





**REPORT OF SUB-COMMITTEE ON MINUTES**

**TO THE COMMON COUNCIL OF THE CITY OF SOUTH BEND:**

**THE SUB-COMMITTEE HAS INSPECTED THE MINUTES OF THE**

**November 14, 2016**

**MEETING OF THE COUNCIL AND FOUND THEM TO BE CORRECT.**

**THEREFORE, WE RECOMMEND THE SAME BE APPROVED:**

  
**TIM SCOTT**

  
**DAVID VARNER**

*as corrected pg 9*

**APPROVED BY THE COMMON COUNCIL ON: November 28, 2016**

**ATTEST:**

  
**KAREEMAH FOWLER, CITY CLERK**



Be it remembered that the Common Council of the City of South Bend, Indiana met in the Council Chambers of the County-City Building on Monday, November 14, 2016 at 7:00 p.m. The meeting was called to order by Council President Tim Scott and the Invocation was given by Rabbi Kuppel Lindow, of the Midwest Torah Center, and the Pledge to the Flag was given.

ROLL CALL

COUNCIL MEMBERS

Tim Scott	1 <sup>st</sup> District, President
Regina Williams-Preston	2 <sup>nd</sup> District
Randy Kelly	3 <sup>rd</sup> District
Josephine Broden	4 <sup>th</sup> District
Dr. David Varner	5 <sup>th</sup> District
Oliver J. Davis	6 <sup>th</sup> District, Vice President
John Voorde	At-Large
Gavin Ferlic	At-Large, Chairperson Committee of the Whole
Karen L. White	At-Large

OTHERS PRESENT

Kareemah Fowler	City Clerk
Jennifer Coffman	Chief Deputy Clerk
Alkeyna Aldridge	Deputy Clerk
Joseph Molnar	Ordinance Violations Bureau Clerk
Michael Passavoir	Executive Assistant Clerk
Kathleen Cekanski-Farrand	Council Attorney
Adriana Rodriguez	Legal Research Assistant

REPORT FROM THE SUB-COMMITTEE ON MINUTES

Councilmember Karen White made a motion that the minutes of the November 24<sup>th</sup> 2016 meeting of the Council be accepted and placed on file. Councilmember Oliver Davis seconded the motion which carried by a voice vote of nine (9) ayes.

SPECIAL BUSINESS

Council President Tim Scott announced that, due to the Thanksgiving holiday, the next filing deadline with the Clerk's Office is November 22<sup>nd</sup>, 2016.

Council President Scott also announced that *Bills No. 16-86*, Noble America, and 60-16, Portage Ave & Bulla Street, would be continued.

Two Boy Scout troops present, 4115 and 111, were recognized by Council President Scott. He asked that those present in the Council chambers would stand in recognition.

City Attorney Cekanski-Farrand announced that the second Common Council Meeting for December will be canceled.

REPORTS OF CITY OFFICES

Representing the City Administration: James Mueller, Chief of Staff

RESOLVE INTO THE COMMITTEE OF THE WHOLE

At 7:06 p.m. Councilmember Oliver Davis made a motion to resolve into the Committee of the Whole. Councilmember Dr. David Varner seconded the motion which carried by a voice vote of nine (9) ayes. Councilmember Gavin Ferlic, Chairperson, presiding.

Councilmember Gavin Ferlic explained the procedures to be followed for tonight's meeting in accordance with Article 1, Section 2-11 of the South Bend Municipal Code.

Councilmember Karen White made a motion to suspend the rules and move *Bill No. 41-16* to the bottom of the Committee of the Whole agenda, so as to hear the other bills prior to that.

Councilmember Jo M. Broden seconded the motion which carried by a roll call vote of nine (9) ayes.

PUBLIC HEARINGS54-16

PUBLIC HEARING ON AN ORDINANCE  
AMENDING THE ZONING ORDINANCE FOR  
PROPERTY LOCATED AT 1037 ELMER  
STREET, COUNCILMANIC DISTRICT NO. 2 IN  
THE CITY OF SOUTH BEND, INDIANA

Councilmember Oliver Davis, Chair of the Zoning and Annexation Committee, reported that they met and send this bill forward with a favorable recommendation.

Angela Smith, Area Plan Commission with offices on the 11<sup>th</sup> Floor of the County-City Building, served as the presenter for this bill. Ms. Smith explained that the petitioner is seeking to rezone the property on Elmer St. from SF2 to MU for an extension of an existing business that runs on Lincoln Way. It is a child care facility that is looking to extend the project into the proposed rezoned area. Ms. Smith presented a map showing the parcel that they are looking to rezone, which is on file with the City Clerk's Office. It is contiguous to the already existing development at the corner of Elmer St. and Lincoln Way West. To the north and east are single-family homes zoned SF2 Single-Family, Two-Family. To the south and west are commercial businesses zoned MU, Mixed-Use. Ms. Smith presented an image giving a view of the vacant property that they recently acquired and of the property along the recently vacated alley. The site plan shows the existing building at the front on Lincoln Way, and the proposed accessory structure with prospective use for storage of vans, etc., related to the daycare business. This comes to the Council with a favorable recommendation from the Area Plan Commission. Rezoning this property will allow for an extension of an existing business that has been established along the Lincoln Way corridor and, with proper architecture and screening, will fit into the neighborhood, as well.

Bernard Feeney, surveyor at 715 S. Michigan St., South Bend, IN, served as petitioner on behalf of Betty Williams, owner and operator of Kidz Kompany Daycare, located at 1037 Elmer St., South Bend, IN. Mr. Feeney explained that Ms. Williams has been at this location for approximately sixteen (16) years and is currently working on second (2<sup>nd</sup>) and third (3<sup>rd</sup>) generation clients at that particular location. Though Ms. Williams' daycare services cover part of St. Joseph County, Ms. Williams primarily cares for children residing in South Bend, and not Mishawaka. While there is a secondary location for older children, the South Bend location is the primary location and handles younger children. The building that Ms. Williams is proposing, on the recently acquired property immediately north, is one to be constructed to house vans that are used to pick up and drop off children. Additionally, materials that are normally outside during the winter would be stored in this building.

No one from the public spoke in favor of or opposition to the bill.

Councilmember Dr. David Varner made a motion to send *Bill No. 54-16* to the full Council. Councilmember Oliver Davis seconded the motion which carried by a voice vote of nine (9) ayes.

60-16

PUBLIC HEARING ON AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE FIRST NORTH-SOUTH ALLEY LYING WEST OF PORTAGE AVENUE, BOUNDED ON THE NORTH BY THE SOUTH RIGHT-OF-WAY LINE OF BULLA STREET AND BOUNDED ON THE SOUTH BY THE NORTH RIGHT-OF-WAY LINE OF THE FIRST EAST-WEST ALLEY NORTH OF KING STREET IN PORTAGE TOWNSHIP

Chairperson Gavin Ferlic entertained a motion to continue *Bill No. 60-16* to November 28, 2016, so moved by Councilmember Oliver Davis. Councilmember Regina Williams-Preston seconded the motion which carried by a voice vote of nine (9) ayes.

67-16

PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA CONCERNING THE CURRENT REFUNDING OF OUTSTANDING WATERWORKS REVENUE BONDS OF 2000 AND 2006, EACH ISSUED TO FINANCE CONSTRUCTION OF IMPROVEMENTS TO THE MUNICIPAL WATERWORKS OF THE CITY OF SOUTH BEND, INDIANA; AUTHORIZING THE ISSUANCE OF REVENUE BONDS FOR SUCH PURPOSE IN THE PRINCIPAL AMOUNT NOT TO EXCEED THREE MILLION SEVEN HUNDRED TWENTY THOUSAND (\$3,720,000); ADDRESSING OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES IN ANTICIPATION OF BONDS; AND REPEALING ORDINANCES INCONSISTENT HERewith

Councilmember Randy Kelly made a motion to accept the substitute version of *Bill No. 67-16*. Councilmember Tim Scott seconded the motion which carried with a voice vote of nine (9) ayes.

Councilmember Dr. David Varner, Chair of the Utilities Committee, reported that they met and send this bill forward with a favorable recommendation.

Phil Faccenda, Barnes & Thornburg, 100 N. Michigan St., South Bend, served as the presenter and petitioner of this bill. Mr. Faccenda stated that the bond ordinance in question is a refunding of two prior bonds of the City Waterworks. There have been several refinancings that the City has undertaken in regards to water and sewer bonds over the course of the last several years. Mr. Faccenda stated that this is another refinancing opportunity. The refinance would be retiring the 2000 and 2006 bonds. There would not be an extension of the final maturity. The 2006 bonds expire on January of 2027, and that would be the final maturity of the refunding bonds, as well. It is an amount not to exceed \$3,720,000. There will also be contributions coming from funds on-hand with the City and their designated reserve funds for the two (2) existing bonds that are being refinanced. That keeps the principal amounts of the bonds down. The bond ordinance also

reflects an interest rate not to exceed four percent (4%). Mr. Faccenda explained that it is anticipated that when the bonds are actually priced it will be considerably below four percent (4%), hopefully below three percent (3%). Mr. Faccenda stated that the Board of Public Works met and approved this bond ordinance and has recommended it to the Council as of their meeting on November 8<sup>th</sup>, 2016. Gross savings are anticipated to be approximately \$250,000, and a close on the bonds is anticipated to occur before the end of the year.

Councilmember Oliver Davis stated that the City would be looking at a savings of \$40,000 per year for the subsequent ten (10) years. Councilmember Davis asked City Controller John Murphy how this would affect water rates and CSO issues, and to what would the savings be diverted.

John Murphy, City Controller with offices on the 12<sup>th</sup> Floor of the County-City Building, responded that that money will be savings in the fund. That would be factored into those other analyses of the water rates, but not the CSO since that is a Sewer matter. Mr. Murphy stated that John Julien is working with Umbaugh on that study, as well, so surely he's thought of that to prove the statements in that analysis.

Councilmember Oliver Davis asked for clarification from John Julien on his thought process.

John Julien, Umbaugh & Associates, 112 Ironworks Dr., Mishawaka, IN, assisted with the presentation. Mr. Julien responded that the estimated \$40,000 to \$45,000 in annual reduction in payments were taken into consideration, and that that was factored into their recommendation on the rate analysis.

Councilmember Oliver Davis reiterated John Julien's statements, and Mr. Julien confirmed that Councilmember Davis had reiterated them correctly. Councilmember Davis then thanked Julien for his thoughts.

No one from the public spoke in favor of or in opposition to the bill.

Councilmember Oliver Davis made a motion to pass the substitute version of *Bill No. 67-16*. Councilmember Dr. David Varner seconded the motion which carried by a voice vote of nine (9) ayes.

#### 41-16

PUBLIC HEARING ON AN ORDINANCE  
AMENDING THE ZONING ORDINANCE FOR  
PROPERTY LOCATED AT 401 EAST COLFAX  
AVENUE, 228 & 230 SYCAMORE STREET, &  
312 LASALLE AVENUE, COUNCILMANIC  
DISTRICT NO. 4 IN THE CITY OF SOUTH  
BEND, INDIANA

Councilmember Oliver Davis, Chair of the Zoning and Annexation Committee, reported that they met and send this bill forward with no recommendation.

Council Attorney Kathleen Cekanski-Farrand stated that this is already a substitute bill.

Angela Smith, Area Plan Commission with offices on the 11<sup>th</sup> Floor of the County-City Building, served as the presenter for this bill. Ms. Smith stated that the petitioner is seeking to rezone the property along LaSalle and Colfax. Ms. Smith explained that the current zoning is CBD, Central Business District and that they are proposing to rezone to PUD, Planned Urban Development. The area includes the existing Commerce Center, as well as the parking lot and associate parking lot to the north of the Commerce Center. The surrounding properties are all zoned CBD, Central Business District, and range from the park area along the East Race to townhomes on the west. There are offices and commercial buildings along this area, as well. Ms. Smith directed the Council's attention to images of the property, on file with the City Clerk's Office, showing views of the Commerce Center looking across the East Race, as well as one



looking across LaSalle in the same general area, one showing where the proposed building would be located, and a more distant view of the property from LaSalle. Ms. Smith stated that the developers are proposing a mixed use development on the site. The Site Plan on file with the City Clerk's Office shows up to a one-hundred and seventy-five (175) foot tall mixed use building with a four-hundred (400) foot long span along LaSalle that wraps around the corner. There is a proposed hundred (100) foot tall parking structure that is located in the center of the lot to service the site. A small portion of the site would be used for service parking and access. The proposed PUD allows all the uses within the Central Business District and adds group residence, manufacturing retailer, electric retailer, and a relay or public utilities substation. The PUD district standards include regulations for signage, parking, lighting, and various other items that are handled in the full ordinance presented to the Council. The assigned sections have been expanded a little bit to increase building coverage and allow for a roof sign, but the lighting and loading sections are consistent with the Central Business District.

Ms. Smith stated that there has been much discussion regarding concerns about the shadows that may be cast from the proposed building. Ms. Smith presented an image captured from a simulation showing shadows cast by the building at the proposed height of one-hundred and seventy-five (175) foot, on four key points of the year—specifically, the Vernal Equinox, Summer Solstice, Autumnal Equinox, and Winter Solstice. Ms. Smith presented another image depicting shadows cast on the same days by the building if constructed at the allowed sixty (60) feet height, as currently allowed in the Central Business District. Ms. Smith then presented an image showing what the project might look like, with buildings to the left of the proposed building in the image scaled to the approximate height of the Pointe Apartments, located to the north of the project. Ms. Smith explained that as a Planned Unit Development, this project follows a slightly different process from the typical rezoning. The process is outlined in the provided map. It starts with the concept to the plan to the staff, which has been presented in a formal petition for zone map change, the PUD district ordinance—which is the fullest of development standards for the project—preliminary site planning, and the addition of materials that may be requested. It is then reviewed by the Area Plan Commission and sent down to the City Council. In this case it came to City Council with no recommendation from the Area Plan Commission.

Ms. Smith listed the standards in 2015, when the PUD ordinance was amended, in which are outlined the intents of the PUD: to establish compatible and efficient mix of land uses and open spaces; to ensure compatibility with the Comprehensive Plan, surrounding development, and future development needs; to establish a creative approach in building design for architectural compatibility; to achieve flexibility and provide incentive for development that will sustain a wider range of choice and satisfaction to the changing needs of the community; and to provide for an individual land or combination of lands not otherwise specified elsewhere in the ordinance. The standards further express that a Planned Unit Development section of the ordinance specifically states that the PUD district is not intended to be used for permitted uses or special exception uses which are provided within another district of the ordinance, or for the development seeking relief from development standards within a district in which the use is permitted. Ms. Smith stated that in addition to not meeting the PUD development district standards, the proposed standards do not meet some of the other requirements of a zone map amendment as outlined by State law, which, Ms. Smith added, Mr. Magliozzi could address.

Larry Magliozzi, Executive Director of the Area Plan Commission, with offices on the 11<sup>th</sup> Floor of the County-City Building, assisted with the presentation. Mr. Magliozzi noted the rarity of a dual presentation and staff report for zoning, but further emphasized that this was perhaps one of the most important zoning decisions brought before the Council in recent memory. Mr. Magliozzi explained that when reviewing redesigner requests, one must give reasonable regard to four (4) criteria: a reasonable regard to the Comprehensive Plan, of which the East Bank Plan is a part; to current conditions in character, from the area of the neighborhood or the immediate blocks; to the most desirable use for a piece of property; and to the conservation of property values. Mr. Magliozzi stated that, over the past months, there has been a great deal of discussion within the Area Plan Commission and the Zoning and Annexation Committee, and many intricate details have been conveyed to the Council regarding matters such as: the side treatments of the building; open space versus public space, and how that will be used in connection with the

grocery store; the uses in the building; the issue of shadows; assessed values of the building; and the number and quality of units. Mr. Magliozzi stressed that the project under discussion still needed to adhere to the overall goals of the East Bank Plan and the previously listed four criteria of the Comprehensive Plan. Mr. Magliozzi stated that the Council needed to take all the information and details they had acquired over the course of the lengthy deliberations over this project, as well as the comments to be offered that evening, and attempt to fit them within those four criteria.

Mr. Magliozzi proceeded to recount the history of the East Bank Plan. The Plan was approved in 2008, with ten (10) stakeholder groups present who created fifteen (15) concepts over the course of a two (2) day charrette—the scene of very heated discussion. The Plan cost \$50,000; it was thoroughly vetted. The process had the full inclusion of residents and businesses of the area, and at least one local developer. The Plan was approved and forwarded to the Council and the Council approved the East Bank Plan as an amendment to the Comprehensive Plan. Mr. Magliozzi explained that in 2004, four (4) years prior to the adoption of the East Bank Plan, the City adopted its current version of the zoning ordinance. It replaced a several decades-old zoning ordinance that was overdue for improvement. Through the public process, the Central Business District was then established on the east and west sides of the river. The City did not have a zoning district called CBD prior to that. All of the development standards in the CBD are the same—except for the height. As a result, there was a conscious decision in 2004 to begin the establishment of a distinction in character between the East Bank and West Bank. One of the concepts was that the downtown is an important part of the City of South Bend. That is where higher density and greater heights should be located. The East Bank is still in the CBD, still adheres to the same development standards except for height, and it still allows for the mix of uses necessary for the two (2) to work together. The EBP essentially validated that. It did not suggest a change in height.

Mr. Magliozzi stated that it is important to note that the Plan has history; that it had been brought about through public input. Mr. Magliozzi then clarified that the following was an opinion he offered to the Council. The decision tonight will determine the balance of the development in the East Bank Area. While many may disagree on whether this is good or bad, it will affect the overall development of the area. This decision could very well compromise the previously described public process that has taken place over the last twelve (12) years. If this project is approved at the proposed height, it will be practically impossible for the Area Board of Zoning Appeals, the Area Plan Commission, or the council to deny future height variance requests absolutely anywhere in the East Bank Area. Mr. Magliozzi stated that approval of this petition, will cast public doubt on the validity of current and future planning efforts. There is a great deal of money spent in the City. The Plan, as a guide, would be compromised.

Dave Matthews, 215 E. Colfax Ave., South Bend, IN, served as the petitioner for this bill. Mr. Matthews explained that on the West Bank, the maximum building height was set at one-hundred and fifty (150) feet—which would keep the Chase Tower Building, the Key Bank building, the County-City Building, the Tower Building next to the Courthouse, and the Hoffman Hotel from being built today. On the East Bank, that height was set at sixty (60) feet in 2004. Afterward, a petition was submitted to the Area Board of Zoning Appeals to raise the height to ninety-eight (98) feet, and the ABZA approved. After failed attempts to get projects approved by the ABZA, Mr. Matthews presented a PUD proposing a ninety-five (95) foot project to the City Council, which was approved. Mr. Matthews stated that the difference between the sixty (60) foot height limit set for the East Bank and the height limit arbitrarily set by the ABZA was one of sixty-eight percent (68%). Mr. Matthews further stated that Matthews LLC seeks to raise that height by another seventy-eight percent (78%), but brings the project to the Council instead of the ABZA through the PUD process. Mr. Matthews stated that he finds the PUD process—in which a preponderance of details of the project must be presented to the Council—one that is ideal. The public—specifically those who live and own in the East Bank neighborhood—would be privy to the process and be able to comment on it.

Mr. Matthews then presented images of sites in the East Bank neighborhood, on file with the City Clerk's Office, before and after the construction of Matthews' townhome properties. One slide depicted the corner of Colfax and Sycamore in 2009 or 2010 when Mr. Matthews first

bought the property in contrast to the six (6) townhomes he built on the site. The next slide depicted Matthews' property across the street from the Emporium, before and after construction, which was a half paved and half gravel parking lot prior to the construction of ten (10) townhomes there. Mr. Matthews stated that though Matthews LLC is great at celebrating its successes, this is still a poor neighborhood. Mr. Matthews explained that there are 2100 people, 1200 households who live within a half-mile radius of the site, and that their median yearly income is \$16,000. That is less than \$1400 a month for half the households in the neighborhood. Mr. Matthews stated that his townhomes were the first market-rate residential projects built in the neighborhood in thirty (30) years. Mr. Matthews stated that the neighborhood was changing, that he cares about the neighborhood and has chosen it as his home, as have many of those of the public present in the Council Chamber. Mr. Matthews then presented the site of his proposed project. Mr. Matthews stated that the parking lot is not currently pedestrian-friendly. At present, there is 90,000 square feet of leasable office space on about 2.9 acres, with just under 300 parking spaces. The assessment is around \$2,000,000 and Matthews pays about \$60,000 a year in property taxes. What is being proposed is a mixed-use building on Sycamore, LaSalle, and the East Race consisting of a first floor grocery store and pharmacy with a side door deli facing the East Race, with housing above; it will conceal a parking garage in the middle of the block.

Velvet Canada, Matthews LLC, 401 East Colfax Ave., South Bend, IN, continued the petitioner's presentation. Ms. Canada summarized the aesthetics of the mixed-use building meant to occupy four-hundred and eleven (411) feet of pedestrian space: a combination of the Commerce Center's arches with Chicago-style bay windows, which would bring in light for the units and allow one to look down Sycamore; a French style for the supermarket entrance, with a canopy adorned with delicate metalwork and equally delicate balconies where one can look out onto LaSalle; for the center building—the main portion of the store—a more classical inspiration, with recessed balconies as well as those protruding onto the street; and an industrial look toward the East Race, relying on metal and brick construction—this portion of the proposed building would be right next to the Commerce Center. Ms. Canada showed pictures depicting the proposed building in-context with the East Bank Flats and other Matthews LLC townhomes. She also showed what it would look like from the fourteenth (14<sup>th</sup>) floor of the County-City Building in context with the rest of the city.

Ms. Canada explained that the building is being proposed at twelve (12) stories, at one-hundred and sixty-two (162) feet in height, with an overall height of one-hundred and seventy-five (175) feet to get the elevator and other mechanical features in the building, and a footprint of 32,400 square feet, with a total building area of 387,000 square feet. Estimation of commercial space is 62,000 square feet, with residential estimates at two-hundred and forty (240) apartments, which would equal twenty-four (24) apartments per floor. The main parking will service the grocery store, with traffic coming in off LaSalle and Colfax. Main parking will have one-hundred and twenty-one (121) spaces, with eighty-four (84) covered, and thirty-seven (37) uncovered. The upper levels will be accessible via speed ramp from Sycamore. It will house spaces for employees and the current Commerce Center area, as well as the apartments. There will be six-hundred and twenty-one (621) spaces. A common green space is currently proposed for the roof deck.

Jonathan Jones, Matthews LLC, 401 East Colfax Ave., South Bend, IN, continued the petitioner's presentation. Mr. Jones stated that the first questions he is often asked regarding market-rate demand is whether or not the multi-family construction taking place in the downtown area is outstripping demand. Mr. Jones contended that the answer to that question was "No." Mr. Jones stated that to elucidate that answer, he needed to delve more deeply into the context of the matter at hand. South Bend is the fourth (4<sup>th</sup>) largest city within the State. It sits at the center of a multi-county, bi-state region known as Michiana, home to well over 800,000 individuals. If Greater Michiana is accounted for, South Bend is then the cultural and economic hub of a region of nearly 1,000,000 people. It is within a three (3) hour drive of four (4) major cities. South Bend is positioned to be a strong economic driver in the State, as well as a great incubator of business development. Mr. Jones stated that this was not only his view, but that of the State, as evidenced by the Regional Cities Initiative. Results of an IEDC study—which sought ways to research successful planning in other regions—reveal that regions that plan successfully are ideal places for individuals to live, work, and play. These are important

considerations when acquiring talent, given that young professionals seek out not only cool places to live, but places of employment, recreation, and social connectivity that are within walking distance of where they live. 20,000 people make up the workday population of downtown South Bend, compared to the 3,000 who make up its resident population. The growth of this resident population is hindered by the availability of present developments. There is a strong, growing demand in the downtown area for opportunities to live close to work. Mr. Jones stated that these opportunities are not currently present. There has been little update in the rental market since the construction of The Pointe Apartments over thirty (30) years ago. New Matthews LLC projects are focused on the student market, which is growing due to the abundance of colleges and universities in the area. The current project will provide units ranging from one (1) to four (4) bedrooms for a wide range of individuals including young college students, growing young families needing more space, and Baby Boomers. Mr. Jones stated that the price range is diverse. Matthews LLC is working on a pilot program for tenants to become volunteers in their neighborhood, in which hours of volunteer work count as credit toward a discount of up to fifty percent (50%) of their monthly rent. Aside from the incentive of a discounted rental fee, this program seeks to build community through the establishment of relationships and the cooperative work of people of different walks of life. Mr. Jones then showed the Council slides, on file with the City Clerk's Office, depicting the interiors of existing Matthews LLC units.

Rob Bartels, Martin's Supermarket, 760 West Cotter St., South Bend, IN, continued the petitioner's presentation. Mr. Bartels stated that a great many requests for a downtown supermarket have been made for years in the form of emails, through focus groups, through the word of mouth. Mr. Bartels compared the rebuilding of a store in northern Elkhart in 2008—at a time where there was 25% unemployment in the area—to the inability for anyone to predict the convergence of vital redevelopment, increased residence, and increased opportunity all at once in downtown South Bend. Mr. Bartels stated that he would have never anticipated the Regional Cities Initiative, or private investment, or the fact that Martin's would seek to build a store downtown. It is a risk for the entrepreneur. He stated that the project should open the door for future developments, and that it itself represents momentum. It is an opportunity to put South Bend on the map as a place for businesspeople to take risks and do a good job at development. Mr. Bartels stated that he is glad that the Council has the flexibility to say yes to the right things, and that he hoped they would do so regarding this project.

Mike Higbee, 277 East 12<sup>th</sup> St., Indianapolis, IN, continued the petitioner's presentation. Mr. Higbee runs a development advisory services company called Development Concepts, Inc., and was the Development & Planning Director for Indianapolis in the late 1980's. The East Bank Plan is critical and important to be considered in the decision to be made today, but it is a guidepost. When the height limit was put into that plan, it was meant to serve as a guideline for most of the development parcels within that neighborhood but not necessarily each and every one of them. Mr. Higbee disagreed with the notion that allowing a project on the right parcel to exceed the Plan's recommended height would lead to the fall of the whole neighborhood. This is a lot that can accommodate the proposed height. The area is a commercial one that has varying building heights. Further to the east would most likely be less appropriate, though. Mr. Higbee rhetorically asked whether or not the proposed project responds to the market need. In the Elkhart-Goshen area, annual growth is eight tenths of a percent (.8%), while in South Bend, growth is one tenth of a percent (.1%). Population growth from 2013 to 2014 was two tenths of a percent (.2%). There has to be an intervention if the population is to be increased so as to grow the community as desired. South Bend is losing its younger population, like nearly all communities, but the healthy urban communities are growing the thirty-four (34) and under population base. The IU Public Policy Institute has looked at urban centers around the State and have determined that only a handful of urban centers are going to grow in this age cohort. Many will grow older, but only the urban centers that attract talent will be able to maintain and grow that younger population. Mr. Higbee stated that St. Joseph County could go either way. If it does not plan well, if it does not build housing that this young talent wants, they will go elsewhere. South Bend has improved considerably in the last few years, but the work is not done. St. Joseph County is losing in the in-migration/out-migration battle: there are more people leaving than coming in. This has been a trend from at least 2010 to 2014. This project tries to address the fact

that there are not housing options attractive to young talent. Mr. Higbee stated that this is a unique project from which households will benefit. It will bring new people in, there will be new demand for services, it will raise property values within the neighborhood. Those who might rent at this property like the fact that they would be close to work; that they are close to amenities and a grocery store. The opportunity for in-fill single-family development is significant in this neighborhood and the neighborhood plan calls for some of that. The market for Millennials and Baby Boomers is huge, with Millennials overtaking Baby Boomers in volume of population. Millennials want density, transit options, and walkability. Baby Boomers want to lower overall housing costs, convenience, and walkability.

Mr. Higbee then turned to the notion of enhancing the urban fabric. South Bend has a history of mid- to high-rise buildings in this community. For instance, the County-City Building at one-hundred and ninety-three (193) feet, or the Tower Building at one-hundred and fifty-seven (157) feet, or the Aloft Hotel at three-hundred (300) feet. Mr. Higbee stated that height visibly defines the downtown area and the immediate downtown area. This building has the ability to define the East Bank in an appropriate location, right on the edge of western edge of the East Bank, interacting and bookending with downtown. Mr. Higbee stated that the project is feasible; that there is sight control; that there is an identified market; that there is a growing market with Millennials and Baby Boomers, but that that market is not really coming into South Bend, therefore there is a need for developers that are willing to take the risk and attract that market in; that the City-State partnership is in place; and that there is a proven developer with a financing track record. It is unusual for a community to have all those variables in spades, and South Bend does. On the subject of whether or not this project will encourage additional investment, Mr. Higbee stated that the density does bring additional demand for services such as eating, entertainment, health care, dry goods, groceries, etc., transitioning the millennial market into potential customers for nearby urban neighborhoods. Having a residential project of scale is ultimately what will make the grocery store possible.

Dave Matthews, petitioner of the bill, returned to the podium to continue the presentation. The project is a \$50,000,000 build. The annual taxes are just over \$1,000,000 a year of additional revenue coming in. That is about \$11,000,000 to \$12,000,000 over a decade, or \$100,000 per year per floor, or \$1,000,000 per decade per floor. Mr. Matthews stated that when height is subtracted from the building, the cost to the city is \$1,000,000 per decade in additional revenue. These would be lowered for the first decade with their first proposal for an aggressive tax abatement to help pay for the parking garage, because, due to the Regional Cities Initiative's grant of \$5,000,000, Matthews LLC is able to present this without asking for a check from the City. When Matthews LLC first approached the City, they asked whether or not they could get the same deal that Eddy Street Commons did, where the City pays for and builds the garage—at \$20,000,000, in the case of Eddy Street Commons—and then Matthews would do all the development and pay their property tax bill. Mr. Matthews stated that the problem was that in the case of the Eddy Street Commons project, the big hotel has yet to be built and the area is upside-down in tax collection. If the City had not reorganized TIF districts, that parking garage would have been paid out of South Bend citizens' general fund. Instead, the City decided not to do that again. An alternative offered by the City is an aggressive tax abatement. If a developer would like to take the risk and pay for the garage themselves, they can take out a loan and put the risk upon their own shoulders, then the City will encourage an aggressive tax abatement so that money saved on the increase in taxes can be used to pay the developer's own private bond on the parking structure. In such an arrangement, the City is not at-risk. Mr. Matthews stated that the specifically proposed height of his structure is needed to make the math work. If the project remains at one-hundred and seventy-five (175) feet, twelve (12) stories, then the project generates nearly \$1,200,000 of additional tax revenue per year. If the project drops in height to seven (7) stories, then it will generate \$600,000 of additional tax revenue a year. Adherence to the original sixty (60) foot, four (4) stories plan, then just under \$400,000 of additional tax revenue would be collected per year.

Chairperson Gavin Ferlic announced that this was the time allotted for the Council's questions and requested that Councilmembers ask no more than a maximum of two questions to the petitioner and the presenters.

Councilmember Karen White stated that the staff report indicated that five (5) items of intent for PUD were not met, but that she had heard a counter-argument from some of the presenters that they had been met, excluding the height. Councilmember White asked for a response to that by either Angela Smith or Larry Magliozzi.

Angela Smith responded that she did not know necessarily how the counter-presenters said the five items had been satisfied.

Councilmember White responded that she did not know whether Ms. Smith should respond or Mr. Matthews.

Mr. Matthews stated that it might make more sense to list the points that were not met and hash it out.

Ms. Smith stated that there are five (5) points, but two (2) emphatic points that she could recall without referring to her notes: that the PUD district not be used for variances, or uses that are allowed within a district—that has not changed with their presentation material, either. She listed the other points. First, to establish a compatible and efficient mix of land uses and open spaces. The APC says that it agrees that it is a compatible mix of uses, but the only comment was that they would like to see more open space along the river. Second, to ensure compatibility with the Comprehensive Plan. Ms. Smith stated that she felt that APC has sufficiently stressed the fact that they do not consider this project compatible with the Comprehensive Plan. Third, to establish a creative approach to building design and architectural compatibility. The APC has yet to see much detail on the building design, and in fact, at the pertinent time, had not been privy to the elevation details presented to the Council. APC would probably agree that the project was moving in the right direction, but it still lacks a lot of the human scale and interaction at the ground floor that APC was looking for, and it is still unknown how the building functions internally. Fourth, to achieve flexibility and provide for incentives for development that will sustain a wider range of choices in satisfying the changing needs of the community. Ms. Smith stated that this one is vague and hard to address. Without seeing the internal layout of the building, it is hard to determine how this will fully function and how the wider community will be serviced by some of these things.

Dave Matthews stated, One (1): we can't use this just as a way to avoid getting variances. That's why we are able to get this far in the PUD, because in our PUD application some of the things we applied for, we could not get as a special use or special exemption at the time. It is part of the reason we applied early in the process, so as to make sure we were able to get this in before other rules changed with zoning and group housing. Two (2): establish open spaces and compatible uses. If we did a simple variance, we would ask for extra height and we could build almost whatever we wanted. With this, we expanded the PUD area to include the area east of the property, which we dedicated to the public. It's private area that we maintain. Mr. Matthews then referred to a slide showing a map of the property. On the right side, along the East Race, that whole area from Colfax to LaSalle is buildable land we could build on. We are making that public space, meaning that we will maintain. Even if I died and someone else owned it, if someone else wanted to build it, they would have to come to the City Council and say that we want to put a structure up. Is that okay? Unless that happens, this stays as it is. Three (3): do we use creative building design and are we architecturally compatible with the neighborhood? Absolutely. The pictures that Velvet showed of what we want this building to look like absolutely add to the character and quality of this neighborhood. These details we want to put on our buildings are gorgeous. We could build a one-story strip mall with a parking garage on the corner that would be awful. It would not add to the character of the neighborhood. That's not what we build. We care about this neighborhood. We care about how the buildings look and how it affects our daily lives when we see them, when we walk by and take photos with them in the background. Everything we try to design, we try to make gorgeous and timeless. It might not win an Architecture Digest award this year, but kind of like the LaSalle Hotel is a hundred (100) years old, it still looks good. This building, with its four (4) different building designs in it, will still be beautiful not just a decade from now but a hundred (100) years from now. Four (4): are we achieving flexibility for the changing needs of the community? Yes. Absolutely. We make it so that if you have four people that want to live together, they can. We have one (1)-bedrooms if you want to live by yourself. If you want to couple up, if you want to have kids, if you want to be



an empty-nester—all those life changes we try to accommodate with different prices. If we want to make a neighborhood that is stable, we need housing that is affordable, housing that is nice, so that if you are rich or poor, divorced, coupled up, with or without kids, an empty-nester, you can find a place to live in the East Bank for every stage in every age of your life. You can live your entire lifetime in our neighborhood. Go to the same parks, the same restaurants, the same bars, the same activities. That ensures stability in a neighborhood; that's what we are trying to do. Yes, we achieve flexibility for the changing needs of the community. We meet all five (5) of those. Thank you.

Councilmember White asked Mr. Matthews what the price points were for each unit size, and for clarification on whether the aforementioned volunteer program that would discount rent would be part of this project or another.

Mr. Matthews responded that they are trying to do it with all of them. We are pioneering a project. We started at the old Madison Center next to the dog park. We have a family that's moved in and the head-person is working on setting up the criteria for how we address a volunteer program. We build really nice stuff. What happens if the market crashes, everything goes bad, and we have this building that's built really well—that's beautiful—but the market disappears? So, we lower our prices. We don't make as much money. It gets really bad. I lose my money, I can't pay the loan payments, but the building is still there, the bank forecloses and prices get reduced. The building becomes more affordable. The building will always be full because we built it so nicely. What happens is Castle Point, Indian Lakes, apartments outside the area that are thirty (30) plus years-old, that haven't been updated—a tenant there asks themselves whether or not they want to live in downtown South Bend with granite countertops and hardwood floors for the same price as this other place? Well, they're going to pick downtown South Bend. But, hopefully, these apartments are expensive. Hopefully, people say they want to move in and that they love this quality, and so maybe they pay us as much as they pay Eddy Street Commons. But then, a lot of people—a lot of friends I have who are active in the neighborhood—can't afford to live there. So, what we've come up with is a pilot program where, if you volunteer in the immediate neighborhood, we credit you twenty-five dollars (\$25) an hour up to half your rent. It has to be an approved project, so you have to talk to Willow and explain what it is that you want to do. She says yes, and then we have an app we use so that you can track your hours, and then we credit the money off your monthly rent. For example, there's an apartment that we built in the old Madison Center that's remodeled. This would be an eight-hundred dollar (\$800) a month apartment, but if somebody wanted to move in and volunteered four (4) hours a week in the neighborhood, this is four-hundred dollars (\$400) a month, utilities included. That's awesome. It makes it so that people who are engaged in making the neighborhood better can still live in the neighborhood later on. It also means that as a developer investing in real estate, if we have music festivals, Seitz and Sounds, kickball leagues, hockey events in the neighborhood—that makes the quality of life better. That gets people who can afford more to want to live in downtown South Bend. It's kind of a long game.

Councilmember White asked Mr. Matthews what the price range would be if the commitment to service were taken out of consideration.

Mr. Matthews responded, As much as we can get.

Councilmember White responded, What is that?

Mr. Matthews responded, A one (1)-bedroom apartment in East Bank Flats, which is almost done—there's one (1) going up on Sycamore Street—it's probably twelve-hundred (\$1200) to fifteen-hundred (\$1500) a month. A three-bedroom apartment would be in the two-thousand (\$2000) and up range.

Councilmember White asked about what the four (4)-bedroom unit would cost.

Mr. Matthews stated that they did not have a four (4)-bedroom unit built, and thus had not tested the market.

Council President Tim Scott asked Mr. Matthews and Rob Bartels what number of jobs could be expected to be generated by the grocery store and the building in general.

Rob Bartels stated, That's an excellent question. Much like David doesn't have a four (4)-bedroom, we haven't done a downtown store, yet. We are putting this together. We're modeling it after the store we did south of Goshen. We are thinking in the forty (40) or fifty (50) person range, but it may be less or a little more. It is hard to say.

Council President Scott asked Mr. Matthews if there were any details he could give regarding employment in the building.

Mr. Matthews responded, We have an additional one (1) or two (2) property managers for the building. Those are higher paid management positions. Then, there are probably three (3) or four (4) full-time equivalent for ground maintenance staff.

Council President Scott thanked Mr. Matthews for his answer and for presenting tax numbers in his presentation. He further stated, I'm trying to balance the \$1,600,000 brought in yearly, with this at this height, to the Master Plan that projected \$2,900,000 if the Master Plan were followed. Having no further questions, Council President Scott stated, I have pushed my issue.

Councilmember John Voorde asked Mr. Matthews what the timeframe would be for the project's construction if given the greenlight.

Mr. Matthews responded, We have to get the greenlight here, then firm up the tax abatement, and then, once the tax abatement is passed, we can sign a contract with the Regional Development Authority, and—I think, since I haven't seen the contract, yet, but the talk is four (4) years. So, it's roughly a year of planning, a year for the parking garage construction, and two years for the mixed-use building.

Councilmember Voorde asked Mr. Matthews whether or not he had discussed the idea of parking to serve the public or other types of uses with the City or other developers.

Mr. Matthews responded, Yes, absolutely. We currently let the Pointe Apartments park in our parking lot overnight. We have a two-hundred and eighty (280) spot parking lot now at the Commerce Center. The parking lot is probably sixty percent (60%) full during the day and has three (3) or four (4) cars at night that are ours. The cars on the north side are typically tenants from the Pointe Apartments. We have not let the tenants of the Stevenson Mills apartment complex park in it, yet. We don't charge the Pointe people, yet. We have said no to the Stevenson Mills folks because they have said that business is going well, and I've asked them what they are doing to give back to the neighborhood, they replied that they are not doing anything. I said to them, Look, sponsor something, whether it's Seitz and Sounds, a music festival, art in the neighborhood, DTSB—give back. I let your tenants park at the Commerce Center. Five bucks (\$5) a month at the door would be fine, but they've yet to do it. So, I'm trying to be a good neighbor and get them engaged. I think you'll reach out to Frank Perri, who will probably speak against it—we've talked to him. This parking garage is oversized for a residential demand because it's sized for the grocery store and office demand that we currently have on the site. And so, when this project is all said and done, we will have excess night-time residential parking that's available that, if we can rent it and somebody else can use it, great, because it's just going to sit there.

Councilmember Oliver Davis, as preamble to his question, stated that the project was set for seven (7) stories instead of twelve (12) stories when the concept was put forth to Regional Cities, and that Martin's had signed on to the project at that time despite the concept being lower than the eventual twelve (12) stories.

Mr. Matthews responded, When we first did the application, to Regional Cities, it was when Elkhart County, Marshall County, and St. Joseph County were applying for a Regional Cities grant. I thought the chances were pretty slim. We put our hat in the ring. I spent hours on the application. Then, we won. So, then I had to do the real math and find out what does it take to make this project work. And that's what we presented to the local RDA, and that's what they approved and awarded the \$5,000,000 grant for, and that's what the State awarded the local RDA grant, so it's actually funded now, and that's why we are applying today for the rezoning.

Councilmember Davis asked Mr. Matthews and Angela Smith what the rationale was for arriving at a compromise of nine (9) stories and two-hundred and forty (240) units with the ABZA.



Angela Smith stated, In regards to how staff came up with the eight (8) stories, ninety-six (96) foot height that we had in our recommendation, that came from a Department of Community Investment policy that was introduced when Dave Matthews applied for a height variance at Niles and Colfax. It was also used for the Sycamore project. We were looking at that as two (2) projects that had gone through the public process, and additional height was granted. Actually, Niles and Jefferson was the only one that was granted at ninety-six (96) feet in height. The Sycamore project was actually lower than ninety-six (96) feet in height. We had looked at that as the City and public process telling us that that was a change that they were willing to support with certain criteria. We felt that those criteria were met, in general, in the plan that was presented. So, we thought that there would be similar support at that height, and that was how we determined that.

Councilmember Davis began to formulate an add-on question, but then he and Chairperson Gavin Ferlic briefly debated on whether or not Councilmember Davis's add-on was in fact a second, distinct question altogether. Councilmember Davis subsequently asked Angela Smith to expound on the thinking behind the two-hundred and forty (240) units.

Ms. Smith responded, I don't believe that the density is what we have an issue with. If they can fit two-hundred and forty (240) units in ninety-six (96) feet of height, that wasn't our concern. I don't think we had any discussion about that being too many units.

Councilmember Davis asked, What zoning would you approve for this to go forward, still preserving the intent of the project? Are we debating the zoning? The height? Could you clarify that for me?

Ms. Smith responded, Sure. From an APC staff and planning perspective, we think that the zoning portion of it is a very critical aspect. Regardless of the height, regardless of the project, I don't think our staff has ever had any problem with the uses. The process is a little bit of concern. We believe the best zoning district is Central Business District. That's what the map shows. Regarding the changes that we made in 2015 to the PUD district ordinance, there is concern that the integrity of those changes will be greatly affected by tonight's decision. An approval of a PUD in any fashion greatly impacts that district ordinance that has been established, and would have a significant effect on other developments going forward. When we talk to developers to discuss what they can or can't do, if they don't like what they hear, they'll just apply for a PUD and come to the Council to ask for relief. That is a planning concern for our department. Ultimately, this property is completely surrounded by Central Business District. The uses are appropriate for the Central Business District. The height issue is really a variance issue, in my opinion.

Councilmember Davis asked, So, for clarity—just to make sure that I have a clear understanding—your answer to this whole situation is that if it had come through Central Business District, then it would have been given a greenlight?

Ms. Smith responded, They would have had to get a height variance. Whether or not it would have gotten a greenlight, I'm not sure. If they were asking to apply for Central Business District, which is what they already have—for the zoning of Central Business District we would have recommended approval, yes.

Councilmember Davis responded, So this is a zoning issue?

Ms. Smith responded in the affirmative.

Councilmember Davis continued, asking, And then we would deal with the height issue later?

Ms. Smith responded again in the affirmative.

Councilmember Dr. David Varner asked Mr. Matthews to describe to him what an aggressive tax abatement was, as he had never heard of an aggressive one despite being very familiar with tax abatements.

Mr. Matthews responded, Typically, there is a form to fill out, and that qualifies it for a three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), or ten (10) year tax abatement. Then, what

I would consider an aggressive tax abatement would be what the City Council gave to the Chase Tower project to abate more money.

Councilmember Dr. Varner interjected that it is constrained by a ten (10) year limitation.

Mr. Matthews continued, stating, It is still constrained by ten (10) years, but instead of doing nine (9) from an abated seventy (70), sixty (60), fifty (50), forty (40), twenty (20), it stays in the higher nineties (90's) longer, abated—

Councilmember Dr. Varner interjected, stating, If that happened, I wasn't aware of that. My understanding of the abatements is that by statute they had to decrease annually.

Councilmember Jo M. Broden asked, How do we go from sixty (60) feet, allowable by the Plan, or ninety-six (96) by precedent—variances within this particular neighborhood—to one-hundred and seventy-five (175) feet? If it is so incremental of a change, why did you not go for a variance through ABZA?

Mr. Matthews responded that he was talking about the history of how the height limit went from Frank Perri's proposal of sixty (60) feet to ninety (90) or (100) feet, and subsequent application to the ABZA to get the same deal. The ABZA turned us down. We applied for a different parcel across the street, continuous and adjacent. We got turned down. So then we went back to the City and did a PUD, because there's politics to be played with the County, having so many seats appointed to an ABZA board and then deciding what happens in our Central Business District. I applied twice. I was turned down each time. I applied to the City Council through a PUD and was approved. It was a contentious rezoning meeting, but I think seventy (70) people got up and spoke in favor of it. People who actually live in the neighborhood. But when we went before the Area Board of Zoning Appeals, the representative from Mishawaka was against it and shot it down. This is a board that has no influence over Mishawaka. Then, when we went for the PUD, that same gentleman showed up at the rezoning meeting and spoke against it again. There are politics to be played by going through the County. I think our zoning is broken, in that regard. I think it's a major defect that politics from throughout the County—Lakeville, Walkerton, Mishawaka—have an impact on how we choose to build in downtown South Bend. So, if I have the opportunity to do a project this way, I have to do a variance. But if I want to expand the project and do it this way instead, I can apply for a PUD rezoning and have the City Councilmembers—you who live in the City, deciding how our city grows—that's absolutely my choice. But to do that, what do I have to do? Well, I have to spend ten (10) times as much on the application fees. I have to spend a lot more on architecture, renderings, site layout, engineering studies to make sure that the plan fits, because I'm tied to the site plan. I have to present the site plan and elevations in public, so that it's part of the record that I'm tied to the site plan. If I deviate from it and try to cheapen the building, then you can deny me my permit. So, I'm coming and putting handcuffs on and saying we're deviating from the norm. But instead of going to this County-wide council and saying they get to choose, I'd rather you choose. We elected you. You're our city representatives. These are the people who voted you in, and a lot of them live in the neighborhood. Let it be our influence and your choice to make this change. If you make this change, yes, it will set a precedent. And that change can be picked up and carried out by the ABZA, but for the initial change of raising the height limit, I think that's your responsibility.

Councilmember Broden asked, If the City funded or bonded the garage, would you need the height? In a related question to that, the gentleman who kindly came up and shared such terrific information from Indianapolis—would his analysis change at nine (9) stories?

Mr. Matthews responded, If we drop from twelve (12) stories to nine (9), what happens? We lose three (3) stories. That's seventy-five (75) units, give or take.

Councilmember Davis asked, Why do the units have to be lost?

Mr. Matthews responded, I have a fixed footprint, but we've laid out twenty-four (24) units per floor. If you take three (3) floors off, we drop down to nine (9) stories, then we've given up \$300,000 a year of taxes we're going to pay. We did the math, just in case this question came up. We're looking for about \$1,900,000 per floor. So, the City said if you wanted to go to nine (9), stories, you wouldn't even have to pay for the whole garage. If you paid just under \$6,000,000, up front with a TIF bond and tax abatement, we could fund the rest of the garage and make nine

(9) stories work, absolutely. But when we've tried that in the past, if something happens and we don't build the entire complex, and we aren't paying those taxes, now the taxpayers are on the hook. From a developer standpoint, that's fantastic. It's less stress for me. It's a smaller commitment for us. I have to work things out with Rob at Martin's, but I'm sure he's going to be okay with that because I can probably lower his rent a little bit more, because I'm going to spend less money up front. But, from a citizen standpoint? The fact that the City would offer to spend \$6,000,000 to get seventy-five (75) less people living in downtown is disgusting. That's almost a third (1/3) or fourth (1/4) of what we spent on Smart Streets. We just spent \$25,000,000 making downtown more pedestrian friendly and walkable, and the concept of the City saying, If we give you \$6,000,000, would you build less, take less risk, and have South Bend collect less tax revenue forever? That just seems wrong. This is where I stand. Absolutely, I'm happy to do it, and if that's what it takes to get it done, I'm game.

Councilmember Randy Kelly had no questions for the presenters or petitioner.

Councilmember Regina Williams-Preston stated that there was a concern that if this process is followed through, it will jeopardize future considerations regarding redevelopment; that it would become next to impossible to deny any sort of additional kinds of developments.

Mr. Matthews responded, I think that's just height.

Angela Smith responded, I think the difference between variances and PUD's setting precedence is that variances look at site-specific criteria, and they look at individual sites. Our concern with using the PUD process is that they don't look at site-specific things. So, the criteria doesn't say that this one site is unique. So, if a PUD is approved for this location, and somebody came with a project a block down the street and said that he wanted to do a PUD at this location, it would be difficult for the staff to tell them no, or for the Council to say that the City could not afford a PUD at the same kind of criteria, no matter what the site layout looked like.

Mr. Matthews interjected, stating, But the way that this PUD was applied cannot be applied for again, because of that group residence situation.

Ms. Smith responded, However, you could have applied for a Mixed-use Development, which you also chose not to do.

Councilmember Williams-Preston stated, What I heard earlier as well was that back in June, the APC recommended that you think about going through the process of changing the East Bank Plan, which is something that has been talked about a little bit, because it's an issue. We have this plan, and it tells us that one of the four things we need to consider is whether or not this project matches any existing plans. What we've been told, and what we can see, is that this does not match the current plan that we have in place.

Mr. Matthews responded, I disagree. I think it matches ninety-five percent (95%) of everything in that plan. It matches the use, it matches the mixed-use zoning, it matches the type, it matches—

Councilmember Williams-Preston interjected, stating, The big giant thing it doesn't match is the height.

Mr. Matthews responded, If we look at the precedent, we've already changed the height limit sixty-eight percent (68%) from sixty (60) feet to ninety-eight (98) feet. We're asking for a seventy-eight percent (78%) increase from the ninety-eight (98) feet to one-hundred and seventy-five (175).

Councilmember Williams-Preston responded, Right, and I think that's exactly my point. All of these changes don't match the plan. That height piece doesn't match the plan. One of the things you said earlier—which I think is a really important point—was that neighborhood plans are different from business plans. And so what we have to ask ourselves is whether or not we are going to allow the business community to determine or override what the people have said that they want. I think that that is a really important question. To that end, some of the data that you have presented tells us that in this neighborhood, eighty-four percent (84%) of the people who live there now, give or take a few, make less than \$50,000 a year. Seventy-two percent (72%)

make less than \$30,000 a year. It does not look like most of these people can afford to live in the building you're trying to build. I want your project to be built; I think it's beautiful. I just think that there needs to be a broader context in which we consider this. Councilmember Williams-Preston asked Mr. Matthews, Where do those seventy-two percent (72%) of the people—maybe even eighty-four percent (84%) of the people that live in that neighborhood now—where do they live? Where do they go? I want you to answer that question. Those people don't have time to volunteer and plan events because they are working. They've got kids. They can't fit in an efficiency. Those people—where will they live?

Mr. Matthews responded, Let's start by talking about where they live now. We have a number of low-income apartments. Hoffman Hotel is probably the closest. Robertson's is a little further down.

Councilmember Williams-Preston asked Mr. Matthews to talk about the Hoffman Hotel. She asked, Is that low-income forever?

Mr. Matthews responded, It's low-income for thirty (30) or so years. Typically, with most HUD housing, the developer has a thirty (30) or forty (40) year time period to get a loan and grant subsidies from Fed, and then typically around year fifteen (15) they have the option to get out of it if the market rate has increased. It is a choice. I don't know of any program that says they'll make low-income housing always and forever for people.

Councilmember Williams-Preston stated, And that's my concern. Right now, the United Ways ALICE Report tells us that fifty-three percent (53%) of the people who live in South Bend right now—the people whose tax money repaired or reconfigured streets that many people felt didn't need to be reconfigured—their tax dollars are being spent to redevelop this area, and it doesn't seem to me like this city has a plan for them to actually live here and enjoy those streets. That is going to continue to be my question. It doesn't mean that this development can't happen, but what I'm challenging you, the rest of this community, the Council, and the Mayor to do is to start bringing plans to us to ensure that the people whose tax money has built this place—who are redeveloping this place right now—have a space to live here when it's redeveloped. That is my challenge to you.

Mr. Matthews responded, Hopefully, the people who live in the neighborhood now have a path to get jobs and better employment and move up. I was told a story about a wall that we have across the street from the Emporium. I was talking to one of the graffiti artists, and he was telling me how he has a job at a restaurant in South Bend. When a new restaurant opened, Render—in one of our buildings that is a high-end restaurant that we made bougie and nice—he was offered a job. His employer gave him a dollar-an-hour raise to stay. Now, this is a small, one-off example, but it's an example of bringing new people into the neighborhood; taking these parking lots and vacant buildings and getting people to do business, to create new jobs, and people who are already living and working in the area then have an opportunity. Half of these jobs didn't exist six months ago. When Martin's moves in, that's going to bring in more jobs. When we get more people living downtown and new offices pop up, that creates new entry-level jobs. And if those are in downtown, that's on bus routes and within walking distance of a lot of the poor neighborhoods that need better jobs in our community. The trouble is that for decades, most of the financial investment has happened east of South Bend, in Mishawaka and Granger. If you were living in downtown South Bend, good luck getting there. It took maybe two bus transfers to get there. It's really tough. We need economic development in downtown South Bend that's available to everybody. I grew up on free lunch and reduced lunch. I went to State school on student loans and moved back to South Bend. This is where I'm from. These are issues I care about. This is why we have the volunteer thing. As a private developer, what can we do? This is us making that an effort, because we care.

Councilmember Broden made a motion to take a five (5) minute break. Councilmember Davis seconded the motion which carried by a voice vote of nine (9) ayes. The Council adjourned at 9:00 pm.

PUBLIC HEARINGS (Cont'd)THE COUNCIL RECONVENED AT 9:05 pm.

Those from the public wishing to speak in favor of the bill:

Samuel Brown, 222 E. Navarre Street, South Bend, IN, stated that he belongs to a watchdog group called Citizens United for a Better Government. He explained that he researched the project being discussed after hearing that it had had problems getting approved by Council. He found it unfair that the Council was nitpicking Mr. Matthews' project over a height limitation given the caliber of his work in the East Bank. He expressed hope that the Council would vote in favor of the project.

Jesse Davis, P.O. Box 10205, South Bend, IN, stated that he has seen a lot of development happening in Mishawaka, and that this project represents development that is needed in the East Bank area. Addressing Councilmember Williams-Preston's concerns for the fates of the poor who currently reside in the area, Mr. Davis stated that they were not going anywhere. He stated that new developments in Mishawaka, like a new hotel, parking garage, and convention center would be competing with South Bend. He warned that if the Council continued to play politics, he would enjoy the amenities in Mishawaka and that developers would turn their sights to Mishawaka. He argued that Mr. Matthews is not pushing anyone out of the neighborhood, stating, You guys tore down 1,000 houses in a 1,000 days; you chased a thousand people out of town. This is a guy who wants to spend \$50,000,000 here. He wants to draw people downtown. He stated that people in proximity to the development would get used to the shadow it would cast. He felt that the Council could always renegotiate height variances for future projects, regardless of how they decide on this project, and that Matthews' project belonged in the neighborhood and should be approved.

Jonathan Anderstrom, Executive Director of Monroe Circle Community Center, 526 West Western Avenue, South Bend, IN, stated that he was in favor of the project because its purposes focus on two (2) key elements necessary for community development: the structure of how we gather, and the context in which our gatherings take place. He stated that large shifts occur as a result of a great deal of small steps made by those patient enough to experiment and learn and experiment again. He included Matthews LLC in this bracket of patient experimenters, further stating that these small steps are "indicative of larger growth opportunities." He stated that this was not merely a business proposal, but one to enhance and develop the social fabric of the City while promoting the value of social networking. He stated, The real challenge for the Council tonight is to discover and create the means that introduce a new possibility into being. And yes, a pharmacy downtown would be very helpful.

Kevin McCrory, 412 South Lafayette Boulevard, South Bend, IN, stated that housing was the magic pill that changed everything in downtown South Bend. He stated that apartments, condominiums, and home-ownership throughout the downtown area has brought vitality and life for the last five (5) to eight (8) years that never existed for almost twenty (20) years prior, to his knowledge. He expressed that he believed South Bend's transformation will be strengthened by developments such as the one in question. This project will not only enhance South Bend's urban fabric, but will encourage additional investments from firms such as Jones Petrie Rafinski, to which he belongs.

Meghan Curwin, 223 East Colfax Avenue, stated Fort Wayne really reinvented itself after building downtown housing. Fort Wayne built its housing up around their minor league ball-park and then restaurants moved in and business began to boom. That is happening here in South Bend too and we were fortunate to have Andrew Berlin come into town and revitalize Four Winds Field and bring us the South Bend Cubs. Going from nine (9) stories to twelve stories (12) is splitting hairs. She stated we should go for the greatest potential as possible. She stated we are fortunate to have someone like Mr. Mathews and other cities wish they have developers like him. We will see an increase of jobs and an increase of property values for that entire neighborhood. Increased foot traffic will be good for the entire City and places like the South Bend Symphony and the restaurants. The increased density will bring about a positive domino effect for South Bend.

Sharon Baniki, 3822 Ford Street, stated she wishes she could be as optimistic as the previous speakers and hopes that Mr. Mathews gets his building. The whole downtown right now is being built on speculation for Smart Streets and here is a developer who is offering \$50 million of his own money speculating that it is going to work and for whatever reason everyone is questioning it. It won't cost taxpayers any money and the developer is putting up all the risk. If the apartments don't rent at his prices he has stated he will lower the rent. If the developer is so eager to be flexible, the City should return the favor.

Matt Hall, 116 South Niles Avenue, stated he lives a few blocks from where the proposed project will be. He stated he strongly agrees with the arguments previously made in favor of the project. He stated he is a faculty member at the University of Notre Dame and a regular responsibility of his is to interview job candidates. Ten (10) to fifteen (15) times a year he is sitting down with young professionals who are debating if they should come live in South Bend. The University has a very easy pattern developed. If the person wants to live in the suburbs with big yards, we drive them around Granger and Mishawaka and we have a really good success rate with those people. However, a lot of people don't want to live in that environment. We recruit from all over the country and many want a vibrant and urban community. They want to walk to restaurants and bars and have community activities going on down their street. Those type of people ask about living in South Bend and they ask questions like is there a grocery downtown or a twenty-four (24) hour pharmacy or are there new apartments being built. Those people want options and unfortunately the University has to try to change the topic. Mr. Hall stated this project excites him as a resident because he is thrilled to have a pharmacy and grocery store three (3) blocks down the street but the really exciting part is as a faculty member at a major employer in the area to be able to tell job candidates about walking three (3) blocks down the street to pick up groceries. He implored the Council to improve the proposal.

Shannon McTeague, 226 East Bartlett Street South Bend IN, stated she works at 419 West Jefferson Blvd so she both works and lives in Downtown South Bend. She stated she intends to put her roots down in this area and she is the third generation of her family to live in St. Joseph County. South Bend has to move into this direction and continue to flourish. She stated she desires to immerse herself into the people and culture of South Bend. This community has so much to offer and this project will only increase the benefits of living here.

Jacob Titis, 633 Cottage Grove, stated the planners who spoke about the lack of open space were misleading. First, the project only removes space that is currently a level parking lot which is not used much for anything except people parking. He stated he spent this whole summer working in the Commerce Center and we were the only people currently using that space. Taking away that parking lot would not make any mark on this City. This is an opportunity to put people there where they are able to use and enjoy the river and other amenities nearby.

Lionel Jensen, 1305 Ridgedail Rd South Bend IN, stated he is very enthusiastically in favor of this proposal. He thanked the Council for giving the public an opportunity to speak and thanked the Council for all of their work over the past few years. South Bend has witnessed a lot of changes over the last several years and this Council had a good part in that. The Council has a fiduciary commitment to this community. Mr. Mathew's is an exemplar of what we should do and do right in this town. There is such meaningful growth here and we have to make sure we embrace this positive change. There is genuine synergy here and with Notre Dame. He stated Notre Dame has hired five (5) employees in Asian Studies over the past six (6) months and they have all come to downtown and wanted to live here. They all wanted to be downtown. We have people from the East and West Coasts leaving their schools because money is collapsing around academia there, while here Notre Dame and our inner city are supporting it. The Council should have faith that the energy of this development is just one (1) small part of growing positive change in our community. This town has wanted to grow for fifty (50) years and now it is not haphazard and it is focused. We have unique and complex growth in South Bend right now and let us not let the inches or the miles or the feet get into the way of something that would bring great honor to our community.

Adam McMillen, 215 East Colfax, stated he has family in Manchester Massachusetts which is fairly similar to South Bend as an old industry town. That town had done a wonderful job bringing in young people to breathe life into their City. South Bend is making the moves to get to

that point. The streets downtown and the river lights really complement each other but you also need downtown development like this proposal. He stated he is in favor of the proposal at its current height. Mr. Mathews knows what he is doing and South Bend is on its way. For many people the job is secondary to the location of the job. We have to build a City where people want to live. We are on our way but we need more development and this is a great next step.

Mathew Teeters, 223 East Colfax Avenue, thanked the Council for listening to the public. He stated he is a neighbor of Mr. Mathews and this is a project that will be in his backyard. He stated he is a local area doctor who works in Granger and he used to live in Granger which was comfortable. It did not take long to buy into Mr. Mathew's vision for South Bend and understand that this is where South Bend should go. In 2012, he moved downtown to the East Bank Townhomes which has been phenomenal. We have heard a lot about the East Bank Plan and what the East Bank should be but we also need to think about the future of South Bend and not just a plan that is set and static. This has to be dynamic growth and it has to change.

Mary Bundy, 318 South Francis Street South Bend, stated she is so amazed at the people who came before her and fully agree with what they said. She stated people for good reasons want to stick to a plan but this plan was in 2008. The fact that we have had our younger demographic not growing should be alarming to this Council. If we don't have the younger demographic, this City will not flourish. We need to look toward what the younger demographic wants when developing our City. She stated this development also affects our health. We need to encourage density so that people use our walking paths in South Bend. If we can encourage walking we will be a much healthier City. The health of our citizens is important and it will attract the younger demographic which is not moving here now.

Sharon Teska, 508 South 23<sup>rd</sup> Street South Bend, stated she lives in her grandmother's home now but lived a long part of her life out on the East Coast. Those are very vibrant communities where walking through those towns you can feel the life and culture of the City, where citizens love their community. When Studebaker was around, we built beautiful buildings that put South Bend in a situation where there wasn't anyone in the whole United States who didn't touch something that wasn't built or manufactured or distributed out of South Bend. The dynamics and the paradigms they were using then, don't necessarily fit in our time. We need to reestablish the vibrancy that was once here. Nothing ever stays the same. This City will either get better or get worse.

Mark McDonnell, stated he owns two (2) businesses at 115 West Colfax Avenue, stated currently his two (2) restaurants are having their best year ever and feel that South Bend is really on a roll. Business operates at a different pace than it did twenty (20) or thirty (30) years ago. We need to move ahead on development. South Bend for a while took an ultra-cautious approach to development and we cannot do that here. Things are happening faster than ever before in this City. We made a huge improvement to our downtown when we passed the Smart Streets initiative and now a lot of things are happening not only in the Central Business District but also across the river. We need more people living downtown and patronizing all the restaurants in the DTSB dining association. He stated he was there for part of the East Bank Plan, the Jefferson Street improvement came from that which lead to some new restaurants developing down there. The speed of development and technology is vastly improving, the iPhone was only invented in 2007. Mr. McDonnell stated that only a couple of years ago Rob Bartels was living in St. Joseph Michigan when he decided to come back to South Bend and live downtown. Martins is committed to developing what everyone has said is so important which is having a grocery store downtown and pharmacy. He stated he is looking to pay off his mortgage out in Granger in the next five (5) years and is tired of mowing the lawn and shoveling the snow. If Mr. Mathews can provide something that is compatible to two (2) dogs he would definitely live in this building. Mr. Mathews does a great job envision what the future of this City should be.

Dawn Deats, 1031 East Jefferson, stated he has lived in the East Bank for fourteen (14) years and the Sunnymede Neighborhood for ten (10) years before that. We are starving for amenities which density will bring. The East Bank Plan's main goal was for the neighborhood to be energetic and vibrant which is what we are after. He stated he is always willing to risk someone else's money.



Kim Teska, stated she owns Kim's Café in the Emporium Building and lives at 1710 Hoffs Drive, stated she is Mr. Mathew's mother and all of her children went to Adams. She stated Mr. Matthews knows when you build something, expect it to last for one hundred (100) years because it is important to our community.

Cassie Skidmore, 724 West Colfax, stated she is a new resident of South Bend. This is the type of development that South Bend needs in order to flourish. South Bend has really changed for the better the past few years and we need to encourage more of it.

Mark Turner, 1502 East Lasalle Street, stated he is in favor of this proposal and he owns a business downtown and owns a factory on the Westside of South Bend. South Bend has changed in the last twenty-five (25) years and we have all been a part of that. When Oscos left downtown South Bend, businesses tried to get another grocery store downtown and everyone said it couldn't happen. Not one (1) grocery store even wanted to think about it. Following rules are only guidelines, we have to seek change and South Bend is behind the curb. South Bend can do this but we need to unlock our potential.

Barton Bennett, the owner of a business called Odysian Technology which is on Colfax between Hill and Niles, stated in 2008 we moved from Mishawaka to South Bend. We purchased a building and put an incredible amount of money into it. Mr. Bennett explained that they looked long and hard to find a good location for their building. They wanted a class A really nice office space with room for a lab. Elkhart only had disgusting and ugly buildings available so we came to the East Bank. We had a great reception and were told this vision of the East Bank Plan. We have been very fortunate to have Mr. Mathews in this area developing buildings. If we are not careful we may screw this up and right now. We certainly don't want Mr. Mathews to walk away but we do want to make sure the building fits the character of the neighborhood. We need to change our approach to parking so the City should pay for the parking garage so that Mr. Mathews can bring the building down to seven (7) floors which would fit with the neighborhood. That will guarantee we have public parking in the neighborhood.

Aman McFarland, stated he is the owner of Render Kitchen and Bar in the East Bank, they are trying to contribute food and culture to the East Bank. We knew we were taking a risk when we were investing in South Bend and one (1) of the reasons we decided to open the restaurant was the Smart Streets project. It showed them that the City was willing to invest in order to promote growth for businesses. The more people who can spend money in downtown the better. Adding the grocery store certainly feels like a no-brainer.

David Mathews Sr., 54609 Bradley Street Elkhart, stated he is Mr. Mathew's father and also a developer in the area. He stated big economic cycles are converging on South Bend right now. We have the Millennials who want to live downtown and don't want to own a car and live in dense urban settings. Then you also have ten thousand 10,000 baby boomers a day retiring in the United States for the next twenty (20) years who will be downsizing and want to live in areas that are more dense and convenient. Areas all over the U.S. are trying to attract Baby Boomers by offering them walkability. Density makes value for people and also enhances the value of the property for any of the people living in the area. We also have had a huge investment from Notre Dame in the past few years. Notre Dame is essentially a factory producing knowledge workers. This is the service economy coming our way. Our law offices are used by law firms across the country because our wage rates are much more reasonable than bigger cities. We have a disproportionate number of legal professionals doing work here in South Bend which is being shipped over the internet where people are using it. The goal of this development is to build South Bend so that we can take advantage of these converging opportunities between the Boomers, Millennials, and Notre Dame.

Those from the public wishing to speak in opposition to the bill:

S.J. Szabo, P.O. Box 555 South Bend IN, stated he doesn't know where to begin after following such a lengthy dog and pony show including expensive out of town talent putting forth a brand new theory of demographic that all South Bend needs to grow is build more apartments. This is a tough bid. The fact is, there is only one (1) real issue here and it is not that the apartment block is too big or recently swathed in a now passé Las Vegas design. The issue is, cities have plans for very good reasons. They have them because there is a vision determined not just by a small



number of people but by the City as a body in how it wants to grow and what is to be the character. The existing plan is sound and viable. The East Bank is becoming a very nice place to live but it is coming under pressure of gentrification which is threatening to throw people out of their homes because they won't be able to pay their property taxes. It is a great building and cities do need to grow and evolve. If apartments are going to make the difference, build them but do it in the right place. If Mr. Mathews wants to put up that many floors and garner all that tax money, take the project across the river where it belongs and where it is appropriate.

Unfortunately, Mr. Mathews has a real disturbing habit in believing his own particular vision is much better than everyone else. That is not the way cities work. The area plans that we devised through great expenditure and intense effort and real sincerity reflect the community consciousness about what the East Bank should be but that is not good enough for Mr. Mathews because he can't make enough money. That is not how democracy works but it is how money works. It is not good for the community. If the City wants to throw in money to the project that's fine, but do it in the right spot. The project is fine it's just not in the right place.

Jaz Alexander, 830 Campden Street, stated he can only reiterate what everyone else has already said. We benefit from the presence of Mr. Mathews and what his company is doing is incredible. The City has missed the boat and missed opportunities to develop South Bend in the past. We are in a competition with Mishawaka and we are losing. But besides all of that, Mr. Mathews admitted he put together the Regional Cities plan in a few hours and didn't think they were going to win but they did. Then he had to put together a real plan and the development grew in size. Mr. Mathews has a great plan but his plan grew too large for the East Bank. The project as it is presently constituted is not an East Bank project. He has developed out of that area. The parcel does need to be redeveloped. The project is wonderful, but the two (2) do not match.

Jesse Kurasik, Trilogy Real-Estate Group based in Chicago 520 West Erie Chicago IL, stated they own The Pointe Apartments. He thanked the Council for allowing him to speak and stated that they are not against the project because they are for the grocery store and most of the residences. The reality is, The Point is approximately \$1,000 a month rent while Mr. Mathews' project is at a different scale. We have put a lot of money into renovating The Pointe. He stated he has a concern for his residents and the project as a whole. At some point we get shadows from this building and we need the project to be under nine (9) stories from their perspective. The negative of that impact outweighs the positive of having a grocery store across the street. He stated if Mr. Mathews is receiving a grant and a tax abatement, the aggregate amount received is \$15 million of taxpayer money and because of that the Council has the right to ask a lot of questions because the taxpayers are still putting more at risk than he is. There are also concerns about demand. If there was truly such a pent up demand, you would see high levels of rent growth and home value growth. We are not seeing that. Housing is good for the area but from a selfish and personal standpoint because of their investment they cannot support the height variance from the nine (9) to the twelve (12) stories. He also stated the relative projects Mr. Mathews is showing as example in Chicago all cost \$400,000 per unit to build while he is saying he can do it at \$200,000 per unit in costs. There is going to be a disconnect there. This project will probably actually cost around \$300,000 a unit.

Jay Lewis, 633 N. Coquillard Drive, stated he also works on LaSalle. He stated he supports the idea of some sort of project on this site and is glad Mr. Mathews is here and investing our City. This should happen but not at this height. It is wildly inconsistent with the East Bank Master Plan and would lead to a transformation of the East Bank into just another part of downtown. He asked the Council to take their time on this issue and think creatively. We have a very smart and hard-working Council who need to take their time and put their heads together. Perhaps a public garage, which could be used by the surrounding neighborhood as well, could help bring the height down to a more reasonable size. The way this process is happening, it threatens to undermine the planning process in South Bend. It would be a precedent not just in the East Bank but anywhere in the City. This is a one hundred (100) year decision so let's take our time and think creatively.

Jennifer Perri, 234 S. Coquillard South Bend, stated she doesn't normally speak at any public forum regarding real-estate because she leaves that to her husband. When she first heard about this project she was very excited because Mr. Mathews does do great work and has a wonderful

vision. However when she discovered the extreme height that is when she became opposed to the project. She stated she is in favor of the project but not at that height. We need to revisit the East Bank plan but putting that sized building at that site is not the right thing to do.

Amaliza Blocke, 2015 East Madison Street South Bend, stated she came with opinions but has developed some new thoughts. The East Bank Village is a great idea and its something she looks forward to. It is nice to have something quaint and small and have things to do. She stated apparently she is the abnormal millennial. The idea that we are going to put in this beautiful expensive building is not really what she wants for this neighborhood. She stated she teaches at Adams High School and this is not what is best for them because they will eventually pay this cost. There are a lot of young people who cannot afford this.

Tom Panzica, with Panzika Building Corp. at 416 East Monroe Street, stated he is an investor in the property called the Wharf at Colfax and the river which is across from this property. He stated he is not against development or a grocery store downtown. The question we are considering is essentially is this development right for this neighborhood at this time. There have been some specious arguments made in support of that argument tonight. We have been told this project must be twelve (12) stories and an all or nothing deal. That is false. We were told we need to dispense with the 2008 plan because Mr. Mathews is planning thirty (30) years out. However, that plan was put together with input from the community and at the cost of \$50,000 to the City. It is a good plan which some developers are following. We have also been told that Mr. Mathews' development will build community and a sense of new urbanism but this plan in this place tramples on the 2008 plan that the community adopted. We have also been told that this proposal would be welcomed with open arms in more enlightened cities such as Indianapolis. He stated Indianapolis has a neighborhood very analogous to the East Bank Village, which is named Broadripple, and they only have a sixty-five (65) foot height in their zoning. We have also been told that the BZA has established a precedent which was allowed to the Wharf site. That is an incongruous argument. Finally, this project should be of concern because nobody who has been involved in this project, while they have talent and nice degrees, does not have a registered licensed architect who passed the State of Indiana Board Examination. That is concerning with such a large project. This would be a great project across the river and an OK project if you lower the height.

Hannah Osteimer, 1009 East Jefferson Blvd., stated she is a millennial as well and everyone has been saying what we need as a demographic. She stated she needs something she can afford. Two hundred and forty (240) apartments would be awesome but she would not be able to afford that. The townhomes Mr. Mathews built sell for \$800,000 and it is hard to see a twelve (12) story building in a village. It is great that Mr. Mathews is committed to our neighborhood but it is just too big. People who are working who don't make very much money don't have sixteen (16) hours a month to volunteer. She stated she is in support of a development just not this one.

Frank Perri, 234 South Coquillard, stated he finds himself fairly responsible for the shaken bushes tonight amongst the community. Some developers feel speaking in front of the City may conflict with their business dealings with the City but they all believe the character of the East Bank and the plan should be kept in place. This development violates almost every standard that has been set in the neighborhood. Mr. Perri stated he was heavily involved in the project of the plan in 2008, we should ask those companies that developed the plan what they think as opposed to believing somehow that everyone here tonight is the expert. He stated he thinks things are changing in South Bend but we need to be careful. He stated a grocery store will come downtown because he believes in it and will invest his own money in it. He stated in the past three and a half (3 ½) months he has invested \$3 million in this community not only in the Wharf site but also other buildings. Mr. Perri detailed his financial commitments to the City. He stated if we are going to come together and build a community we should build consensus. It is a little disingenuous of Mr. Mathews for him to stand here and promote a project that is one hundred and seventy-five (175) feet tall when he said back in December 2013 that changing the policy from five (5) stories to eight (8) stories will have drastic consequences to the neighborhood. Now Mr. Mathews is saying that was only because the Wharf site looks suburban, that is an opinion not a fact.

Marry Rose Eslinger, 307 East LaSalle Avenue, stated she lives at The Point and has done so for twelve (12) years. She stated she has lived there longer than Mr. Mathews has been out of school. She stated she knows this neighborhood and is in opposition to the entire project even though she loves Martins. She stated she just does not want to see a grocery store across the street. Her quality of life will suffer because she will be in the dark and her AEP bills will be sky-high due to her lights being on all day. This is a good project but he should do something like the East Bank Townhomes not this building. This is incongruous with a village. The traffic will be deplorable. She stated she knows what she is talking about and this is a wrong idea for this block. Apartment buildings should be against the river or on the East Race and should be away from everything. We haven't had a Martins for a long time or grocery store at all but maybe we should do a satellite Target or something. Villages can have a two (2) level department store. She stated she has six (6) opportunities to buy groceries where she lives and she shops local. Let's put the Martins on the west side of the river and build reasonable apartments. She stated she is for growth and development but not on her block.

Mr. Mathews was given five (5) minute for rebuttal. He stated he will try to address as many concerns as he can in the time. He stated the owner of The Pointe apartments stated they are okay with nine (9) stories and that the taxpayers are putting in more money than Mathews LLC because the taxpayers are doing a tax abatement. Mr. Mathews stated that is ridiculous. The regional cities grant is ten percent (10%) of cost. The down payment that he needs to put up to the lender is his own money not the taxpayers and the loan he receives from the bank is guaranteed by him. The bank will get paid unless he has no money. It is certainly his risk even if he has a bank loan. Mr. Mathews stated the owner of The Pointe stated he is not concerned about competition but then brought up concerns about demand which shows that really they do have a concern about competition. If they can get three (3) stories knocked off the building it is seventy-four units fewer. If they can get a grocery store across the street with no apartments above, that is the best case for the other developers. Mr. Mathews stated he believes he knows what it will cost to build this building and he has more experience building condos and housing, like the pictures he has shown, because he actually built them.

Mr. Mathews continued that people are asking for the Council to take their time but we have been working on this for six (6) months. We have had multiple public meetings, staff reports, Community Investment supports this proposal, and the Area Plan Commission moved this on neutrally. Now it is up for the Council to make a decision. We are not asking the City for any money in this proposal and this proposal works. We could do it shorter, if we had some support. The East Bank Plan called for millions of dollars to be invested over the past eight (8) years which didn't happen. We had the Jefferson Street and Niles Avenue improvements but the two (2) parking garages the City was supposed to build have not materialized. We have heard from other developers who were the same people who first changed the height limit.

Mr. Mathews finished by stating this projects fits within the character of the neighborhood. It is taller but the character and style and design of the building has much more impact on the character of the street than the height. We could build a one (1) story strip mall with a parking structure on the corner which would be completely fine with the East Bank Plan but it would not fit the character of the neighborhood.

Chairperson Ferlic stated because we limited the Councilmembers to two (2) questions earlier, we now will have an opportunity for any final questions after hearing public input.

Councilmember Williams-Preston asked Mr. Mathews why they did not look into changing the East Bank Plan back in June when the Area Plan Commission recommended them to.

Mr. Mathews responded that we had some conversation both with Community Investment and some City Councilmembers. To change the plan is a very involved process. First you have to change the plan, then you have to change the zoning ordinance. The total process would take six (6) months to a year. Once that plan is updated we then have to change the zoning ordinance to comply with the plan. That is probably another two (2) to three (3) months. That puts us well over a year to get this changed. If you look at the precedents that have been set, the ABZA changed the height from sixty (60) feet to ninety-eight (98) feet which is a sixty eight percent (68%) increase immediately. We are asking for a seventy-eight percent (78%) increase over that.

It does not seem unreasonable to come to the City Council and ask for a public meeting, have public input and hear from the neighbors on this issue. We have had fifty (50) some letters of public support, mostly from people living in the neighborhood. Of the people who spoke against the project today, one (1) person lives in the immediate neighborhood, one (1) person lives a block off of Eddy Street, and everybody else either lives out of state or not in this neighborhood. This project has a lot of community support and from the neighborhood organization of the area. It also has support of the business owners and leaders of downtown. Going through the process of asking the Council made the most sense and it gave the Council more control than if we just changed the height limit. We need a path that developers can go through and the PUD is a great path because we have to say what we have to do and provide a site plan. There are a lot of commitments we had to make in the application process which binds our project to what we said we were going to do. If the limit is just blanket raised, the City Council and community loses that control. That is why this was the right path.

Chairperson Ferlic stated that each Councilmember will have an opportunity to speak and then a motion will be entertained.

Councilmember Williams-Preston thanked everyone for sticking around so late into the night and sharing their thoughts. She stated she has not spoken to a person on the Council that is against the development but what we know is we have to take the time to make sure the process is handled in the expectation of the law. We do need to shepherd this growth in the right way. It is also important to honor the decisions of people made before us. There are laws that are guiding this process and we do have things we have to abide by. She stated Mr. Mathews is brilliant and kind and has demonstrated his commitment to our community, there is no denying that. One (1) thing that people didn't say though is that he is also very tough and we are scrutinizing his project because it is our job and he can take it. This process is important to make sure we get this right.

This issue of the young professionals is interesting and it is important we did hear from some who buck the trend a bit. She thanked the teacher who came because she sees a lot of Millennials who may not afford this development. We have to make sure we don't rush into something because there are people in her neighborhood who are not seeing this growth or see themselves in these plans. Something that feels like it is low income is not necessarily affordable. We have to have more conversations as a community to demonstrate what true affordable housing is. She stated she will stop talking about this issue when the developers start talking about this issue. She stated she is not sure tonight has been a true representation of everybody and the people she is supposed to represent. Young Millennials have stated they want a diverse community in terms of race, education, income, and thought. It is important that while we do this amazing development that we are also paying attention that we have a space for the people who live here now and the majority of whom would not be able to live in those spaces. We want to see this amazing revitalization, which is happening in other cities, but we need to do it in an equitable fashion. Hand in hand with these great developments we need to make sure we come up with some practical measures to keep that in mind. Gentrification is real and it will happen if we don't pay attention but we can have revitalization without displacement. Let's make that commitment together.

Councilmember Randy Kelly stated the 2008 East Bank Master Plan is a very good plan and he knows a number of the people who worked on it. He stated it is a guide to our future. The plan called for about \$90 million in private investment by 2016. We have not gotten there at this point. It also called for a technology and medical corridor to St. Joseph Regional Medical Center which would be a very long corridor now as they moved to Mishawaka. The plan can morph and change with changing times. To that end, the viability of this project will be born out in whether it can get financed and the details to come. He stated he supports this proposal.

Councilmember Jo M. Broden stated in many ways this has not been a big enough process. We have to get it right and make sure the how matches the outcome. Impulsing developers and doing research with urban planners in our City, to create unique and viable spaces. There is not a single Councilmember here, who do not want any of the same goals that the remonstrators spoke for nor the folks who spoke in support. We want individuals in houses. We want individuals stopping by cafes, restaurants, and frequenting our parks. Despite that, we have to get it right and

do it the right way. She stated that she is very sympathetic to Mr. Mathew's and the amount of time he and his staff have dedicated to this endeavor. She thanked him for bringing it forward for the benefit of both the 4<sup>th</sup> District and the City. It is an amazing plan. There were, though, plenty of opportunities to go bigger and better with this in a way that brings along the entire neighborhood and is done without ambiguity. Clean, clear; done without contention and in a business-like fashion. These are some of the marks that we need to hit. You need to hit—for the grant—housing, a full-service market, and the pharmacy. There are a lot of x-factors there for me, in terms of figuring out what components are really driving hype, here. I would like to work with you, and I would like to invite you to work with people. Again, this isn't the first time that I have made this request, because there are neighbors who are obviously affected. There are people who have standing in this. It is not just the neighbors. It will impact a lot of folks. We are going to be asked to look at making room for parking.

As a Council, I want to make sure we are adding up all the numbers and all the asks on this. Yes, indeed—incredible risk for you and Mr. Bartels. This is a \$14,000,000 question, and it's also a game-changing question because of the tool that you have elected to give this through. I appreciate, again, your willingness to put this before us to make us think big as a city—and I want this to happen, but I want it to be something that fosters future growth; that people know the way to get things done. My biggest, biggest concern on this is that there is a different way to do this and to do it right, with regards to the request for the rezoning. This is a variance on height. It belongs in the domain, in my opinion—and should have been in the domain of—the Central Business District. You are asking us to disregard planning on any given parcel in the City of South Bend, and I guess I would like to ask my fellow Councilmembers to consider where this leaves planning. Where does this leave planning for any of us? Where do we go from there? In 2014, with your question at the River Race Flats, at Niles and Jefferson...it's been over two years that we've asked ourselves, back-to-back years—2013 to 2014—should this neighborhood be higher? But yet here we are, being asked to do something that is going to change our ability to have ground rules in place that dictate the height on any given piece of vacant or soon-to-be vacant piece of property in the City of South Bend. I know others are watching. I have spoken with at least five (5) or six (6) developers. I have spoken tirelessly for just about as long as you and I first met four (4) months ago on this, to figure out where people are at. There is definitely development fatigue in that neighborhood, because these questions keep coming up and up again. We need to take that seriously. We need to be responsive to every single neighbor for every single neighborhood plan that is in place.

This is a game-changer. I really do thank the amount of work that this Council has brought to this consideration tonight, but I'll have to say that it's been a little dribble throughout this whole process. The full facts were never really at the table. So, I would appreciate and welcome the full length, the full time clock on this, to make a wise and informed decision that really has us looking at the four criteria, with regard to planning. I want this to happen. South Bend wants this to happen. We need it to happen. But, we need it in a way that is fair, that is business-like, that is timely, because others are also looking and people count on predictability when you're looking to build, when you're looking to purchase a house, when you're looking to establish a home whether it's in a five (5) story building, a two (2) story building, or maybe a twelve (12) story building. Planning works, too. Being in the Fourth (4th) District, I can speak to that, with the dollars that are being brought forward in development just south of Notre Dame. There have been a lot of successful development projects. We know the intended number is going to be seven-hundred and fifty (750)—really quickly, really soon—based on all the projects that are online. I think that this can be done in a smarter, more collaborative way. Maybe the outcome will be the same, but I would like to just challenge our Administration, our planners. If we are going to be putting these type of dollars—whether tax dollars that are coming from the State of Indiana, or tax abatements that are capturing dollars when this thing or other projects are done there—I just want to make sure that we are spending those tax dollars in the most effective way to get the most bang for the buck. I think we can get something that works for the residents, that works for the developers, that works for future developers, that works for the person looking to reside in the East Bank, but I'm not ready to throw planning out the window. This what this is asking us to do. About a month ago, I went to a funeral of a man named Les Fox, and some of the advice that was given at that funeral eulogy was to hit it in the middle of the road. I don't see

this as a hit it in the middle of road type thing. It's consistently been an all-or-nothing situation. I just don't think that there's been sufficient dialogue and effort brought to the table on this. There have to be winners or losers, whether it be adjacent property, or developers, or neighbors versus neighbors. So, when I say that this isn't big enough, I think we need to sharpen our pencils a little bit more, and certainly take the time to make sure that we are getting it right and that we know the implications and that we know how to address the implications that will come forth from this.

Councilmember Dr. David Varner stated that he thinks cities can plan, and that they spend a lot of time doing it and, as has been commented, the City spends a lot of money doing some planning. He stated, I think we can provide incentives to encourage the plan to be followed. I think there comes a time when you're offered an opportunity, and opportunities may or may not conform exactly to the plan. That's why it's an opportunity. I did not think that we would ever hear a request for a twelve (12) story building in downtown ever again because everybody said that four (4) is where it builds and it pretty much stops at that. I think I would probably welcome the opportunity to discuss five (5) or six (6) more twelve (12) story buildings somewhere around downtown. It means that things are happening. It means that it's not government-driven. Not too many years ago, we looked at public projects as great solutions, as a means to make something happen—and some of it probably did. But now, we're receiving some of the fruits of those efforts, whether it's private development out around Notre Dame, or whether it's private development downtown. To be completely honest—if everybody gets to have a vision, I guess I get to have mine, too—and I think, to be completely honest, twenty (20) years from now, the separation between the East Bank, the University of Notre Dame, that area where the high school is, is probably going to be one big university-city community. I think that community will probably need housing, and I think it will need grocery stores, and I think it will need the gasoline stations and all the other things that go along with it, and so I think we have to find a way to do it. As long as I have been on the Council, people have wanted a grocery store downtown. I remember throwing Osco out and thinking what's the City thinking? I don't know what they were thinking, because we didn't have another one to replace it with. So, I see how this can be perceived in a number of ways. I'm not trying to look for good ways or bad ways, I'm looking at it as an opportunity. As an opportunity if you get a new building of that size, that stature, with those amenities in an area downtown—it makes a statement about South Bend, and that statement is that we're coming around. It's been a long time in the making. I also believe—and my father was in real estate for years—that there's a thing called momentum. You get some momentum going your way, you want to encourage it. You don't want to find a way to stop it, or hinder it. I hope next year there's another proposal for a twelve (12) story building, and at this point in time, I think you just have to look past the absolute plan and you have to say that this just makes sense, to get it done. That's where I stand on it, at this point.

Chairperson Ferlic wished to thank those who came out in favor and opposition of this bill, as well as to thank everyone for remaining in attendance so late into the evening. Chairperson Ferlic stated that one of the primary reasons he decided to run for Council was because South Bend missed out on so many opportunities. You heard stories about Schurz Communications wanting to build in downtown and the City said, well, we want you to do this, and they left. And you heard stories about May Oberfell Lorber wanting to build downtown, and the same thing happened. Again, I just can't see us missing any opportunities. I certainly appreciate Area Plan's work. I certainly appreciate the concerns of some folks that spoke in opposition. I understand that this is different, and that change is, a lot of times, not necessarily the most comfortable thing. But I do think it is positive change. I would like to highlight the criteria that we are asked to judge this on. Number one (1): does it fit with the Comprehensive Plan? Generally, 95%—yes, absolutely. It provides a parking garage, it provides for mixed-use. This is residential and ground-floor retail. This is exactly what the East Bank Plan wants and has been designed to do. Is it a desirable use? Grocery store and pharmacy. Dr. Varner said that ever since he's been on the Council, people have been clamoring for this downtown. So, yes, it's a very desirable use. Does this fit within the character of the neighborhood? I think it's important to note that we consider these PUDs on an individual basis. So, if someone comes to us with a PUD in a completely residential district for a twelve (12) story building, it might not fit with the character. We have to understand that this is in the Central Business District. This zoning area is called the



Central Business District. Within that Central Business District, we have buildings—such as the Chase Tower at twenty (20) stories—that are tall, and that is great for the area. This is actually on an islet that is west of the East Race. So, I do agree that there are some areas, probably on the very far eastern portion of the East Bank Village, where this might not fit quite as well, but this is the Central Business District. So, yes, I absolutely think it fits with the character. And, finally, conservation of property values. Again, having a grocery store and a pharmacy that's walkable—I think all that does is increase property value. Judging on what we're supposed to judge this on, I think this fulfills all criteria and, as other people come to us with propositions, if it's in a residential district or doesn't fit that criteria I will vote no for a PUD. But guess what? We're talking about precedent. If someone else, like Dr. Varner said, comes to us next month and wants to build a thirteen (13) story building in the Central Business District, I'm going to say yes. I think that's awesome. So, I hope this does set a precedent that within our Central Business District, we are welcoming to development. Also, it is so important to note that the City is not being asked to subsidize this project with direct tax dollars. Not to say that I oppose that in some scenarios, because we do support some development with tax dollars, but the great thing about this project is that the City is not being asked to put any tax dollars in. The developer went out and got State grant money that, without his efforts, would not be coming to downtown South Bend. So, again, think about how positive that is. If this project was going to Mishawaka, or Dave, after he won the Regional Cities grant, decided to build this in Mishawaka, I'd be jealous. I would want this in downtown South Bend, within our Central Business District. So, I'm thankful he brought it. With that being said, I would hope the Council would approve this tonight. However, as I have expressed to all of you, if it is continued, I do ask that it is continued to the December meeting, as I will not be present for the late November meeting. But again, if we do approve, I will continue to encourage the developer—and I think he's done a good job and that he can continue to do a good job—to engage with the neighbors, to engage with other developers in the area. I think this is a good framework, but I think as we continue on, I think you can work with those developers, work with the neighbors, to finalize a plan that I think works for everyone. This has my full support.

Councilmember Oliver Davis thanked Chairperson Ferlic. Councilmember Davis stated that when he reviewed this information, as he sits on Area Plan and the Council, he quickly realized that this was going to take a lot of time. When the different changes came in that day—when first Community Investment said that they were against it, and then said they were for it, then Area Plan made their recommendation and communicated their concerns—one of the things I quickly knew that I needed—when one department of the City, who we look to, shares another thought and, even though they quickly change it up at the last minute and still they left it out there—when two (2) different departments of the same administration say two (2) different things, I needed to receive a letter from the Mayor, which I have not received, yet. And I've requested that, because I think automatically that when two (2) of these departments share different things, then the Mayor has to speak for that part of it, because that doesn't make sense. If you have two different people speaking, somebody else has to break the tie. That's why we've elected the Mayor. I do agree with Mr. Matthews. He said, "Do you want the elected officials of the City of South Bend to be here?" Nine (9) of us... well, five (5) of us are here tonight. One's missing, on a major matter that you want to be heard tonight. Area Plan, I agree with you. We have all the people from all over the place. But you wanted the City of South Bend leadership to be here tonight. I did, too. That's why I don't mind taking this to the last meeting of December 12<sup>th</sup>, because I have requested our Mayor to be here. I want him to weigh in on it. Whether it goes one way or whether it goes the other way. I think his voice needs to be heard, because he had two (2) significant departments to share with us two (2) significant different ways of how to do it like when we do our due diligence.

We have to do our due diligence. I was on this Council, in 2008. I was one of the ones who was here, and I thank the voters of South Bend for allowing me to be here for nine (9) years. I do clearly remember going to Officer Rex and everything else of the East Bank, and the amount of time it took us to do that. I wasn't on the Council at the time. The one thing that I have to make sure of on the Zoning Committee, is that I have to be very careful when I pivot. And the reason I say that is we had a situation where we got called into the Department of Justice. One person said we did not treat her fair. They appealed all the way up to the United States Department of

Justice. 2012, 2013, I can vouch for this. Each one of us Councilmembers were called in, with you, and I'm trying to hear from the United States Department of Justice, to make sure that we were fair in our dealings with that member, because we were accused of discrimination. Each one of us Councilmembers can only go in with our attorney, and we have to stand before that person to ask them whether or not they are consequent in their decision-making. What are the criteria? Did you it in this situation? I chaired that Committee. They not only asked for us about that, they asked for all of our e-mails—Ms. Clinton—they asked for every single one of our emails. All of our correspondence. It was the most interesting time when I had the United States government coming in here, asking for everything—I sent them every single thing I could possibly send them. We aren't dealing with State Police and City Police—we're dealing with an attorney who did that smile during our whole meeting with us. After that experience, you go through that—you sit up here and go through as somebody from Washington D.C....okay. Whether I'm dealing with west side, east side—whether I'm dealing with somebody that happens to be as wealthy as you, Mr. Matthews, or I'm dealing with somebody who's living out in a tent tonight. Okay? I cannot just be influenced by any developer, or anybody else. I have to be consistent. So yeah, we've had to take a lot longer of time. The other night, we had a meeting—I was trying to get home because we were in the middle of, with all due respect, the Cubs were on and I was trying to get home, but I said first work comes first. And we stayed there that night. Because we have to. We are elected to be here, to go through detail after detail after detail. It's not nitpicking. I just want to be able to say, when the next developer comes up, and we make some decent changes, they may have some high-powered attorneys that get mad or go to the State or go up to Federal. If I get called into a room again, I just want to be consistent. Every single thing that we are saying right now are all being publicly documented, that's how we know what you said back in 2013 what I told you yourself, when you argued against this issue. And now we are having to come this way.

All that comes back up to us. That's why we have to sit back there and deal with everything. We have to do our due diligence, we have to be consistent, and personally I would prefer that this be sent through Central Business District, as Councilwoman Broden said, and I would have championed the variance. That way, we would not have had to have dealt with this, because I really like the idea. I told you earlier, to me—and I have my Dramamine here, because my family always says I'm the Airplane Pac—you know: a tourist. And I have to fly a lot of planes—or be up there in a plane, because I can't fly no plane, I just sit there—and so they ask me what airline I should take. Should we take Southwest? Should we take American? Each airline has different rules. In some you can take luggage for free, in others you can pay. They all have different rules, you all know that. So, do we try to go with Southwest and use our American Airlines rules, or do we go up to American Airlines and tell them that Southwest lets us fly for free so you should let us ride for free? Those are the concerns that we have to deal with when we switch. We all want to arrive at the right place, but each airline has different rules. Each of these zoning laws have different rules. And when you start crisscrossing them, it creates problems. And that's why it creates longer meetings, it creates more hassle. That's my concern. So I am hopeful that over the next few weeks, that we give it the full time, because I think we all want this. I would like to see that. I do understand the concern of the person who shared from The Pointe. I moved here to work at the Madison Center—that was my first job. I'm over there all the time. I'm in the area all the time. So, the issue for me is this: the shadow, which has been argued one way and is now being argued another way, is an important issue. Yeah, I wish there was a way we could work out this to be nine (9) stories, and everybody gets their tax money, we get you two-hundred and forty (240) stores, we get less shadow—everybody's happy. I am hoping to see that in the next few weeks. It may happen, it may not. But I still have that out there to hope that on December 12<sup>th</sup>, we can come for—you got your two-forty (240), others get less shadow, we get the store, which I would love to go to—and we can all land at the same place at the same time, and we can move forward. So, that's my hope and that's where I'm hoping to move forward with that standpoint and we can all move there. I don't know what that's going to take in terms of work as we try to get there. But I think we have a few days and we can make a few adjustments to, like Councilwoman Broden and Les Fox said, something that puts you in the middle—we can get there—I will be very thankful. So, I yield the floor to Councilmember Voorde.



Councilmember Voorde stated after each Councilmember has an opportunity to speak, I hope to be recognized to make a motion to continue this until the December 12<sup>th</sup> meeting, and I'll tell you why. I have been fortunate enough to have served on the City Council for three (3) terms, and back in the eighties (80's) as the Assessor for thirteen (13) years, after that. I think I have been a witness to and a partner to good economic development. As an At-Large Councilman, I think my view is a broader one, to try to do things that embody part of that Rotarian code, which says that this is best for all concerned. And along with that, I've seen plans come and go. I've seen projects that probably could have benefited the City lost because they didn't adhere to a plan. So, I'm a little skeptical about adhering to a plan, at the same time recognizing you have to have one or you won't ever get to where you want to go. I hope it does not sound like I'm talking out of both sides of my mouth. I think one of the reasons that, in the past, projects were lost is because they never saw the light of day. Deals were made on the fourteenth (14<sup>th</sup>) floor, or the thirteenth (13<sup>th</sup>) floor, or somewhere that, for better or worse, the public did not have any input on. And that's why I think we're here and, as messy and as difficult it is sometimes, it's like the old adage about making sausage—you don't want to see it made but you just want to enjoy the product after it has been made. This is difficult, but it comes with the territory. That's why we're here. I think that by asking for a delay of approximately thirty (30) days, it doesn't jeopardize Mr. Matthews' project. Maybe, after all of this, the project will end up proceeding because all concerned will think it is the best. But, while the research and discussions I've had on this with this probably pale in comparison to what Councilmember Broden has done, the other day I came in here on a Friday afternoon, and it was just her and I here, and she had things spread out on our caucus table that covered the whole table. We ended up talking for two (2) hours, just about this project and what she had found out. She asked me what I had learned and my discussions with Mr. Perri. I've never, ironically, spoken with Community Investment to find out what they think, nor have they approached me to give me their opinion, and that's my fault too. I could have asked them. As difficult as it is, and because it doesn't ultimately jeopardize the \$5,000,000 Mr. Matthews has at-stake because he can still meet all of his timelines—if we do continue this, I hope that a continuance, with a lot of hard work inbetween now and the 12<sup>th</sup> to put all the parties together—one of the big questions that remains unresolved is parking. Not just for Mr. Matthews, he knows what he needs. He knows what the store needs. Bob Bartels knows how many parking spots he needs. But, we need spots for that whole area. We need spots for public access to the East Race. Stevenson Mills, I don't know if they've even been at the table. They've got some parking available. Frank Perri's got several properties over there that he's going to need parking for. Maybe the parking itself ought to be looked at in a larger context. Maybe it will take public investment to do it right. And that's the whole point: we really have a chance, if we take our time and try to come together, we can do this right. We are certainly not going to please everyone, whatever the outcome is. We want development, we want to be developer-friendly, but we have a responsibility to listen and to do it right. So, that's what I hope I get recognized to do.

Councilmember Tim Scott stated that he appreciated everyone on the Council and their opinions, as well as Jo and Karen's hard work on this matter. Probably my biggest concern is with Community Investment. No disrespect to Brian Pawlowski—he's pretty much holding down the fort on what's going on here. I said to Community Investment, I said to Mr. Matthews that this is going to be tough and it needs a lot of work. It probably won't have everyone being happy, and may need some compromise on what needs to happen. I look at two (2) things. I look at the Master Plan and a plan is nothing without action. You work on a plan that lines out to 2017 that is going to bring \$2,900,000 in new revenue in tax dollars to that area of the City. Really, start looking at it, besides the Hill Street development, Mr. Matthews is pretty much the only one developing part of that Village Plan. I agree with a lot of things that Gavin Ferlic said. This, to me, when I look at zoning and variances, is that buffer—where is that transition going? A lot of times, between business and residential areas, and I ask a lot of questions about fencing and bushes and how it is in that transition, and when I drive around the City I looked at it quite a bit. I see this as part of the Central Business Unit. I see this as the East Race and that island as part of that transition between it. If it was up on St. Joseph Street or next to St. Joseph Church, it would be a whole other matter. And, you know what? I have to get up in about four (4) hours for work, but I'll stay here another four (4) hours if that's what it takes, because anyone who wants to bring this type of investment to our community, I'm willing to stay here and work through it. If anyone wants to bring another one, Mr. Varner, I'll stay here again and work through it. I really

have concern. I do have respect for the competition that is here, too. They have an interest and they have plans regarding what they want to do. A lot of bold moves and a lot of breaking the rules results in good innovation and good plans. We would probably still be driving buggies if there wasn't someone breaking some of the rules. I know the company I work for, we've pushed the envelope and created whole new things with the automotive industry, and we wouldn't have done that just sitting around worrying about what is on paper, what we are supposed to do. The other thing is that this is not the only development here. This is one (1) development for a certain market and, Ms. Williams-Preston, I totally agree with what you're saying. I think there's other developments that need to come, and that's why—getting back to Community Investment—I have real concerns regarding what is going on. There's got to be some hustle, some creativity, and going out selling those plans, whether it's from Lincoln Way, Western Avenue, to over here. I look at this Master Plan for the East Bank Village. There's a lot of exciting things in there. And guess what? They're projected out to 2017. We're almost in 2017, and I haven't seen that \$2,900,000 in tax revenue. I do see sitting in front of me this \$1,160,000. And I see investment and opportunity, like Dr. Varner said, and I will support this. And I will also support the idea that, if given the exception, there's also ways that it can be looked at—the max is up to that height. If there are other ways to work through it, I'm all ears for that, too. But I'm all ears for opportunity, and I know there are other opportunities out there. You look at the Master Plan, in all the concept drawings that area was actually either a parking lot or a little strip mall, mixed-use in a parking lot, or a green space. Mr. Perri's property, as well, was green space. I don't really agree with that. I can go on and on. Community Investment, we're going to have some long conversations because we're doing a lot which, I think, should have been done in Community Investment before it's here. So, that's all I've got to say.

Councilmember Karen White thanked Mr. Matthews for reaching out to her and for sharing with her his concerns, and thanked everyone present for remaining in attendance. This is a very important project. I don't see it as all-or-nothing. I think we have an opportunity to look at these challenges, and I'm quite sure that we have within the audience, with Mr. Matthews, Community Investment, and all key stakeholders to really come together and have a project that will be close to being acceptable. Now, I don't think anyone will sit here and argue that we don't need a Martin's, and I don't think anyone will sit here and argue that we do not need a drugstore. The issue is how we get there. What I would say is that there are some parameters in regards to pulling together the key stakeholders like Mr. Matthews, Community Investment, and we've got to shut the doors and come up with a recommendation that is as close to being acceptable as possible. And that makes it a give-and-take. Someone told me that developers are very unique. You put two (2) together, you don't know what you may get out of that discussion. Again, I am in favor of really having the opportunity—we have heard a lot of information. I think we the Council must have a level discussion. Those who are ready to move forward, I have no difficulties with that. But for me, I think we've heard so much that we have not been able to digest, because just as the audience, you're receiving the information, this is the first time that we've received a number of this information. We would not be doing our part in really taking all this information, digesting information, and really looking at where we are. I did not hear anyone among those who spoke in favor or opposition say that they did not support this project. I did not hear anyone say that this project is not needed. I did not hear anyone make the statement that is isn't an exciting, bold project. I didn't hear that. So, that tells me that we have a level of consensus from those of you who are here, even from the Council, to say how do we move to the next step? Give us the time to pull together Community Investment and especially the leadership to say that we need to get to that point, and what will it take. So, that's where I'm at.

Chairperson Gavin Ferlic announced that with that Council comments were closed.

Councilmember John Voorde made a motion to continue substitute *Bill No. 41-16* until December 12<sup>th</sup>, 2016. Councilmember Oliver Davis seconded the motion which carried by a roll call vote of five (5) ayes and four (4) nays (Councilmembers Randy Kelly, Dr. David Varner, Gavin Ferlic, and Tim Scott).

#### RISE AND REPORT

Councilmember Oliver Davis made a motion to rise and report to full Council. Councilmember Tim Scott seconded the motion which carried by a voice vote of nine (9) ayes.

REGULAR MEETING RECONVENED

Be it remembered that the Common Council of the City of South Bend reconvened in the Council Chambers on the fourth floor of the County-City building at 12:02 p.m. Council President Tim Scott presided with nine (9) members present.

Councilmember John Voorde made a motion to take a five (5) minute break. Councilmember Oliver Davis seconded the motion which carried by a voice vote of nine (9) ayes. The Council adjourned at 12:03 a.m.

*THE COUNCIL RECONVENED AT 12:08 a.m.*

BILLS – THIRD READING

54-16

THIRD READING ON AN ORDINANCE  
AMENDING THE ZONING ORDINANCE FOR  
PROPERTY LOCATED AT 1037 ELMER  
STREET, COUNCILMANIC DISTRICT NO. 2 IN  
THE CITY OF SOUTH BEND, INDIANA

Councilmember Dr. David Varner made a motion to pass *Bill No. 54-16*. Councilmember Oliver Davis seconded the motion which carried by a roll call vote of nine (9) ayes.

67-16

THIRD READING ON AN ORDINANCE OF  
THE COMMON COUNCIL OF THE CITY OF  
SOUTH BEND, INDIANA CONCERNING THE  
CURRENT REFUNDING OF OUTSTANDING  
WATERWORKS REVENUE BONDS OF 2000  
AND 2006, EACH ISSUED TO FINANCE  
CONSTRUCTION OF IMPROVEMENTS TO  
THE MUNICIPAL WATERWORKS OF THE  
CITY OF SOUTH BEND, INDIANA;  
AUTHORIZING THE ISSUANCE OF REVENUE  
BONDS FOR SUCH PURPOSE IN THE  
PRINCIPAL AMOUNT NOT TO EXCEED  
THREE MILLION SEVEN HUNDRED TWENTY  
THOUSAND (\$3,720,000); ADDRESSING  
OTHER MATTERS CONNECTED THEREWITH,  
INCLUDING THE ISSUANCE OF NOTES IN  
ANTICIPATION OF BONDS; AND REPEALING  
ORDINANCES INCONSISTENT HERewith

Councilmember Oliver Davis made a motion to amend *Bill No. 67-16* as it was in the Committee of the Whole. Councilmember Gavin Ferlic seconded the motion which carried by a voice vote of nine (9) ayes.

Councilmember Gavin Ferlic made a motion to pass *Bill No. 67-16*. Councilmember Oliver Davis seconded the motion which carried by a roll call vote of nine (9) ayes.

RESOLUTIONS

16-86

A RESOLUTION OF THE COMMON COUNCIL  
OF THE CITY OF SOUTH BEND, INDIANA,  
APPROVING A WAIVER OF  
NONCOMPLIANCE FOR LATE-FILED  
SCHEDULE OF DEDUCTION FROM  
ASSESSED VALUATION PERSONAL  
PROPERTY IN ECONOMIC REVITALIZATION

AREA (FORM 103-ERA) AND COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM CF-1 / PP) BY NOBLE AMERICAS SOUTH BEND ETHANOL LLC FOR CERTAIN PERSONAL PROPERTY LOCATED AT 3201 WEST CALVERT STREET DESIGNATED AS AN ECONOMIC REVITALIZATION AREA UNDER RESOLUTION 4332-14

Councilmember Gavin Ferlic made a motion to continue *Bill No. 16-86* until November 28<sup>th</sup>, 2016. Councilmember Oliver Davis seconded the motion which carried by a voice vote of nine (9) ayes.

16-87

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA EXPRESSING ITS SUPPORT OF THE PROPOSED MAJOR IMPROVEMENT AND UPGRADES OF THE NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT WHICH OPERATES THE SOUTH SHORE LINE

Councilmember Jo M. Broden, Chair of the Public Works and Property Vacation Committee, reported that they met and send this forward with a favorable recommendation.

Councilmember Jo M. Broden served as both the petitioner and presenter for this bill. She stated the title was read. We've all read the resolution, I'm sure. It's a double-tracking initiative. There's federal grants money on the line. We're hoping to chime in with other cities along the line in support of the double-tracking. There's also in the record a letter from County Councilman Mark Catanzarite who has written a letter in support of this, which I will submit into the record to be read fully by each Councilmember.

There were no questions from the Council.

No one from the public spoke either in favor of or in opposition to the bill.

Councilmember Gavin Ferlic made a motion to adopt *Bill No. 16-87*. Councilmember Oliver Davis seconded the motion which carried by a roll call vote of nine (9) ayes.

BILLS FIRST READING

68-16

FIRST READING ON AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE FIRST EAST-WEST ALLEY BETWEEN ST. VINCENT STREET AND HOWARD STREET FROM ST. LOUIS BOULEVARD TO THE FIRST NORTH-SOUTH ALLEY.

Councilmember Gavin Ferlic made a motion to send *Bill No. 68-16* to the Public Works and Property Vacation Committee and set public hearing for November 28<sup>th</sup>, 2016. Councilmember Oliver Davis seconded the motion which carried by a voice vote of nine (9) ayes.

69-16

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ESTABLISHING INTERNAL CONTROL STANDARDS AND ESTABLISHING A MATERIALITY THRESHOLD.

Councilmember Gavin Ferlic made a motion to send *Bill No. 69-16* to the Personnel and Finance Committee and set public hearing for November 28<sup>th</sup>, 2016. Councilmember Karen White seconded the motion which carried by a voice vote of nine (9) ayes.

70-16

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING VARIOUS SECTIONS OF ARTICLE 12 OF CHAPTER 13 OF THE SOUTH BEND MUNICIPAL CODE ADDRESSING CHRONIC PROBLEM PROPERTY REGULATIONS

Councilmember Gavin Ferlic made a motion to send *Bill No. 70-16* to the Health and Public Safety Committee and set public hearing for November 28<sup>th</sup>, 2016. Councilmember Karen White seconded the motion which carried by a voice vote of nine (9) ayes.

71-16

FIRST READING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT A 20 ACRE TRACT OF LAND WEST OF AND ADJACENT TO AMERITECH DRIVE, APPROXIMATELY 1200 FEET SOUTH OF BRICK ROAD, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

Councilmember Gavin Ferlic made a motion to send *Bill No. 71-16* to the Zoning and Annexation Committee and the Area Plan Commission and set public hearing for January 9<sup>th</sup>, 2017. Councilmember Karen White seconded the motion which carried by a voice vote of nine (9) ayes.

UNFINISHED BUSINESS

65-16

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 913 LAWRENCE STREET AND 427 & 437 CORBY BOULEVARD, COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

Councilmember Gavin Ferlic made a motion to accept *Substitute Bill No. 65-16*. Councilmember Karen White seconded the motion which carried by a voice vote of nine (9) ayes.

SETTING PUBLIC HEARING SCHEDULE AND ACKNOWLEDGING THE RECEIPT OF APPEAL OF A CERTIFICATE OF APPROPRIATENESS FOR 1240 WEST THOMAS STREET-HISTORIC PRESERVATION COMMISSION

Councilmember Gavin Ferlic made a motion to set public hearing for December 12<sup>th</sup>, 2016. Councilmember Oliver Davis seconded the motion which carried by a voice vote of nine (9) ayes.

NEW BUSINESS

There was no new business.

PRIVILEGE OF THE FLOOR

Samuel Brown, 222 East Navarre St., South Bend, IN stated that he is in charge of the watchdog group, Citizens United for a Better Government. I come to you tonight asking for your help. There's a small park on Howard St. called Kelly Park, and I'm very disappointed, I'm very hurt that a group of kids was let down. My grandson was in the seventh grade when he was part of a committee and made a commercial with Ms. Fowler's daughter about that park. It's supposed to be like a safe park, a special park. And I don't know who dropped the ball. I know the City of South Bend put a few funds in. Somehow, that park is still not done. I'm very hurt. When you put kids out there like that, and kids crush you, and now these kids have been left down. We passed a legislation for park bond—I don't care what we got to do, that park need to be fixed. I don't care where the money comes from. Those kids have no right to be let down like this. I have the CD at home where Channel Sixteen (16) made that commercial, and we were all proud of those kids. I want something done about it, and I need some support. Thank you.

Jacob Hughes, 4921 Belleville Circle, South Bend, IN stated that he was present to discuss the outreach activities he's been a part of to help businesses heavily affected by the smoke ordinance transition more smoothly. Our hope is that those affected can be assisted in developing strategies so that the businesses will not only survive this transition but also thrive grow from this specific policy change. We have a calendar of outreach events and activities that are taking place throughout the City that are patronizing some of the people who go to the bars, as well as some of the bars. The outreach events can be found on CW Partners dot org (cwpartners.org), if you want to be involved in those events that we are doing in the City. One of those events, I'm sure you've seen it on the news, is the event we did with Mulligan's Bar & Grill. We were celebrating the fact that they made the decision to go smoke-free early, which was back in August. After the passing of the ordinance, as you know and have seen, this bar has experienced growth in business, to the point where they have had to hire two servers and a cook. They have experienced success and we have been able to collaborate with Mulligan's—Sue and Pat Mulligan were so excited that we were helping and supporting them. That event went very well in the City, and we want to do that with other bars and restaurants and those affected by this particular ordinance to let them know that they can grow from this particular ordinance passing on January 2<sup>nd</sup>. Throughout December, we are delivering window clings, coasters, table tents, posters, and FAQ materials in package form. We are delivering them through mail, and we're also hand-delivering some of those packages as well. Some of those bars would not allow us to come in, but those who want us to assist, we are here to help. If you want to help or assist, you can go to our social media page at Smoke-Free St. Joe. Twitter, @smokefreestjoe. Again, go to our website at CW Partners dot org (cwpartners.org), or call (574) 232-4234. Thank you.

#### ADJOURNMENT

There being no further business to come before the Council, President Tim Scott adjourned the meeting at 12:19 a.m.