

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

**MINUTES**

June 21, 2022  
3:30 p.m.

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

**MEMBERS PRESENT:**

**MEMBERS ABSENT:**

**ALSO PRESENT:**

Adam DeVon  
John R. McNamara, P.E., L.S.  
James D. Moffitt  
Dr. Jerry Thacker  
Phil Sutton

Robert Hawley  
Elizabeth J. McCombs

Abby Wiles  
Shawn Klein  
Ryan D. Fellows  
Morgan Ealy  
Mitch Heppenheimer, Counsel

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

**1. REZONINGS:**

- 1 A proposed ordinance of ST JOE FARM LIMITED LIABILITY COMPANY to zone from A: Agricultural District to R: Single Family District, property located at 12000 CLEVELAND ROAD (on the south side of Cleveland Road on both the east and west sides of Bittersweet Road, County Parcel ID: 006-1023-0306), St. Joseph County - APC# 2975-22. *(Audio Position: 00:02:10)*

After due consideration, the following action was taken:

Upon a motion by John R. McNamara, P.E., L.S., being seconded by Dr. Jerry Thacker and unanimously carried 5-0, a proposed ordinance of ST JOE FARM LIMITED LIABILITY COMPANY to zone from A: Agricultural District to R: Single Family District, property located at 12000 CLEVELAND ROAD (on the south side of Cleveland Road on both the east and west sides of Bittersweet Road, County Parcel ID: 006-1023-0306), St. Joseph County is TABLED.

James Moffitt	Aye	Phil Sutton	Aye
Dr Jerry Thacker	Aye	John R. McNamara	Aye
Adam J. Devon	Aye		

- 2 A proposed ordinance of SOTO CONNIE E REV TRUST & AS TRUSTEE to zone from O: Office District to R: Single Family District, property located at 14042 STATE ROAD 23 HWY, St. Joseph County - APC# 2976-22. *(Audio Position: 00:03:24)*

Ryan Fellows: This property may look familiar. About a year or so ago, this property was rezoned from R: Single Family District to O: Office District. Just one of the two properties now is up for rezoning back to R. This is a caddy corner to the fire station as you might see it on the map. There's a picture of the property as a single-family home right now (referring to the slide). There it is along 23 and there's the site plan. Per the rezoning criteria, staff recommends approval. I would be happy to answer any questions and the petitioner's representative is here as well.

### PETITIONER

Terry Lang from Lang, Feeney, and Associates part of the Wightman Family: The petition before you, as Ryan had indicated, about a year and a half ago, this property came in right about the time when COVID hit. The rezoning that we had done to the office has shrunk since COVID hit. People are working from home. Interest in the parcel there has greatly diminished for an office-type use. We have a possible contingent purchaser if the property could be rezoned back to residential. The petition before you is to take it back to the original zoning for the residential use. As you see on the map, it's residential all the way around it except for the parcel right at the corner, so we're not impacting the area any more than what it was previously before.

### IN FAVOR

Sandy Hagen; Real Estate Broker with Rescom Properties at 23708 South Shore Dr in Edwardsburg MI: I listed both of the properties and the three vacant parcels to the rear of the two properties back in July of 2020. Shortly after COVID hit, we sold off the three vacant parcels to Larry Kline for Kline Custom Homes to be developed some time in the future. It was a real challenge trying to market and sell office when seventy percent of the population went home to work from home. Of course, the investors who were looking for a bargain came shopping and made several offers which were unacceptable to the owner. This one will be using it as her primary residence. I am asking you to vote in favor but be open-minded in the future in case something along 23 goes back to office when office gets back to normal. Thank you.

### 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 R. McNamara, P.E., L.S., being seconded by Phil Sutton and unanimously carried 5-0, a proposed ordinance of SOTO CONNIE E REV TRUST & AS TRUSTEE to zone from O: Office District to R: Single Family District, property located at 14042 STATE ROAD 23 HWY, St. Joseph County, is sent to the County Council with a FAVORABLE recommendation. Allowing the property to revert back to R: Single Family zoning is consistent with current conditions of the surrounding area.

James Moffitt	Aye	Phil Sutton	Aye
Dr Jerry Thacker	Aye	John R. McNamara	Aye
Adam J. Devon	Aye		

- 3 A proposed ordinance of ECUAMERICA PROPERTIES LLC to zone from B: Business District to C: Commercial District, unaddressed property containing approximately 0.5 acres located at the northwest intersection of State Road 23 and Herbert St, St. Joseph County - APC# 2977-22. *(Audio Position: 00:08:38)*

Ryan Fellows: This is along State Road 23 near the intersection with Herbert. It was a wooded lot. It has since been where the trees have been cut down. As you can see in the map, it's zoned commercial to the West and zoned business to the East. Here's along the road (referring to the slideshow). It's not the property that's paved; it's the property that's in the background strip that's the green. Here's a copy of the site plan showing where the property is. In looking the criteria of state law, including the Comprehensive Plan. It does show this area for residential, but it is currently being used commercially in this area. The current conditions along State Road 23 have transitioned to a mix of office and commercial use. Most desirable due to the commercial use for the immediate area and the preservation of growth and residential in the surrounding areas. This lot would be most desirably used for a commercial lot. Conservation of property values should not be affected by this rezoning. It is considered responsible development and growth to allow commercial uses in this area to take advantage of the transportation routes. Staff recommends that it be subject to health department approval in connection with the Granger community sewage system. The health department's report is included in the packet. The important part for the Health Department is that it is an existing well for the septic system. The lot would need to connect to the Granger sewer system. We're just asking that approval be based off from connection to the sewer system. I would be happy to answer any questions.

PETITIONER

Terry Lang from Lang, Feeney and Associates part of the Wightman Family: I'll give you a background here. The petition before you is that there is an existing insurance office there on the parcel to the West. He's been able to purchase the property that Ryan has described that has been vacant and was wooded for quite some time. They've cleared the trees and he's looking to expand the existing rear building around and making it an L-shaped building and provide additional small office type spaces in there that would fall within that zoning district with the commercial. We are anticipating connecting to the Granger sewer as the Health Department has indicated. The petition before you is to take the only parcel that's business zoned on that block and it's industrial to the North. It's commercial to the West across the street. It's not residential anywhere else other than diagonally Northeast of that location, so the impact to the area would be exactly what you are seeing out there right now in the small commercial offices in that area.

Abby Wiles: Terry, one thing that we saw when we were reviewing the site plan for the submittal is that the building is showing over the minimum setback. You would anticipate when you are ready to submit for commercial plan review that you'd go seek any variance(s) associated?

Terry Lang: Absolutely correct. It was just a preliminary drawing to show what's anticipated. I know that Herbert Street there located to the east is more of an alley than it is a street. I think the owner had talked with the planning staff about potentially seeking a variance. We put a plan together similarly to what he had described in his discussion with the planning department and that's what we're anticipating. It'll probably shrink a little bit from that once we get into the drainage and calculations for that portion and the required parking landscaping and things like that. It's just a concept of what's anticipated and will be adjusted according to the ordinance requirements.

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 R. McNamara, P.E., L.S., being seconded by Phil Sutton and unanimously carried 5-0, a proposed ordinance of ECUAMERICA PROPERTIES LLC to zone from B: Business District to C: Commercial District, property located at unaddressed parcel containing about 0.5 acres located at the northwest intersection of State Road 23 and Herbert St, St. Joseph County, is sent to the County Council with a FAVORABLE recommendation. Rezoning is supported by the Comprehensive Plan (2002) Goal 2: Encourage the economic development of the County and its municipalities. Especially Objective C: Develop quality business areas to meet the retail and service needs of the planning area.

James Moffitt	Aye	Phil Sutton	Aye
Dr Jerry Thacker	Aye	John R. McNamara	Aye
Adam J. Devon	Aye		

**2. TEXT AMENDMENTS:**

- 1 A proposed ordinance to revise wireless telecommunication facility abandonment and removal bonding, St. Joseph County - APC# 2979-22. *(Audio Position: 00:16:04)*

Shawn Klein: The County Zoning Ordinance requires a security fund or bond to be provided when a permit for a new cell tower facility is being pulled. Currently, the amount of that bond is 125% of the cost of construction for the facility. We've gotten several indications from people in the industry that this is excessive. We did some research of neighboring jurisdictions and we found that those that do require this type of removal bonding is usually based on the cost of demolition rather than construction. That's also true for several of the Area Plan Commission jurisdictions including Osceola, Lakeville, and North Liberty. What we want to do for the County is amend it so that it is no longer 125% of the estimated cost of construction but rather 125% the estimated cost for demolition. That is closer to what the County will actually need to pay to remove any towers should it become abandoned in the future. We recommend sending this to the County Council with a favorable recommendation. I can answer any questions.

John McNamara: Does the Plan Commission keep track of a bond?

Abby Wiles: For cell towers, solar, and wind, we've developed a process where we are working with Engineering and Merle is tracking it for us similar to how he tracks bonds for subdivision improvements. We've integrated anything that we would have the security fund out to be tracked by Merle.

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 R. McNamara, P.E., L.S., being seconded by Phil Sutton and unanimously carried 5-0, a proposed ordinance to revise wireless telecommunication facility abandonment and removal bonding, St. Joseph County, is sent to the County Council with a FAVORABLE recommendation. The amendment would remove an unnecessary impediment provision of improved telecommunications service in St. Joseph County while still ensure that there are adequate funds available to remove a tower should it become abandoned in the future.

James Moffitt	Aye	Phil Sutton	Aye
Dr Jerry Thacker	Aye	John R. McNamara	Aye
Adam J. Devon	Aye		

ITEMS NOT REQUIRING A PUBLIC HEARING

**1. Miscellaneous:** None

**2. Executive Director's Report:**

*(Audio Position: 00:19:56)*

Abby Wiles: Our next Comprehensive Plan public meeting is being scheduled for July 27, 2022. We're looking to host that at IUSB in partnership with the American Democracy Project. It will likely be at 4:30 p.m. and everyone will get notice of it when we finalize the location at IUSB. We're looking at which auditorium and classroom combination to host everything in.

**3. Minutes:**

*(Audio Position: 00:22:23)*

Upon a motion by John McNamara, being seconded by Phil Sutton and unanimously carried 5-0, to approve the minutes from May 17, 2022, Area Plan Commission meeting.

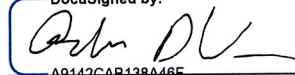
James Moffitt	Aye	Phil Sutton	Aye
Dr Jerry Thacker	Aye	John R. McNamara	Aye
Adam J. Devon	Aye		

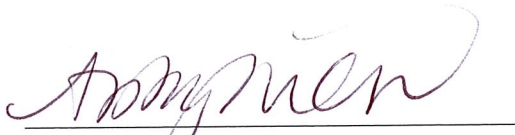
**4. Adjournment:**

*(Audio Position: 00:32:19)*

Upon a motion by John McNamara, being seconded by Phil Sutton and unanimously carried 5-0, Area Plan Commission meeting adjourned at 4:02 p.m.

James Moffitt	Aye	Phil Sutton	Aye
Dr Jerry Thacker	Aye	John R. McNamara	Aye
Adam J. Devon	Aye		

DocuSigned by:  
  
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 Adam DeVon,  
 President of the Commission

  
 Abby Wiles,  
 Secretary of the Commission