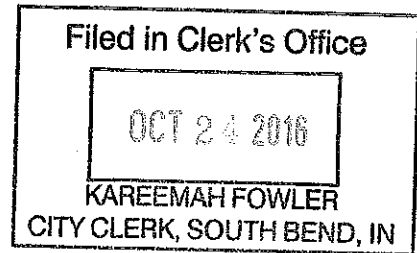


October 24, 2016

VIA EMAIL

The Honorable Pete Buttigieg
Honorable Council Members
City of South Bend, Indiana
227 West Jefferson Blvd., Suite 400 South
South Bend, Indiana 46601



Re: Bill No. 41-16; APC# 2794-16; Commerce Center PUD Rezoning

Dear Mayor Buttigieg and Council Members:

Matthews LLC is proposing to build a grocery store and pharmacy on the east side of downtown South Bend's central business district. This proposal received attention from hundreds of people, almost all are overwhelmingly in favor of the proposal. Thus far, the city has received about 50 letters of support for the proposal, and only a few letters of remonstrance with a half dozen people who spoke out against the buildings height. Most of the seven people who remonstrated live outside the neighborhood, outside the city, and have conflicting business interests with the proposal. We take pride in the hard work we do to build up the East Bank neighborhood, and try to be transparent about our intentions, and building plans. Several council members have asked me to address questions raised by the county's staff, and the remonstrators. I'll try to do so with this document, which addresses the major concerns in both letter format and bullet points. I'm happy to meet in person and provide more information as we move through this rezoning process.

I love South Bend, it's my hometown, and my mission is to benefit this city. I attended Tarkington elementary, Edison middle, and Adam's High School. Our team is dedicated and focused on improving the downtown area, and we do this through attracting more businesses and residents, promoting arts, entrepreneurs, and working to improve the quality of life for everyone who lives, visits and works downtown.

We have a proposal to bring a full service grocery store, pharmacy, and residential units to our growing downtown neighborhood. This proposal requires an expensive parking garage, which can be built with public dollars, similar to the Eddy St. Commons garage, which cost about \$20,000,000 of taxpayer dollars. Unfortunately, this does not seem to be an option, and so we are tasked with paying for the garage out of private funds, and regional cities grant. Our proposal does not require any cash from the city our county, and instead funds the project with private capital, a grant from Regional Cities, and a ten-year tax abatement on future tax increases.



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The east side of central business district, often labeled as the East Bank neighborhood, was treated to a planning charrette in 2008. That charrette resulted in a plan for 2008 to 2017 (*the plan*). The Plan called for the city to invest \$25,000,000+ in improvements to the area, specifically for two expensive parking structures. These investments never occurred, nor did the \$98,000,000 of private investment. Since the study, only 3 developments were built: Hill and Colfax apartments, Matthews' East Bank Townhomes, and Matthews' River Race Townhomes. The city did street improvements along the southern section of Niles Ave during CSO work, and also along the western section of Jefferson Blvd. The plan is a year away from expiring, and will be expired before the Commerce Center PUD proposed construction. The plan emphasized specific uses, which are compatible and consistent with the Commerce Center PUD application. The current zoning has a height limit of 60' east of the river, and 150' west of the river. These zoning heights are not practical for new construction. In fact, 5 of the tallest buildings in downtown could not be built today with these existing zoning height limits.

Panzika & Perri first proposed a development east of the river that would test the height limit at the old Wharf property on Colfax Avenue and the river. They presented to the ABZA for a height increase, and Schefmeyer wrote a letter of support, while I remonstrated against their suburban tower proposal. They were successful in gaining the extra height, and Matthews followed with variance requests for adjacent properties. The Matthews proposals were denied, because the ABZA has a narrow interpretation for granting variances. They only do so for sites with "undue hardship" which excludes financial hardship. The undue hardships are from unique lot shapes, locations, and other difficulties. A common example is getting a variance from a setback for a garage, after an alley was expanded. To try and rebalance the height limits after the Panzika-Perri proposal, the city implemented a new policy, recommending heights up to 98', to match the height developers were seeking in the neighborhood. Developers had two options, one was to go through the ABZA process, which gives cart blanch height increases, or to do a Planned Unit Development (PUD) application, which requires a much more in depth proposal, is more expensive, and gives the city much better control over what actually gets built. Matthews successfully presented and the city council approved a PUD for a height increase for the River Race Flats, located on the corner of Jefferson Blvd., and Niles Ave (just across the street from the Emporium building). This process worked well, but afterwards, the requirements for submitting a PUD were made more restrictive. Almost eliminating the PUD option in the city.

The Commerce Center PUD was applied for as a PUD with the recommendation of the Area Plan Staff. Because of the changing rules governing group residences, the area plan staff encouraged the application to be submitted promptly. The initial application lacked details, but was submitted on time. This resulted in a lot of confusion about the proposal, and a negative leaning letter from community investment. Before the presentation to the Area Plan Commission, details of the Commerce Center PUD were provided, and the city's planners endorsed the property. The Area Plan Commission passed the project with a neutral



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recommendation, which negated the initial negative staff recommendation. The proposal, as it is now submitted, has overwhelming neighborhood support. The local neighborhood association is overwhelmingly in support of the proposal, as well as the local community. 50+ letters of support from local businesses, residents, and the immediate neighborhood association all support the proposal with the 175' height limit. Half a dozen people wrote or spoke in remonstrance to the proposal. All of the remonstrators support the proposed uses, specifically those of a grocery store, pharmacy, and residential units. Most of the remonstrators are developers who live outside the neighborhood, with land holdings and conflicting interests. While building additional residential units will increase competition for housing, and have a short term impact of lowering rental rates in the neighborhood. Building a grocery store and pharmacy in the neighborhood is likely to increase the value of all the neighboring property. The best outcome for the adjacent developers and property owners is to have a one story grocery store and pharmacy built. A single story building would satisfy existing zoning, but would not fit with the urban nature of the neighborhood, nor benefit the greater community. Our mission is to benefit the city, and to do so, we need to grow, and grow smart.

A question was raised about a large building being more likely to sit vacant and blight the neighborhood. The proposed building is a high quality, "class A" building. The residential will have tall ceilings, luxury finishes, and covered parking. If a recession hits, or if the market is over built, prices drop. When prices drop, the difference in rents between high quality and low quality property becomes smaller. If prices are similar, consumers choose higher quality for the same. Thus, if prices drop, lower quality and poorly maintained property owners will suffer, and buildings like the proposed Commerce Center PUD will stay well occupied, but at a lower cost to customers.

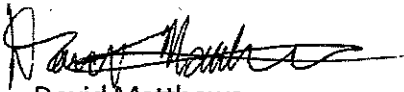
Most residential units built during the last decade in St. Joseph county are located near universities, and focused on the student housing market. Further, most of the non-student apartments in the county are older, and not as well maintained. This presents an opportunity for downtown South Bend. The county has tens of thousands of residential apartment units, with tenants who could easily relocate to downtown South Bend. Several apartment complexes in the county are over 1,000 units per complex. All of the currently proposed apartments in downtown South Bend combined are smaller than a single large apartment complex in the county. All of the proposed and existing apartments in downtown very little impact on the county's apartment market. If thousands of units were built downtown, each year, for a decade, we still could not house all the twenty thousand people who commute to downtown for work. As a city, there is opportunity for South Bend to attract population, by making it easy for apartment & condo developers to build up the downtown. Thousands of units would have a very positive impact on tax collection, while thousands of new city residents will benefit the schools. A full service grocery & pharmacy are attractive amenities for apartment developers to build near. In order to attract more developers to South Bend instead of neighboring cities and regions, the zoning process should be made easier.



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Our mission at Matthews LLC is to build up downtown South Bend. We strive to build the highest quality buildings with timeless designs. This proposal brings a locally owned grocery store, pharmacy, and housing units in to an impoverished neighborhood with the support of the local neighborhood association. The owner of the development company, the grocery store & pharmacy are all local residents in the East Bank neighborhood. This is community is our home, and we will present next month to ask you for permission to make our community better. Please join us and give your support (but not the city's cash) to improve the downtown neighborhood where we and our families work, play, and live.

Sincerely,



David Matthews
Neighbor, Resident, Owner,
Matthews, LLC



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This link should open up the documents the city has on the proposed Commerce Center PUD, including letters, studies, and staff reports.

<https://www.dropbox.com/sh/4lqg4m1ie9ukmfm/AADXr6BOG00lqiU0NUZDYHeLa/Bill%20No.%2041-16%20Commerce%20Center%20Development?dl=0>

June 2008 Howard Park Master plan

- The plan had a 9 year time line, from 2008 to 2017
- Called for \$25,000,000 of public investment, with public investment preceding private.
- \$98MM private investment to follow public, completed by 2017.
- 2 parking garages, one built at Commerce Center, and one East of AM General, paid for by tax payers
- City to invest existing tiff revenue in advance
 - Excess tiff dollars were used to supplement Eddy St. Commons & Eddy St. Parking Garage (\$20MM)
- Uses are similar to those in proposal. No reference to actual height, only sparse reference to number of building stories.
- Zoning height of 60' is 9.5' shorter than existing Commerce Center, and shorter than Panzika-Perri Cascade project, Matthews East Bank Flats, and Matthews River Race Flats.
- Taller height of 98' was set by South Bend's department of Community Investment based on market demand after Panzika-Perri Wharf ABZA variance, to grant a path for other developers to follow, specifically Matthews River Race Flats, Matthews East Bank Flats.
- [https://www.dropbox.com/sh/4lqg4m1ie9ukmfm/AABekGkSlzBoqVugQDsp9015a/Bill%20No.%2041-16%20Commerce%20Center%20Development/CED East Bank Plan 6 10 08.pdf?dl=0](https://www.dropbox.com/sh/4lqg4m1ie9ukmfm/AABekGkSlzBoqVugQDsp9015a/Bill%20No.%2041-16%20Commerce%20Center%20Development/CED%20East%20Bank%20Plan%206%2010%2008.pdf?dl=0)



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Building Heights & Lengths

- <https://www.dropbox.com/sh/4lqg4m1ie9ukmfm/AACVa7dkWaXPzHMslXPR-EpHa/Bill%20No.%2041-16%20Commerce%20Center%20Development/City%20of%20South%20Bend%20Building%20Heights.pdf?dl=0>
- Many of our taller buildings could not be built with existing zoning. Specifically, the Chase Tower, County-City, Key Bank, Hoffman Hotel, Tower Building all violate the current zoning height. The Panzika-Perri Wharf project, Matthews’ East Bank Flats, and Matthews’ River Race Flats also exceed the neighborhood zoning limits of 150’ west of river, 60’ east of river.
- Heights in the staff report are measured graphically from aerial photography, and are prone to error.
 - Document shows Commerce Center existing at 60’ tall. The Commerce Center was surveyed by an engineering firm, Palm & Associates in 2014 and measured the height to be: is 69.5’ a 16% difference.
- Heights are presented inconsistently. Sometimes parapet heights are included, sometimes excluded.

Table showing top of building height (taking in to account the ground elevation), and if it could be built today while conforming with existing zoning.

Building Name	Roof Elevation	Building Height	Parapet	Ground Elevation	Conforming?
Chase Tower	1038	300’ (332’)		706	No
County-City	903	193’		710	No
Key Bank	891	183’	163’	708	No
Hoffman Hotel	864	158’	133’	706	No
Tower Building	865	157’		708	No
CCD-PUD	848	175’	162’	673	No
Karl King Tower	820	110’ (124’)		696	Yes

July 2013 – An analysis of residential market potential

- Analysis collected data from local developers, developments, and incorporated national trends.
- Active Rental projects: 1,300 Units
 - Mar-Main, Northside Terrace, Robertson’s, Monroe Park, Washington Dunbar, Hurwich Farms, Central High School, Stephenson Mills, Pointe at St. Joseph, Irish Row, The Foundry,
- Active for sale projects:
 - Dublin Village, Eddy Street (Champions Way, Legends Row), River Race, Pandal Woods, Irish Crossings, Ivy Quad



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- https://www.dropbox.com/sh/4lqg4m1ie9ukmfm/AABHAC6-rNcG19vFIToQQ8tEa/Bill%20No.%2041-16%20Commerce%20Center%20Development/CI_DowntownSouthBend_ResidentialMarketPotential_0.pdf?dl=0
- Study focuses on South Bend potential, but minimal data was available pre 2013 when the study was performed. Matthews provided data from his developments, and is the market leader for new construction units in the downtown market.

February 2016 - Parking Study

- Overall parking in the east bank is sufficient.
- Proposed projects at the time, all include additional parking
- No discussion on Howard Park master plan from 2008, or proposal for 2 parking garages
- https://www.dropbox.com/sh/4lqg4m1ie9ukmfm/AACvPQQOCwN9yuxLft5tyOLta/Bill%20No.%2041-16%20Commerce%20Center%20Development/2-29-16_Parking%20Study%20Final%20Report.pdf?dl=0

September 2016 - Dept. of Public Works – ERU fees

- <http://docs.southbend.in.gov/WebLink/0,0,0/edoc/103700/Substitute%20Bill%20No.%2048-16%20Developer%20Fees%20%20Assessments.pdf>
- ERU proposal may require \$120,000 to \$250,000 in fees for the development.
- Unclear if water efficient design reduces ERU fees.

Tusley Hall letter

- Character of neighborhood
- Concern about construction of 240+ residential units, and if the project fails how it will impact the neighborhood
- Response: The Commerce Center PUD holds true to the character of the master plan:
 - The uses: mixed use with structured parking.
 - Building styles: reinforce the character of the existing buildings, and neighborhood feel.
- <https://www.dropbox.com/sh/4lqg4m1ie9ukmfm/AACn-u7CWpKNNzXgQvuCEr7Ka/Bill%20No.%2041-16%20Commerce%20Center%20Development/Tusley%20Hall%20Konopa%20Remonstrance%20Letter.pdf?dl=0>

Rezoning as PUD vs. Building Variance through ABZA

- To receive a variance, petitioner must demonstrate Undue Hardship because of the site conditions.



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- Makes sense if building a garage closer to the setback, because the alley was widened after garage was constructed.
- Financial Hardship is not Undue Hardship. Hardship must relate to uncontrollable conditions of the site. ABZA considers financial conditions controllable.
- Zoning height limits used to be worked through by obtaining a PUD or presenting a site as difficult to work, such as an odd shaped lot as Perri - Panzika presented for the Wharf site. They were the first developers to propose a tall building with the 60' height limits. Their real hardship was financial, but they presented the site as "difficult to develop because of the unique triangle shape and location on the river"
 - Project was supported by Schefmeyer, and their private group.
 - Project was opposed by Matthews. Matthews considered the design more suburban than urban. Latter Perri-Panzika designs improved the urban feel of the development. Matthews did not opposed subsequent designs.
 - Panzika-Perri successful ABZA petition busted the height limit through the county from 60' to 90'+
- Matthews attempted to get variances through ABZA and failed. Schefmeyer's group opposed the development. Went the longer, more expensive, route by filling for a PUD for the River Race Flats project.
- To address the new market need in the neighborhood, the city through Community Investment, developed a proposal of supporting buildings up to 98' in height in the East Bank.
- City council granted a PUD with a height limit of 98' thanks to Community Investment's endorsement, and new height policy crafted as a response to market trends.

Sun Study: Trilogy Real Estate Group / The Pointe at St Joseph apartment letter

- Support proposed uses, concerned with height because of conflicting shadow studies, number of units, impact on street during and post construction.
 - Property representative believes the proposed building will shadow their swimming pool and courtyard. An in-depth shadow study shows that their own buildings shadow their swimming pool and courtyard. When the shadow cast by a modest development on the Commerce Center location casts a shadow that would impact their swimming pool, it is early spring or late winter, and their own buildings shadows overcast their swimming pool. The proposed building only casts a passing shadow on their property frontage on Colfax. None of their



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building is continually blocked by shadow because of the proposed development.

- Detailed sun studies are included at the end of the Matthews proposals, which are included in the city files (online) and part of the record.
- <https://www.dropbox.com/sh/4lqg4m1ie9ukmfm/AAB7k0BnyjifxS6wcfz7K481a/Bill%20No.%2041-16%20Commerce%20Center%20Development/The%20Pointe%20Apartments%20Letter%20of%20Concern.pdf?dl=0>



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