

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

MINUTES

Tuesday, February 20, 2018
3:30 p.m.

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

MEMBERS PRESENT:

Oliver Davis, John DeLee, Robert
Hawley, Martin Madigan, Elizabeth
Maradik, John Leszczynski, Jacob
Holloway, Steve Vojtko

MEMBERS ABSENT:

Dan Brewer, Debra Davis, Adam DeVon, John R.
McNamara, Matthew Peterson, Jordan
Richardson, Dr. Jerry Thacker

ALSO PRESENT:

Larry Magliozzi, Angela Smith, Jordan Wyatt,
Jennifer Parcell, Staff; Mitch Heppenheimer, Counsel

PUBLIC HEARING - 3:30 P.M.

1. REZONINGS:

- A. A combined public hearing on a proposed ordinance of Samuel A. Mercantini to zone from R: Single Family District to C: Commercial District and seeking the following variance(s): 1) from the required hard surface parking area to gravel; and 2) from the required off-street parking area screening to none, property located at 14017 Dragoon Trail, St. Joseph County - APC# 2856-17.

ANGELA SMITH: The petitioner is requesting a zone change from R: Single Family District to C: Commercial District and requesting 2 variances from the development standards. On site is a former barn used for commercial uses. To the north is a wooded lot and a single family home zoned R: Single Family District. To the east, across Elm Road, is a church zoned R: Single Family District. To the south, across Dragoon Trail, is a single family home zoned R: Single Family District. To the west, across Capital Avenue, is a used car dealership 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. The 2-acre site is part of a larger 7-acre property. There is a 7,512 sq.ft. former barn on the site with 2,568 sq.ft. of usable commercial area. Parking is proposed to the west and south of the building. Access is provided from Dragoon Trail and Elm Road through existing curb cuts. A rezoning petition to C Commercial was denied on this property in 1969. The property to the west, across Capital, was rezoned in 2014 for an auto dealership. The existing structure has contained various commercial activities for many years as a legal non-conforming use. Elm Road has two lanes. Dragoon Trail has two lanes with a dedicated left turn lane at the intersection of Capital Avenue. Capital Avenue has four lanes with a dedicated left turn lane and divided median. The site will be served by private well and septic. The

County Engineer commented that a detailed plan showing proposed improvements and access complying with County guidelines and drainage information prior to any improvements being made. A commercial driveway permit may be required. The County Health Department commented that there is no record of a septic permit for this property and the method of sewage disposal is unknown. Should the septic system/disposal method fail, the property will require a commercial septic system. The staff is requesting the following written commitments: 1) No access to Elm Road; 2) Uses shall be limited to primary uses listed in B: Business District plus auction rooms, clubs and lodges (non-profit), convention halls and meeting halls, and secondhand stores and rummage shops; and 3) No off-premise signage permitted. This petition is not consistent with the Capital Avenue Land Use Plan (December 2003), which designates this area for low density residential with integrated open spaces for parks and recreational uses and natural areas. However, the expansion of Capital Avenue and the rezoning approved by Council at the north-west corner of Capital and Dragoon has changed the character the area. The recommended land use plan identifies this area as residential. The petition is consistent with the Comprehensive Plan for South Bend and St. Joseph County, Indiana (April 2002) Object C: Policy ii: Promote the upgrading, rejuvenation, and beautification of all functional, existing commercial centers. The area near the intersection of Dragoon Trail and Capital Avenue is primarily low density residential with limited commercial activity. Elm Road is residential in character. The most desirable use for the land is one that limits the impact of the existing commercial and provides a buffer between Capital Avenue and the residential area. Because the property has operated as a commercial operation for many years, the use and value of adjacent properties should not be adversely impacted. It is responsible development and growth to allow for the adaptive reuse of a non-residential structure in a manner consistent with the area. The staff has no additional comments. Based on information available prior to the public hearing, the staff recommends the rezoning petition be sent to the County Council with a favorable recommendation subject to the written commitments. The staff recommends approval of the variances for the existing development. Rezoning the property to C: Commercial District will allow for the continued use of a long-established commercial property. The site is located adjacent to a major corridor with sufficient access to allow for commercial traffic without significant impact on the surrounding residential properties.

SAMUEL MERCANTINI: I reside at 12586 Jefferson Boulevard, Mishawaka. I would like to pass these pictures out so you get a better idea of the site. I am the owner of the barn at 14017 Dragoon Trail. I bought the barn 50 some years ago, ever since that time it has been in commercial operation. Generally, there have been lug nut, handyman shop, selling everything under the sun, from snow blowers to Chinese tools to clothing to CD's, even a guitar. The operation has been going on for 40 years or more. On November 17th I received a letter from Zoning and Business Services Administrator saying that the signs on the building were illegal, because the signs were not there when the first commercial enterprise was in operation. I had three choices. 1) I could leave the signs up and pay \$1,000 fine, then take them down evidentially. 2) I could take them down period or 3) I could get the property rezoned. So, the third one is the one I have chosen to do. The reason why I am asking for the two variances is that I had people come out and give me an estimate on fifteen spaces, which you will see in the cross hatching there. That is not fifteen, but that is the general idea. They suggested \$30,000 - \$40,000 to extract the soil, put in the foundation and put the blacktop on top. \$30,000 - \$40,000 to put in fifteen parking spaces to me doesn't make much sense, especially when you take a look at the picture where all the snow is, the parking lot is huge. Fifteen cars are just a very small part of it. I have never seen the parking lot full except one time one of my tenants had an auction and the parking lot was then full, but otherwise it just doesn't make much sense to screen off fifteen spaces in an space that big.

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: What were the written commitments that you wanted to include?

ANGELA SMITH: There are three 1) No access to Elm Road; 2) Uses shall be limited to primary uses listed in B: Business District plus auction rooms, clubs and lodges (non-profit), convention halls and meeting halls, and secondhand stores and rummage shops; and 3) No off-premise signage permitted.

JOHN DELEE: Have we asked the petitioner if he was agreeable to those?

ANGELA SMITH: We have and he has indicated that he is agreeable to those.

JOHN DELEEE: He is?

ANGELA SMITH: Yes.

After due consideration, the following action was taken:

Upon a motion by John Leszczynski, being seconded by Oliver Davis and unanimously carried, a proposed ordinance of Samuel A. Mercantini to zone from R: Single Family District to C: Commercial District, property located at 14017 Dragoon Trail, St. Joseph County, is sent to the County Council with a FAVORABLE recommendation, subject to the following written commitments: 1) No access to Elm Road; 2) Uses shall be limited to primary uses listed in B: Business District plus auction rooms, clubs and lodges (non-profit), convention halls and meeting halls, and secondhand stores and rummage shops; and 3) No off-premise signage permitted. Rezoning the property to C: Commercial District will allow for the continued use of a long-established commercial property. The site is located adjacent to a major corridor with sufficient access to allow for commercial traffic without significant impact on the surrounding residential properties.

Upon a motion by Oliver Davis, being seconded by Robert Hawley and unanimously carried, the variance(s) 1) from the required hard surface parking area to gravel; and 2) from the required off-street parking area screening to none, property located at 14017 Dragoon Trail, St. Joseph County, were approved subject to the rezoning being approved by the County Council.

- B. A combined public hearing on a proposed ordinance of Craig E. and Debra D. Anthony to zone from R: Single Family District to C: Commercial District and seeking the following variance(s): 1) from the maximum height of 3' for a solid fence in the front setback to 6'; 2) from the required landscaping of required front yard and side residential bufferyard to none on the north, south, and east; 3) from the required hard surface parking area to gravel; and 4) from the required 20' side yard setback to 8' on the east, property located at 10250 McKinley, St. Joseph County - APC# 2857-17.

ANGELA SMITH: The petitioner is requesting a zone change from R: Single Family District to C: Commercial District and seeking 4 variances from the development standards. On site is a single

family home and associated accessory structure. To the north, across McKinley Highway is an automobile sales lot zoned M: Manufacturing District. To the east is a single family home zoned R: Single Family District. To the south are single family homes zoned R: Single Family District. To the west is a single family home zoned R: Single Family District. The C: Commercial District is established to provide a location for those retail sales and service functions whose operations are typically characterized by: outdoor display or sales of merchandise; major repair of motor vehicles; commercial amusement and recreational activities; or, activities or operations conducted in structures which are not completely enclosed. The types of uses found in the C: Commercial District are often brightly lighted and noisy. Permitted uses contained in this district are such that this district may be used to form a grouping of similar uses along certain portions of major commercial thoroughfares. Special attention should be paid to buffering whenever this district is located adjacent to any residential district or residential uses. The proposed site plan includes remodeling the existing residential structure to create an office with an accessory dwelling unit. The addition of a 3,200 sq.ft. accessory structure is proposed behind the current garage location which is proposed to be demolished, allowing for the storage of equipment. The site was rezoned in 1991 for commercial uses, but zoned to R: Single Family with the adoption of the 2005 Zone Map based on the current use at that time. The property northwest of the site was rezoned to M: Manufacturing in 2016 for an excavation company. McKinley Highway has two lanes. The site will be served by private well and septic system. The County Engineer commented that no permanent structure or objects are permitted in the right-of-way. At the time of improvements, a detailed drainage plan complying with County guidelines is required. The County Health Department commented that according to County Code 51, a “commercial facility” is defined as “Any building or place not used exclusively as a residence, residential outbuilding or a single-family farm.” Placing an office in the residence changes the structure to a commercial facility and requires a commercial septic system, which must be installed according to a Technical Data Sheet issued by the Indiana State Department of Health. The Health Department recommends that the process to obtain a commercial septic system be started by hiring a soil scientist to submit a soil report to the ISDH on your behalf. The petitioner is not proposing any written commitments. This petition is consistent with Comprehensive Plan for South Bend and St. Joseph County, Indiana (April 2002) Objective B: Locate employment uses in such a manner that conflicts with residential land uses are minimized. The future land use plan identifies this area as a reserve tier for industrial growth. There are no other plans in effect for this area. McKinley Highway is a high volume corridor with a mix of residential, commercial, and industrial uses. The most desirable use of the land is one that is compatible with the mixture of uses along the corridor. Due to the fact that this site is in close proximity to commercial and industrial development, rezoning the site to commercial should not adversely affect the use and value of adjacent property. Limiting the rezoning to the portion of the property adjacent to McKinley Highway helps mitigate the impact on properties to the south. It is responsible development and growth to allow commercial development along major transportation corridors. The staff has no additional comments. Based on information available prior to the public hearing, the staff recommends this rezoning petition be sent to the County Council with a favorable recommendation. The staff recommends approval of the variances as presented. Rezoning a portion of the site to C: Commercial District will allow the development of a small commercial business while protecting the residential properties to the south.

CRAIG ANTHONY: I reside at 10412 Kaitlyn Court, Osceola, which is just west of this parcel. I have a small irrigation business that is expanding. Instead of renting the property, I am looking to have my own place. A couple of years ago I bought the property to the east of this, which again would just be the top half of it, got to know this individual. From 1991 – 2006 it was zoned commercial, as is the back end of the building there. The home that is there was a beauty shop. I already knew it had a pretty good septic. I did end up getting a soil test and a survey and found out it does have a commercial septic

system put in. There is a pretty extensive drainage field. The problem, and this is one of the very instances, is that this has been driven over for a number of years that if I would take down which I am looking to take down the garage that is in the back and then putting this 40 X 80 building in. That is part of the reason why I want to move this building back a number of feet so I can make sure all traffic, including traffic would be clear of where that septic line is. I also have a barn to the east of it and I am trying to get this building behind it a little. I think it is going to look better from the street side there. The property that is there is about little over 900 square foot in the residential home that is there. The former beauty shop, which I am going to turn into an office, is about 950 square foot. It is a little bit larger and not really requiring a whole lot of remodeling. I have to take out a bunch of sinks for washing hair that I don't need. The fence that you see in the picture (referring to the powerpoint) is great screening and has been moved back originally. The previous owner moved it back as they widened McKinley from two to five lanes. They already did part of it. They have already brought the fencing and everything back about four foot off the property line, which would be off the future sidewalk in the years to come. I would like to keep that fencing in there. It is not a solid fence all the way up. It has lattice work and stuff at the top, but it gives the folks that are in that house. It is going to give them some privacy. I own the property again, like I said, on the east and I have already planted some stuff on that property as a screening. Being that I am in the irrigation and landscape, yes I will probably, with my wife's direction, plant quite a few more trees and buffers along there as she sees fit. The variance for the gravel drive is that it is all gravel right now and, like the previous petitioner, I have looked at some of the money. To be honest, ultimately in a couple years, I would like to gravel this and I am going to go ahead with some engineering plans and see what it requires for retention. I just know for the first couple of years it might be a little tight on money. I am only wanting to rezone the northern half of this property. I want to leave the entire back half of this property as a residential buffer. I do know the neighbors and stuff in that area. One of the things I would like to do back to in the future of putting in a retention area. I don't think I am going to need a lot and I am hoping to get something that is a foot deep and fairly large so it can be mobile. Some of the neighbors, being that property isn't used a lot use it to run their dogs. It is kind of like a little park back there. There are some good size trees and I would like to leave it that way. This is a seasonal business and I am not going to have any retail traffic. It is strictly going to be an office with homes. I don't want any retail traffic at all. There won't be any signs up there to announce that the business is there. Basically, I will have a couple of guys come in, grab trucks out of that 40 X 80 barn that I am hoping to put in and grab any materials that they need. Where they will be there ten to fifteen minutes in the morning and ten to fifteen minutes in the evening and that it basically from the first of April and, Lord willing, I close it down on Thanksgiving Day.

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 Oliver Davis, being seconded by Robert Hawley and unanimously carried, a proposed ordinance of Craig E. and Debra D. Anthony to zone from R: Single Family District to C: Commercial District, property located at 10250 McKinley, St. Joseph County, is sent to the County Council with a FAVORABLE recommendation. Rezoning a portion of the site to C: Commercial District will allow the development of a small commercial business while protecting the residential properties

to the south.

Upon a motion by John Leszczynski, being seconded by Oliver Davis and unanimously carried, the variance(s) 1) from the maximum height of 3' for a solid fence in the front setback to 6'; 2) from the required landscaping of required front yard and side residential bufferyard to none on the north, south, and east; 3) from the required hard surface parking area to gravel; and 4) from the required 20' side yard setback to 8' on the east property located at 10250 McKinley, St. Joseph County, were approved subject to the rezoning being approved by the County Council.

- C. A combined public hearing on a proposed ordinance of Civil City of South Bend to zone from SF2: Single Family & Two Family District and MU Mixed Use District to MU Mixed Use District and seeking a Special Exception Use to allow a Fire Station, and seeking the following variance(s): 1) from the 12' maximum front yard and building setback to 50' on Mishawaka Avenue; 2) from the minimum 24' width of a parking maneuvering aisle to 20'; and 3) from the required minimum of 70% glazing on the front façade to 11%, and from the required 12% glazing on the secondary façade to 10%, property located at 2104, 2108, and 2112 E. Mishawaka Avenue and 914 and 918 S 21st Street, City of South Bend - APC# 2858-17.

ANGELA SMITH: The petitioner is requesting a zone change from SF2 Single Family & Two Family District and MU Mixed Use District to MU Mixed Use District, seeking a Special Exception Use for a Fire Station, and requesting 3 variances from the development standards. On site is a vacant lot. To the north, across Mishawaka Avenue, is the Potawatomi Conservatories zoned SF1 Single Family & Two Family District. To the east is a gas station zoned CB Community Business District. To the south are single family homes zoned SF2: Single Family & Two Family District. To the west, across 21st Street, is a library zoned OB: Office Buffer District. The MU Mixed Use District is established to promote the development of a dense urban village environment. The regulations are intended to encourage all the elements of a traditional urban village, including: storefront retail; professional offices; and, dwelling units located either in townhouse developments or in the upper stories of mixed-use buildings. The development standards in this district are designed to: encourage a pedestrian oriented design throughout the district; and, maintain an appropriate pedestrian scale, massing and relationship between buildings and structures within the district. The 0.69 acre site includes a proposed fire station oriented toward Mishawaka Avenue. Parking and secondary access is provided along 21st Avenue. The site complies with the required landscaping and buffering. A portion of this property was rezoned to Commercial in 2001. The majority of the site was reclassified as MU: Mixed Use District with the adoption of the new Zoning Map in 2004. Mishawaka Avenue has 2 lanes with a designated bike lane. Just east of the site, the bike lane is eliminated to allow for a designated left turn lane. 21st Street has 2 lanes with on-street parking. The site will be served by municipal water and sewer. The Department of Community Investment (DCI) offers a favorable recommendation. The proposed zoning would be consistent with the mixed-use character of the area. DCI also offers a favorable recommendation to the variance requests. The petitioner is not proposing any written commitments. This petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006) Policy LU 2.2 Pursue a mix of land uses along major corridors and other locations identified on the Future Land Use Map. The future land use plan identifies this area as mixed use. There are no other plans in effect for this area. Mishawaka Avenue has developed as a mixed use corridor with nodes of heavier commercial at major intersections. The most desirable use for this property is mixed use. With proper landscaping and buffering, adjacent property values should not be affected. It is responsible development and growth to allow a fire station to develop on this site in order to better serve the community. The

staff has no additional comments. Based on information available prior to the public hearing, the staff recommends sending the rezoning petition and Special Exception Use to the Common Council with a favorable recommendation. The staff recommends approval of the variances. Rezoning the site to MU: Mixed Use District will allow a consistent zoning district for harmonious development of the site. Approval of the Special Exception Use for the fire station will allow the City to improve its public safety services to the community.

We did receive one letter of comment which you received today from a property owner to the south. They would like a written commitment on the property to require that the six foot white vinyl fence be installed on the southern property line. This is currently shown on the site plan, but they would like a written commitment to have more enforceability of that item.

OLIVER DAVIS: Per the letter this afternoon, have you been able to talk with the Fire Officials about this letter to see what their intent is?

ANGELA SMITH: I have not. There is a six foot privacy fence shown on the site plan, so I don't think they would have a problem with the written commitment, but you would have to ask the petitioner because we have not had an opportunity to speak to them.

STEVE VOJTKO: With the Special Exception Use for this, would that carry on if this fire station decided ten years from now to go someplace else? Would that Special Exception Use stay with it or what other things would be considered with the Special Exception Use?

ANGELA SMITH: The Special Exception Use would stay with the property. Other than that the property could be reused for anything under the MU Mixed Use District. For instance, it could be converted to a multi-family zoning.

JACOB HOLLOWAY: The site is currently a vacant lot?

ANGELA SMITH: It is now, yes.

JACOB HOLLOWAY: Why is it a vacant lot now?

ANGELA SMITH: There were homes on the property, which were demolished.

JACOB HOLLOWAY: Is there a reason why? Were they not nice homes?

ANGELA SMITH: I can't speak to that. The petitioner may be able to answer that.

STEVE COX: I am the South Bend Fire Chief. Our office is located at 1222 S. Michigan Street, South Bend. We come before the Commission to request the rezoning and the variances associated with this project. I would say Councilman Davis can attest to this, as can Ms. Maradik, we have had not just multiple but in the teens to twenties of public meetings with neighborhood folks including the River Park Neighborhood Association, Sunnymede Neighborhood Association, River Park Business Association, the Parks Board, etc. in regards to this particular project. We were looking for the appropriate place to be able to replace our Fire Station #9 which is a little further to the east on Mishawaka Avenue. That building was built in 1926. At this point we need a new building that is updated to be able to meet the modern needs of fire apparatus. Though many community outreach events, public meetings, we settled on this particular spot, which had three houses that were vacant, one was a rental property and the other was occupied prior to the city purchasing those five properties. I have personally met with the gentleman

that lives in the house directly south of those five properties. We agreed as a city entity to add the six foot privacy fence into the project. I have our architect here. That six foot fence is built into the project as well so it's there. We have zero problem writing a written commitment to the property owner. We have agreed to the length of where he wants that fence located and everything. Additionally, there was a tree that was a mature maple tree that was right on the property line. He also asked us to take that tree out when we demolished the five houses that were on those properties. We have already done that according to his wishes. Obviously, being a City entity, we want to be good neighbors to the individuals that live within that area. We have every intention of following through all the promises that we made associated with that to include the promises that we made to other folks that live on that side of town regarding the services that we provide that this new station is going to allow us to do. We were specifically asking for the variances. Variance #1 as you can see on the picture here the apparatus or the apron coming out in front of the fire station. The reason we are asking for that elongated space is in order for us to be able to pull out of the fire house and have adequate view of the street both east and west so that the motoring public can see our apparatus pulling out and so that the drivers of our apparatus can see the motoring public coming towards us in order to make sure we are operating in a safe manner. Variance #2, because of the width of the property and the alley way to the east of where we are located, it is a little bit tight in regards to the turning radii that we are going to be able to utilize. Since the gentleman was not interested in selling the property due south of us, we are asking for that width to be condensed a little bit. Variance #3, we are requesting because of the context of the building and the fact that it is a fire station. A significant amount of the façade facing Mishawaka Avenue is apparatus bay which is not a medable to putting windows and that type of addition to the building. We are asking for that variance as well.

ROBERT HAWLEY: What is your time frame for construction and completion?

STEVE COX: We have already had approval from the City Council in order for us to be able to float a bond, which we will be doing in the next couple of weeks, with the intent of going out to bid for construction here within the next three weeks or so. Hopefully we will have all the bids back and hopefully be able to award the bid by the end of March in order for us to start construction as soon as possible. We cleared all five properties as you seen in the pictures and, obviously for us, the sooner the better that we get moving forward.

JACOB HOLLOWAY: What was the condition of the properties at the time of demolition?

STEVE COX: Three of those properties were vacant as I mentioned. I would say at least two of them were probably in relatively poor condition, broken windows, etc. We heard from the neighbors that there were wild animals in one of the houses. One was a rental property, which was occupied and frankly we struck an agreement with the landlord in order for those folks to allow their lease to finish out in September before we took possession. The other property was the middle one facing Mishawaka Avenue was also a rental property, however the folks that were renting that property finished their lease, I believe in May or June and we took possession at that time. A couple of the house were livable. The one that was right next door to the gas station was being more less as storage by a DJ basically. I would argue, I am the Fire Chief so I am clearly bias, but I would argue what we are putting in there is going to be an upgrade.

IN FAVOR

PAM CLAEYS: I reside at 1106 Bellevue Avenue, South Bend. I wish to speak in support. I can testify that Fire Chief Steve has gone above and beyond to find a suitable location. The City as you may know has looked at moving the Fire Station over the years and have gotten a lot of feedback from River

Park, no, no, no. Again, they brought it up and he did not want it in Potawatomi Park, we understand that we needed a new Fire Station. In fact, I offered for him to look at other places and he did. He brought this to the neighborhood in December, everyone loved the plans, it fits in well. They have a porch just like their old porch. They are going to take care of their own landscaping. I fully support it. He has done his homework and has made the neighbors proud and I encourage it.

LINDA PLASSCHART: I reside at 934 S. 21ST Street, South Bend. I received a letter to come and attend this meeting this afternoon. I am thrilled to death. I cannot wait to get this in the neighborhood and whole heartedly agree with the Fire Chief. What they got rid of, he is going to put in something quite a bit nicer so I encourage you to please approve this.

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 Oliver Davis, being seconded by Robert Hawley and unanimously carried, a proposed ordinance of Civil City of South Bend to zone from SF2 Single Family & Two Family District and MU Mixed Use District to MU Mixed Use District, property located at 2104, 2108, and 2112 E. Mishawaka Avenue and 914 and 918 S 21st Street, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation.

ANGELA SMITH: The Council can also put that written commitment on that too.

OLIVER DAVIS: Can just add that?

JACOB HOLLOWAY: We can suspend the rules. Motion to suspend the rules and add it as an amendment.

ELIZABETH MARADIK: Mitch can...

JACOB HOLLOWAY: If there are no objections, you can do it.

MITCH HEPPENHEIMER: We need a motion to amend.

Upon a motion by Oliver Davis, being seconded by Elizabeth Maradik, the motion was amended to add the written commitment was approved.

Upon a motion by Oliver Davis, being seconded by Jacob Holloway and unanimously carried, a proposed ordinance of Civil City of South Bend to zone from SF2 Single Family & Two Family District and MU Mixed Use District to MU Mixed Use District, property located at 2104, 2108, and 2112 E. Mishawaka Avenue and 914 and 918 S 21st Street, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation, subject to the following written commitment(s) 1) installing a 6' vinyl fence on the south property line. Rezoning the site to MU Mixed Use will allow a consistent zoning district for harmonious development of the site. Approval of the Special Exception Use for the fire station will allow the City to improve its public safety services to the community, AS AMENDED.

Upon a motion by Elizabeth Maradik, being seconded by Robert Hawley and unanimously carried, a Special Exception Use for a Fire Station, property located at 2104, 2108, and 2112 E. Mishawaka Avenue and 914 and 918 S 21st Street, City of South Bend, was sent to the Common Council with a FAVORABLE recommendation, subject to the rezoning being approved by the Common Council.

Upon a motion by Oliver Davis, being seconded by Robert Hawley and unanimously carried, the variance(s) property located at 2104, 2108, and 2112 E. Mishawaka Avenue and 914 and 918 S 21st Street, City of South Bend, were approved subject to the rezoning and Special Exception Use being approved by the Common Council.

OLIVER DAVIS: The issue of the written commitments being put in there, he said he was willing to do that?

- D. A proposed ordinance of Women's Care Center, Inc. to zone from SF1 Single Family & Two Family District to OB Office Buffer District, property located at 3527 Lincoln Way West, City of South Bend - APC# 2859-17.

ANGELA SMITH: The petitioner is requesting a zone change from SF1 Single Family & Two Family District to OB Office Buffer District. On site is a single family home and associated accessory structures. To the north, across from Elwood, are single family homes zoned SF2: Single Family and Two Family District. To the east is an office zoned OB: Office Buffer District. Across Lincoln Way are three parcels zone LB: Local Business District. To the west are single family homes zoned SF1: Single Family and Two Family District. The O/B: Office/Buffer District is to provide specific areas where only certain limited offices may be developed. Since the district excludes retail, clinics, and business and commercial uses, and requires extensive screening and landscaping of permitted uses and associated parking areas, it may serve as a buffer between residential areas, and business and commercial developments. The O/B: Office/Buffer District is expressly intended to be limited to the area in association with commercial areas and certain streets where a gradual transition from existing residential use should occur. The site plan shows the remodeling and expansion of the existing home on the 0.57 acre lot, including the addition to that back of the house and the small addition on the south east corner of the house. Three structures will be removed. The existing structure and additions will house a medical clinic and offices. 20 parking spaces are proposed for the business, 15 are required. The site meets the landscaping requirements. Parcels to the south and east have been rezoned to commercial or office districts. The parcel directly adjacent to the east was recently rezoned to OB: Office Buffer in 2002. Lincoln Way to the south has two lanes with a middle multi-directional left turn lane and separated bike lanes in each direction. Elwood on the north side has two lanes. The site will be served by municipal water and sewer. Community Investment offers a favorable recommendation. The future land use plan in the West Side Main Streets Plan designates this parcel as the westernmost parcel in the Bendix Node. Thus, a use more intense than single-family residential would be appropriate, and the proposed OB zoning would provide a transition from the single-family residential parcels to the west to the suburban commercial uses to the east. The petitioner is not proposing any written commitments. The West Side Main Streets Plan (2014) states that the Bendix Node, in which this parcel is located, would be appropriate for commercial and medical office uses. The future land use plan identifies this area as the Bendix Node. The Petition is consistent with the Comprehensive Plan for the City of South Bend (2005), Objective LU 2.2: Pursue a mix of land uses along major corridors and other locations identified on the Future Land Use Map and Objective ED 7.3: Support neighborhood-based economic opportunities as identified in area-specific plans. Lincoln Way West is a mix of

commercial and office businesses. To the north and south of the parcel, abutting the parcels along Lincoln Way, are primarily single-family residential homes. The most desirable use is office or commercial use. Surrounding property values should not be affected negatively. It is reasonable development and growth to encourage the development of office and commercial uses in the proposed mixed-use node. The staff has no additional comments at this time. Based on information available prior to the public hearing, the staff recommends that this rezoning petition be sent to the Common Council with a favorable recommendation. Rezoning this property to OB: Office Buffer will correspond well with the adjacent commercial and office properties along Lincoln Way. This rezoning corresponds with the City Comprehensive Plan and the West Side Main Streets Plan. Commercial and office use is appropriate for the Bendix Node (West Side Main Streets, 2014) which this parcel is located.

We have received eleven letters in opposition.

OLIVER DAVIS: How do the issues in those letters relate to the zoning issues from your own standpoint regarding the issue of past history and those things?

ANGELA SMITH: When we evaluate our staff recommendations we are looking at the use specifically. We would not treat this any differently if it was an insurance office or a dentist office. We don't look specifically at the user. That is not under our purview. In terms of the concerns about public safety, a property, even if it wasn't zoned commercial, can be used for any form of demonstration. In terms of signage, they would need to meet all the requirements of the sign ordinance or get variances from the Area Board of Zoning Appeals. They could address those at that time, in terms of extra temporary signs.

OLIVER DAVIS: So you would not do.... Say that last part again.

ANGELA SMITH: One of the concerns raised is having to do with the amount of signs that are on the property. They would have to meet the sign ordinance.

OLIVER DAVIS: That is out of this purview?

ANGELA SMITH: They are not asking for any variances at this time.

RICHARD NAUSSBAUM: I am the Attorney representing the petitioner. My office is located at 210 S. Michigan Street, 5th Floor of the Plaza Building, South Bend. I am privileged to be able to present on behalf of the Women's Care Center. I have brought with me some individuals who perhaps could answer some technical questions you might have that aren't otherwise addressed in my presentation. I really appreciate the report that was made by the Area Plan Commission. It was a very technical, by the book report, which I think was pointed out in and I think part of what Mr. Davis was asking about. There are perhaps some collateral issues that were raised by the eleven letters in opposition. I haven't seen them, but would be happy to answer any questions that they might have raised. My guess is that they do relate to collateral issues which probably aren't best addressed here in this form, but if any members of the Commission wish to raise those with me I would be happy to address them. Having said all that I am very excited to be able to present this to you. There are a lot of good things that are going to resolve from this rezoning. As many of you probably know, the Women's Care Center is involved in the healthy baby business. That involves not only the birth of the baby, but also the health of the mother before and the health of the mother and family and baby after. So it is a long commitment that the Women's Care Center makes to these families. I am really pleased to say that every other baby that is born in St. Joseph County has had in the past year, has had a connection with the Women's Care Center. That includes 1,837 babies that were born last year. The Women's Care Center was founded in 1984 by

a Professor at the University of Notre Dame. It has expanded from a single center to now 29 Centers in ten different states. The Women's Care Center was awarded the Leighton Award for non-profit excellence by the Community Foundation in 2010. I am also proud to say there are 172 moms and dads that attend parenting classes every week in St. Joseph County. In St. Joseph County last year the Women's Care Center distributed 2,088 packages of prenatal vitamins, almost 7,800 baby outfits all new, 114 cribs, 156 car seats 2,234 baby/toddler books and 107,000 diapers. I just point those things out to you just to say that this involves a lot of services to a lot of people in St. Joseph County. Chapin Street is one of the four local centers, the others are Notre Dame Avenue, North Ironwood, and then Chapin Street. Chapin Street by far is the smallest and this facility would replace the Chapin Street Center. One of the things we are really excited about doing is the fact that one third of our clients come from the 46628 or 46619 zip code. This facility will be right in the middle of those areas so that the individuals who otherwise have to go to Chapin Street or all the way across to the east side of South Bend or Mishawaka can now come to a facility that is right in their own neighborhood. We are really excited about that. The criteria for locating new centers are again close to women who need our services, accessible, convenient, on a bus route visible on a busy street. Lincoln way certainly meets that criteria. Whatever signage we have we have to meet the signage criteria and we will work with everyone on that. We want what we do to be done in a facility where individuals feel comfortable. If you go and look at some of our other facilities it is really like a home. That is what we are trying to do at this point. I have gone over some of the other services that are made, I don't want to belabor that, but they are quite extensive. Our women who are served by our facilities are primarily young, unmarried, uninsured, and ambient about their pregnancy. In other words they are going through a time in their life that they are not quite sure which direction they want to go in. The Women's Care Center is present to be able to help those women to make an informed choice as to what they want to do with their pregnancy. The secrets of our success are unconditional love. We are non-judgmental. As I said, the home like environment, full time hours, and convenient locations and probably most importantly is all services are free of charge. Our volunteers and our staff are compassionate, we have nurses, sonographers, and counselors who are extremely good at what they do and help these young women's to get over something that is a difficult time in their life, which can be a great blessing in their life as well. There is a holistic approach here. There are talable list of volunteers. Just recently St. Joseph High School students did a diaper drive that raised over 30,000 diapers. I am one of the volunteers that probably does the least among all of them, but I am happy to say that I have been a volunteer with the Women's Care Center and I am happy to do this here today. With regard to the other eleven remonstrators, I would point out that Catherine, the outreach Director sent out a letter to all of the neighbors asking for input. She also then went around to and knocked on the doors of all the neighbors. The fact of the matter is that she didn't receive any negative comments. So the eleven coming is a little of a surprise to us, but certainly everyone has their right to express their opinion. Some might say we selected this site because right next door there is a proposal to have an abortion clinic there and I would be lying to you that wasn't a consideration. The other considerations are far more important to us. Whether or not that clinic goes in there or not, we are going to move forward with what we are doing. We are a 501(C)(3) organization, we do not get involved in political campaigns or in pickets or doing anything of that nature. We are an organization that quietly and consistently for the past 34 years has tried to serve individuals who need our help. With that I would conclude my presentation and I would be happy to answer any questions you might have.

JACOB HOLLOWAY: This issue with the letters that people are upset about the possibility of protests. Have any of the neighbors said anything about that?

DICK NAUSSBAUM: No. We don't protest. That is not something we are going to do. Having said that there are other organizations out there that may protest our site or the site that would be next door to us. That is not going to be us.

JACOB HOLLOWAY: Is there a public sidewalk there?

DICK NAUBAUM: There would be a right-of-way in front of the properties there that would be open areas for individuals to utilize this as any other right-of-way.

JACOB HOLLOWAY: I am sorry, I am just trying to follow up on this cause I am trying...It seems to be where the contention is with the protest.

OLIVER DAVIS: There is no public sidewalk there.

JACOB HOLLOWAY: There is no public sidewalk there?

ELIZABETH MARADIK: Not in that section.

JACOB HOLLOWAY: So the one in question is the one that might be the abortion clinic right? How far is it from this property?

DICK NAUSSBAUM: It is right next door.

JACOB HOLLOWAY: It's right?

DICK NAUSSBAUM: To the east

JACOB HOLLOWAY: The adjacent property across the street?

DICK NAUSSBAUM: Directly to the east of it.

JACOB HOLLOWAY: Right next door?

JOHN DELEE: Right next door.

JACOB HOLLOWAY: But there is no sidewalk?

DICK NAUSSBAUM: I am being told here by the group that there is no sidewalk, so I don't know where people would go to protest. From my perspective I think Commissioner Davis mentioned that I think that is a collateral issue to this land use petition.

JACOB HOLLOWAY: They are planning to put in a sidewalk?

DICK NAUSSBAUM: No.

JACOB HOLLOWAY: No sidewalks. So there isn't any public access to the street?

DICK NAUSSBAUM: It is just a driveway.

JACOB HOLLOWAY: It is just a driveway and a road?

DICK NAUSSBAUM: Right.

JACOB HOLLOWAY: No sidewalks for people to walk on?

OLIVER DAVIS: The driveway would be private.

JACOB HOLLOWAY: So if there was a protest where would it take place possibly?

ELIZABETH MARADIK: In the right-of-way.

JOHN DELEE: There is a right-of-way off the road.

DICK NAUSSBAUM: The fact that there is no sidewalk doesn't mean there isn't a right-of-way.

JACOB HOLLOWAY: I am concerned that it could turn into some...there is a First Amendment question in this.

JOHN DELEE: No.

JACOB HOLLOWAY: Well, through the right to protest, but at the same time where can you protest?

DICK NAUSSBAUM: If I could just say we have 29 facilities there aren't really any protests that occur at our facilities.

JACOB HOLLOWAY: On the property?

DICK NAUSSBAUM: There just aren't any protests.

JACOB HOLLOWAY: But if there were a protest, would it be in the yard?

DICK NAUSSBAUM: You would not be able to protest on private property, but if there is a right-of-way which is part of the roadway or some of the grass that is next to the roadway and it is in the right-of-way, individuals have a right to protest there.

JACOB HOLLOWAY: I just want to be clear, I am not so interested on what the protest is about because you can have people coming to protest for or against. That's what I am a little concerned about. You could have people on one side of the street they are protesting for it, people on the other side of the street protesting something, you have traffic. I don't want to put any potential protesters as well and I am if they are going to protest there has usually when you protest, you are usually protesting on a public sidewalk right? That public sidewalk is public domain, you are more than welcome to protest on a sidewalk is my understanding of the law.

DICK NAUSSBAUM: Mr. Leszczynski can probably answer this better than anyone because he was the head of the Board of Public Works for many years in the City of South Bend. They control the public right-of-way. So if someone wants to protest and use the public right-of-way they have to either get a permit to do it or work with the Board of Public Works. If there are things that aren't safe the police can be called and they can take care of it.

JACOB HOLLOWAY: So in this case if someone was coming to protest they would need a permit? They would be applying to the City? Who is the appropriate?

DICK HAUSBAUM: The Board of Public Works has authority over the public right-of-way. Someone who wants to protest the public right-of-way may or may not need a permit. If they are going to have an

organized permit, my guess in my ten years as City Attorney in the City of South Bend in those circumstances you generally need to get a permit. When someone asks for a permit, safety considerations are looked at by the Board of Public Works and the police, fire, and other entities. That is all very important and a good question to ask. I think for the purposes of the Area Plan Commission this afternoon, that is really not something that you should be concerned about.

JACOB HOLLOWAY: But if there is a history of protests.

DICK NAUSSBAUM: There isn't a history.

JACOB HOLLOWAY: There is a possibility.

DICK NAUSSBAUM: We have been around for 34 years now and you can count on one had if any protests took place. We are in 29 sites in ten states. We have four in St. Joseph County. If you go to our sites everyday you are not going see a protest.

JACOB HOLLOWAY: But this one being adjacent to a possible clinic that's...

STEVE VOJTKO: Our task is only to deal with what we have in front of us. We can't determine what may or may not be in the future.

JACOB HOLLOWAY: It is really a political situation.

ANNE MANION: I am the volunteer President of the Women's Care Center. It is a fair question. One thing that I would say is that we have located near abortion clinics before. In our history, we don't have sponsored protests and we are not protested. We have never had anyone protest what we are doing because we are just loving and serving. We don't engage in that or sponsor that. Sometimes abortion clinics are protested, but we are not. I can say that in all of my 34 years of doing this.

JACOB HOLLOWAY: The question I am trying to get out is do you think someone would use your property, or would you allow someone to use your property to hold a protest?

ANNE MANION: No. Because it is counter intuitive to our mission. Our mission is to create a peaceful, welcoming place for women to access who are struggling with a difficult pregnancy. That is counter to pickets and protesting. That is why we are not a political organization.

JACOB HOLLOWAY: Well what if some random people just showed up from like out of State and they are like we want to have a protest, what would you say?

ANNE MANION: We would ask them to leave if they were on our property. It is really bad for mom's and babies to have protests. It just is. That's not what we do. What we do is provide care and love and support and classes and education and tangible assistance and prenatal care and things like that. We don't engage in this and it doesn't work to the good. If someone is protesting on our property then women are going to be turned away by that, so we would discourage that in any way that we can. We just don't have protests and we never have.

JACOB HOLLOWAY: I believe you that your organization probably won't be out there protesting, but if people were to show up and protest. I am just concerned about like this area if people were showing up and possibly protesting and that is not set up for that.

JOHN DELEE: What she is saying is that she would not allow it on their property.

ANNE MANION: Our presence won't change that because we are not typically the person being protested.

JACOB HOLLOWAY: I am not trying to take a side on either side of this issue. Just when you get a politically charged kind of situation like this it can become that way. I just want to make sure that people on both sides that there is a safe situation that doesn't cause altercations of any kinds of conflict in the community or anything like that. That is all I am concerned about. That is all I am concerned about.

ANNE MANION: I will say the most I have found that the fact that we are there actually can calm the situation because there is a choice. You can go in door A or door B and it is like Walgreens and CVS and there is more women served and many many I mean every other baby born in this community starts with us. Women come to us 66% because of word of mouth referral. We are just there...

JACOB HOLLOWAY: I don't care if this was the McDonald's or Chick-fil-A and the people wanted to protest a fast food restaurant.

JOHN DELEE: We need to stop this form of discussion and move onto the Public Hearing.

JACOB HOLLOWAY: I don't know why it seems like a strange request.

IN FAVOR

ANNA TRINIDAD: I reside at 209 S. Edler Street. I work at the Chapin Street Women's Care Center. I have worked there for five years and I have seen how our center has outgrown our tiny center. Several times a week maybe more than several times a week I have had to call cabs for clients to be able to take them to a different center because we cannot serve them at the time that they walk in. They are walking to our centers and so if they are not being met when they come in, I feel that we are failing them. I have had conversations with my Directors that we need to be able to serve more people and to serve them when they come in. They need to be felt loved and they need to be welcomed, and they need to be heard. I want to be able to offer that so expanding for me would be a great and I want that for my community for the people that I serve. I feel that by giving us this facility we would be expanding and we would be going to where they are coming from. Instead of them having to walk to our centers, they will be right near where we are at. Our parenting classes on Fridays we have two of the same class back to back because our space does not allow that many people. We see if certain number of people for the 10:00 class and a certain number for our 11:00 class. It is the exact same class. I believe that being able to expand into bigger facility will allow us to serve more women. When I first started five years ago, we had one counselor who trained me and she was working part time. Now we have 2 people fully staffed there the majority of the week. If we can expand and grow we would be able to serve more people on the west side and northwest side which is where most of the people that come to our center are from. I would really appreciate that we can get this opportunity to expand and to grow with our community.

REMONSTRANCE

PAM CLAYES: I reside at 536 S. Sunnyside Avenue, South Bend. I am one of the eleven who wrote in opposition to this. Mr. Holloway, your radar is absolutely on target. The staff analysis says this will correspond well with the adjourning facility. That is wrong. I can take you back to the 1980's and the 1990's of when there were intimidation, trespassing, harassment, out of towners coming in spreading butyric acid we were linked in front of the building. This is bad news. Ms. Manion is absolutely

correct, nobody is going to protest the Women's Care Center. People on the opposite side of the issue are not going to protest it. They have every right to do what they do. What it is, is an open invitation to all the other abortion protesters that come in. Over the years I seen them as recently as November across from Jackie Walorski's they come with life size posters, they are loud, they approach people. That adjoining property line is going to be a contention if this happens. I fear the City of South Bend is going to rue the day this got approved. Even with police protection we had to be out there. I did many midnight defenses staying there over midnight watching that people are not coming onto the prior location. You are absolutely right, this is dangerous. This does not correspond well. Did you know this was a provocative purchase? They paid almost twice the asking point. This was targeted. You have a can of worms. I would invite you to keep it closed and deny it. I have included in my letter a copy of an article and a link to the South Bend Tribune article that gives just a brief history over the last 30-40 years. The people that will come there they cannot keep them off unless there is a gate between them. People will assault verbally, those people driving in the clinic, I guarantee it. Leopards don't change their spots. I invite you to really consider this and vote against it.

APRIL LINDINSKI: I reside at 536 s. Sunnyside Avenue, South Bend. I appreciate the time it takes to think about these kinds of zoning questions. I agree with Pam Clayes who just spoke and I would just remind all of us that not all development is good development and when Mr. Nusbaum said "some would say we selected this site because of its proximity to the proposed clinic Whole Health Women's Health Alliance a non-profit. I would be lying if I didn't say this was a consideration". So to me that is ungenerous in its spirit. There are lots of places where Women's Care Centers can open. They have been successful lots of places in the community. I agree they serve many people in our community and certainly they have many supporters. If you look at the evidence that you have in the letters and do any research at all Ms. Manion has mentioned that they have set up next to abortion clinics other places. That is true, this is part of a nationwide tact to set up right next to businesses that are in active conflict with. That to me is not good development. I would be surprised if that feels like good development to you or good for a neighborhood when it will we know from the action in Ironwood Circle it will absolutely mean police calls, it will mean noise, it will mean nuisance. Whole Women's Health Alliance carefully went into a place that was already zoned as a business. It has already been a medical facility. It has a private driveway. It is ready to be a quiet business. I would argue if you look at those letters and look just even a brief search about this kind of development that is putting these kinds of crises pregnancy centers directly next to abortion providers. It is not good development. There are lots of bad reasons and no real good ones to rezone a property specifically so a Women's Care Center can go in right next to this business. There are lots of other places that they can go to serve that side of town and I believe they are genuine in their desire to serve. I would urge you to vote no on this particular case for rezoning.

MITCH HEPPENHEIMER: I want you to remember what the issue is here today. This is what you are charged with. There are certain things you are supposed to consider and certain things you are not supposed to consider today at this time. It is in your packet. It is on the report. We are talking about the usage of the property as it being residential, office, commercial. Things like that, not the specific uses and the issue. We are not here to deal with the other underlying issues that everyone is bringing up. That is not your charge. Your charge, by our ordinance, is the uses of the property as to commercial residential, office. It talks about the current condition and the character of the property. It talks about the desired use, office versus commercial. Nothing about this intended use or about what is going to happen, what isn't going to happen. It talks about the conservation of property values, responsible growth in the neighborhood. That is what we are talking about. Land use is about that, not the specific land uses as far as these other underlying issues. That is not your consideration today.

REBUTTAL

DICK NAUSSBAUM: I think it would be counterproductive and against what Mr. Heppenheimer said if I start going down the path of some of the things that were said in the remonstrance. I think we stand by our petition, we stand by our years of success and able to be good neighbors and neighborhood. I will just leave it at that.

ROBERT HAWLEY: My question is about the facility itself. How much needs to be done in the way to put it in the condition you need it and what would be your target date to have it ready to go?

MARTY MURPHY: I am with Alliance Architect. The building is very attractive to us because of the residential scale and character and in very good condition within. We propose to build an addition to the north of that to do a couple of things, to get the relationship between the greeter and the front door, then also we do need more space. The house wasn't big enough by itself.

ROBERT HAWLEY: What would be a target date to be ready to open?

MARTY MURPHY: We think we could have it under construction maybe in six weeks.

OLIVER DAVIS: My concern is that there were statements that a lot of people walk to the current site. I do have some concerns of just that of them walking up Lincoln way where there is no sidewalks. Speaking to those in opposition, I would like you to consider what our Attorney just shared. Those are kind of things that if you are going to share that argument, which I do understand that argument, you have to figure out how to deal with that when it comes down to some zoning issues. Zoning issues and First Amendment issues are in two different ball games. That is the issue that we have to deal with here. I appreciate our attorney's comments regarding that.

STEVE VOJTKO: Is the only access going to be from Lincoln Way, or will there be anything from Elwood as far as car traffic?

JOHN DELEE: It is on the site plan, you can look at the powerpoint. There is only one entrance, well there is one on the back.

ALL: No. That is just a turn around.

JOHN DELEE: So there is just one entrance off of Lincoln Way.

STEVE VOJTKO: I just know being that close to the intersection you can get traffic backed up when you turn to go in the opposite direction. It could be a little of a challenge sometimes.

ANGELA SMITH: Currently the only access is along Lincoln Way West. If they wanted to access Elwood they would have to petition or try to get a curb cut through the Engineering Department.

JACOB HOLLOWAY: Is there parking on the street?

JOHN DELEE: What?

JACOB HOLLOWAY: Where are they parking?

JOHN DELEE: There is a parking lot with 15 spots.

JOHN LESZCZYNSKI: Twenty one parking spots.

JOHN DELEE: There are 21 parking spots on the property.

JACOB HOLLOWAY: On the property?

JOHN LESZCZYNSKI: They are only required 15 parking spots.

JACOB HOLLOWAY: They are already there?

JOHN DELEE: Yes.

ANGELA SMITH: They are proposed.

JACOB HOLLOWAY: Ok.

After due consideration, the following action was taken:

A motion was made by John Leszczynski, being seconded by Martin Madigan to send this to the Common Council with a FAVORABLE recommendation. The motion failed due to lack of votes.

JACOB HOLLOWAY: I feel there are more questions that need to be answered. I didn't receive the information that I feel I have to make a decision.

A motion was made by Oliver Davis, being seconded by Robert Hawley to send this to the Common Council with an UNFAVORABLE recommendation. The motion failed due to lack of votes.

Upon a motion by Oliver Davis, being seconded by Jacob Holloway and unanimously carried, a proposed ordinance of Women's Care Center, Inc. to zone from SF1 Single Family & Two Family District to OB Office Buffer District, property located at 3527 Lincoln Way West, City of South Bend, is sent to the Common Council with a NO RECOMMENDATION.

- E. A proposed ordinance of Golden Realty, LLC to zone from A: Agricultural District to M: Manufacturing Industrial District, property located at the southeast corner of Edison Road and Walnut Road, St. Joseph County - APC# 2860-17.

ANGELA SMITH: The petitioner is requesting a zone change from A: Agricultural District to M: Manufacturing Industrial District. On site is an agricultural field zoned A: Agriculture District. To the north, across Edison Road, is an agricultural field and industrial building zoned GI: General Industrial District (New Carlisle). To the east is a warehouse and distribution center on a parcel zoned M: Manufacturing Industrial District. To the south is an agricultural field zoned A: Agriculture. To the west, across Walnut Road, is an agricultural field zoned A: Agricultural District. The M: Manufacturing Industrial District is established to provide for development of manufacturing and processing facilities or facilities which may require substantial amounts of outdoor storage or outdoor operations. Permitted uses in this district tend to generate heavy traffic and require extensive community facilities. Permitted uses in this district may require extensive amounts of outdoor storage or outdoor operations. The permitted uses provided for in this district

should be separated from residential districts or low intensity commercial / mixed use districts by less intense industrial districts. The site plan shows the site with the proposed office building, concrete plant, outdoor storage area and required parking. The proper foundation and perimeter landscaping is shown. The 50' right of way for Edison Road requested by St. Joseph County is also taken into consideration. The parcels to the north, east, and west have been rezoned for industrial uses, between 1987 and 2013. Edison Road has two lanes. Walnut Road has two lanes. The intersection of Edison and Walnut is a four way stop. The site will be served by New Carlisle for drinking water and South Bend for sanitary sewer. The Town of New Carlisle Public Works is unsure of the overall water volume and flow rates that are needed for this project. Therefore, a discussion on how the project intends to supply their non-drinking water needs will be required. Public Works is curious if they intend on procuring water for the concrete batching process from the Town of New Carlisle or are they considering an onsite well to satisfy their non-drinking water needs. This requires more discussion as this site is adjacent to or within the Well Head Protection Area. The petitioner is not proposing any written commitments. The Comprehensive Plan for South Bend and St. Joseph County, Indiana (2002). Goal 2, Objective A states: Ensure that suitable areas are available for future industrial development. The land use plan identifies this area for industrial growth. There are no other plans in effect for this area. There are no structures on the site currently. This area of Edison Road has developed as a mix of industrial and agricultural uses. The most desirable use for this parcel would be industrial. Property values should be unaffected in this area by the proposed development. It is reasonable development and growth to encourage industrial development in this area of the county. The Staff has no further comments at this time. Based on information available prior to the public hearing, the Staff recommends this petition be sent to the County Council with a favorable recommendation. Rezoning the site to M: Manufacturing District would correspond to the Comprehensive Plan and match the existing uses in the surrounding area. This site is in an area transitioning to industrial uses.

BRIAN MCMORROW: I am with Abonmarche Consultants. Offices located at 715 Lincoln Way West, South Bend. I think the staff report accurately summarizes our proposal. The plans you are looking at summarizes our proposal. That would be our initial development. At best our client sees only probably using about half of the property. We have been asked by the County to dedicate some right-of-way after we purchase the property along Edison Road, and also provide an easement along the south or left side of the property for future development purposes. We are happy to cooperate in that objective. We noted in the staff report, a question about whether or not we would go well water or public water. It is our intention to go to New Carlisle and seek public water system to serve our purposes. If we get a favorable recommendation this afternoon we are going to advance our designs. If approved at the Council we hope to break ground before summer time.

IN FAVOR

BILL SCHALLIOL: I am the St. Joseph County Economic Development Director. Office located on the 11th floor of the County City Building. We are very supportive of this project, this is the first of many projects that you are going to see come through Area Plan this year. We are very excited about this, we think it is a great fit. Back in September we were down in North Carolina meeting with the prospect. One of the ten premier questions they asked was proximity to a batch plant, so the ability to have a plant within about a half mile of their site is certainly a key and certainly a good opportunity for us. We anticipate a lot of development to that area so having a concrete plan in the park is certainly going to be a win. Also, I want to touch on the right-of-way that we requested. Our goal is to have a 100 foot right-of-way on Edison Road so the ability to work with the developer on this is a win for the County and win for the project area.

REMONSTRANCE

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

STEVE VOJTKO: The only question we had as the Town of New Carlisle was is there going to be any crushing of concrete and I was assured there was not. Possibly I know we can't do it but try to direct as much traffic to U.S. 2 as much as possible and they assured me that they would try to do that the best they can. The water issue, I told them that we had a state of the art water treatment plant right across the street so given those things there one question that is in our wellhead protection area, but as I understand the Health Department will address that at a later time. If it even needs to be addressed. Talking to our Town Council they are full recommendation of this project.

After due consideration, the following action was taken:

Upon a motion by Steve Vojtko, being seconded by Robert Hawley and unanimously carried, a proposed ordinance of Golden Realty, LLC to zone from A: Agricultural District to M: Manufacturing Industrial District, property located at the southeast corner of Edison Road and Walnut Road, St. Joseph County, is sent to the County Council with a FAVORABLE recommendation. Rezoning the site to M: Manufacturing District would correspond to the Comprehensive Plan and match the existing uses in the surrounding area. This site is in an area transitioning to industrial uses.

ITEMS NOT REQUIRING A PUBLIC HEARING

ROBERT HAWLEY: I have a question for Mitch. What you brought up and before the meetings start, generally, we offer to the people out there the number on our Board and how many we need to have pass favorably or unfavorably. We did not do that today. I am not pointing fingers at anyone but we didn't mention that today and I wonder if that would have been something that we should of pointed out today because of the number of Board members here present. It may have made a difference in the vote.

MITCH HEPPENHEIMER: We get RSVP's before the meetings and we anticipated being nine Board members present. Maybe one of the reasons we...I don't know. I don't recall us doing it. If we did. It was certainly anticipated that we were going to have nine instead we had eight. That would have made somewhat of a difference. We still needed eight and you know where is that line Bob?

JOHN DELEE: I don't think it would of made any difference.

ROBERT HAWLEY: No. I am not saying that we would give them the opportunity, do you want to move forward with it or would you rather wait till next month.

ANGELA SMITH: I think that comes up more with the Area Board of Zoning Appeals because they are the final deciding board. In this case, you are making a recommendation and they weren't asking for any variances. I think that is why there is a difference as to why the Area Board of Zoning Appeals makes such a big deal about that.

ROBERT HAWLEY: You made if perfectly clear to me. Thank you.

1. Miscellaneous:

2. Executive Director's Report:

LARRY MAGLIOZZI: Last year when we passed the Town of Lakeville Zoning Ordinance and the Zoning Map, both the Town and the staff realize that one of the properties that is being used as a multi-family property was missed. Their original intent was for the map to reflect all of the existing multi-family properties to be zoned multi family and both sides missed this one on this particular property so they are requesting us to go back and initiate a rezoning from Single Family District to Multi Family District.

After due consideration, the following action was taken:

Upon a motion by Oliver Davis, being seconded by Elizabeth Maradik authorization to initiate a rezoning from single family back to multi family district was approved.

3. Minutes and Expenditures:

- A. Approval of the minutes from November 2017, December 2017 and January 2018.

STEVE VOJTKO: Since I wasn't here for two of those minutes, I have to abstain?

MITCH HEPPENHEIMER: I usually do for minutes for a meeting that I have not attended.

STEVE VOITKO: Since I have to abstain we can't pass them today.

OLIVER DAVIS: I wasn't here for one of the meetings as well.

MITCH HEPPENHEIMER: We don't have enough members here today that were present at those particular meetings so we can't approve them today.

B. Approval of the expenditures from January 17 – February 20, 2018

Mishawaka Enterprise - \$33.51; \$13.69; \$67.47; \$35.86, Office Three Sixty - \$45.50; \$33.89, SJC Highway Dept. (Gas) - \$25.05; 34.98

After due consideration, the following action was taken:

Upon a motion by Robert Hawley, being seconded by Oliver Davis and unanimously carried, the expenditures from January 17 – February 20, 2018 were approved.

4. Adjournment: 5:00 p.m.



JOHN DELEE,
VICE PRESIDENT OF THE COMMISSION



LAWRENCE P. MAGLIOZZI,
SECRETARY OF THE COMMISSION