



OFFICE OF THE CITY CLERK

DAWN M. JONES, CITY CLERK

ZONING AND ANNEXATION

OCTOBER 24, 2022, 5:13 P.M.

Committee Members Present:

Lori Hamann, Henry Davis Jr., Karen L. White, Sheila Niezgodski*, James Snodgrass

Others Present:

Dawn Jones, Victoria Trujillo, Bob Palmer, Justin LePla, Kenneth Hardy, Rachel Tomas Morgan, Eli Wax

Presenters:

Angela Smith, Erik Glavich, Steven Studer, George Lepeniotis

Agenda:

Bill No. 30-22 – Amending the Zoning Ordinance for 1335 E. Ireland and 4427 S. Brookton, Councilmanic District Five (5)

Bill No. 36-22 – Amending the Zoning Ordinance for 300 St. Louis Boulevard, Councilmanic District Four (4)

Bill No. 134-21 – Amending the Zoning Ordinance for 2701 Lincoln Way West

Members marked with an asterisk (*) are present digitally

Please note the attached link for the meeting recording:

<https://docs.southbendin.gov/WebLink/browse.aspx?dbid=0&mediaid=358354>

Committee Chair Lori Hamann called to order the Zoning and Annexation Committee meeting at 5:13 p.m.

Bill No. 30-22 – Amending the Zoning Ordinance for 1335 E. Ireland and 4427 S. Brookton, Councilmanic District Five (5)

Angela Smith, Zoning Administrator, with offices on the fourteenth (14th) floor of the City-County building, advised that the petitioner is seeking to rezone two (2) S1 suburban neighborhood parcels to C1 (commercial) for an auto repair facility and parking lot. The parcels to the north and east are zoned S1. The four (4) lane road becomes two (2) lanes at the front of the property. The Plan Commission and Administration are presenting a non-favorable recommendation, but the following potential written commitments are being requested if the Committee approves the petition: lessen the twenty-five (25) foot set back on Brookton Drive to not encroach on the north properties, that a Brookton Drive entrance not be created, that no drive-through facilities be built, and for NC Neighborhood One (1) building standards to apply.



Erik Glavich, Director of Growth and Opportunity, with offices on the fourteenth (14th) floor of the City-County building, advised that although the Ireland Road commercial development is contained due to homes, the north-side homes overlook the property in question. The Plan Commission and Administration determined that the development does not fit within the current urban structures due to size. Zoning parameters are usually in alleyways to maintain uniformity.

Steven Studer, Attorney at Krieg DeVault, 4101 Edison Lakes Parkway, Mishawaka, Indiana, 46545, advised that the petitioner collaborated closely with Councilmember Wax to ensure a mutually beneficial development. The property has been for sale for twenty (20) years and the owner would not develop a residential property. A residential unit was torn down and one (1) remains. The developer plans to invest two (\$2,000,000) million dollars in an auto repair shop with quiet state-of-the-art compressors and no home-facing hoists or windows. The street is transited by seventeen thousand (17,000) vehicles per day, and the business would only add between fifteen (15) and twenty (20) vehicles to the traffic. Ten (10) full-time staff, earning between seventy (70) and one hundred thousand (\$100,000) dollars, would be retained. The three (3) residents who attended the public meeting did not object to the development. The developer agreed to the following written commitments:

- No drive-throughs.
- The business would operate from seven (7) a.m. until six (6) p.m. Monday to Friday.
- The business would not operate on weekends.
- No Brookton Drive entrance.
- No gas stations.

Committee Chair Hamann requested questions from the Committee.

Committee Member White requested confirmation that the developer agrees to the requirements presented by Angela Smith.

Steven Studer responded that they agree to all commitments although he is uncertain about the NC Neighborhood One (1) building requirements.

Councilmember Wax expressed support for the development as a residential structure is inappropriate for the property, and asked if urban flex zoning projects were considered. The buyer and developer were eager to design a business with minimal or no community impact.

Angela Smith advised that the NC Neighborhood One (1) standards mandate that at least the structure's front and sides be brick and a twenty-five (25) foot setback on Brookton Drive.

Steven Studer agreed to the terms and advised that the structure's front and sides would be brick.

Committee Chair Hamann requested questions from the Council.

Councilmember Tomas Morgan asked about the transparency, fencing, landscaping, and sound barrier requirements.

Angela Smith responded that the current glass design meets the transparency requirements and that a single row of evergreens and fence would be mandated.

Committee Chair Hamann held the public hearing.

Colby Fahrenbacher, 1612 Fire End Drive, South Bend, Indiana, 46614, agreed that the property could not be redeveloped for residential purposes but expressed disagreement with the solution. The high-volume road is incompatible with the residential area, which was developed first and is experiencing erosion due to the rise of commercial properties. An auto repair shop would not support or contribute to the neighborhood’s prosperity. The affordable housing crisis can be addressed by preserving old housing. If the petition is approved, the driveway should be shared.

Merril Sherwood, 1354 Oakdale Drive, South Bend, Indiana, 46614, advised she has resided in what was her parents’ home since 1978 and expressed concern at the lack of transparency. A letter was received on September 19, 2022, for a meeting on September 21, 2022, in a different area of the city. The receptionist at the automotive company advised that a virtual session would not be held and that the owner would contact her to discuss the concerns. The meeting notice stated that the hours of operation would be seven-thirty (7:30) a.m. to five-thirty (5:30) p.m., although the petition reads seven (7) a.m. until six (6) p.m.

Steven Studer advised that Colby Fahrenbacher does not reside in the neighborhood. Shared driveway access would be challenging, and all area businesses have their own driveway. It is unclear why Merrill Sherwood was not contacted, but her concerns do not regard the project itself.

Councilmember Wax opined that the development accomplishes low neighborhood impact.

Committee Member White motioned to approve forwarding Bill No. 30-22 to the Committee of the Whole with a favorable recommendation, which was seconded by Committee Member Niezgodski and carried by a vote of five (5) ayes.

Committee Chair Hamann– <i>Aye</i>	Committee Member White– <i>Aye</i>
Committee Vice Chair Davis Jr. – <i>Aye</i>	Committee Member Niezgodski – <i>Aye</i>
Citizen Member Snodgrass – <i>Aye</i>	

Bill No. 36-22 – Amending the Zoning Ordinance for 300 St. Louis Boulevard, Councilmanic District Four (4)

Committee Member White motioned to accept Substitute Bill No. 36-22, which was seconded by Committee Member Niezgodski and carried by a vote of five (5) ayes.

Committee Chair Hamann– <i>Aye</i>	Committee Member White– <i>Aye</i>
Committee Vice Chair Davis Jr. – <i>Aye</i>	Committee Member Niezgodski – <i>Aye</i>
Citizen Member Snodgrass – <i>Aye</i>	

Angela Smith advised that the petitioner requested to rezone a small sliver of property, which is part of the riverwalk development extension, between a retaining wall and the south property.

Councilmember Warner advised that the sliver should be rezoned from commercial to housing development.

Committee Chair Hamann requested questions from the Committee. There were none.



Committee Chair Hamann asked if anyone from the public wished to speak in favor or opposition to the bill.

Clerk Jones responded that no one from the public wished to speak in favor or opposition to the bill.

Committee Member White motioned to approve forwarding Bill No. 36-22 to the Committee of the Whole with a favorable recommendation, which was seconded by Citizen Member Snagraz and carried by a vote of five (5) ayes.

Committee Chair Hamann– <i>Aye</i>	Committee Member White– <i>Aye</i>
Committee Vice Chair Davis Jr. – <i>Aye</i>	Committee Member Niezgodski – <i>Aye</i>
Citizen Member Snodgrass – <i>Aye</i>	

Bill No. 134-21 – Amending the Zoning Ordinance for 2710 Lincoln Way West

Committee Member White motioned to accept Substitute Bill No. 134-21, which was seconded by Committee Member Warner and carried by a vote of five (5) ayes.

Committee Chair Hamann– <i>Aye</i>	Committee Member White– <i>Aye</i>
Committee Vice Chair Davis Jr. – <i>Aye</i>	Committee Member Niezgodski – <i>Aye</i>
Citizen Member Snodgrass – <i>Aye</i>	

Angela Smith advised that the petitioner requested the property to be rezoned to NC Neighborhood. The property has been vacant for approximately (20) years and the property to the east has been cleaned up. A special exception was also requested for a corner gas station. If the station is not profitable, it could be repurposed to another low-impact and sustainable business. The administration presented the bill with an unfavorable recommendation.

Committee Chair Hamann requested questions from the Committee.

Committee Member Niezgodski asked how many gas stations and convenience stores there are within a one (1) mile radius.

Tim Corcoran responded that there are six (6) within a one-point-seven (1.7) mile stretch of Lincoln Way and its side streets.

George Lepeniotis, Attorney at Krieg DeVault, 4101 Edison Lakes Parkway, Mishawaka, Indiana, 46545, advised that the property owner, Himont Singh, was unavailable due to a family death. The petitioner is requesting to rezone the property to its original designation of Neighborhood Center, and no tax abatement of façade funds would be sought. The property housed a Clark’s gas station for more than forty (40) years. The gas pumps would be behind the building for easy repurposing. The petitioner met with residents, and it was agreed that service would not be provided twenty-four (24) hours per day. Lincoln Way is a highway leading to the bypass and the airport, transited by more than fifteen thousand (15,000) vehicles per day. The recently drafted neighborhood plan, said to be a starting point for development, is hindering the project.

Committee Chair Hamann requested questions from the Committee and Council.

Councilmember Tomas Morgan asked for additional information on the hours of operation, as the clause would be void if the business changed.

George Lepeniotis responded that the hours of operation would be five (5) a.m. to eleven (11) p.m. on weekdays and to twelve (12) a.m. on weekends.

Angela Smith advised that the hours would transfer to all businesses unless an amendment was requested and a public hearing held.

Committee Chair Hamann held the public hearing, and nobody spoke.

Committee Vice Chair Davis Jr. motioned to forward Bill No. 134-21 to the Committee of the Whole with a favorable recommendation, which was seconded by Committee Member White and carried by a vote of four (4) ayes and one (1) nay.

Committee Chair Hamann– <i>Aye</i>	Committee Member White– <i>Aye</i>
Committee Vice Chair Davis Jr. – <i>Aye</i>	Committee Member Niezgodski– <i>Nay</i>
Citizen Member Snagraz – <i>Aye</i>	

With no further business, Committee Chair Lori Hamann adjourned the Zoning and Annexation Committee meeting at 6:18 p.m.

Respectfully Submitted,

Lori Hamann, Committee Chair

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