

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

MINUTES

Tuesday, May 15, 2018
3:30 p.m.

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

MEMBERS PRESENT:

Dan Brewer, Oliver Davis, John DeLee, Adam
DeVon, Martin Madigan, Elizabeth
Maradik, John R. McNamara, Matthew
Peterson, John Leszczynski, Jacob Holloway

MEMBERS ABSENT:

Debra Davis, Robert Hawley, Jordan
Richardson, Dr. Jerry Thacker, Steve Vojtko

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 Delta One Properties, LLC to zone from LB Local Business District to CB Community Business District and seeking a Special Exception Use to allow automobile sales, and seeking the following variance(s): 1) from the required foundation landscaping to none; 2) from the required parking lot screening to none; 3) from the required interior off-street parking area landscaping to none; and 4) from the maximum allowed 4' fence to 6' fence with barbed wire, property located at 1619 South Michigan Street, City of South Bend - APC# 2865-18. *(Audio Position 2:49)*

JORDAN WYATT: The petitioner is requesting a zone change from LB Local Business District to CB Community Business District, seeking a Special Exception Use and seeking 4 variances from the development standards. On site is a carry out restaurant. To the north, across an alley, is a vacant business zoned LB Local Business District. To the east, across Michigan Street, are single-family homes zoned MU Mixed Use District. To the south is a Family Dollar zoned LB Local Business District. To the west, across an alley, are properties zoned LI Light Industrial District. 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. The site plan shows that the building and parking lot will remain. The parking lot will be used for parking for the restaurant and display spaces for the car dealership. The properties across Michigan Street were rezoned with the adoption of the MU Mixed Use District in 2004. The site is adjacent to an alley on the north and west. Michigan Street is two lanes, with on-street parking and a center turn lane. The site is served by municipal water and sewer. The Department of Community Investment offers an unfavorable recommendation of the rezoning. This section of Michigan Street should feature fairly walkable land uses compatible with an urban neighborhood. The proposed zoning is inconsistent and more intense than all of the neighboring properties. Development standards of the proposed zone, including sign regulations, could lead to disjointed development. Should the Commission or Council

approve the rezoning and variances, DCI recommends the following to mitigate any negative impacts: 1) Offer a written commitment to limit the number of vehicles to 27 as shown on the site plan; 2) In lieu of providing foundation landscaping, add 1-2 replacement trees in the public tree lawn; 3) In lieu of providing full parking lot screening, provide landscaped areas with 3' hedges at the northeast corner of building and the northeast corner of the lot; 4) Install landscaped island to separate the restaurant spaces from the display spaces along the north property line; and 5) Bring the fence into compliance which is a maximum 4' in height and no barbed wire. The petitioner is not proposing any written commitments. The proposed rezoning is inconsistent with City Plan, South Bend Comprehensive Plan (2006) Policy UD 4: Improve the character of the community's entryways and corridors and Policy LU 2.3: Ensure coordination of land uses among adjacent area-specific plans. The Future Land Use Plan identifies this area for mixed use development. The Southeast Neighborhood Master Plan (2015) calls for commercial uses to be located along major corridors. Strategy 1 states: Create pedestrian-friendly streetscapes along community corridors. Michigan Street has been a major commercial corridor for the neighborhoods south of downtown, with a mix of commercial and residential uses. The most desirable use for this site would be low intensity commercial developments that serve the needs of the surrounding neighborhood. The approval of this rezoning for a car dealership would not conserve the value of the surrounding properties. It is not responsible development and growth to approve this rezoning. The proposed zone has development standards and uses that are out of character for this neighborhood. The staff has no additional comments at this time. Based on information available prior to the public hearing, the staff recommends the rezoning and Special Exception Use be sent to the Common Council with an unfavorable recommendation. Staff recommends denial of the variances. Rezoning this property to CB Community Business District could lead to development that is out of character for this section of Michigan Street and create an environment that opposes the community's vision outlined in the Comprehensive Plan.

BERNARD FEENEY of Lang, Feeney & Associates with offices located at 715 S. Michigan Street, South Bend, presented on behalf of the petitioner.

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.

REBUTTAL

BERNARD FEENEY presented the rebuttal.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Matthew Peterson and unanimously carried, a proposed ordinance of Delta One Properties, LLC to zone from LB Local Business District to CB Community Business District, property located at 1619 South Michigan Street, City of South Bend, is sent to the Common Council with a UNFAVORABLE recommendation. Rezoning this property to CB Community Business District could lead to development that is out of character for

this section of Michigan Street and create an environment that opposes the community's vision outlined in the Comprehensive Plan.

Upon a motion by John McNamara, being seconded by Oliver Davis and unanimously carried, a Special Exception Use for automobile sales property located at 1619 South Michigan Street, City of South Bend, was sent to the Common Council with an UNFAVORABLE recommendation.

Upon a motion by Oliver Davis, being seconded by John DeLee and unanimously carried, the variance(s) 1) from the required foundation landscaping to none; 2) from the required parking lot screening to none; 3) from the required interior off-street parking area landscaping to none; and 4) from the maximum allowed 4' fence to 6' fence with barbed wire property located at 1619 South Michigan Street, City of South Bend, were denied.

- B. A proposed ordinance of TOPP Property Management LLC to zone from O/B: Office/Buffer District to O: Office District, property located at 13388 SR 23, St. Joseph County - APC# 2867-18. *(Audio Position: 19:19)*

JORDAN WYATT: The petitioner is requesting a zone change from O/B: Office/Buffer District to O: Office District. On site is a former church building and rectory used for offices. To the north, across State Road 23 is a daycare and single-family homes zoned R: Single Family District. To the east are single-family homes 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 C: Commercial District and several homes zoned R: Single Family District. The intent of the O: Office District is to provide specific areas where only certain limited offices and businesses may be developed. Since the district excludes retail 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 commercial developments. The O: Office District is expressly intended to be limited to the area in association with commercial areas, and the intersection of certain arterial streets, where a gradual transition from residential uses should occur, with other arterial and collector streets. O: Office uses and buildings shall be compatible in architectural type and style with adjacent residential uses and structures. The existing structures and parking will remain. The petitioner is not proposing any changes to the site at this time. Only the northern portion of the site will be rezoned. The remaining 780' will remain R: Single Family District. The property was rezoned to OB: Office Buffer District in 2016. The northern portion of the property to the west was rezoned C: Commercial District in 2006. The property to the northeast was zoned B: Business District in 2003 for a funeral home. Current zoning trends along State Road 23 in this area have moved toward commercial and office uses. State Road 23 is four lanes with a center turn lane. The site is currently served by private well and septic. The Health Department cannot concur if the septic will be adequate for the added use as a hair salon. They recommend a written commitment that will address this. The County Engineer notes that the Regional Water and Sewer District sewer is approximately 750 feet from the site. The staff is proposing the following written commitment: No additional user or increase in intensity of use shall be permitted unless approval has been granted by IDEM and ISDH. The petition is consistent with the Comprehensive Plan for South Bend and St. Joseph County, Indiana (April, 2002), Goal 2, Objective B: Locate employment uses in such a manner that conflicts with residential land uses are minimized. The future land use map identifies this area as residential. There are no other plans in effect for this area. The current conditions of State Road 23 in this area is primarily residential, but trends along this corridor have moved towards office and

commercial uses. The most desirable use for this property is for office uses. The site will remain in its current conditions which shouldn't adversely affect surrounding property values. It is responsible development and growth to allow office uses along major corridors as long as they are adequately served by the appropriate utilities. Rezoning the property to the O: Office District does not ensure the property is suitable for all uses within that district. The property owner will need to meet the appropriate public health and safety requirements of the Health Department. Based on information available prior to the public hearing, staff recommends the petition be sent to the County Council with a favorable recommendation, subject to the written commitment. Rezoning the property to O: Office District will follow the current zoning trends along the State Road 23 Corridor in this area. The O: Office District allows for office and some low intensity commercial uses that well suit this transitioning area.

DERON GERBER of 13388 State Road 23 presented on behalf of the petitioners.

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 John McNamara and unanimously carried, a proposed ordinance of TOPP Property Management LLC to zone from O/B: Office/Buffer District to O: Office District, property located at 13388 SR 23, St. Joseph County, is sent to the County Council with a FAVORABLE recommendation, subject to a written commitment that no additional user or increase in intensity of use shall be permitted unless approval has been granted by IDEM and ISDH. Rezoning the property to O: Office District will follow the current zoning trends along the State Road 23 Corridor in this area. The O: Office District allows for office and some low intensity commercial uses that well suit this transitioning area.

- D. A combined public hearing on a proposed ordinance of Four Horseman Ventures, LLC and Lyn Leone & Michael Holton to zone from R: Single Family District to R-2: Residential District and seeking the following variance(s): 1) from the required minimum lot area of 6,000 sq.ft. per dwelling unit to 2,640 sq. ft.; 2) from the required lot area for multi-family development of 5 acres to 4.22 acres; 3) from the required minimum front yard and building setback of 35' to 15'; 4) from the required minimum side yard and building setback of 10' to 0'; 5) from the required minimum rear yard and building setback of 40' to 20'; 6) from the required minimum lot frontage of 60' to 0'; 7) from the required minimum livable open space of 52% project area to 44%; and 8) from the required minimum required distance between building walls of 40' to 20', property located at 18644 Cleveland Road, 53062 & 53184 Bracken Fern Court, St. Joseph County - APC# 2868-18.
(Audio Position 27:21)

JORDAN WYATT: The petitioner is requesting a zone change from R: Single Family District to R-2:

Residential District and seeking 8 variances from the development standards. On site are single-family homes configured as a rental complex. To the north, across Cleveland Road, are single-family homes zoned R: Single Family District. To the east are single-family homes zoned R: Single Family District. To the south are single-family homes zoned R: Single Family District. To the west are single-family homes zoned R: Single Family District. The R-2 Districts are established to protect, promote and maintain the development of a wide range of housing opportunities ranging from single family dwellings to multifamily complexes as well as provide for other limited residential, public and institutional uses that are compatible with residential development, all in accordance with the comprehensive plan. The petitioner is proposing to develop this project as 34 single-family attached homes that will be subdivided into individual lots. Surrounding properties have been zoned R: Single Family District since the adoption of the current St. Joseph County Zoning Ordinance in 2005. The preliminary site plan shows two access points from Cleveland Road, which is four lanes. There will be an emergency only access from Bracken Fern Court. The site will be served by municipal water and sewer. The City Department of Public Works and the Health Department recommend approval. The County Engineer notes that commercial drive permits are required, detail on curbing will be needed for Bracken Fern Court, storm water calculations for on-site retention and SWPP are required. The staff is requesting the following written commitments: 1) That no garages will face Cleveland Road; 2) Type 1 Landscaping will be installed on the east and west property lines; 3) Type 2 Landscaping will be installed abutting Bracken Fern Court; and 4) Bracken Fern Court will only be used for emergency access. The proposed development is constant with the Comprehensive Plan for South Bend and St. Joseph County, Indiana (2002), Objective C, Policy i: Medium or high-density multi-family housing should be located along arterials with access to the arterial street or to a collector street; and Objective D: Encourage population growth within existing urban service areas. The Future Land Use Plan does not identify this area for any specific future growth. The Cleveland Road / State Road 23 Corridor Analysis (1989) identifies this site for multifamily or office development. Current conditions along Cleveland Road have been persistently residential in nature. The most desirable use for the site is residential uses. With adequate landscaping surrounding property values should not be affected. It is responsible development and growth to located denser residential uses along major corridors. The staff has no additional comments at this time. Based on information available prior to the public hearing, the staff recommends the rezoning be sent to the County Council with a favorable recommendation subject to the written commitments. The staff recommends approval of the variances. Rezoning the site to R-2 will allow for attached single-family dwellings to serve the market demand in the community. Multifamily uses are appropriate along the Cleveland Road corridor when proper access is provided and when landscaping and buffering are used to protect surrounding properties.

PETER AGOSTINO of Anderson Agostino & Keller, P.C. with offices located at 131 S. Taylor St., South Bend, IN presented on behalf of the petitioner.

MICHAEL DANCH of Danch, Harner & Associates with offices located at 1643 Commerce Drive, South Bend, IN, presented on behalf of the petitioner.

IN FAVOR

There were two people that spoke in favor of the petition saying that if proper landscaping were installed it would protect the surrounding properties, they were:

LYN LEONE of P.O. Box 1028, Notre Dame, IN.

EDWARD LEVY of 52963 Camellia Drive, South Bend, IN.

REMONSTRANCE

There were ten people that spoke in opposition of the rezoning. Their concerns were: 1) Height of the buildings and their privacy; 2) The development is too intense and out of character for this area; 3) Students living in the homes; 4) Traffic in the neighborhood and on Cleveland Road would increase and cause safety issues; and 5) Requiring more landscaping on the property boundaries to provide proper screening. They were:

HARRY STORMS of 53177 Fiddlehead Court, South Bend, IN.

Also read a statement from COLLIN ARMBRUSTER who resides at 53078 Fernwood Drive, South Bend, IN.

DANNA JONES of 53052 Fernwood Drive, South Bend, IN.

THOMAS JONES of 53052 Fernwood Drive, South Bend, IN.

PAM ADAMS PALLATIN of 53234 Bracken Fern Drive, South Bend, IN

SEAN O'BRIEN of 53112 Bracken Fern Court, South Bend, IN

DR. CYNTHIA KUJAWSKI of 18699 Comanche Drive, South Bend, IN.

THEMLA MEGILL-COBBLER of 53030 Fernwood Drive, South Bend, IN.

ROBERT SMITH of 53245 Bracken Fern Drive, South Bend, IN.

JOHN ARNDT of 53065 Fernwood Drive, South Bend, IN.

NIKOLAUS KLEBER of 53150 Holly Fern Court, South Bend, IN.

REBUTTAL

PETER AGOSTINO presented the rebuttal.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by John DeLee and unanimously carried, a proposed ordinance of Four Horseman Ventures, LLC to zone from R: Single Family District to R-2: Residential District, property located at 18644 Cleveland Road, 53062 & 53184 Bracken Fern Court, St. Joseph County, is sent to the County Council with a UNFAVORABLE recommendation.

Upon a motion by John McNamara, being seconded by John DeLee and unanimously carried, the variance(s) 1) from the required minimum lot area of 6,000 sq.ft. per dwelling unit to 2,640 sq. ft.; 2) from the required lot area for multi-family development of 5 acres to 4.22 acres; 3) from the required minimum front yard and building setback of 35' to 15'; 4) from the required minimum side yard and building setback of 10' to 0'; 5) from the required minimum rear yard and building setback of 40' to 20'; 6) from the required minimum lot frontage of 60' to 0'; 7) from the required minimum livable open space of 52% project area to 44%; and 8) from the required minimum required distance between building walls of 40' to 20' property

located at 18644 Cleveland Road, 53062 & 53184 Bracken Fern Court, St. Joseph County, were denied.

- E. A combined public hearing on a proposed ordinance of Mutual Bank (AKA MFB Financial) to zone from C: Commercial District to C: Commercial District and seeking the following variance(s): 1) to allow a trash enclosure between the front façade of the building and front lot line; 2) from the required 12' bail out lane in the drive through to none; 3) from the required five waiting spaces prior to the first occurrence of ordering or pickup for drive through facility to none; 4) from the required 15' minimum setback for parking and drive aisles to 5'; and 5) from the required foundation landscaping to none, property located at 13060 Adams Road, St. Joseph County - APC# 2869-18. *(Audio position 1:48:18)*

JORDAN WYATT: The petitioner is requesting a zone change from C: Commercial District to C: Commercial District and seeking 5 variances from the development standards. On site is a parking lot and a drive-up ATM. To the north, across Adams Road, is Mary Frank Elementary School zoned R: Single Family District and C: Commercial District. To the east are businesses zoned C: Commercial District. To the south, across State Road 23, are businesses zoned C: Commercial District. To the west is a Walgreens 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 preliminary site plan shows the ATM to stay in its current location. A 1,912 sq. ft. building will be constructed that will house a Jimmy John's and Dunkin Donuts. Adequate on-site parking and landscaping is shown. The properties to the south and southeast have been rezoned to C: Commercial District between the years of 1989 - 2007. Properties to the southwest along State Road 23 have been rezoned to B: Business District between the years of 2003 - 2015. The site can be accessed by Adams Road on the north, which has two lanes and a right turn lane into the parking lot. Access will also be available on the south by State Road 23, which has four lanes and a center turn lane. The site will be served by municipal sewer and private well. The County Engineer stated that a right-of-way permit will need to be obtained and adequate storm water calculations for runoff. The Health Department was unsure of where they would be able to locate their well in accordance with their distancing standards from other wells. The petitioner is not proposing any written commitments. The petition is consistent with the Comprehensive Plan for South Bend and St. Joseph County, Indiana (2002) Objective C: Develop quality business areas to meet the retail and service needs of the planning area. The Future Land Use Plan specifies this area for residential growth. There are no other plans in effect for this area. The intersection of State Road 23 and Adams Road has developed as a commercial node. The most desirable use for the site is commercial uses. The site is currently zoned and is adjacent to sites already zoned C: Commercial District thus surrounding property value should not be effect. It is responsible development and growth to place commercial uses at major intersections. The staff has no additional comments at this time. 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. Adequate access and proper landscaping shown on the site plan will allow the site to be developed without negative effects on the surrounding properties. Rezoning this property would allow them to fully utilize this underdeveloped commercial property. There was no one present to speak in remonstrance of this petition.

BRIAN MCMORROW of Abonmarche Consultants with offices located at 715 Lincolnway East, South Bend, IN. presented on behalf of the petitioner.

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 John DeLee and unanimously carried, a proposed ordinance of Mutual Bank (AKA MFB Financial) to zone from C: Commercial District to C: Commercial District, property located at 13060 Adams Road, St. Joseph County, is sent to the County Council with a FAVORABLE recommendation. Adequate access and proper landscaping shown on the site plan will allow the site to be developed without negative effects on the surrounding properties. Rezoning this property would allow them to fully utilize this underdeveloped commercial property.

Upon a motion by John DeLee, being seconded by John McNamara and unanimously carried, the variance(s) 1) to allow a trash enclosure between the front façade of the building and front lot line; 2) from the required 12' bail out lane in the drive through to none; 3) from the required five waiting spaces prior to the first occurrence of ordering or pickup for drive through facility to none and 4) from the required 15' minimum setback for parking and drive aisles to 5', property located at 13060 Adams Road, St. Joseph County, were approved.

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Miscellaneous:

There were no items up for consideration at this time.

2. Executive Director's Report: *(Audio position 1:56:00)*

LARRY MAGLIOZZI presented the Executive Director's Report.

3. Minutes and Expenditures: *(Audio position 1:58:15)*

A. Approval of the minutes from the April 17, 2018 meeting of the Area Plan Commission.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by John Leszczynski and unanimously carried, the minutes from the April 17, 2018 meeting of the Area Plan Commission were approved.

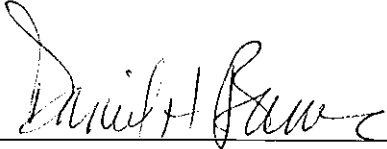
B. Approval of the expenditures for April 17 – May 15, 2018.

Dept. of Public Works (Gas) - \$37.73; Mishawaka Enterprise (Legals) - \$9.91; 9.44; 41.05; \$92.00

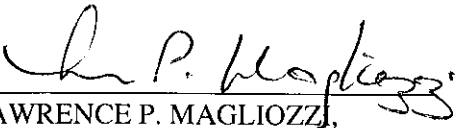
After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by John Leszczynski and unanimously carried, the expenditures from April 17 – May 15, 2018 were approved.

4. Adjournment: 5:29 p.m.



DANIEL H. BREWER,
PRESIDENT OF THE COMMISSION



LAWRENCE P. MAGLIOZZI,
SECRETARY OF THE COMMISSION