



OFFICE OF THE CITY CLERK

DAWN M. JONES, CITY CLERK

ZONING AND ANNEXATION

DECEMBER 12, 2022, 3:45 P.M.

Committee Members Present: Lori Hamann, Karen L. White, Sheila Niezgodski, James Snodgrass

Committee Members Absent: Henry Davis Jr

Others Present: Dawn Jones, Victoria Trujillo, Bob Palmer, Justin LePla, Kenneth Hardy

Presenters: Michael Divita, Rachel Boyles, Angela Smith, Pervin Galati,

Agenda: Bill No. 51-22 – An Ordinance Approving a Petition of the Board of Zoning Appeals for Property Located at 506 N. Olive St., South Bend, Indiana, Councilmanic District #2

Bill No. 22-59 – A Resolution Adopting a Fiscal Plan and Establish Policy for Provision to an Annexation Area German Township

Bill No. 63-22 – An Ordinance Annexing and Amending Zoning Ordinance for Property in German Township for 21275 Cleveland Avenue, Councilmanic District #1 in South Bend, Indiana

Bill No. 69-22 – An Ordinance Approving a Petition of the Board of Zoning Appeals for Property Located at 1405 Portage Avenue, Councilmanic District #1, South Bend, Indiana

Bill No. 70-22 – An Ordinance Approving a Petition of the Board of Zoning Appeals for Property Located at 3409 S. St. Joseph Street, Councilmanic District #6, South Bend, Indiana

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=359849>

Committee Chair Hamann called to order the Zoning and Annexation Committee meeting at 3:45 p.m.

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Bill No. 51-22 – An Ordinance Approving a Petition of the Board of Zoning Appeals for Property Located at 506 N. Olive St., South Bend, Indiana, Councilmanic District #2

Committee Hamann advised that the bill would be dismissed due to the petitioner's lack of attendance.

Committee Member Niezgodski motioned to dismiss Bill No. 51-22 based on the petitioner's lack of attendance, seconded by Committee Member White and carried via vote by voice.

Bill No. 22-59 – A Resolution Adopting a Fiscal Plan and to Establish Policy for Provision to an Annexation Area German Township

Michael Divita, Principal Planner with the Department of Community Investment, with offices on the fourteenth (14th) floor of the County-City building, advised that the property owner of 21275 Cleveland Road requested the annexation of approximately two point eight (2.8) acres. There are no capital improvements planned by the city for the property, water and sewer are available, a short section of Shellbark Avenue would be added to the city, and the developer would upgrade the section to commercial standards. The parcel would be added to District One (1) and be served by fire station and emergency medics no. eleven (11), police department no. twenty-two (22), and neighborhood services area no. five (5).

Committee Chair Hamann requested the annexation rationale.

Michael Divita responded that the developer plans to build a car wash and requires city sewer and water service.

Committee Chair Hamann requested questions from the Committee.

Committee Member White asked if there is adequate staffing to support providing police and emergency services.

Michael Divita responded that each department would confirm that it has adequate staffing, and the cost would be covered by property taxes.

Committee Member Niezgodski asked if the petitioner would require an annexation if it had not voluntarily requested services.

Michael Divita responded that an annexation would still be required.

Councilmember Wax asked what the potential city revenue would be.

Michael Divita responded that the anticipated revenue is approximately eleven thousand five hundred (\$11,500) dollars annually in property taxes.

Committee Chair Hamann asked about the contradiction as the administration advised that it did not wish to expand and rather focus on infill.

Michael Divita responded that the site was the most appropriate for the business. The administration does not wish to expand infrastructure, but the site is already connected to sewers and water.



Rachel Boyles advised that the site would house a car wash and vacuums, and a buffer landscape area towards the residential community would be required.

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

Committee Member White motioned to send Bill No. 22-59 to the Committee of the Whole with a favorable recommendation, seconded by Citizen Member Snodgrass and carried via vote by voice.

Bill No. 63-22 – An Ordinance Annexing and Amending Zoning Ordinance for Property in German Township for 21275 Cleveland Avenue, Councilmanic District #1 in South Bend, Indiana

Rachel Boyles, Zoning Specialist, with offices on the fourteenth (14th) floor of the County-City building, advised that the petitioner requested to rezone the property from office buffer district to commercial and to annex it into South Bend. The property was developed in 1946 as a funeral home, and its surroundings developed in the 1980s and 1990s. Several Cleveland Avenue commercial parcels have already been annexed into South Bend. The Plan Commission presented the ordinance with a favorable recommendation.

Committee Chair Hamann requested traffic pattern information.

Rachel Boyles advised that the engineering department assess and advise if additional traffic measures are required. The entrance would be on Shellbark Avenue, and the exit would be on Cleveland Avenue.

Citizen Member Snodgrass asked what constitutes commercial standards.

Michael Divita responded that road width, sidewalks, and curb additions constitute commercial standards.

Committee Chair Hamann requested questions from the general Council.

Councilmember Lee asked if the commercial standards are the petitioner’s responsibility.

Rachel Boyles responded that the petitioner would be responsible for meeting commercial standards.

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

Committee Member Niezgodski motioned to send Bill No. 63-22 to the Committee of the Whole with a favorable recommendation, seconded by Citizen Member Snodgrass and carried via vote by voice.

Committee Member White motioned for Bill Nos. 22-59 and 63-22 to be heard simultaneously by the Committee of the Whole for public hearing purposes, seconded by Committee Member Niezgodski and carried via vote by voice.

Bill No. 69-22 – An Ordinance Approving a Petition of the Board of Zoning Appeals for Property Located at 1405 Portage Avenue, Councilmanic District #1, South Bend, Indiana



Rachel Boyles advised that the petitioner requested a special exception use for a tobacco, hookah, and vaping business. The property would be updated to the appropriate zoning standards and an area for parking would be included. The petitioner agreed to remove the excess pavement. The Board of Zoning Appeals presents the petition with a favorable recommendation.

Pervin Galati advised that Peak Investment recently purchased the property which used to house an auto repair shop and gas station. The petitioner agrees to the administration's requested upgrades and will ensure that the property is aesthetically pleasing.

Councilmember Lee advised that the neighbors, including the owner of the nearby convenience store, prefer a restaurant. The property has recently experienced issues with homeless people.

Committee Member White advised that a smoke-free ordinance was recently passed and asked if the petitioner owns any other businesses in South Bend.

Pervin Galati responded that the petitioner owns several businesses in Indiana, but not in South Bend. The property is part of a six-building (6) acquisition. The convenience store owner is against American values and stated during the public hearing that he opposes it because he was unable to purchase the property. The convenience store is a public nuisance.

Committee Chair Hamann requested that demeaning comments regarding other business owners not be made.

Committee Member White asked if an age restriction would be set for products, as an increase in smoking has been observed in young people.

Pervin Galati responded that the business is licensed in Indiana and that per medical journals, hookah is healthier than smoking cigarettes.

Councilmember Lee advised that development is welcomed, but other options should be considered.

Pervin Galati advised that a Domino's Pizza and Taco Bell were considered but the city advised that they would not be permitted as the property is too small for a drive-through. The property's usable area is only nine hundred (900) square feet.

Rachel Boyles advised that they would be permitted but a drive-through would require a variance.

Committee Chair Hamann asked if the traffic would exit onto Portage Avenue or a side street.

Rachel Boyles responded that the current access is on Elmwood Avenue, but an engineer would assess the options.

Angela Smith, Zoning Administrator, with offices on the fourteenth (14th) floor of the County-City building, advised that the site is large enough for access from both Portage and Elmwood Avenues. The pavement removal will facilitate traffic.

Committee Member Niezgodski asked if the Council should deny the transparency variance two (2).

Angela Smith responded that the Council does not have variance jurisdiction and that the variance was already acted upon.



Committee Chair Hamann asked if the public wishes to speak in favor of or against Bill No. 69-22.

Jason Piontek, 2201 Riverside Drive, South Bend, Indiana, 46616, stated that the project would take the city in the wrong direction.

Dawn Jones, 602 Christina Street, South Bend, Indiana, with offices on the fourth (4th) floor of the County-City building, expressed concern about the business optics and families with children who transit the area. There is already a liquor store selling items children should not purchase. The Transformation Ministries are attempting to improve the area, and the business would jeopardize the community's health and safety. The parcel could become a green space.

Councilmember Lee noted that the petitioner has completed great projects in Indiana, but something more beneficial could be developed.

Committee Chair Hamann noted that the previously problematic area was cleaned up.

Committee Member Niezgodski motioned to forward Bill No. 69-22 to the Committee of the Whole with no recommendation, which was seconded by Committee Member White and carried via vote by voice.

Bill No. 70-22 – An Ordinance Approving a Petition of the Board of Zoning Appeals for Property Located at 3409 S. St. Joseph Street, Councilmanic District #6, South Bend, Indiana

Rachel Boyles advised that the bill was dismissed as the project is not permitted in the district.

Committee Member Niezgodski motioned to dismiss Bill No. 70-22, seconded by Committee Member White and carried via vote by voice.

With no further business, Committee Chair Hamann adjourned the Zoning and Annexation Committee meeting at 4:33 p.m.

Respectfully Submitted,

Lori Hamann, Committee Chair

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