: It seems like there is more work with the way you are saying it.

JOHN MCNAMARA: Ok, so we are going to do a five foot setback along McKinley?

MATTHEW CHAPPUIES: That is what the staff would like to see is a five foot.

JOHN MCNAMARA: The setback that he is asking on Currant only applies to those five lots on the diagonal.

MATTHEW CHAPPUIES: It applies here as well as here (pointing to the powerpoint).

JOHN MCNAMARA: But there is nothing there.

MATTHEW CHAPPUIES: Well.

JOHN MCNAMARA: You could put one car there I suppose. The diagonal is so far away from the curb that one foot there is probably the same as five feet on McKinley.

MATTHEW CHAPPUIES: He is asking for five feet on Currant and one foot on McKinley.

STEVE VOJTKO: Would they have a line of site problem?

JOHN MCNAMARA: I am sorry, I read it wrong. He wanted one foot along McKinley?

GERRY PHIPPS: McKinley seems to be so that you could put landscaping there but yet if you grant a variance it says no parking lot screening landscaping.

MATTHEW CHAPPUIES: The Type I screening is still required and they are not seeking a variance from that.

JIM GRIGGS: We are providing that landscaping as required.

GERRY PHIPPS: If we grant a five foot setback there, they could either put the cars up to the edge of the parking lot and not have them in line, or they can back them up five feet, they would not have to tear out that pavement.

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.

JOHN DELEE: I personally don't have the problem with moving that variance, it lines up with the old lot. Chances are they are going to pull forward anyway after regulations are tied back and I just don't see why we don't approve that one also.

ELIZABETH MARADICK: That is county right-of-way, so the county can come in and change the street width and now their cars are parked a foot away from a turning lane.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Oliver Davis and unanimously carried, a proposed ordinance of RBS Properties LLC to zone from C: Commercial District to C: Commercial District, property located at 13460 E. McKinley and 56020 Currant Road, St. Joseph County is sent to the County Council with a FAVORABLE recommendation. Commercial zoning is appropriate for this location since this area of McKinley is a well established commercial corridor.

Upon a motion by John DeLee being seconded by Dan Brewer the variance from the required minimum front yard of 15' for parking to 5' along Currant Road and to 1' along McKinley Road for lots 217, 218, and 219, as requested, **did not pass**.

Upon a motion by Gerry Phipps, being Seconded by Phil Sutton and carried the variance from from the required minimum front yard of 15' for parking to 5' along Currant Road and to 5' along McKinley Road for lots 217, 218, and 219, as amended was approved subject to the rezoning was approved.

Upon a motion by Dan Brewer, being seconded by Gerry Phipps and unanimously carried, the variance from the required foundation landscaping to none along the north and east facades of the existing building was approved, subject to the rezoning being approved.

Upon a motion by Dan Brewer, being seconded by Oliver Davis and unanimously carried the variance from the required off-street parking area screening to none along the north, west, and south property lines was approved, subject to the rezoning being approved.

- C. A combined public hearing on a proposed ordinance of Eggers Real Estate LLC to zone from SF2 Single Family & Two Family District to LI Light Industrial District and seeking the following two variances 1) from the required 50' side residential bufferyard to 10'; and 2) from the required 50' rear residential bufferyard to 10', property located at 1619 & 1623 Franklin Street, City of South Bend - APC# 2756-15.

MATTHEW CHAPPUIES: The petitioner is requesting a zone change from SF2 Single Family & Two Family District to LI Light Industrial District and seeking two variances from the development standards. On site is an existing single family house. To the north is the South Bend Form Tool facility zoned LI Light Industrial District. To the east across Franklin Street is a roofing and sheet metal facility zoned GI General Industrial District. To the south are vacant lots zoned SF2 Single Family & Two Family District. To the west are single family homes zoned SF2 Single Family & Two Family District. The LI Light Industrial District is established to provide for development of office/warehouse, warehouse/distribution, wholesale, assembly and manufacturing or processing facilities which are clean, quiet, free of hazardous or objectionable elements such as noise, odor, dust, smoke, or glare. Permitted uses in this district tend to generate heavy traffic, require extensive community facilities, and may require limited amounts of outdoor storage. The LI District is also intended to function as a transitional district between the more intense general industrial districts and other less intense districts. The site consists of two narrow residential lots, totaling 0.23 acres. The existing residential structure will be razed to make room for a 2,880 square foot storage warehouse. The petitioner is proposing a 10' setback from the west and south property lines. The west property line, which is separated from the adjacent residential district by an alley, and the south property line will be screened with Type C: Full Screening Landscaping. The building will be accessed from a new concrete drive that will adjoin with the existing parking lot to the north. This site has been zoned SF2 Single Family & Two Family District since 2004. Franklin Street has two lanes. The site will continue to be served by municipal sewer and water. County Surveyor recommends approval. City Engineer recommends approval subject to the final drainage plan. The petitioner is not proposing any written commitments. The petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006): Objective ED 1: Stimulate the rehabilitation and adaptive reuse of property in the city; and Policy ED 2.3: Create opportunities for manufacturing companies to locate in the community. The Future Land Use Map identifies this area as medium density residential. The Rum Village Neighborhood Action Plan (1995) identifies this area for small office/service uses. The area to the north of Indiana Avenue and to the east of Franklin Street have developed as industrial districts. The area to the southwest of the site begins the residential Rum Village Neighborhood. The most desirable use is one that is compatible with the industrial character of the area, while limiting any negative impact to adjacent residential properties. Due to the full screening landscaping that will be installed to the south and west property lines, surrounding property values should not be adversely affected. It is responsible development and growth to allow this existing and prospering industrial area to expand a limited amount into an underutilized residential block. This is a combined public hearing procedure, which includes a rezoning and 2 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 50' side residential bufferyard to 10'; and 2) from the required 50' rear residential bufferyard to 10'. State statutes and the South Bend Zoning Ordinance require that certain standards must be met before a variance can be approved. (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The proposed setbacks are consistent with the LI Light Industrial District. This development will remove an abandoned house and a vacant lot from the neighborhood. (2) The use and value of the area adjacent

to the property included in the variance will not be affected in a substantially adverse manner. The value of the adjacent industrial properties will not be affected by the addition on an industrial building. The value of the surrounding residential properties will not be adversely affected due to the substantial screening that will be installed. (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. The strict application of the residential bufferyard setbacks would not allow this site to develop as any type of industrial use. 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. The staff recommends approval of both variances. This rezoning will allow for the appropriate expansion of an industrial property in a mixed use neighborhood. The landscaping will serve as a significant buffer between this site and the adjacent residential uses.

GERRY PHIPPS: They are asking for a ten foot side yard setback but it looks like they are showing 23 foot building. Is that for future expansion?

MATTHEW CHAPPUIES: I believe that is why they are requesting the variance. I would let the petitioner answer that more specifically.

OLIVER DAVIS: The white house is going to be torn down?

MATTHEW CHAPPUIES: That is correct. The home would be torn down and I believe it is currently vacant.

HERB EGGERS: I am with South Bend Tool Company and Eggers Real Estate. We are here to ask for a variance to rezone from the current single family to light industrial for a new space for warehousing to handle extra business.

OLIVER DAVIS: What kind of things would be in the warehouse?

HERB EGGERS: Machine products. We are a precision machine shop.

GERRY PHIPPS: I will ask the same question I asked Matthew earlier. Is the reason for the ten foot setback on the sideyard for future expansion?

HERB EGGERS: I think that is because there is actually two lots there.

GERRY PHIPPS: The building looks like it crosses over onto the second one. I don't know how that would affect the sideyard required.

MATTHEW CHAPPUIES: The ten foot setback provides a more flexibility in the event that they would need to expand.

HERB EGGERS: This is a preliminary.

GERRY PHIPPS: The variance that you requested, you could building a building thirteen feet larger than you show there on that drawing.

HERB EGGERS: Potentially.

STEVE VOJTKO: The ten foot setback then is that going to be enough for screening?

MATTHEW CHAPPUIES: That is all the ordinance would require.

STEVE VOJTKO: So if the petitioner wants to build up to ten foot and there is a set of trees in there for screening and that kills the screening down the row, who is responsible?

MATTHEW CHAPPUIES: The petitioner is responsible for maintaining all the landscaping. There are alternative plans for Type II, full screen landscaping. There is a fencing plan that would also be authorized to be used. In the event that they find that they can't get the evergreen trees in there, it would be possible for them to go with a full screen fence and 50 percent of the trees.

OLIVER DAVIS: Do you see any potential problems with the neighbors with the street behind?

MATTHEW CHAPPUIES: I did not observe any issues that would come of this.

OLIVER DAVIS: Once the house is gone, there is nothing behind there?

MATTHEW CHAPPUIES: Right. I am not sure if this is an occupied house. I don't believe it is.

HERB EGGERS: It is vacant. Torak is going to come in and tear it down in a week or two.

MATTHEW CHAPPUIES: These homes on the west side of the alley do have a partial fence back there as well as potential landscaping that is already within in the alley.

STEVE VOJTKO: So at the back of the property line, there is an alley between that and the other houses?

MATTHEW CHAPPUIES: That is correct.

OLIVER DAVIS: Will the deliveries still be on Franklin and not utilize the alley?

HERB EGGERS: That is correct.

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 McNamara, being seconded by Oliver Davis and unanimously carried, a proposed ordinance of Eggers Real Estate LLC to zone from SF2 Single Family & Two Family District to LI Light Industrial District property located at 1619 & 1623 Franklin Street, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. This rezoning will allow for the appropriate expansion of an industrial property in a mixed use neighborhood. The landscaping will serve as a significant buffer between this site and the adjacent residential uses.

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously

carried, the following two variances 1) from the required 50' side residential bufferyard to 10'; and 2) from the required 50' rear residential bufferyard to 10' were approved, subject to the rezoning being approved by the Common Council of the City of South Bend, Indiana.

- D. A combined public hearing on a proposed ordinance of Joseph T. Taylor, Sr. to zone from MU Mixed Use District to LB Local Business District, and seeking the following variance: from the required foundation landscaping to none, property located at 1714 and 1716 South Michigan Street, City of South Bend - APC# 2757-15.

MATTHEW CHAPPUIES: The petitioner is requesting a zone change from MU Mixed Use District to LB Local Business District, and seeking one variance from the development standards. On site is an existing mixed-use residential and commercial building. To the north is a commercial building zoned MU Mixed Use District. To the east is a single family home zoned SF2 Single Family & Two Family District. To the south is a vacant pool supply store zoned MU Mixed Use District. To the west across Michigan Street is a restaurant zoned LB Local Business District. The LB District is established to provide for small business groupings located outside of the village style mixed use concept and which provide for the full range of convenience uses necessary to meet the daily needs of nearby residential neighborhoods. Permitted uses within the LB Districts are regulated in character to assure harmonious development with the nearby residential districts served and are limited in size and scale to promote pedestrian access. This site consists of two lots, totaling 0.36 acres. The existing building, which will remain on site, consists of a retail storefront and a residential-type structure in back. The existing storefront was constructed adjacent to the sidewalk, as is common with many commercial structures along this corridor. The petitioner is showing a newly paved surface lot. New and additional landscaping will be installed between the parking lot and the sidewalk along Michigan Street and along the alley in rear. Access to the site will be from the public east-west alley to the north. The primary customer entrance for the retail portion of the site would be along Michigan Avenue. The second floor is proposed as office space with access from the parking lot. This site has been zoned MU Mixed Use District since 2004. Michigan Street has three northbound-only lanes and on-street parking on both sides. This site will continue to be serviced by municipal sewer and water. County Surveyor recommends approval. City Engineer recommends approval, subject to approval of a drainage plan and also notes that the alley to the north requires clearance of brush and vegetation, and that the trees along Michigan Street require trimming to provide line-of-sight from the alley to Michigan Street traffic to at least 7' above the sidewalk. The petitioner is not proposing any written commitments. The petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006): Policy ED 1.2: Encourage reuse of abandoned and underutilized land and structures. The Future Land Use Map identifies this area as Mixed Use. The Southeast Neighborhood Strategic Action Plan (1995) identifies this area as a commercial corridor. Main Street and Michigan Street form an arterial commercial corridor that extends from downtown South Bend to Ireland Road. The most desirable use is one that is compatible with the mixed-use nature of the area, while limiting any negative impact on the residential properties to the east. Due to the nature of the existing commercial properties along this corridor, surrounding property values should not be adversely affected. It is responsible development and growth to allow properties along commercial corridors to adapt to better accommodate market demand. This is a combined public hearing procedure, which includes a rezoning and 1 variance 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 variance. The variance is as follows: 1) From the required foundation landscaping to none. State statutes and the South Bend Zoning Ordinance require that certain standards must be met before a variance can be approved. (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The absence of foundation landscaping will be consistent with the rest of the businesses along Michigan Street. (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. Perimeter landscaping and parking screening are

being added, which will enhance the area. (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Since the building is built up to the sidewalk, there is not adequate spacing to install landscaping without modifying the existing structure. 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. The staff recommends approval of the variance. Allowing this vacant commercial property to rezone to LB Local Business District will provide a greater range of allowable uses, further supporting Michigan Street as an important neighborhood business corridor.

MICHAEL DANCH: I am with Danch, Harner & Associates with offices located at 1643 Commerce Drive, South Bend. What we are asking to do, as Matthew stated, is take the mixed use zoning classification and changing it to LB to allow for a retail use. Mr. Taylor's grandson would like to open a small liquor store at this location. That is allowed under the LB guidelines, but in order to do that we have to rezone the property. I have talked with Councilman Shey, who's district this falls in, and asked her about this project to make sure she had no concerns of what we were asking for for the rezoning. She had told me she had no concerns. We are going to be repaving the parking lot. We will be doing all the required landscaping along the front. There is additional landscaping for the parking lot. There is a setback that is required for that parking so we are going to be putting in screening that would screen it from Michigan Street. We are going to be working with the City Engineer's office as well. They wanted us to clean up the alley way. We are going to be using that as an access point to bring cars in and off of Michigan Street. We are doing additional buffering which doesn't exist today along that eastern and southern line so we have a buffer zone there. That is per the ordinances. The only variance that we are asking for is the front yard for the six foot wide landscape strip for foundation landscaping. When you looked at the frontage view of the building, I believe this was an old insurance office at one point in time and mainly what they did was take from the city sidewalk they paved right up to the front door. There is kind of a wedge shaped area that is concrete. That is the only place we would be able to put the landscaping. There is probably an area maybe at the door is about three foot wide and that is it. We had asked if we could have that variance from landscaping because there isn't enough room to grow shrubry in that small area. We will be doing additional landscaping for the screening of the parking lot. There was a note from Carl, from City Engineering about the existing trees that had been planted out there in front of the site. We will be cleaning those up a little more. Apparently the City thought there might be a concern with cars coming down the alley up to Michigan Street. The branches for those mature trees are a little bit low.

DAN BREWER: Would this require a commitment?

MICHAEL DANCH: No. That would be part of the site plan. They would not be able to get approval without that because City Engineering would also take a look at the site plan that we submit for the drainage and landscaping. They would be required to do it.

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 Oliver Davis and unanimously carried,

on a proposed ordinance of Joseph T. Taylor, Sr. to zone from MU Mixed Use District to LB Local Business District, property located at 1714 and 1716 South Michigan Street, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. Allowing this vacant commercial property to rezone to LB Local Business District will provide a greater range of allowable uses, further supporting Michigan Street as an important neighborhood business corridor.

Upon a motion by John DeLee, being seconded by Oliver Davis and unanimously carried, the following variance: from the required foundation landscaping to none was approved, subject to the rezoning being approved by the Common Council of the City of South Bend, Indiana.

- E. A proposed ordinance of Beacon Health System, Inc. to zone from R: Single Family District (County) to CB Community Business District (City), property located at the west 80.58 feet of 52933 Shellbark Avenue, City of South Bend - APC# 2758-15.

MATTHEW CHAPPUIES: The petitioner is requesting a zone change from R: Single Family District in unincorporated St. Joseph County to CB Community Business District in the City of South Bend. On site is vacant land. To the north is a single family home zoned R: Single Family District in unincorporated St. Joseph County To the east, and on the same parcel, is a single family home zoned R: Single Family District in unincorporated St. Joseph County To the south is a development site for a medical complex zoned CB Community Business District in the City of South Bend. To the west is a development site for a medical complex zoned CB Community Business District in the City of South Bend. The CB - Community Business District is established to provide a location for high volume and high intensity commercial uses. Activities in this district are often large space users which may include limited amounts of outdoor sales or outdoor operations. Developments within the CB District shall be coordinated to facilitate vehicular and pedestrian access from nearby residential districts. This is a 0.17 acre lot designed to be used for stormwater retention for part of a larger development site currently zoned CB Community Business District in the City of South Bend. Type B: Partial screening is required between this property and the residential properties to the north and east. This site will be adjacent and accessory to a site to the southwest which was rezoned to O Office District in 1990, then to CB Community Business District in 2008. Lynnewood Avenue and Shellbark Street have two lanes. Cleveland Road has four lanes and a raised median. Since the site will be used for retention only, it will not be utilizing any water or sanitary systems. The larger development site will be served by municipal water and sewer. County Surveyor, County Engineer, and County Health Department recommend approval. City Engineer recommends approval, subject to a final drainage plan. The petitioner is not proposing any written commitments. This rezoning petition is consistent 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 commercial (office & retail). There are no other plans in effect for this area. The area north of Cleveland Road between Portage Road and Riverside Drive have seen a gradual transition to commercial uses beginning in the late 1980's. Since that time, several properties with access to Cleveland have zoned to various forms of commercial districts. In the immediate proximity of this site, a funeral home and beauty salon have developed. This site will be adjacent and accessory to a site to the southwest which was rezoned to O Office District in 1990, then to CB Community Business District in 2008. The most desirable use is one that supports commercial growth while limiting any negative impact on surrounding residential properties. Due to the low-impact nature of a retention basin, surrounding property values should not be adversely affected. It is responsible growth and development to allow the adjacent medical complex to utilize this property for a drainage basin. The staff has no additional comments. 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. Rezoning this site to CB Community Business District will allow it to be included in the larger overall development of the medical complex at the northeast corner of Lynnewood and Cleveland. Including this parcel will provide additional area for sufficient retention to make it a viable site and further develop this commercial node.

OLIVER DAVIS: Why was this left out?

MATTHEW CHAPPUIES: Initially, I believe it just wasn't part of the project. If you look at the lot lines here, it looks like this was purchased as well as these lots here (pointing to the powerpoint). So by looking at it, I would assume they purchased this small portion of this larger residential lot here (pointing to the powerpoint) to tie into that. I think initially they didn't realize that they needed the additional lot.

JOHN MCNAMARA: Didn't we have this a couple months ago?

MATTHEW CHAPPUIES: Yes. It was rezoned in 2008.

MICHAEL DANCH: I am with Danch, Harner and Associates with offices located at 1643 Commerce Drive. I did bring this before the Commission and Council back in 2008. At the time, it was Steve Cooreman's property and we zoned it for a commercial development. It was a small shopping center with a restaurant that they were planning. At that point in time that area that you see cross hatched, he didn't own. So he apparently purchased that after 2008. Beacon Health Systems, Inc. bought out the project, but also bought whatever else that Steve Cooreman had purchased after that point in time including this little 80X95 feet area. They had done their site plan. As part of their site plan they were using that corner for retention purposes. When they went to the Building Department they found out that it wasn't in the part of the property and wasn't zoned properly. We have to ask for it to be annexed into the City of South Bend and then make the zoning consistent. It will not only be the retention but also a buffer area.

OLIVER DAVIS: Beacon Health is planning to do like a MedPoint?

MICHAEL DANCH: Yes. It is about 20,000 square foot medical facility.

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 John McNamara and unanimously carried, a proposed ordinance of Beacon Health System, Inc. to zone from R: Single Family District (County) to CB Community Business District (City), property located at the west 80.58 feet of 52933 Shellbark Avenue, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. Rezoning this site to CB Community Business District will allow it to be included in the larger overall development of the medical complex at the northeast corner of Lynnewood and Cleveland. Including this parcel will provide additional area for sufficient retention to make it a viable site and further develop this commercial node.

2. WRITTEN COMMITMENTS

- A. A proposed commitment modifying or terminating existing commitments concerning the use or development of real estate made in connection with a development plan approval, zone map change or planned unit development, property located at the northeast corner of Cleveland Road and Lynwood Avenue lying immediately west of 21275 Cleveland Road and south of 52776 Lynwood Avenue, City of South Bend – APC #2463-08

ANGELA SMITH: The petitioner is requesting a commitment modifying or terminating existing commitments concerning the use or development of real estate made in connection with a zone map change. The site was annexed and rezoned to CB Community Business in 2008 to allow for a multi-tenant retail space, restaurant, and other potential commercial development. The site was undeveloped until recently when it was acquired by Beacon Health Systems. A 20,000 square foot medical facility is currently under construction. Due to the significant change in the use of the site, the petitioner is requesting the commitments be amended as follows: Existing Written Commitments: 1) To align as close as possible, the Developments' North Drive with the St. Joseph County Library Lynnewood Avenue, 2) Restrict Drive openings unto Lynnewood Avenue for exiting vehicles to only be allowed to go South from Development to Cleveland Road, 3) Developer to allow access from proposed Development to future non-residential development on property adjacent to and East of Development property. 4) Each Store front in the Planned Development shall have a different façade, in keeping with the proposed Development which is referred to as a "Lifestyle Center", 5) No Drive-thru facilities shall be permitted in the Northern-most building shown on the submitted preliminary site plan to help reduce noise pollution to the adjacent residential properties. 6) Curbs and sidewalks shall be required along petitioned property abutting Cleveland Road and Lynnewood Avenue. 7) Place a 6 ft. high Privacy fence along the common boundary between the Development property and the property presently owned by Patrick Romano which is located on Lynnewood Avenue. This is to help protect the Romano's grandchildren and to prevent trash and pedestrian traffic from coming onto the Romano property. Also the Developer is to remove all "marked trees" that were selected at an on-site meeting attended by Patrick Romano, Councilman Ann Puzello and the Developer Steve Cooreman. The selected trees were located on both the Romano property and the Development property. 8) State in the Developments' Covenants and as part of the written Commitments that any product delivery times and trash collection times are to occur between the hours of 8:00 a.m. and 5:00 p.m. All Developments' trash bins will be 100% walled off with lockable gates. A written scheduled routine for policing the Development site and trash and papers and a standard of lawn care and parking lot care, as far as weeds and snow piles are concerned. 9) Cooreman Real Estate Group, will not lease to any "undesirable tenants", such as: Liquor Stores, Tattoo parlors, Adult Entertainment type business, Cigarette Shops or other non-family uses. 10) No "Fast-food" type Restaurants with a Drive-thru facility shall be located at the Southwest corner of the Development along Lynnewood Avenue and Cleveland Road as shown on the preliminary site plan. A "Sit-down" Restaurant can be located at this location without a Drive-thru facility.

Proposed Written Commitments: 1) No Drive-thru facilities shall be permitted in the Northern-most building shown on the submitted preliminary site plan to help reduce noise pollution to the adjacent residential properties, 2) Curbs and sidewalks, as required by City Engineering, 3) Place a 6 ft. high Privacy fence along the common boundary between the Development property and the property to the North which is located on Lynnewood Avenue, 4) State in the Developments' Covenants and as part of the written Commitments that any product delivery times and trash collection times are to occur between the hours of 8:00 a.m. and 5:00 p.m. All Developments' trash bins will be 100% walled off with lockable gates. A written scheduled routine for policing the Development site and trash and papers and a standard of lawn care and parking lot care, as far as weeds and snow piles are concerned, 5) Beacon Medical Systems and their assigns, will not lease to any "undesirable tenants", such as: Liquor Stores, Tattoo

parlors, Adult Entertainment type business, Cigarette Shops or other non-family uses. 6) No “Fast-food” type Restaurants with a Drive-thru facility shall be located at the Southwest corner of the Development along Lynnewood Avenue and Cleveland Road as shown on the preliminary site plan. A “Sit-down” Restaurant can be located at this location without a Drive-thru facility. Based on information available prior to the public hearing, the staff recommends that the proposed commitments be approved subject to including the commitment that the Developer allow access from proposed Development to future non-residential development on property adjacent to and East of Development property. The proposed commitment adequately protects the surrounding property owners consistent with the intent of the original approval, while accommodating the change in the use and current development standards. We did receive one e-mail from Councilman Tim Scott who had been in conversation with the property owner to the north, Patrick Romano I believe is his name, who is named in the original written commitments. We invited him to speak this afternoon, there were still some issues they were working out.

OLIVER DAVIS: Wasn't there some lighting issues?

ANGELA SMITH: I think that is one point Mr. Romano raised.

MICHAEL DANCH: I am with Danch, Harner and Associates with offices located at 1643 Commerce Drive, South Bend. What we are trying to do is tailor these written commitments, that were done previously, to the Medical Facility. We worked with the staff to come up with the changes. So that we still protected the neighborhood we kept everything in there, including restriction on the deliveries because we didn't want to have any of the neighbors being disturbed if the dumpsters were being emptied or whatever. That is still going to remain part of it. Beacon Health Systems will work with their vendors to make sure that continues. The landscaping along the north line, that will also continue as we had said. One commitment that they had, when we were doing the shopping center and everything was going to be commercial at some point in time along this part of Cleveland, was for a connection with the property to the East. Because this is going to a Medical Facility that connection drive between the two properties doesn't make sense anymore. Beacon Health Systems does a lot of obviously health related exams for their patients. A lot of their patients have problems with mobility, so we didn't want any difficulty from them getting from the parking lot to the building and back and worrying about cross traffic. The staff agreed with that. We are happy that that is not going to be one of the commitment items. At some point in time, if something did happen to these, these two neighbors could work out any issues and they could do an access if they wanted to. The property owner to the north, Mr. Romano is here. He had some concerns that he wanted read into the minutes. I believe everything that he has asked for we are doing. One of the issues is the lighting, again because this is the City of South Bend, the lighting has been dealt with on the final site plan. They have to use full cut off lights, shielded lighting on the site. There can be no light spillage between our property and the adjacent property to the north. The added thing we have here is a raised berm area that is going to have additional evergreen trees on it plus a fence along that entire north property line, which is where Mr. Romano lives. He is the first house to the north of us. John Werntz has been working with Mr. Romano. Mr. Romano does not speak English very well and I don't know if he will be able to relate exactly what his concerns are. He did write those concerns down and the architect for the project will read those into the minutes.

JOHN WERNTZ: I am the architect for the project with offices located at 52075 Farmington Square Road, Granger. Mr. Romano has asked me to read his concerns for public record. We are working with him, as Mike had mentioned. This is from Patrick and Mary Romano who reside at 52776 Lynwood. My concerns regarding the medical facility for Beacon Health Systems on Cleveland Road and Lynwood Avenue. 1) I prefer not to have any restaurant of any kind at this facility or on this property. Obviously we are complying with that. 2) Where will the air conditioner and trash bins be located? The air

conditioners are on top of the building, the trash bin is in the back corner close to his house and we are going to work on that. 3) He wants to leave the elevated buffer. There is a mound that is on the north that the previous developer put in and he also put in some trees. He wants that left and he wants to replace the pine trees with evergreens. We are in the process of doing that. Our landscape plan shows that. There is a commitment for a fence to go along that north property line. We are still complying with that commitment as well. 4) He doesn't want the lighting like the library has. The lights illuminate the neighborhood twelve to fourteen hours a night. Shining mostly on his house. As Mike stated we are using cut-off-lights. I will make sure that is happening. 5) (This one really doesn't relate to us it is just a general comment.) He is not happy with the traffic shortcut from Meijer through the library parking lot. The cars come out going fast, going east or north on Lynnwood instead of using the stop light or exiting on Cleveland. His property as you can see is just north of ours.

MICHAEL DANCH: One other thing that was on the commitments, just so the Commission understands what we are doing, the City Engineers office asked us to do some improvements to Lynnwood from the intersection of Lynnwood and Cleveland up to our entrance way into our site. We are going to be doing street improvements, adding sidewalk and curb as per city requirements. We are adding some additional drainage and curbing as well. The City at some point would like to get improvements all the way and farther north into that residential area. Right now, that is not on their project list. What they are asking us to do right now is to improve from Cleveland up to our access point. So we are helping the City out in that part.

ROBERT HAWELY: I think this is a great use of the land, but to refresh my memory, as we are coming from Portage heading east, can we turn into Lynnwood there?

MICHAEL DANCH: Yes you can. The concrete barrier actually slims down right there at Lynnwood, so you can make a left turn and go north on Lynnwood. Going farther east from Lynnwood then you have the barrier again.

ROBERT HAWLEY: I know you touched on this, but is there a way to cut down on the library access, because people use that a lot?

MICHAEL DANCH: The library is in the County and Meijer's is in the City. The site plan was approved and there was an access allowed between the Meijer and library site. There is even signage on the Meijer site when you turn in.

DAN BREWER: What is a cut-off light and how does respond to Mr. Romano's concerns?

MICHAEL WERNTZ: Basically it cuts off the lighting so the shadow pattern stops at a line.

MICHAEL DANCH: It focuses a light pattern so your glare from the light is straight down. It is limited to how far out it would extend.

GERRY PHIPPS: Mike, in a previous hearing did you say that this is going to be a MedPoint type of thing rather than a traditional doctor's office?

TIM MCGOVERN: I am with Beacon Health Systems with offices located at 17244 PennCross Drive, Granger. Currently our facility is going to be family medicine, pediatric clinic it does have a MedPoint urgent care. It is going to be open seven days a week – 8:00 a.m. – 8:00 p.m.

LARRY MAGLIOZZI: I just want to make sure to clarify between the Commission and petitioners. If

you want any of Mr. Romano's concerns added to the written commitments, they will need to be specified. There are certain issues that Mr. Romano had that are not specifically written in the commitments as they are proposed. Just want to make sure you know what is going on.

OLIVER DAVIS: Are you opposed to any of those?

LARRY MAGLIOZZI: Mr. Romano had a specific request for the location of the trash bins. That is not in the written commitment as proposed. If you want the location set, because the ordinance does not cover the location of bins, That is one issue that may need to be resolved. Otherwise, if it is not part of the written commitment they could put that bin wherever.

OLIVER DAVIS: He verbally said they were going to work it out.

LARRY MAGLIOZZI: That's fine.

KARL KING: Mr. Werntz said that was being worked out with Mr. Romano.

LARRY MAGLIOZZI: I just wanted to make it clear that that is a representation and not a commitment.

OLIVER DAVIS: Could you put a commitment that they were going to work it out?

ADAM DEVON: It is his property. Why does it matter where he puts it?

LARRY MAGLIOZZI: If you want the location of the bin to be set and enforceable it would need to be a written commitments.

OLIVER DAVIS: I understand.

KARL KING: Let's see what the Commission would like.

STEVE VOJTKO: Did you have something else Larry?

LARRY MAGLIOZZI: I think the lighting is taken care of because that is in the ordinance. They have to abide by that. The only written commitment in place would be a six foot high privacy fence along the common boundary. It doesn't say anything about trees or bushes or replacement of trees. The ordinance does require the trees so I guess that would be ok. We heard the air conditioners will be placed on the roof but they also said they are still working that out with them. I imagine that Mr. Romano is ok with that. We probably don't need that written commitment of where they are placed. I think that is it.

DAN BREWER: I think written commitment number four adequately addresses concerns about the trash bin.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by John McNamara and unanimously carried the proposed written commitments were approved.

3. TEXT AMENDMENT

- A. A proposed Ordinance initiated by the Area Plan Commission on behalf of the Common

Council of the City of South Bend, Indiana, repealing Chapter 21, Article 6, Section 21-06.03 Northeast Neighborhood Development Area Overlay Zoning District of the South Bend Municipal Code, and replacing it with a new chapter 21, Article 6, Section 21-06.03 entitled Northeast Neighborhood Zoning Overlay District - APC# 2732-15.

ANGELA SMITH: The requested action is to replace Section 21-06.03 Northeast Neighborhood Development Area Overlay Zoning District with a new Section 21-06.03 Northeast Neighborhood Zoning Overlay District. The staff has initiated this ordinance based on discussions with the NNRO and the Building Department, where certain terms and development standards have caused conflicts in interpretation of several design standards, and where certain standards may be a practical barrier to construction projects. A number of definitions have been either added or revised, and design standards terminology added and clarified for better understanding and enforcement. In addition, the recent expansion of the NNDA boundary into the new River East Development Area, technically dissolved the former NNDA boundary and its designation as a Development Area. This text amendment re-establishes the zoning overlay district as a separate and distinct overlay area from the River East Development Area. Based on information available prior to the public hearing, the staff recommends that the text amendment be sent to the Common Council with a favorable recommendation. The new Section 21-06.03 re-defines the boundary for what used to be called the Northeast Neighborhood Development Area which no longer exists, and it revises and updates definitions and development standards applying the development experiences that have occurred to date.

We received a letter from the University of Notre Dame's Northeast Neighborhood Redevelopment President. He wrote in support of this text amendment.

GREG HAKANEN: I am the Director of Northeast Neighborhood Redevelopment for the University of Notre Dame. Address of 415 Main Building, Notre Dame, IN. I am one of Notre Dame's two representatives to the NNRO. In that function I participated in the creation of the original NNDA and the amendments that come before you. The original NNDA was simply intended to continue the momentum created by Eddy Street Commons, the Notre Dame Avenue Housing Program, the Triangle and all the new Affordable Housing done by the NNRO and the Heritage Foundation. I think it has worked well since it has been in operation for two or three years, we have discovered some things that needed to be tweaked. Those have been tweaked in the version that is before you.

MARCO MARIANI: I am with South Bend Heritage Foundation, with offices located at 803 Lincolnway West, South Bend. First I want to say thank you to the Area Plan Commission staff for their effort in getting this done. This has been on my desk for a while. I would like to also thank our friends at the Building Department for helping push this forward. They are the ones that have to live with it everyday. It has been a great process. To keep it simple, it is really about continuing good development in the Northeast Neighborhood that we are all seeing. Both from housing and commercial developments. This will do that. These are really technical corrections that are clarifying some items that have come up. It is really going to help the development process for developers and builders.

WILLIAM R. LAMIE: I am with Alliance Architects with offices at 929 Lincolnway East, South Bend. I found just a small change I would like to request. It is one of the graphics. If I could have you take a look under definitions in your packet your number 55 is Tudor style. There is a very slight change and it is important that we make it. I have enlarged exhibits to pass around. It is modifying the width of the front portico of the Tudor style and the depth. That is all that it is doing. The importance of that is when the Building Department has a drawing in front of them, it is proportionally correct.

KARL KING: So what you are suggesting is replacing the graphic that is in the text amendment that we have?

WILLIAM R. LAMIE: The Tudor style that is there with what I just handed out.

KARL KING: Is the staff ok with that?

LARRY MAGLIOZZI: Yes sir.

KARL KING: Mr. Lamie can you explain the difference?

WILLIAM R. LAMIE: The depth of the front entry projection is about twice this. If we are describing in the definitions what a portico is, believe me the Building Department struggled. The other is the width of that portico slightly changed. So we can say that those graphics represent something that complies with the zoning.

After due consideration, the following action was taken:

Upon a motion by Dan Brewer, being seconded by Oliver Davis and unanimously carried the amendment to replace the graphic for the Tudor style was approved.

IN FAVOR

CATHERINE KOSSLER: I live at 1020 N. Saint Peter Street, South Bend. I have to applaud the committee for going through in such fine detail. I am very vested in the recommendations. Have gone through them with a fine tooth comb. Since I live right in that area, I would like to see the integrity of what they are proposing upheld and I believe that this document does that.

IN REMONSTRANCE

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

ADAM DEVON: I don't know if this is different than before, but on the single family it is prohibiting a three car garage, was that on before, or is that something new?

MARCO MARIANI: It was there before.

ADAM DEVON: I know a lot of people. Everyone wants a three car garage. I understand a lot of things, but if it is facing an alley that no one really sees, is that a hindrance of anything or is that allowable?

GERRY PHIPPS: I see something that is changed that I hoped would be, and something that I wanted to see changed that isn't. The current ordinance for the Overlay District require if there is an alley available to a lot, that the access to the garage would be from the alley. This states that it is preferred, but not required. Seems like the purpose of the ordinance was to keep infill development consistent with the type of development that is there now. If you have a block where everyone's garage is off the alley and there are no driveways going out to the street it seems like that's what we should require would be done in the future.

GREG HAKANEN: This is one of the practical implications when we set it in motion for a while. We found out some things. Not all alleys are created equal. The City is kind of allergic to maintaining them. Some of the them are in better shape then others. I think the most significant issue that arose over the time was, not everyone that wants to live in the neighborhood feels safe coming home by an alley and

pulling into their garage. Just by way of example, the Notre Dame Avenue Housing Program, which I think creates lovely housing, does not have that requirement. There are homes in the Notre Dame Avenue Housing Program that have access to an alley that don't use it because prior to this overlay Notre Dame didn't require it. It was intentional what you are picking up on. We wanted to prefer it but not require it because not everyone is comfortable living with that requirement.

GERRY PHIPPS: I remember at least one variance request that we had about a year ago that we turned down. I think it was for that reason. This promotes development consistent with the patterns that have already been set. You mentioned the houses built along Notre Dame Avenue or St. Peter or St. Francis and I don't know other than a side street, if we have granted any variances for that. So I think all of the new houses were forced to have alley access to their garages. I think what happens is the more driveway you let people have and the less the alley is used and that makes it a more difficult to use it. If everyone was forced to use it everyone would be forced to clean the snow and forced to maintain it.

GREG HAKANEN: In my mind we as public officials and people involved in redevelopment there are these architectural planning idealists, and we have to be conscious of how people live and how things work. The distinction I was trying to make is that many of the houses along the Notre Dame Avenue got built before this zoning overlay existed. There are many examples of houses that have driveways that come out to the primary street where there is in fact an alley available.

GERRY PHIPPS: I drove through there this morning and noticed that too. I am less adamant about that requirement after seeing how many there are there. The Triangle was built under PUD but most of the streets there look real nice with limited front setbacks. Where did that come from?

GREG HAKANEN: If I may I will take personal responsibility for this one. I was involved drafting these the first time. I knew full well this wasn't a requirement in Notre Dame's program. I just didn't put two and two together. The safety and security issue is always a real one in the minds of the people who choose to live in this neighborhood. I think one of the things that makes the planning elements so important is, it is not just the driveway but it's whether the garage door face the street or not. When I look at those two elements, I think hiding the garage behind the house which is still a requirement.

GERRY PHIPPS: That is setback twenty feet, but that is not really hiding it.

GREG HAKANEN: If there is no opportunity to put it in entirely it has to be set back from the façade twenty feet.

BILL LAMIE: I was going to mention the same. That is something that we feel is important. That if the garage is going to face the street with front load access it be set back that minimum of twenty. There is a graphic in there that also shows the secondary street being set back eighteen feet. You would not necessarily have per your setback, a garage structure or house structure. We have it setback at eighteen so that it is off the primary structure, so there is room for someone to park their vehicle. We did a survey just walking those alley ways that exist over there and most were in pretty poor shape. Many were not even contiguous, and they didn't run through. The immediate concerns, and I think the variance that was before you was a similar condition, is that the alleys were just not in terrific shape.

GERRY PHIPPS: The thing I wanted in there but isn't is that I think for every house that is built in the Notre Dame, St. Peters, St. Francis Street area the Board of Zoning Appeals has had to grant a variance for the setback to fifteen feet, because nothing is said in the overlay about what the setback should be so it goes back to twenty-five feet. No one wants to build a house at ten feet. What I hoped was in here was something that would say that the setback would be consistent with existing houses in the area or something like that. So we would not have to grant a variance to everyone.

BILL LAMIE: Boy did we talk about that one. Meeting after meeting after meeting. What I will tell you out of respect for the homes that exist that are setback lets say the twenty five feet and many of them that we say were setback even further. To come in and find that we have had all these variance requests to the use of fifteen would be cutting off site lines, changing the whole face of existing streets. We felt it best to leave that alone and let the planning process. If it is appropriate to move a house further, then do so, but in existing conditions where you have established setbacks to encroach further than that I think we would say no that's not what we want to try to achieve here. We did talk about it quite a bit.

GREG HAKANEN: If I might add, I think to my knowledge, it is only the porches that get pushed into the setback. It is never to my knowledge the house itself.

GERRY PHIPPS: I have no objection to fifteen feet and have granted a lot of them. It just seems strange to me that we would write an ordinance where we know that we are going to be giving a variance every time someone pulls a permit.

BILL LAMIE: It was on the table that way and we discussed it quite a bit with Area Plan.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Oliver Davis and unanimously carried, the Ordinance initiated by the Area Plan Commission on behalf of the Common Council of the City of South Bend, Indiana, repealing Chapter 21, Article 6, Section 21-06.03 Northeast Neighborhood Development Area Overlay Zoning District of the South Bend Municipal Code, and replacing it with a new chapter 21, Article 6, Section 21-06.03 entitled Northeast Neighborhood Zoning Overlay District, is sent to the Common Council with a FAVORABLE recommendation, AS AMENDED. The new Section 21-06.03 re-defines the boundary for what used to be called the Northeast Neighborhood Development Area which no longer exists, and it revises and updates definitions and development standards applying the development experiences that have occurred to date.

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Miscellaneous:

- A. Findings of Facts for Granting of Variances for property located at 2906, 2910 and 2920 Mishawaka Avenue, City of South Bend – APC #2750-15.

LARRY MAGLIOZZI: This is the Veterinary Clinic on Mishawaka Avenue and we ask that you ratify your findings for the variances granted last month.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Oliver Davis and unanimously carried, the Findings of Facts for Granting of Variances for property located at 2906, 2910 and 2920 Mishawaka Avenue, City of South Bend were approved.

- B. Findings of Facts for Granting of Variances for property located at 706 Eddy Street and 1111 Bissell Street, City of South Bend – APC #2751-15

LARRY MAGLIOZZI: This one is the small former church building on Eddy Street and Bissell.

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 706 Eddy Street and 1111 Bissell Street, City of South Bend was approved.

2. Executive Director's Report:

LARRY MAGLIOZZI: The Federal Emergency Management Agency is requiring all the communities to approve new Floodplain Ordinance templates by December 16, 2015. The next agenda you will get will have five floodplain ordinances that will have to be heard in our public hearing in November.

JOHN MCNAMARA: Are there maps included?

LARRY MAGLIOZZI: The maps remain, it is just text of the Floodplain Ordinance has changed.

JOHN MCNAMARA: So we don't know where these floodplains are?

LARRY MAGLIOZZI: We have the maps, they are the same maps from January 6, 2011.

OLIVER DAVIS: We did that before, didn't we?

LARRY MAGLIOZZI: We have done them several times. They assure us that the language would help us to maintain the ordinance without having to revise it again.

As you know, the county hired a new Economic Development Director. Bill Schalliol is in that position now. Many of you probably know him from being in the City a while. He resides in our office a couple three days a week and two days at the Chamber of Commerce. He will be helping the County with all the Economic Development efforts there.

We have approval to fill our vacant planner position, we have already started the advertising process and it closes on October 30th. We will go from there. We may get someone before the end of the year or we may wait to see and start them after the first of the year.

3. Minutes and Expenditures:

A. Approval of the minutes from the September 15, 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 September 15, 2015 meeting of the Area Plan Commission were approved.

B. Approval of the expenditures for September 16, 2015 through October 19, 2015

American Planning Association – \$750.00; Lewis Paper - \$29.40; Office 360 – \$380.51; South Bend Tribune - \$52.33; Wex Bank - \$35.07

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 September 16, 2015 through October 19, 2015 were approved.

4. Adjournment: 5:30 p.m.

KARL G. KING,
PRESIDENT OF THE COMMISSION

LAWRENCE MAGLIOZZI
SECRETARY OF THE COMMISSION