

THE AREA PLAN COMMISSION OF
ST. JOSEPH COUNTY, INDIANA

MINUTES

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KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

Tuesday, September 20, 2016
3:30 p.m.

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

MEMBERS PRESENT:

Dan Brewer, Debra Davis, Oliver Davis, John DeLee, Adam DeVon, Robert Hawley, Elizabeth Maradik, John R. McNamara, Matthew Peterson, Phil Sutton, Dr. Jerry Thacker

MEMBERS ABSENT:

Karen Iovino, Gerry Phipps, Jordan Richardson, Steve Vojtko

ALSO PRESENT:

Larry Magliozzi, Keith Chapman, Angela M. Smith, Jennifer S. Parcell, Staff; Mitch Heppenheimer, Counsel

DAN BREWER: I would like to ask the Commission for a motion to (hear item C before Item B) on the agenda. The reason we are doing this is to make more efficient use of our time. It is likely that item B will take longer than the other item.

After due consideration, the following action was taken:

Upon a motion by Oliver Davis being seconded by Elizabeth Maradik and unanimously carried Item B will be moved to item C on the agenda.

PUBLIC HEARING - 3:30 P.M.

1. REZONINGS:

- A. A combined public hearing on a proposed ordinance of Cook Land Group LLC to zone from LI Light Industrial District to GB General Business District, and seeking the following variance(s): 1) from the required perimeter landscaping to none, property located at 4246 Meghan Beehler Court, City of South Bend - APC# 2793-16.

KEITH CHAPMAN: The petitioner is requesting a zone change from LI Light Industrial District to GB General Business District and seeking one variance from the development standards. On site is an existing sales and service building. To the north is a vacant lot zoned LI Light Industrial. To the east is a parking lot zoned LI Light Industrial. To the south is an industrial building zoned LI Light Industrial. To the west of Meghan Beehler is an industrial building zoned LI Light Industrial. The GB General Business 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 GB 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. On site is an existing 18,000 sq. ft.

building, located on 5.32 acres. There is an existing parking lot and sales storage area along the north and west of the building. This property was rezoned from Light Industrial and Residential to Light Industrial in 2000. Meghan Beehler Court has two lanes. This site is served by municipal water and sewer. The Department of Community Investment offers a favorable recommendation, assuming that the GB General Business District permits all of Superior's uses for the property. With the rezoning, the property should meet the present parking and landscaping standards. The petitioner is not proposing any written commitments. The petition is consistent with City Plan, South Bend Comprehensive Plan (November 2006) Objective ED 2: Retain existing businesses and recruit new ones to the city. The future land use map identifies this area as light industrial. There are no other plans in effect for this area. The surrounding properties are industrial uses. The most desirable use is one that allows for the continuation of an existing business. The surrounding properties are industrial and should not be adversely affected. It is responsible growth and development to allow an existing business to continue operating and expand to include the addition of on-site sales. The staff has no additional comments. Based on information available prior to the public hearing, the staff recommends that the rezoning petition be sent to the Common Council with a favorable recommendation. The staff recommends approval of the variance, subject to providing the required perimeter landscaping along the front property line. Rezoning this property to GB General Business will allow for an existing business to continue operations and expand to include on-site sales of motor vehicles, a use which is compatible with the surrounding industrial uses.

GARRY POTTS: I am the owner of Professional Permits. Offices at 58171 Dragonfly Court, Osceola. What Superior Van has done is moved from a location within the Industrial Park to that location around December. They have remodeled the property and when it was time for them to apply for their dealer license the new ordinance requires it to go before the City for zoning approval. That is when it was determined that their new building that they had just remodeled was zoned incorrectly for their use of GB. That is why we are here today.

IN FAVOR

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

REMONSTRANCE

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

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Oliver Davis and unanimously carried, a proposed ordinance of Cook Land Group LLC to zone from LI Light Industrial District to GB General Business District, property located at 4246 Meghan Beehler Court, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. Rezoning this property to GB General Business will allow for an existing business to continue operations and expand to include on-site sales of motor vehicles, a use which is compatible with the surrounding industrial uses.

Upon a motion by John DeLee, being seconded by Oliver Davis and unanimously carried, the variance(s) 1) from the required perimeter landscaping to none, property located at 4246 Meghan Beehler Court, City of South Bend, was approved 1) subject to

providing the required perimeter landscaping along the front property line and 2) the rezoning being approved.

- B. A combined public hearing on a proposed ordinance of Mark Osler, Kare Bear Learning Center, Inc. and MM Brandon LLC to zone from R: Single Family District, C: Commercial District and M: Manufacturing Industrial District to M: Manufacturing Industrial District and seeking a Special Use to allow storage, loading and hauling of sand, gravel of other aggregate and processing facility, and seeking the following variance(s): 1) from the required 50' minimum yards and building setback adjacent to residential to 40'. for the front and 10' for side and rear; 2) from the required 50' minimum setback from any property line for material storage and processing to 10'; 3) from the required screening of outdoor storage and operations to fencing and landscaping as shown on site plan; 4) to allow the outdoor storage to exceed the height of the fence, provided the storage does not exceed 30' in height; 5) from the required type 2 landscaping of required yards abutting residential to as shown on site plan; 6) from the required foundation landscaping to none and 7) from the required parking area screening of a side lot line abutting a residential district or use to none, property located at 10261, 10289 and 10343 McKinley Highway, St. Joseph County - APC# 2795-16.

KEITH CHAPMAN: The petitioner is requesting a zone change from R: Single Family District, C: Commercial District and M: Manufacturing Industrial District to M: Manufacturing Industrial District; a Special Use; and 7 variances from the development standards. On site is the existing Indiana Earth complex and a single family residence zoned M: Manufacturing Industrial District, R: Single Family District, and C: Commercial District. To the north is a railroad line and farmland zoned R: Single Family District. To the east is a motor vehicle business zoned M: Manufacturing Industrial. To the south across McKinley Highway are single family residences zoned R: Single Family District. To the west is a fire station zoned M: Manufacturing Industrial District, single family residences zoned R: Single Family District, and businesses zoned C: Commercial 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 is located on approximately 19.21 acres. On site there is a 14,975 sq. ft. one story building, a 3,360 sq. ft. office, three storage buildings, a 7,700 sq. ft. pole barn, and a watchman house. There are several areas shown as material storage and processing. There is also an area designated as equipment storage on the north side of the site behind the neighboring single-family home. These areas are all located behind the primary buildings on the site and start approximately 425' back from the front property line. The current Indiana Earth property was zoned to "C" Commercial from "R" Residential in 1990. The property was rezoned to "M" Manufacturing in 1995. The south portion of the former Kare Bear site was rezoned to "C" Commercial in 1983 for retail and was residential prior to that. The single family residence has been zoned residential since 1976. McKinley Highway has 2 lanes. This site will be served by private well and septic. INDOT commented that engineers will look to approve the drives when applying for a permit. The County Health Department recommends approval and commented that the proposed "office" sewage disposal method and water source is not indicated. The buildings are surrounded by concrete pavement. To develop, document method of sewage disposal and water source. If intending to connect to existing well, add to plans. To connect to existing septic system, must provide number of potential employees in each building with facilities, obtain septic inspection from a licensed

contractor to evaluate and document the current system and submit to the Indiana State Department of Health to determine the required daily design flow and if the existing septic system is sufficient to meet these requirements. The County Engineer recommends approval however, prior to final site plan approval the following will need to be submitted for review and approval: 1) Provide drainage and volume calculations for entire site that meet requirements. 2) Driveway construction shall conform to standards. 3) McKinley Highway is to be reconstructed and widened in this area in the near future. Plan preparer shall coordinate with DLZ (Ryan Carrington) to ensure driveway locations are correctly updated. 4) If land disturbing activities are over 1 acre, then a Storm Water Pollution Prevention Plan shall be required. The petitioner is not proposing any written commitments. The petition is consistent with Comprehensive Plan for South Bend and St. Joseph County, Indiana (April 2002) Goal 2 Encourage the economic development of the County and its municipalities. Objective A: Ensure that suitable areas are available for future industrial development. The future land use map identifies this area as Industrial Reserve. There are no other plans in effect for this area. The site is currently operating as an excavating business. Although there are single family homes abutting the property, to the east is a motor vehicle service, sales, and salvage yard, and multiple commercial businesses to the west. The most desirable use is industrial. The surrounding property values may be affected. Impact on surrounding properties should be reduced through screening and buffering. It is responsible development and growth to maintain and establish the area as industrial. The staff has no additional comments. Based on information available prior to the public hearing, the staff recommends the petition be sent to the County Council with a favorable recommendation. Based on information available prior to the public hearing, the staff recommends that the special use petition be sent to the County Council with a favorable recommendation. The staff recommends approval of the variances. Rezoning these properties to M: Manufacturing Industrial will allow for the extension of an existing industrial business in an area surrounded with multiple commercial and industrial uses.

MIKE DANCH: I am with Danch, Harner & Associates with offices located at 1643 Commerce Drive. Indiana Earth would like to do an expansion for properties that they have. He is going to purchase or is under land contract for the property to the east and the adjacent one. There is an existing excavation company that is on the west ten acres. We would like to basically take in the entire 18.1 acres and do exactly the same thing that you see out there right now, which is hauling and gravel processing. What we are doing is taking the properties to the east of us which is residential and commercial and moving those over to the Manufacturing, but we are also asking for a special exception to allow them to do processing. The storage that you see there now is allowed in Manufacturing, but due to the way the ordinance is written, to move to that next step, to do processing where they bring basically concrete or items on site, reduce them down to the finer materials so that they can be used for aggregate and they can use them for selling we have to have a special use approved for that particular process. That is the portion of the ordinance that we are asking the Commission for a favorable recommendation. The site itself, they have been there since 1995. I think I was the one that rezoned their property in 1995 to allow for that operation. The site plan that you saw shows the expansion of what we are asking to do. There would be two access points onto McKinley. There is an existing access point on the west side of the property. On the east side they would be doing an additional driveway opening to allow the trucks to come in and exit the site. That particular driveway opening will also be approved by the state of Indiana. Since this is a State Highway we have to have approval for that opening. I think that was part of the Staff Report. We will be working with the County Engineer and DLZ on that portion. DLZ is doing an improvement plan for the State Highway right now. What the County has asked us to do, assuming we receive approval for this particular rezoning, is to provide DLZ with information for that additional driveway opening on the east side of the property. The other item that we are asking for are the seven variances. We had been working with them on this particular one. Mainly, what we are asking for on the variances are relaxation and flexibility on the surrounding property lines that we have for the property. We are up against residential to the north, which are basically farm ground. Because that is zoned

residential, we would be required due to the use of this operation to have a double row of evergreens around the entire perimeter of this site. What we would be able to do here is asking for a variance to have flexibility. We are going to use existing landscaping along the west side and the east side, because we are up against manufacturing to the east of us as well, there is similarity between the uses. To the north there is a railroad line before you actually get to the residential. What we had shown there with the staff is a row of evergreen trees along that entire area, just to be able to buffer this particular site from that residential area if that were able to be developed, keeping in mind that there is a railroad right of way between us before you get to that residential to the north. The other setbacks, what we did with the staff on the height of the material, the way the ordinance is written is that any fencing that you have out there, your material are limited to the height of the fencing. We worked with them to allow us to have the materials to maximum height of 30 feet. That 30 feet has to be at least 50 feet back from the property lines. Again, that was just to reduce the mass or view from any adjacent property into this particular site. We have added that setback in that node on the site plan that we have done. What Mark would also like to do is, there are a couple of additional buildings that would be added on the eastern portion of the site that would be a pole barn and a new office facility. We would work with the Health Department on that part for supplying a new well and a new septic field for that particular addition at the time they decide to do that. The other landscaping that we are doing again, along the front we put in parking areas. We are screening those per the zoning requirements. There would be a buffer between McKinley and where that parking area would be located. The one thing that the Staff had asked us to do is keep the Type 2, which is the evergreen screening, between us and the closest residential property which is at our southwest corner. Mr. Osler is actually working with that gentleman at some point in order to be able to purchase that property. Because right now it has a residential use, the staff asked us to go ahead and screen that with evergreens. The other variance that we had was a foundation and that was for an existing building and the proposed office area. Again, under the zoning ordinance you are required to have a six foot landscape area in front of a building. When you have an industrial use you don't have the same kind of turn over you do for a commercial or industrial operation. So we are asking for that variance. The existing building that is there is now wasn't required to have that, so because we are going through the rezoning process we need to ask for that variance.

JOHN MCNAMARA: Where is the Kare Bear facility?

MIKE DANCH: The Kare Bear is the center piece of property that is going from residential to commercial.

JOHN MCNAMARA: It is not on this property?

MIKE DANCH: No it is not on this property. It is right in between.

JOHN MCNAMARA: The red stuff (referring to the powerpoint)?

MIKE DANCH: Yes.

JOHN MCNAMARA: There is a fire station out there?

ANGELA SMITH: It was zoned for a fire station at one time.

IN FAVOR

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

REMONSTRANCE

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

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Oliver Davis and unanimously carried, a proposed ordinance of Mark Osler, Kare Bear Learning Center, Inc. & MM Brandon LLC to zone from R: Single Family District, C: Commercial District and M: Manufacturing Industrial District to M: Manufacturing Industrial District, property located at 10261, 10289 and 10343 McKinley Highway, St. Joseph County, is sent to the Common Council with a FAVORABLE recommendation. Rezoning these properties to M: Manufacturing Industrial will allow for the extension of an existing industrial business in an area surrounded with multiple commercial and industrial uses.

Upon a motion by John DeLee, being seconded by Oliver Davis and unanimously carried, a Special Use for storage, loading and hauling of sand, gravel or other aggregate and processing facility property located at 10261, 10289 and 10343 McKinley Highway, St. Joseph County, was sent to the County Council with a FAVORABLE RECOMMENDATION, subject to the rezoning being approved.

Upon a motion by John DeLee, being seconded by Oliver Davis and unanimously carried, the seven variance(s) 1) from the required 50' minimum yards and building setback adjacent to residential to 40', for the front and 10' for side and rear; 2) from the required 50' minimum setback from any property line for material storage and processing to 10'; 3) from the required screening of outdoor storage and operations to fencing and landscaping as shown on site plan; 4) to allow the outdoor storage to exceed the height of the fence, provided the storage does not exceed 30' in height; 5) from the required type 2 landscaping of required yards abutting residential to as shown on site plan; 6) from the required foundation landscaping to none and 7) from the required parking area screening of a side lot line abutting a residential district or use to none were approved, subject to the rezoning being approved by the County Council.

- C. A proposed ordinance of Commerce Center Development, LLC and East Bank South Bend Development LLC to zone from CBD Central Business District to PUD Planned Unit Development District, property located at 401 East Colfax Avenue, 228, and 230 Sycamore Street, City of South Bend - APC# 2794-16.

KEITH CHAPMAN: The petitioner is requesting a zone change from CBD Central Business District to PUD Planned Unit Development District. On site is the Commerce Center and multiple parking lots. To the north across LaSalle is The Pointe at St. Joseph Apartments zoned CBD Central Business District. To the east is the East Race waterway. Across the East Race are two office buildings zoned CBD Central Business District. To the south across Colfax is Stephenson Mills Apartments and a parking lot zoned CBD Central Business District. To the west is the AEP Substation, an art studio, an office and a cellular tower zoned CBD Central Business District. Across Sycamore is a private club zoned CBD Central Business District. The Planned Unit Development (PUD) District is intended to: establish a compatible and efficient mix of land uses and open space; ensure compatibility with the Comprehensive Plan, surrounding developments and future development needs; establish a creative approach in building design through architectural compatibility with adjacent buildings, general neighborhood design or by creating a unique style; achieve flexibility and provide incentives for development that will sustain a wider range of choice

in satisfying the changing needs of the community; and provide for any individual land or combination of land uses not otherwise specified elsewhere in this Ordinance. The PUD District is not intended for the development of residential subdivisions, Permitted Uses, or Special Exception Uses which are provided for within any district of this Ordinance. On site is the existing Commerce Center building. The 5 story, 60' tall building will continue to be used as a mixed use building. The site plan shows a proposed 175' tall mixed use building spanning 411' along LaSalle Avenue and wrapping around a proposed 100' tall parking structure. A small portion of the site is proposed to be used for surface parking and access. The proposed PUD Ordinance allows for uses currently permitted in the CBD Central Business District plus adds Group Residences, Manufacturing Retailer, Electricity Relay Station or Public Utility Substation, and Maker Space. The accessory uses and architectural standards are consistent with the CBD District. The temporary uses generally follow the guidelines of the CBD District, but add the allowance for an 8' tall temporary construction barrier during construction. The PUD Ordinance exempts this property from the requirements of the Parking and Loading sections of the South Bend Zoning Ordinance. The sign section has been expanded to allow an increased building coverage, increased monument height and area, the addition of roof signs which may extend 15' above the roofline, and increased incidental/directional sign area. Prior to the adoption of the new zoning ordinance in 2004, the property was zoned A3 Mixed Use Multifamily Residential and Commercial District. LaSalle Avenue has four lanes. Colfax Avenue has 2 lanes plus a center turn lane and a designated bike lane. Sycamore Street has two lanes with on-street parking. This site will be served by municipal water and sewer. The City Engineer stated that additional information related to traffic patterns and the impact of the uses on utilities and other public amenities is needed before a recommendation could be given. Because of the negative impacts on the neighborhood, DCI cannot support the Commerce Center PUD as presented. However, DCI would be supportive of the rezoning subject to the recommendations provided in the full report (attached as Exhibit (See permanent file for Exhibit A) A). The petitioner is not proposing any written commitments, however the site will need to comply with all development standards established in the Commerce Center PUD District Ordinance and any conditions or commitments stated by the petitioner during the public hearing process. The petition is not consistent with The East Bank Village Master Plan - Phase 1 (June 2008). The plan states the area east of the river has its own unique identity independent from the Central Business District and should be branded as the East Bank Village. The Village character is emphasized throughout the plan through the use of pedestrian scaled development, interactive public spaces, and less dense mixed use buildings ranging from 2-4 stories. The East Bank Master Plan - Phase 1 land use plan identifies the northwest corner of the site as a location for a parking structure surrounded by a 3-4 story mixed-use building fronting on Sycamore and LaSalle. The northeast portion of the site, north of the Commerce Building and along the East Race, is shown as recreation (parks, open spaces, public plaza). The Commerce Building is identified as Commercial (Retail, General Commercial, Specialty Retail, Office, Tech OR&D) The petition is not consistent with City Plan, South Bend Comprehensive Plan (November 2006) Objective UD 1.1 Require developments to utilize design techniques that create an attractive, urban character for the Central Business District, corridors, and commercial areas; UD 1.6 Respect the scale, design, and aesthetic quality of established neighborhoods when undertaking infill development projects; UD 1.7 Promote urban design elements in new developments that are appropriately scaled and conducive to pedestrians, including pedestrian safety considerations. The Central Business District east of the river has a mixture of commercial, office, and residential uses. The low and mid-rise buildings emphasize pedestrian scale, public amenities, and lower density mixed-use buildings. The Commerce Center building is the tallest structure in the area with the majority of the surrounding properties in the 30' - 45' range. The most desirable use is one that fits into the character of the East Bank Village neighborhood. Due to the height and size of the proposed building surrounding property values may be negatively affected. Developing a site that exceeds the general standards for the area by two to three times what is allowed for other properties in the district could have a significant impact on adjacent property

values. If constructed at the proposed 175' height, the building will cast significant shadows that will have an adverse impact on the surrounding properties. It is not responsible development and growth to develop a site that does not fit with the character and approved plan of the surrounding neighborhood. The petitioner failed to provide a statement of how the proposed PUD meets the 5 items of Intent for Planned Unit Developments as required by the South Bend Zoning Ordinance Section 21-05 (a) (1). It is the staff's opinion that the petitioner failed to meet the Intent as follows: (A) Establish a compatible and efficient mix of land uses and open spaces; While the proposed PUD provides for a compatible mix of land uses, the site layout as shown does not convincingly address or identify the open space and its interaction with the public spaces of the East Race, as should be appropriate for a development in this location. (B) Ensure compatibility with the Comprehensive Plan, surrounding developments and future development needs; the extreme variation from the allowed development standards established for the Central Business District east of the River and the high rise approach vs. village approach to the building design make the proposed PUD incompatible with the Comprehensive Plan, the East Bank Plan and the existing and proposed surrounding developments. (C) Establish a creative approach in building design through architectural compatibility with adjacent buildings, general neighborhood design or by creating a unique style; The developer has failed to provide building design and elevation profiles to determine architectural compatibility. The proposed height and bulk of the building demands careful review to ensure a building design that is architecturally compatible with adjacent buildings and the general neighborhood. (D) Achieve flexibility and provide incentives for development that will sustain a wider range of choice in satisfying the changing needs of the community; if constructed as proposed, a large portion of the building may become undesirable and remain vacant or unusable. Many of the residential units will be facing the garage, and the commercial space has not been shown to be adaptable to changing market demands (dedicated space vs flexible space). (E) Provide for any individual land or a combination of land uses not otherwise specified elsewhere in the Ordinance. At the time of filing, Group Residence was not a permitted or special exception use in the Central Business District, however, the Mixed Use District would have provided for all the land uses proposed within the PUD. Furthermore, the Planned Unit Development section of the Ordinance specifically states that the PUD District is not intended for permitted uses or special exception uses which are provided within another district of the Ordinance OR for developments seeking relief from development standards within a district in which the use is permitted. In addition to not meeting the intent of the PUD Planned Unit Development District, the proposed development standards include many standards completely out of character with the area. In addition to the points addressed by the Department of Community Investment, the proposed temporary uses, extreme height, lack of public open space, and excessive signage would have a very detrimental impact on the adjacent properties and surrounding community. Based on the information available prior to the public hearing, the staff recommends that the rezoning petition be sent to the Common Council with an unfavorable recommendation. As presented, the petition does not meet the intent or standards for a Planned Unit Development District and, therefore, is not a valid application of the PUD District Designation. While the land uses and overall concept proposed are desirable and appropriate for the Central Business District or Mixed Use District, the development standards in the proposed Commerce Center PUD District Ordinance are so out of character for the area that the construction of this project could ultimately have a significant negative impact on the overall development and success of the East Bank Village.

As of 3:00 p.m. today, the staff has received 45 letters in support of this rezoning.

OLIVER DAVIS: When you talked about the hazardous adverse impact that the shadowing causes, could you please outline some of the adverse impacts that may happen, especially when you consider the winter time, spring time, summer time. Look at it from a seasonal standpoint. What are the adverse impacts that possibly can occur due to the shadowing of this size of a building, in relation to all other

buildings around it?

ANGELA SMITH: We were able to look at several different aspects of the shadowing. The item that was identified by the Department of Community Investment (DCI) was that between the hours of 11:00 a.m. and 3:00 p.m. The things that we looked at in this instance, (pointing to the powerpoint) you have a winter setting when most people are wanting the light to help warm up their buildings. As you can see from this, a majority of the The Pointe Apartments is completely overshadowed by the building. This would be approximately December mid-day. If you run the model from October to March you would have a similar example. In the summer months we looked at the concern of the proposed plaza on the East Race, which is designed to be a public space during the summer, and pretty much the entire East Race is under shadow.

OLIVER DAVIS: So basically, more icing sidewalks, more hazardous things could occur.

ANGELA SMITH: You would have that. Another concern by DCI was the units adjacent to the parking garage would not get daylight because their windows would face the parking garage. The parking garage is seven stories tall, so the first twenty four feet is the grocery store, then a floor of office, and then the residential starts above that. You have floors three through seven where the apartments are adjacent to the parking garage. Their view or their window would be looking at the parking garage which would have a ten foot space between their building façade and the parking garage façade.

OLIVER DAVIS: What floor does the shadowing really start?

ANGELA SMITH: I am not sure of the height of the Tuesley Hall building that is there. You can see the first building west of this development is a private club, that hits about half way across the street, so the sidewalks still is in shadow. It's the property across the street that is affected.

OLIVER DAVIS: I am talking about in terms of what floor would it be reduced if this was the sole problem?

ANGELA SMITH: We would have to run some modeling. The general height would be 60 feet, which is five stories. If you built something that is consistent with what is there, that would be what was allowed per the zoning ordinance.

OLIVER DAVIS: So, basically five to six stories.

ANGELA SMITH: To match the existing buildings.

OLIVER DAVIS: So that is what you mean when you say two to three times its size.

DAVID MATTHEWS: I am with Matthews LLC. I reside at 215 E. Colfax Avenue. Angela could you go back to that last sun study image? What day of the year was this on?

ANGELA SMITH: This was in early December.

DAVID MATTHEWS: The shortest day of the year. I would like to point out that the shadow that cross the sidewalk and half of the street. I live directly next door to that building. That is a two story building. On the shortest day of the year, everything casts shadows. This study is unfair. When we do sun studies to present to the public we don't pick June 22 the longest day of the year, because shadows are really short, we don't pick December 22, because shadows are really long. The fair thing to do is to

pick September 22 the equinox, which is a twelve hour day and say here is the average shadow height. This is deceptively misleading and unfair. We did do a sun study, we do have endorsements from The Pointe apartments. They think this project is great. This is disappointing from the planning department. We started building in Downtown South Bend in 2010. We are trying to do our bit to fix the City, to get density, to get people living downtown, to make South Bend a lively place that other people want to live and participate in. We have been working on this for about six years now. I just want to give a quick overview update of the neighborhood. We have some great publicity and we are good at celebrating our successes. It is really hard, this is a really tough neighborhood to work in. Here is a picture on the left (looking at the powerpoint) of what the East Bank Townhomes looked like before we bought the land. You can see some curb here, if you go a little further, they just paved over the sidewalk. We bought the land from the City and built the first market rate housing in the neighborhood in three decades. The next newest was The Pointe Apartments built in 1980. For three decades no one built anything in this neighborhood. The next project we did is across from the Emporium building. Here it was a half paved, half gravel parking lot. We bought the land and we have ten gorgeous townhomes, limestone columns, Limestone headers and base. Definitely investing the character and the feel of the neighborhood. This is our home. This is where I live. This is where a lot of people who are in the audience live, work, start their business, own the business like we care about this neighborhood. We care about the character of this neighborhood. What does this neighborhood look like? Here is a static from 2015 ending last year of the half mile radius around the Commerce Center. There are 2,000 people who live in the neighborhood. There are 1,200 households. What is the median income of the neighborhood? If we look at income and say here is the 1,200 households, the 600th household make less than this much money a year, what is that number? \$16,000, half of our neighborhood makes less than \$1,400 per month per household. This is a really tough place to do business. We love South Bend. I love South Bend. I love this neighborhood, but it is not easy to put together a successful development. It is not easy to put together a project that is going to work out. We work really hard at it. We have a great team that is awesome at making it happen. The average income for the neighborhood is \$1,400 per household per month. If you look at this list, you see for income over \$2,000,000, there are eight households. Income above \$150,000 - \$200,000 thirteen households. Those are some of our customers. We have not kicked anyone out. We haven't torn down any buildings. We have taken vacant land, vacant parking lots, and we have built beautiful homes/buildings. We have taken existing buildings and fixed them up, because we love this city and we are trying to do what is right in this neighborhood. Here is where we are talking about. Two and a half acres of pavement, a building that I bought out of foreclosure from the bank a year and a half ago that we are now investing in fixing up. Thanks to an awesome grant from Regional Cities, we are approved for 4.9 million dollars of cash coming from the State to help move South Bend from a small city into a bigger city. We submitted an application. We didn't think it was going to happen. We got it as a city, as a region we got it, and as a developer we received it. We have to build a grocery store, pharmacy and a bunch of apartments. This is a great opportunity to move our city forward to take this neighborhood that is core and move people who make more than \$40,000 a year into it. Right now there are not a lot of housing options in the neighborhood. I was talking to an artist last week. He was telling me he is a chef as his main job. He was offered a job at Render, a new restaurant that moved into one of my buildings on Jefferson that has a great balcony sticking out over the sidewalk. Great restaurant, very tasty food, kind of expensive. The chef's employer a block away gave him a \$1.00 an hour raise to stay, so by getting these families and these tenants in these neighborhoods we are not just improving tax collection, we are also improving the lives of residents who are already here. We are pulling in new jobs. I have friends who have worked at Martin's as baggers, they get benefits when they work 30 hours per week. This is what we want to see happen in this neighborhood. Our team cares about the character in the field. We are long term residents. This is where I have chosen to make my home. I get to walk to work. I love it. When the staff made their comments, they had a site plan. The site plan can be scary because with a site plan we can build a building like the Double Tree with no entries on one side, we can make it twice as tall. That's scary, that is not what we want to do. That is

not what this project is going to look like. The one way to regulate character is the height. Another way to regulate is the feel and what it looks like and how it interacts with the pedestrians and the neighbors. I think that will be visible when Velvet gets up to make her presentation on what this site is going to look like. Currently the building is about 90,000 square feet, just under three acres. We have 280 parking spaces. It is assessed at 2 million dollars. We pay about sixty grand a year in property taxes. That is something good to keep in mind, probably more important to the City Council, but relevant as we continue to invest in this neighborhood. The Commerce Center is 69 feet tall, we want to go with a 100 foot parking structure and a 160 foot, peak elevator shaft is 175 feet, mixed use building. It is going to bring jobs and families back into downtown. There will be very desirable units. We will have a full service grocery store and pharmacy on the ground floor. If you go back 30 some years and look at the East Bank master plan, it called for retail, restaurants on the east race, we have the Emporium building, that's it. This will add a Martin's. We will dedicate this area. Next I will bring up Velvet Canada, she is our Architect.

VELVET CANADA: I am with Matthews LLC at 121 S. Niles Avenue. Looking at the plan, this is the building as you can see the majority of it faces LaSalle, so that is the 411 feet which we will talk about in a minute. Then we have a couple areas that face the East Race and Sycamore. Behind it we are proposing a parking garage. This would service the office for the Commerce Center and also for the residents in retail in the proposed building. You would have access along Colfax and along LaSalle Avenue. For the main parking where the retail will be, those will be the main areas where they will be accessing the grocery store or coming in for the retail. Along Sycamore Street we have a speed ramp that will go up and that is where we have the separated parking area. Most of your traffic will be going off Colfax or LaSalle. So, inspiration. Where do you look at trying to take a building that is 411 feet and say how are we going to break this up? How are we going make it interesting? I looked in Cleveland, Dallas, and Chicago along the river. A couple of these are examples of that. As you can tell they have taken the building and separated it, some of it is very regimented but still beautiful. What do you like when you go down a street and you are looking in Chicago, or you are looking in New York, what changes? The buildings change right? It is interesting because you have different types. So I sat down and sketched. This is what I came up with (pointing to the powerpoint). Let's do four different buildings. Let's make it look like it is attached with the balcony, so we have different areas. As we walk through, this is what it came out it. I have Chicago, I have a little bit of Paris, I have a classical downtown building, then I have industrial which is what we are known here for. Let's take a little jaunt down LaSalle Avenue. This is looking east (pointing to the powerpoint) so the first building you are going to come across is something that you would see in Chicago. It has bay windows so you can look down at the river, see the lights, get some nice lighting into your apartment. Then looking at the top you could have a cool penthouse up here. You can have a nice patio and look out at Notre Dame, see the Golden Dome. Also, look back and see the river. That is also pulling off the Commerce Center. On the top there is nice arch ways. Trying to take some of the area. We keep walking down. This would be the entrance (pointing to the powerpoint) for the grocery store. I am thinking art nouveau. You would have a great awning like this. Think Paris, where you have the french doors and the small petite balconies. Then as we continue down we are looking at this building here (pointing to the powerpoint) this becomes classic. You have the arch windows, you look in, you peer in, they might have different store fronts. Martin's might choose to do a store front of some sort displaying somethings that they have in. The balcony protrudes out so it is flanked on either side. The other part recesses in. It is interesting. It is fun. Continuing through at the end you get to see the industrial side. You have metal, you have the brick and big windows so your apartment has a great view of the east race. This is my inspiration. This is what I see. I guess after listening to David talk about our sites, I am really getting good at visualizing what parking lots should look like. This is seeing the building in context (pointing to the powerpoint) with the building that we are currently working on. The boxes are being built in Bristol, Indiana right now and this shows you what Sycamore Street would look like. As we keep walking

(pointing to the powerpoint) now we are on the Colfax Bridge, you are looking at it in the context if you were walking in Downtown South Bend and what that would look like. Let's travel up to the top floor of this building, we are on the 14th floor in the conference area and so this is where you see the building peeking through there. So twelve stories, 162 feet for the para pet height, 175 feet overall, 32,000 square feet, total building area 387,000, commercial would be about 62,000. We are looking at 240 apartments, which means there are about 24 per floor. In that count there are 24 where the garage is. Covered parking, this was the lower portion. So on Sycamore, you have the 37 open spaces, you had 84 covered parking spaces so a total of 121 parking spaces for the retail and then the upper floors, two through eight, we are looking at 621 spaces. We would also like to look at putting a green roof on top of the parking garage, so that those that are looking out at it have something green to look at plus it provides another space amenity to the public. This is just looking at it in dollars. Annual taxes would be \$1.1 million that would be paid out for the proposed development which is \$50 million. Let's take a look at it per floor - \$96,000 per floor, so if we look at the sixty foot it would be \$386,000 a year and then if we did a 100, foot which was proposed by Area Plan, it would be \$676,000. With what we have it would be \$1.1 million. I would like to take you through a sun study. This is looking at 10:00 a.m. to 4:00 p.m. (pointing to the powerpoint) we did this on September 22, so this would be in the morning here, so you can tell what is being it by the building there and then this is noon, this is 2:00, and this would be 4:00 p.m. (pointing to the powerpoint). That shows you more accurately what is going to happen. They would be getting the light back in the evening.

OLIVER DAVIS: Regarding your sun study that you just talked about, wouldn't it be more accurate when you look at a situation to look at worst case and best case scenario to give you the two extremes to be able to come to a decision? Should we not, as city planners, look at what is the worst?

VELVET CANADA: I think it is great to look at both, however, in December how much sun do we really see honestly? This gives you an in between of what is going to happen throughout the day and probably is going to give you an overall. Yes there is worst and best case scenario. This is the in between of that. This would be looking at the median of it verses the best.

DAVID MATTHEWS: If you do December 22, as we saw from the planner's study, a two story building shades half the street. It is a tall two stories, I look out at it every day. A three or five story building is going to shade a lot of the neighboring property no matter what. December 22 in our area, because we are so far north is going to cast shadows that are really long throughout the day. Likewise, if you do a sun study on June 22, you are going to have almost no shadow. This building on June 22 with this building you will see almost no shadow. On December 22, no matter the height of the building it is going to go across the street. There is not a lot of useful information that we can get. That is why we picked September 22 as the average and from our experience it makes more sense.

IN FAVOR

SAMUEL BROWN: I reside at 222 E. Navarre. I have a group called Citizens United for a Better Government. The petitioner Matthews, I don't know him. I seen the guy one time in this room at a Council meeting, so I do know his work. He is very bright, very intelligent. This man has very intelligent people around him. I am not going to believe for one single minute that he wouldn't sit down, and there are studies that do this, that they didn't cover quite a bit of stuff that could happen, that wouldn't happen. He is very bright. Look at his work. I decided to come today in support of this because I live in the city. You can take any one of the structures on the East Bank, West Bank and you could find something to be negative about it. All I can say, I am no architect, I didn't go to Notre Dame, I didn't get all these fancy degrees. I am just looking at Mr. Matthew's work, what he is doing in South Bend, and I am behind him all the way. I don't care if you don't agree with me, but I am just saying as a

committee there has got to be a way that we can work out where this can happen. We can sit here and nitpick about the sun. We can do a lot of things. I am just in support of this project. I would not have been down here sitting here this long if I wasn't. I admire his work. I hope you can find it in your heart to give this a favorable recommendation and let Mr. Matthews keep building and making our city a better place to live. I am not paid any amount of money to advocate for this. I just believe it is the right thing to do.

ADAM MCMILLEN: I reside at 215 E. Colfax. Just wanted to voice some support for this development. I heard one of the planning reps referring to a plan of the East Bank ten years ago and how this might be in conflict of that. Things change over ten years and one thing that has happened in the East Bank in the last ten years is Mr. Matthews. There has been a lot of development due to basically him alone since then. That plan might need to be revisited as far as the esthetic of the neighborhood changing or height limits or whatever. With regards to the grocery, which I think is everyone who currently lives in the East Bank or the Downtown area or even people who are looking at living downtown, that is a huge draw. A grocery can't really justify itself without a proper proportional population increase, so if you cut this buildings height by a third or two thirds, then I feel like that also hurts the justification for a grocery store in the area. It can impede the progress that is already taking place. Cutting a floor is a million dollars over ten years in property taxes. If you want to get tax dollars downtown and enhance for the development, reducing the amount of people who can live there doesn't seem like the best way to do that.

MARY BUNDY: I am president of the Howard Park Neighborhood Association. I wanted to talk first about how much I appreciate the Area Plan Commission and their report. It shows me that they are looking at quality of life. I am totally behind that. They brought up some interesting points. I would like to address those points, especially when it comes to the air quality of the apartments facing the garage, when it comes to the light quality, and when it comes to public spaces. Those are key factors in having a higher quality of life and I am behind that. I want to speak to that. A lot of what Velvet went over already did speak to that. We saw the windows. I think that was one of the problems that they like to see a building with 70% glass I think I read. Again, kudos to them, I am glad they are looking at quality. I like windows. I was told by one developer that they wanted to take all these windows out of this building so that they could put more apartments on one side. They wanted to put more bedrooms and closet space. They were going to take out all of these windows that were facing east, I thought who does that? Who takes out the most valuable part of a house, windows. He said it was the cost, it is cheaper put plywood up then a window. This plan has all windows. The entire building looks like windows. It is beautiful. The air quality, the backside of the apartments is one of the things I think that Velvet did not cover was she said 24 apartments, but when I spoke to Velvet and asked her about that, she said there has got to be a place for the elevators, all the mechanicals, heating and cooling, all of that, that is all going in the back. So that is going to cut the number of those apartment down. Then when I spoke to Mr. Matthews he said he was planning on putting in a gym, so a gym is going to, again, take up more space, less apartments. I was concerned about the the narrow when we saw the actual rendering, that is a tiny space. Ten feet. Ten feet is an alley. But then talking to them I know it is quality, I know it will work. I said well can we put trees in there, and he said no, he is growing ivy all along that wall. So the few apartments that happen to be looking at that garage will be looking at green. Parts of green that aren't open to see through because no one mentioned the garage is designed to be porous. So light is going to be coming through that garage. I am very concerned about the light, the green, the air quality because I lived in Chicago and I know what it is like to live in an apartment that faces an alley or that has been boarded up. A friend of mine lived in New York, and it's nothing but buildings. I was sitting in her loft and I said how is that sun coming in here? She said well, look across the street, all those windows, they were reflecting all the sun. I felt like I was in a room with sun, but it was just a reflection. These things are not necessarily problems. Criteria for rezoning. According to CNN the recession

officially started December 2007. If you think about when this plan was developed, the plan was developed in a time when we were moving toward a recession, things were decreasing, populations were flooding into cities. Why? Because cities had mass transportation. You could walk. The new future and not necessarily for me or anyone my age, but the new future is a walkable city. Walkability attracts the boomers; it attracts the millennials. Walking to work, walking to grocery stores, walking to entertainment. The more availability of apartments downtown would be a huge win for South Bend. I hope you approve this.

JACOB TITUS: I reside at 633 Cottage Grove Ave. I was raised on the west side of South Bend. I worked on the west side and I also do some business in the East Bank neighborhood as an artist. I think it is good to promote anytime anyone can be moving into the city. I have a lot of friends who have recently graduated college and they chose to move to South Bend. There is an abundance of housing options if they want to buy a house, rent a house particularly on the west side in my neighborhood, but some people want to rent an apartment and the reality is downtown there is a lack of available apartments for people to move to.

KIM TESKA: I reside at 1710 Hass Drive. I worked in downtown South Bend for more than 20 years. I have seen it change, especially over the last six, seven years due to the East Bank. I have seen some improvement and increase in vitality. Vitality and energy coming into South Bend has often been due to David and all of his friends and intelligent people who work around him that have helped to build the East Bank up and encourage people to come downtown. I know there is questions about the height, but if you look at the level of ground on the East Bank as opposed to the West Bank of the river it is quite a difference there, a couple stories anyway. If where the Commerce Center is, if it is three stories more then what was previously desired. If you look at it from the West Bank, it is really only maybe one story increase because of the difference in height levels. You see it when you go up the hill on the LaSalle bridge, you see it on the Colfax bridge, there is a big difference there. The buildings on the other side are actually much higher. Anyway I think it balances out. I think this would be a wonderful opportunity to help South Bend become more like a big city, to have more density, more young people. I am getting ready to start a business downtown and I would like to have more young people there spending money.

JACK JACOBS: I live at 223 E. Colfax Avenue, which with full disclosure is a Matthews LLC development. I am in support of the proposed PUD. I live in the area. I walk over the East Race waterway bridge to get groceries. I am bringing that up because in the planning study. It said it would cast a shadow over the East Race Waterway and that damages the character of summer recreation there. In that rendering, the Commerce Center, which is the height limit of the current zoning, also blocks the waterway. The waterway is under ground, so there is pretty much always a shadow over it. I don't think that is an issue. A lot of the discussion of what the change created by this development is the new people it would bring in. This is how the demographics will shift and this is how the shift would be good. I think it is important to bring up for the people living in the area right now. There is no pharmacy. There is Memorial Hospital, there are the medical facilities that kind of left over from where St. Joe used to be but if you get a prescription at Memorial and you don't have a car, it is difficult to get to Edison and Ironwood or up Portage. A grocery and a pharmacy are just two very necessary things especially for households that don't have constant and ready access to transportation to these pharmacies. Whatever can be done to get those pretty basic amenities into a neighborhood where a lot of people live, would be great.

ROBERT BARTTLES: I work at 760 Cotter Street, South Bend, IN. I have two hats on today, one as a resident and the other as a business owner. Trying to frame my comments and keep them within five minutes is a bit of a challenge. I want to go to a biblical reference. There is the law and there is grace. When I heard the negative recommendation out of the staff, I think it was perhaps one of the most

vigorous negative recommendations I have heard in my professional career. I find that disappointing. Our business was founded in 1947 on September 7 on Portage Norwood and we have been in business in this community ever since. I think in the last twenty five years or more when all of the Mayors spoke to us about bringing a grocery store downtown, I would have never considered an idea, both privately nor professionally for precisely the reasons Dave lined out in terms of the demography and the deterioration of downtown South Bend. Our community has been asking for prosperity one way or another for 25 years at least. Now we have the opportunity to be flexible, adaptable and respond to change and I think it is not only our responsibility, but our calling. Those of us that have put skin in the game, millions of dollars on the line, I employ some 550 folks in South Bend. We have 22 stores. I just look at the plans that we presented and we pick our friends and folks that we work with very carefully. Our company cannot afford to put its foot down in the wrong place with the competition that we have in the marketplace that we do business in. As I looked at these plans and saw the depth and breadth of the development and the work that had gone into it, I have been nothing but impressed. A lot of this has to do with pure and simple finance. Without Regional Cities this does not happen. It doesn't happen here, it doesn't happen in Elkhart, it doesn't happen in Mishawaka. Each one of those cities is working on plans that are very similar to these. I think it is incumbent upon us not only as business folks, but as governance folks to do everything that we can do deliver prosperity to our communities and the folks that live in it. To turn aside from this kind of opportunity is narrow. I think there is an opportunity for judgement and wisdom. That is why you are sitting where you are sitting. I am glad we live in America where we can stand up and talk about these things. We are putting our efforts on the pass line to take some real and substantial risk. Just the idea of standing here and making this announcement publically is a risk. We need the support of the folks that are elected and appointed whose job it is to do the very best they can for their constituents and their city to make wise decisions. I suggest and hope that you will support this decision today.

JOSEPH FRAGOMENI, JR.: I reside at 5717 Bridgeton Lane. I have an office in the downtown at the old 1st Bank Building at Main and Jefferson. Formerly my office was on the 24th floor of Chase Tower, which is an exciting project in the downtown. More than 12 stories. An exciting project. Please, please seriously consider this project with an approval a favorable recommendation. This is an exciting project. It is a big project for the City of South Bend. It is being presented to you by a gentleman who has been vested in the community with very successful projects in the past. We know who he is. We know what he can do. We trust his work and he delivers a very high quality project. Do the right thing for the citizens of South Bend? Support a huge investment in this community. Part of the Regional Cities plan that we are excited to be a part of. Support this project. Figure out a way to get over the hurdles that exist and I know that can be done. He has had hurdles before with his other projects. Those things have been negotiated successfully, so let's do it again. Let's do the right thing for the City of South Bend.

TIM CORCORAN: I am the Director of Planning with the Department of Community Investment. Offices located on the 14th floor of the County City Building. I just wanted to clarify DCI's position on this project, especially some of the comments that we wrote in the report to APC. We are supportive of the project, especially the supermarket and the density. The comments that we provided in the APC report were reflective of the plans that were submitted at the time. Those plans did not go into great detail. Since that time Dave has updated his plans and shown some more and addressed some of the issues that were brought up. That additional information was provided to us yesterday. He has come some ways to addressing a lot of those issues. Based on that conversation and future conversations that I know we will be having that we feel that we are on the right track to continue to work with Dave and ultimately be supportive of this project.

DAN BREWER: You are with the Department of Community Investment?

TIM CORCORAN: That is right. I am the Director of Planning within the Department of Community Investment.

DAN BREWER: That department submitted a letter that listed five or six problems.

TIM CORCORAN: That is right.

DAN BREWER: You don't have those problems anymore?

TIM CORCORAN: Some of those issues have been addressed as of yesterday. The Comments that were written last week were prior to our meeting with Dave yesterday. In that meeting we started to come to some common ground on a lot of those issues. That's why we, because we ultimately do want to see a project like this happen, we just want to make sure we can shape it in a way that can be beneficial to everyone. Those are what some of the comments were about.

DAN BREWER: You don't have a problem with the height anymore?

TIM CORCORAN: I think we can still work with the height. That is one of the things that we need to....

DAN BREWER: How about the character of the building?

TIM CORCORAN: That is one thing that I did address. So for instance the plan that was submitted does not give any indication as to what the façade might look like. It was just a 2-D plan. So, some of that additional information that was provided yesterday included looking at articulation and how it would not look like one building.

DAN BREWER: Did you communicate any of this to the staff?

TIM CORCORAN: We were in the meeting yesterday together. We did talk about how some of these issues were addressed.

OLIVER DAVIS: With all due respect, we do do our homework up here, at least a number of my colleagues, and it would have been prudent of you since this was yesterday and you have a staff to have sent us an e-mail with this kind of situation and at least give us a summary and not just a verbal comment. I hope, I mean we have time before we get to the City Council, but if we are sitting up here making a recommendation and you are sitting on information out here in the seat that we have absolutely no knowledge of, that is not prudent for us and does not help us to do our homework. It just really frustrates me at this present time.

TIM CORCORAN: I know.

OLIVER DAVIS: No you don't know, because you don't know the role I have to face when I have to go represent the people of South Bend. To deal with what we have to deal with, especially as appointed people here, and my other role of the chair of the Common Council. That is really frustrating because I would have at least liked to have gotten a notice of that.

TIM CORCORAN: The meeting did take place late yesterday afternoon.

OLIVER DAVIS: If it took place yesterday, the fact is that there is time. At least give us a summary of that.

ROBERT HAWLEY: Just to piggy back on that thought. When I looked at this at home, it says Department of Community Investment and what do I read DCI cannot support the Commerce Center PUD at present. That is where I came into the meeting.

TIM CORCORAN: The second sentence says that DCI would be supportive of the rezoning if the following things can be addressed.

NOTE: Debra Davis left the meeting at this time.

OLIVER DAVIS: Ah, this is.

TIM CORCORAN: It does say that.

OLIVER DAVIS: It does say that, but with all due respect sir. You understand where we are. I just think a summary from your office or something would be helpful. There should have been some coordination that they made their presentation today and then there had been some work between the two of you that would have said, we know what is here but we can do addendums or substitute. We do that all the time with the City Council. Information that comes to us right up to the meeting. So there is nothing unusual for us to do that. You walk into this meeting there is some clear understanding that we already had.

DAVE MATTHEWS, SR: I reside at 54609 Bradley Street. I am here to support the proposal to allow this building to be taller than the zoning restrictions. I would like to point out that in many communities these days, zoning boards are coming to the conclusion that height restrictions are essentially not all that productive, because if we release the developers from height restrictions, what happens is that they take advantage of that free space and put taller first floors and bigger open spaces in commercial lobbies on ground floors of their buildings and back the buildings up sometimes because it is economically feasible to leave a little more space around a building if the building is allowed to grow a little taller or even substantially tall. Another point I would like to make is we here in South Bend, every few generations, have had remarkable good luck in terms of some serious real estate development going on. When the Studebakers were here in South Bend a 150 years ago they started, they built and as a result of their good efforts, we ended up with really nice structures that were long term investments in the community that continue to pay great dividends to us know today. We are in a unique period in terms of what is happening in our local market because we have a giant tsunami of investment coming our way from Notre Dame. Notre Dame is investing. There is about five hundred million plus worth of investment at Notre Dame. They have built 1,500 high end housing units over there in the last seven to eight years. No one ever thought that would ever happen. As it stands today, there are sold out. Dave built 60 condos' over at Notre Dame and actually has a waiting list of people that want to live in this area, people that no surveyor or local developer really has really had access to because it is part of this group around only 5 times a year and think it is beautiful and they are impressed with what has happened around Notre Dame. Notre Dame has pledged to invest two hundred fifty million dollars a year for five years running. They are already a year into it a billion dollar's worth of construction that is occurring at Notre Dame right now. The momentum of this kind of investment that comes to a community like ours, which is a once in a lifetime experience. The power of Notre Dame with its 12,000 students each contributing \$60,000 a year towards their tuition, most of which goes to salaries and service industries like the guys that are driving the food over to the dining halls, working in the dining halls and the professors and everyone else. Most of that money that comes into Notre Dame ends up in our local payroll. If we look at thirty years

from now what is South Bend going to look like? Notre Dame is going to do a billion dollars worth of investment here in the immediate future and South Bend can either stay a little two story town right next to Notre Dame or we can let the town grow. If we remove the height restrictions from this zone of the city, where we are seeing the greatest social economic pressure I have personally ever seen in my life between what Notre Dame is building, the development in downtown, the new High School. Schools make housing values. The wave of millennials that are tired of driving back in and out of the suburbs for half an hour to forty five minutes to go to school, meet their friends or whatever they are doing. These kids that are 30 years and younger want to live in a walkable neighborhood. They want this density. What we get with this density, if put up a fifteen or twenty story building. It would be wonderful for the community because we need 2,000 households to carry a grocery store. With enough density to carry a grocery store we create a more pleasant environment for people to live where they can give up one of their cars and spend that car payment at the little dry cleaners or the bakery shop or the restaurant. We begin to build this city from here. Now as these 50,000 people five times a year roll through South Bend, we want their kids to tell them, you think Eddy Street Commons is nice, you should see Downtown South Bend. Well when they roll over here, we don't want them to see a just a quiet little burg. We want these guys, some of those guys are going to be looking for a spot to put their new 30 or 40 story building, three to five or ten years from now, we want them to come over to this side of South Bend and say this place is strong. That is basically the decision that we have to make here today. We can either set up South Bend to be a quiet little burg at the edge of Notre Dame or we can make plans on making South Bend being a big strong healthy city with a marvelous amenity of Notre Dame right here next to our downtown.

REMONSTRANCE

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

LARRY MAGLIOZZI: I have a couple of question for the petitioner, either David or Velvet. First, the presentation that you had on the screen becomes part of the public record. If you don't mind forwarding that to us tomorrow.

DAVID MATTHEWS: Yes sir.

LARRY MAGLIOZZI: Based off the meeting that we had yesterday to try to resolve some of the details, the rendering showed that LaSalle Street frontage had two entrances, one I believe would have been for the garage and the other and another one with a canopy entrance.

DAVID MATTHEWS: It showed an angled entry on LaSalle and the East Race, the side door deli potentially. It showed a covered entry into the grocery store. It showed a tunnel through the building into the parking and showed another entry for the tunnel. So that shows three plus parking entrances and then in our meeting yesterday we agreed to have a fourth entrance that would be the entrance for the apartments.

LARRY MAGLIOZZI: That entry would be on LaSalle?

DAVID MATTHEWS: Yes. On LaSalle with a LaSalle addresss. On my notes from yesterday, we also had to make sure on the record that we had that the plaza on the east side along the East Race both the paved area and the grass area that is existing would stay as plaza – park area, owned and maintained, used for the building but not walled off or fenced off. We are not going to exclude the public from that so they can enjoy that open space along the East Race. We have the apartment entrance on LaSalle. We are exempting ourselves from the clear sight triangle and exempting from the clear sign ordinance.

Which means we can change the name of the tenant on the sign without getting a permit to get a new one, if we don't change the shape of the sign.

LARRY MAGLIOZZI: That is our recollection too. So, I just want to clarify that we as a staff have a fairly wide responsibility in how we look at these. We don't have any objection to the mix of land uses. That is exactly the case called for. So we are not in opposition to a grocery store or a pharmacy, condos, apartments, or offices or whatever else goes in there. That definitely meets the goals of the city. It kind of comes down to that this structure is contrary to a fairly long established policy that the City has strived for for years. I know there have been statements made that the East Bank plan is old, it isn't relevant anymore. In fact it is, the East Bank plan was developed in 2008 but that is really the best time to develop a plan. That way you can give the message to the residents that live there, the businesses that are there and developers that want to do something there that the city has essentially laid a footprint for the character of this part of the city. In 2004 when the Zoning Ordinance was approved, there was a specific call out for the East Bank with. Uses and certain development standards, and one of those was sixty feet height limit. Again, it all revolves around the height of the Commerce Center. In 2004 is when the City through the adoption by City Council that this is the beginning of the character that we want to establish for this part of the city. I think the push there was probably to encourage higher heights in the Core Central Business District, which I believe is up to 140 feet on the West Bank. Along comes the East Bank plan. That plan was developed by a considerable expense, effort, and commitment by the city residents and business in that area. They were all involved. I don't know how long the process went for, but it was a plan that was developed by the neighborhood. It went through the Plan Commission and received a favorable recommendation, and it went to City Council and also received a favorable recommendation. The plan provided and established the distinct characteristic of the East Bank. Things will change within there. Different buildings will go up but it established the character, that was apparently important at that time. Since no one has pushed to change the plan, it is still relevant. Land use plans are supposed to establish the core goal of that specific geography. If you go back to our staff report, at the end of our staff comments we made the key statement about the Planned Unit District. If you recall, we changed that district to restrict the number of PUD's that we were getting, which were used to circumvent other sections of the ordinance. I will re-read that statement: Furthermore the Planned Unit Development section of the Ordinance specifically states that the PUD District is not intended for permitted uses or special exception uses which are provided within another district of the Ordinance OR for developments seeking relief from development standards within a district in which the use is permitted. In the paragraph before that we mention that every use that Mr. Matthews requested is allowed in the Mixed Use District. The Ordinance does not give me specific authority to reject an application, it just mentions that it is not a legitimate application if those things are met. So, by making that statement, we don't think this application is a legitimate application. Mr. Bartles made a comment that he thought our recommendation was over the top in so many words. I am going to take that as a compliment because that means we did our job. We looked at every single aspect of this and does it come down to the law? Yes, pretty much. Comes down to the law and what the community has stated through zoning ordinance and the plan. Mr. Matthews has been relevant in the city for a while. He understood those. He has decided that they apparently don't apply to him. With respect to the Community Investment comments, it is not unusual that things can change. This petition has changed since we even developed this staff report. I would think this is the venue for last minute changes. You can change your mind, administration can change their minds, I can change my mind. I think it is a good venue for last minute changes to be brought forth. I take your comment seriously. I don't take offense to DCI changing their mind at all.

DAVID MATTHEWS: When he said that the rules don't apply to me and us to choosing a PUD instead of rezoning to the mixed use, the property to the west, north, south and east is all zoned CBD. If we switch to a mixed use zoning, different rules would apply for parking, for uses, all kinds of things would

change. We going with a PUD made more sense. At the time of our application, we couldn't do group residences, we couldn't have a few of the other uses that didn't exist in the CBD. The staff encouraged us to say hey apply for the PUD, get in, especially hey there is a change coming to the CBD for group residents so if you are going to apply, don't miss your filing deadline. So we made our filing deadline and it seems insincere after his office encouraged us to apply to the PUD District, subject to the conditions we had at hand. At that time we didn't know if the CBD was going to change or not and we did a lot of work investing in the PUD proposal in the design of the building, in our site plan, engaging, getting letters of support. How many letters of support did we get?

ANGELA SMITH: We received 45.

DAVIS MATTHEWS: How many letters of opposition did we get?

DAN BREWER: Ok, I think we are finished. There has been no indication that your petition is not being accepted, it has been processed.

ELIZABETH MARADIK: I think one of the roles of the Commission is that we are supposed to be evaluating these petitions against the approved Comprehensive Plan for an area, making sure it is consistent with that plan and its intent. I agree with the staff report that this proposal isn't consistent with the vision that the community has developed. In particular, the height is not consistent with the East Bank, so I have a question for the petitioner from that standpoint. DCI said that based on the meeting you had yesterday, they feel that there is room to work with you and address the height concern. I am curious, do you agree with that assessment that you can work with staff on the height?

DAVID MATTHEWS: That is a good question. I don't know what he means by that either. I know in our presentation, the building is 160 some feet tall with the exception of the northwest corner, we did pull the building back a bit. Those details have not been firmed up in our plan, that may be what he was talking about, but I am not sure. We would look for this to go forward to the City Council. We aren't looking to table it to have more time to discuss, we do want to see the project move forward.

ELIZABETH MARADIK: Go forward at 175 feet?

DAVID MATTHEWS: In our presentation 175 feet is the max height. The parapet is 160 some feet. The edge of LaSalle has been pushed back some spaces, the height there are a few spots where it stops 15 – 20 feet back that you saw in our rendering. We haven't updated the site plan to say here is where that line is. I do not know the exact details that Tim was referring to. If it is something like that we are more than happy to build the building we designed and presented, which is not 175 all the way across.

ELIZABETH MARADICK: Just recognizing that their recommendation is 96 feet. There is just a significant difference. It doesn't sound like you are willing to negotiate significantly.

DR. JERRY THACKER: I appreciate the staff's work. I appreciate also the excellent work that Mr. Matthews is doing as well. When you think about a new vision for South Bend with a Regional Cities grant. We know that the Regional Cities grant donated 5 million dollars to this project. That is chaired and has a committee consisting of some of our most entrepreneurial people in the community who are highly successful. I would have to believe that they want to have the vibrancy in South Bend that is within a vision and, of course, the grants were designed to make sure they can stimulate the economy and such in the city. I think this is probably a great project and a great opportunity for us. I would love it if it were possible to reach some resolution so that this project could go forward. I don't know if that would be possible if we had our group working with Mr. Matthews and whomever else they need to to see if something could be resolved.

DAN BREWER: We have a motion on the table to send this to the Common Council with no recommendation any discussion?

JOHN DELEE: I would like to know why you think that is an appropriate motion?

OLIVER DAVIS: Because of the fact that there are still different issues on both sides. Information that just came to us from DCI. There is conversation that they just had yesterday. I would like to get all that and at the same time I don't want to hold it, in light of everything that it has going for. I think we have enough information to move it forward, but then there is some information that is still out there that is not put in writing that I think would help me to make an either up or down. Since that is the case, in all fairness to all sides. Even though there was no opposition. The opposition comes into my brain not only the plan that was presented but also to the fact that we don't have all the documents there that we can still move forward and now we have a 60 day window when it comes to the Council after that where we have all this time to bring all that information that helps us to move forward.

JOHN MCNAMRA: We have also been told in the past that the Area Plan Commission as an appointed group should not be making these decisions, it should be the City Council, who are all elected. Let's get it over there where it belongs.

DAN BREWER: As a Commission, we do have a responsibility to look at what is presented.

OLIVER DAVIS: That is correct.

ELIZABETH MARADIK: Staff, you are not changing your recommendation?

LARRY MAGLIOZZI: That is correct.

After due consideration, the following action was taken:

Upon a motion by Oliver Davis, being seconded by John McNamara and carried, a proposed ordinance of Commerce Center Development, LLC and East Bank South Bend Development LLC to zone from CBD Central Business District to PUD Planned Unit Development District, property located at 401 East Colfax Avenue, 228, and 230 Sycamore Street, City of South Bend, is sent to the Common Council with NO RECOMMENDATION.

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Miscellaneous:

- A. Findings of Fact for granting Variances for property located at 202 Bartlett Street, City of South Bend – APC #2789-16.

After due consideration, the following action was taken:

Upon a motion by John DeLee, being seconded by Robert Hawley and unanimously carried, the Findings of Fact for granting Variances for property located at 202 Bartlett

Street, City of South Bend was approved.

2. Executive Director's Report:

There was no Executive Director's Report.

3. Minutes and Expenditures:

- A. Approval of the minutes from the August 16, 2016 meeting of the Area Plan Commission.

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously carried, the minutes from the August 16, 2016 meeting of the Area Plan Commission were approved.

- B. Approval of the expenditures from August 16 through September 19, 2016.

Adams Remco - \$207.42; Dept. of Public Works - \$24.79; Gates Toyota - \$63.25; Mishawaka Enterprise \$12.07, \$33.09; Office Three Sixty - \$24.05; SJC Maintenance \$8.00

After due consideration, the following action was taken:

Upon a motion by John McNamara, being seconded by Robert Hawley and unanimously carried, the expenditures for August 16 through September 19, 2016 were approved.

4. Adjournment: 5:34 p.m.

DANIEL H. BREWER,
PRESIDENT OF THE COMMISSION

LAWRENCE P. MAGLIOZZI,
SECRETARY OF THE COMMISSION