



BOARD OF ZONING APPEALS

Minutes

**Brownsburg Town Hall
61 North Green Street
Brownsburg, Indiana 46112**

Monday, January 9, 2017

The Brownsburg Board of Zoning Appeals convened at 7:00 PM with a moment of silence and the Pledge of Allegiance. Tom Lacey opened the meeting, and a roll call was taken.

Members Present: Tom Lacey, Charles Bischoff and Michael Arnould

Members Absent: Brett Scowden and Bronson Troyer

Also Present: Todd Barker- Director of Development Services, Jonathan Blake- Senior Planner, David Wilson- Planner, Tricia Leminger- Legal Counsel, and Heather Wetzel- Administrative Assistant

A. CALL TO ORDER AND DETERMINATION OF QUORUM

B. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE

C. ELECTION OF OFFICERS

1. 2017 President – (Presided by the 2016 President)
2. 2017 Vice-President – (Presided by the 2017 President)
3. 2017 Recording Secretary

As the new board member(s) were not present, the elections would be held next month.

Motion: Charles Bischoff made a motion to **TABLE** the 2017 Election of Officers to the next regular meeting on February 13, 2017 at 7 P.M., seconded by Tom Lacey, motioned passed 3 in Favor/0 Opposed/0 Abstained.

D. CONSIDERATION OF PREVIOUS MINUTES

1. December 12, 2016– Regular Meeting

Motion: Charles Bischoff made a motion to **APPROVE** the December 12, 2016 regular meeting minutes, seconded by Mike Arnold, motion carried 3 In Favor/0 Opposed/0 Abstained.

E. FINDINGS OF FACT AND REPORTS OF DETERMINATION

1. BZSE-11-16-1461 501 Cornerstone Ct. Fleet Vehicle Storage

Motion: Mike Arnould made a motion to **APPROVE** the Finding of Fact for BZSE-11-16-1461, seconded by Charles Bischoff, motion carried 3 In Favor/0 Opposed/0 Abstained.

F. RECOMMENDED CONTINUANCES

1. BZDV-12-16-1473 3680 N. SR 267 Road Frontage

A request for a Development Standards Variance from Article 5, §5.48(B) "Minimum Lot Frontage" of the Unified Development Ordinance; to reduce the minimum required lot frontage within the Low Intensity Industrial (I1) District.

Parcel No(s): 32-07-22-230-003.000-016

ADVERTISED PUBLIC HEARING

Represented by: Ben Comer, Comer Law Office, LLC

The Applicant requested a continuance to the next meeting to address Staff comments and concerns.

ADVERTISED PUBLIC HEARING OPENED, RECESSED AND CONTINUED TO FEBRUARY 13, 2017 AT 7 P.M.

G. OLD BUSINESS

1. BZDV-11-16-1460 1650 E. Northfield Drive Maximum Primary Structures

A request for a Development Standards Variance from Article 2, § 2.42 of the Unified Development Ordinance to exceed the maximum primary structures limit within the Motor Sports (MS) District.

Parcel No(s): 32-07-13-250-011.000-016

ADVERTISED PUBLIC HEARING

Represented by: Andy Kult, Comer Law Office

Andy Kult appeared before the Board on behalf of Sawmill Creek LLC and Simpson Properties. He had a handout and presentation of the site prepared as he made his comments. Mr. Kult pointed out that this was a twelve acre parcel on the west side of Northfield Dr. The property was zoned Motor Sports (MS). He said that there were currently five buildings and he was there with a request for a variance to allow a sixth and final building. In 2015, the Board had approved the fifth building.

When the project was originally approved in October of 2000, it was approved for six buildings including the two buildings in the rear. Following the construction of four buildings, the recession hit and construction stopped. With that the development approval expired and then the new Unified Development Ordinance (UDO) was adopted and restricted the MS district to three primary buildings.

In 2015 they got a Development Standard Variance for the fifth building and they were now looking for approval for the sixth building. It did require another variance.

Mr. Kult went over the Staff synopsis. He stated that there were fitness facilities in the first four buildings and those had a need for greater parking requirements. Staff recommended that the overall site be limited to no more than two fitness or indoor recreation uses or a maximum of 13,000 sq. ft. and that no fitness be permitted in Building 6 and they were ok with that.

Where Building 6 was proposed there was a gravel area that had been used for storage of vehicles and some tenants used it for storage. The Applicant and owner had been notified that they needed to move the vehicles offsite.

Mr. Kult said that landscaping had been another issue. The landscaping that was required with the construction of Building 5 was not all installed. Staff requested a landscaping plan for Building 5 and 6 together that met the requirements of the ordinance. Mr. Kult noted that you would not be able to see the back buildings from Northfield Drive.

There was also a discussion with the Brownsburg Fire Territory regarding access to all of Building 6. The owner would move several parking spaces further south or remove them all together. They would be working with the Fire Territory and would ensure there was access.

Mr. Kult stated that the Applicant was agreeable to all of the Staff recommendations.

Jonathan Blake gave a high level overview of the content of the Staff synopsis. This site plan started back in 2000 when Simpson Properties came in with a request for six buildings. The Town went through the recession, and then updated and modified the ordinance. Ultimately the Motor Sports and Industrial zoning allowed a maximum of three buildings, anything else would require a variance. As Mr. Kult had already addressed, one primary concern was related to parking. Currently the western side of the property was gravel and there was some paved parking. Building 5 was in the Northwest corner. Building 6 would be located south of that. Mr. Blake said that area had acted as overflow storage for the last 17 years. Staff would like to ensure that was removed. Staff did recommend limiting certain uses. They wanted to limit fitness as that required a higher number of parking overall. There was one concern related to onsite landscaping. The Ordinance had requirements for the overall site as well as street frontage and buffers. The concern was not with the parking lot landscaping or buffer, it was with the onsite requirements for the overall property. As the Applicant added more gross floor area, there needed to be an increase on onsite landscaping but the only place available was along Northfield Dr. Staff was not aware of the number of plantings and the Applicant didn't have a grasp of what landscaping they were able to plant. Staff asked that they prepare a site plan that included Buildings 5 & 6 and what they could plant without detriment to plant life and as a result a submitted landscaping variance request was withdrawn.

Mr. Blake said that they did believe the Applicant had satisfied the criteria for the variance and recommended approval with the following recommendations:

- (1) The Development Standards Variance be limited to a maximum of six (6) primary structures.
- (2) "Fitness/indoor recreation center" uses shall be prohibited within the proposed Building 6.
- (3) That the Applicant submit a Landscape Plan that shows the approved landscaping as a part of PSDP-03-15-1288 in addition to the required landscaping for the proposed Building 6 pursuant to *Article 5, §5.38 LA-01: Landscape Standards* and *§5.39 LA-02: Parking Lot Landscape Standards*.
- (4) The Applicant shall work with the Brownsburg Fire Marshal to address concerns related to building safety, fire-fighting access and no-parking zones.
- (5) The Applicant's Detailed Statement of Reason, dated 11/30/2016; TECH Review Minutes, dated 11/22/2016; the Applicant's Parking Exhibit, dated 11/17/2016.
- (6) The Applicant shall prepare a Development Plan for review and approval by the Advisory Plan Commission.
- (7) The approval of the Development Standards Variance shall expire on January 9th, 2018, one year from the date of approval, if a building permit is not obtained from the Department of Development Services.
- (8) The approval of the Findings of Fact and Conclusions of Law.

Mike Arnould asked if the Applicant could work with the Fire Territory and come to a reasonable solution. He learned that in general there was a 150 ft. rule that they had to reach all points of a building. If the parking was relocated as stated, the Fire Marshal felt confident they could access all areas.

Mike Arnould asked if the six buildings were the same size as the original plans and Mr. Kult said that they were not. Building 5 was 18,000 sq. ft. and Building 6 would be 10,500 sq. ft. In

ADVERTISED PUBLIC HEARING

Represented by: Chris Wiseman, Cripe

*Testimony was heard on BZDV-11-16-1463, BZDV-11-16-1464 and BZDV-11-16-1465 with separate motions recorded for each case.

Larry Longman appeared representing Lauth and had with him Mike Jones of Lauth and David Lash from Cripe Engineering.

Mike Jones reviewed a presentation prepared by Lauth giving an overview of their company and this particular project. Lauth was celebrating their 40th year in business. They were a privately held company, owned by Executive Management team; they were a real estate development company working with \$3.5 billion across the country.

Mr. Jones gave facts about Eaglepoint. Since 1998, they had been the most active commercial real estate developer in Brownsburg having developed 3.5 million sq. ft. of industrial property. They had invested over \$275 million in real property and personal property. Lauth had created over 2,600 new jobs with over \$100 million in wages. In 2016 they generated \$10 million in annual property taxes. This tax revenue supported the school, town, and public works. Lauth had also generated inducement and impact fees to the Town of Brownsburg.

Mr. Jones said he was there specifically to speak about Eaglepoint Six. This property made up 2/3 of 65 acres located on the on northwest corner of the park. Lauth (and the Town) went through a recession. They changed their thoughts on the parcel numerous times. The overall investment for Eaglepoint Six was \$30 million. Mr. Jones said there were no tenants for this building at that time. He said there was an additional \$10 million of personal property invested, and that this project would generate \$3.6 million in taxes over 10 years with a tax abatement scenario. It would create between 175-600 jobs with wages of \$5.4 to \$18 million over 10 years. It would also generate income tax as well as food and beverage tax receipts.

Eaglepoint Six was zoned for a history of retail and industrial. The BZA approved an industrial use in 2012. In 2015 Lauth negotiated with Bill Estes to own and operate a new dealership on the northwest quadrant which was rezoned for that appropriate use. Mr. Jones stated that Lauth had willingly contributed right of way within the park.

He reviewed a Market Strategy slide. Market timing and construction start time, any time one made a \$30 million speculative investment, had to be perfect. They competed with regional neighbors in Ohio, Chicago, and Plainfield. Any delay pushed projects away. They had seen significant net absorption and believed this was a very good window to go vertical with the last building. This area was the final platted parcel within the Park; the remaining 12-13 acres would be smaller users. As they competed in the near market, there was a demand for a larger footprint and larger buildings in excess of 500,000 sq. ft. This project proposed 691,200 sq. ft. for bulk distribution use. The future use and maximum investment had to have certain flexibility such as multiple ingress/egress points with minimal 90 degree turns, secured truck courts and automobile and trailer parking areas.

Mr. Jones reviewed the Milestone Dates over this project. They commenced their design in 11/2016, intended to break ground in Mid-March of 2017, and then go vertical 60 days later. They hoped to have the building ready in September for co-occupancy and substantially completed by 10/2017.

The current UDO changed from the original ordinances that were in place in 1998, and had created hardships requiring the requests of these variances. Mr. Lauth asked for the Board's support.

Larry Longman also spoke to the history of this property. He said that in 2012, Lauth envisioned a 2-building scenario. That required a change in zoning classification. In 2012, there were multiple points around the building as they were looking for circulation around all of the buildings and the property line went down the center of the property. In 2014 there was a different building configuration presented as they wanted one bigger footprint, more east-west access, and there was some buffering concern having this development against a residential development.

In 2015 when Bill Estes went in a joint access easement on a cul-de-sac was created. The Estes lot also had a curb cut that aligned with Sable Chase.

For this current project, they had gone back to the original concept and tried to work with the site and what the site could provide- 691,200 sq. ft., curb cuts on 56th St. and use the joint access easement and curb cut to the south and Eastpoint Circle. This would be a far less significant building size than other proposals.

With the current UDO in place there were some complications. Lauth thought the things they were asking for were consistent with Eaglepoint Business Park today. They were requesting variances for: Front Yard Setback, Maximum Lot Coverage and Maximum Floor Area. Lauth came before the BZA in December of 2016 and the cases were continued to wait for the Traffic Impact Study (TIS) as Staff was not comfortable making a recommendation and continued the cases to January and there were now there to hear those variances.

Mr. Longman showed a slide showing the proposed entrances A, B, C, D and X. During the initial TECH meeting Entrance X was eliminated so Lauth had already conceded one entrance.

The Front Yard variance was relevant to Entrance C. As Northfield Dr. turned the corner by the John Force buildings, the setback pushed deeper into the property. This project would have complied with parking but as the geometry squeezed the setback got deeper. Lauth was asking for the ability to encroach into the setback line which was no more than what you'd see at other Eaglepoint buildings, i.e. John Force (which in fact was deeper than what Lauth was proposing), and other buildings were closer. Staff made the recommendation of conditional approval for this setback requirement. Of the 6 Staff recommendations, Lauth agreed with 3 of them and failed to see the relevancy of the other recommendations. For Staff Recommendation #1, that Entrance A have a 100 ft. drive throat, this variance was for Entrance C and they failed to see why Entrance A was being addressed here. For Recommendation #2, that the layout be amended to improve connectivity, they were focused on Entrance C and didn't see the relevance between Entrances A, B and C regarding the setback point of view. For Recommendation #3, they were in agreement with limiting the encroachment to 23 ft. Recommendation #4 requested alignments to Pennwood Lane or Southpoint Circle and Lauth struggled with the relevancy to the request for a setback variance to driveway alignment. They agree with Recommendation #5 that the building permit must be secured within two years. They agree with Recommendation #6 over the approval of the Findings of Fact.

Mr. Longman spoke to the 100 ft. drive throat. As it stood currently, the front curb lines had 109 ft. between curb to curb on the interior drive. They believed that the accel/decel lane along Northfield Dr. would complicate the ability to provide that dimension. They would be giving away 15 ft. increments. As they gave away right of way in the North/South direction, which complicated how much building could be put on the site. Site Entrance B dimension was 332 ft. and 257 ft., that would be over 580 ft. of stacking to get out onto 56th St. and was a direct egress onto the cul-de-sac and would be the predominate movement. Mr. Longman said that site Entrance A was 109 ft. Entrance B was 332 ft. and 257 ft. Entrance C was 125 ft. to the

current curb. Entrance D was 70 ft. but it was not heavily used and serviced Eaglepoint 4 and the Northside of Ser La Table. Entrance X had been removed after they met with Staff.

For the Maximum Lot Coverage conditions, Mr. Longman said they disagreed with Recommendation #1 on the grounds of relevancy. The Lot Coverage used to be 80% and this building was proposed to be 73.94%. Under the old ordinance they complied. The new ordinance offered complications with that. They said to see the relevancy of the driveway (drive throat) for lot coverage. For Recommendation #2, they didn't see the relevance between Entrances A, B and C and lot coverage. For Recommendation #3 they fail to see relevancy of access point alignment for lot coverage. This impacted the ability to market additional ground and the future building. For Recommendations #4 & 5, they agree with Staff recommendations.

For the Maximum Floor Area variance, Mr. Longman said that the current ordinance had a maximum floor area cap and would only allow 1/5th of this building. They were asking for a variance for a bigger building. He mentioned that Eagle 1, 2, 3, 4, & 5 buildings were all greater than 150,000. He felt what he was asking for would be consistent with the rest of the Park. The same Staff conditions were tied to this case and they had the same responses. For Recommendations #1-3, they failed to see relevancy of those to maximum floor area. They did agree with Recommendations #4 & 5.

Todd Barker reviewed these cases for the Board. For the Front Yard Setback case, BZDV-11-16-1463, he felt that Mr. Longman and Mr. Jones hit the high points in the analysis. This property was one of the last remaining lots. Development within the Park had spanned over 2 if not 3 zoning ordinances along the way, starting in the late 90's. This request was consistent with or exceeded other parking lot setbacks along E. Northfield Dr. Staff did acknowledge this project would be consistent with front yard setbacks and based on the Detailed Statement of Reasons they did believe they had satisfied requirements for approval. Mr. Barker did go through the recommendations for BZDV-11-16-1463 and then answered the relevancy issues.

- (1) That Site Entrance A includes a drive throat / exiting storage lane that is a minimum of one hundred (100) feet in length pursuant to the Revised Traffic Impact Study prepared by VS Engineering, Inc. dated December 20, 2016.
- (2) That the proposed layout be amended to improve connectivity between Site Entrances A, B and C pursuant to the Revised Traffic Impact Study prepared by VS Engineering, Inc. dated December 20, 2016.
- (3) That the encroachment into the Front Yard Setback for Accessory Structures be limited to a maximum of twenty-three (23) feet.
- (4) That any access point onto East Northfield Drive must align with either Pennwood Lane or Southpoint Circle pursuant to the Revised Traffic Impact Study prepared by VS Engineering, Inc. dated December 20, 2016.
- (5) That the variance shall be null and void if a building permit, consistent with this application, is not secured within two years from the date of approval.
- (6) The approval of the Findings of Fact and Conclusions of Law.

For Recommendations #1, 2 and 4, Staff felt the relevancy for the setback was a direct result of the proposed layout as part of the request and each part of the layout had a rippling effect on other pieces of the site. Setback was one piece, Staff was still concerned that the overall site plan would have ongoing issues with access to the north and hence the request for stacking

(100 ft.). If they couldn't provide good interconnectivity within the site; how that would impact the setback itself. Improved connectivity could increase the desire for a setback there as well. Ultimately the 4th recommendation regarding alignment, shifting the proposed alignment where the rest of parking, could lessen or it could increase. Staff did believe the layout proposed complemented or tied together, and that was why they recommended those conditions for approval.

Charles Bischoff confirmed that Staff's Recommendations #1, 2 and 4 were identical to Recommendations #1, 2 and 3 on the next case.

Mr. Barker then reviewed the Maximum Lot Coverage case, BZDV-11-16-1464. This case dealt with the calculation of how much area was being covered versus not covered and the density on the lot. Within the Applicant's Detailed Statement of Reasons, they discussed the 73/74% lot coverage as maximum build out. There was a potential that not all of the parking would be needed and the potential that they wouldn't need that variance. There was a prior to full build out, which would be under the lot coverage requirement. Mr. Barker also wanted to point out that in terms of parking numbers; there were cases where any parking that was over 130% of the required minimum added additional landscaping requirements. This would be another issue that could factor into the development of the site. Maximum lot coverage in comparison to lot size and building size played into factors of recommendation. As far as Recommendation #1, as that site grows, Mr. Barker stressed that expansion had an impact on the interconnectivity of the entrances, how well could traffic from that site get into and out of the site from Entrance A, and ultimately on E. Northfield Dr. How this building sat on that lot impacted that intersection, the configuration and desire for a truck dock on the west side would have a direct route to Northfield Dr.

Mr. Barker added that there were still recorded commitments that needed to be addressed and that still needed public notice before that could be eliminated.

Mr. Barker said that as Staff and VS Engineering had raised concerns over the entrances and interconnectivity, they believed that had a direct impact on lot coverage and would be injurious to public safety. If the issues with Entrance A, stacking location, location of Entrance C and interconnectivity were not addressed it could have an adverse impact on the value of surrounding property. Mr. Barker also felt that in terms of practical difficulty, there had not been adequate justification as to why the site could not accommodate an additional 4% and negate the need for a variance.

Mr. Barker reiterated the Staff recommendations for BZDV-11-16-1464:

- (1) That Site Entrance A includes a drive throat / exiting storage lane that is a minimum of one hundred (100) feet in length pursuant to the Revised Traffic Impact Study prepared by VS Engineering, Inc. dated December 20, 2016.
- (2) That the proposed layout be amended to improve connectivity between Site Entrances A, B and C pursuant to the Revised Traffic Impact Study prepared by VS Engineering, Inc. dated December 20, 2016.
- (3) That any access point onto East Northfield Drive must align with either Pennwood Lane or Southpoint Circle pursuant to the Revised Traffic Impact Study prepared by VS Engineering, Inc. dated December 20, 2016.
- (4) That the increase in the Maximum Lot Coverage be limited to a maximum of 75%.
- (5) That the Applicant must provide public notice per the Board of Zoning Appeals rules of

procedure to amend the written commitments as previously approved as a part of case BZDV-06-14-1229 (2014-05BZA) Inst. No.: 2016001133.

(6) That the variance shall be null and void if a building permit, consistent with this application, is not secured within two years from the date of approval.

(7) The approval of the Findings of Fact and Conclusions of Law.

Mr. Barker and Mr. Lash had a discussion about the need to publish public notice for the commitment amendment. Staff did agree that the commitments could be vacated however it needed to be noticed for a public hearing.

Mr. Barker then spoke to the Maximum Floor Area case, BZDV-11-16-1465, and conditions. He felt that the size of the building on the lot impacted how well the entrances connected together. He acknowledged there was likely some relief that was justified to be consistent with the rest of the Park but an increase to the point where they wouldn't have good connectivity and access points that didn't negatively impact traffic was not warranted. Mr. Barker felt that not addressing those issues would be injurious and could adversely affect adjacent properties. The Ordinance was not creating a difficulty, the Ordinance was attempting to protect adjacent properties.

Mr. Barker gave the Staff recommendations for BZDV-11-16-1465 and said they had already discussed most:

- (1) That Site Entrance A includes a drive throat / exiting storage lane that is a minimum of one hundred (100) feet in length pursuant to the Revised Traffic Impact Study prepared by VS Engineering, Inc. dated December 20, 2016.
- (2) That the proposed layout be amended to improve connectivity between Site Entrances A, B and C pursuant to the Revised Traffic Impact Study prepared by VS Engineering, Inc. dated December 20, 2016.
- (3) That any access point onto East Northfield Drive must align with either Pennwood Lane or Southpoint Circle pursuant to the Revised Traffic Impact Study prepared by VS Engineering, Inc. dated December 20, 2016.
- (4) That the variance shall be null and void if a building permit, consistent with this application, is not secured within two years from the date of approval.
- (5) The approval of the Findings of Fact and Conclusions of Law.

At this time Tom Lacey asked for a 5 minute recess. Legal counsel admonished the Board from discussing the cases during that time. The Board would reconvene at 8:23 p.m.

MEETING RECESSED

MEETING RECONVENED

As the meeting resumed, Tricia Leminger confirmed that the Board members did not discuss the cases with anyone while on break.

Tom Lacey asked what the size of HomeGoods was and learned it was 806,000 sq. ft. and Guitar Center was 750,000 sq. ft. He stated he was trying to get an idea of how big the proposed building would be.

Tom Lacey asked for clarification where the area of encroachment was, he confirmed that as they moved further west the encroachment was closer. The Applicant said that they had to accommodate the parking issue now to make themselves eligible for prospective companies.

Tom Lacey received clarification that all of the Entrances were proposed as full access. Mr. Lacey asked if Entrances A or B were controlled and learned that the traffic study recommended that Entrance A be signalized.

Mr. Lacey asked what the area south of the cul-de-sac was and learned that it was retention.

Charles Bischoff asked Todd Baker about Recommendation #3 for BZDV-11-16-1463 and the maximum 23 ft. setback and if the Board should make that recommendation applicable to Northfield Dr. directly. Mr. Barker said that clarifying that would be appropriate.

Mike Arnould asked Todd Barker about the importance of Entrance C lining up with Pennwood or Southpoint Cir. He said it seemed people were going there specifically. Mr. Barker said the concern with aligning with Southpoint or Pennwood was about the potential left turn movements into the site and onto Southpoint or Pennwood. He referred to Page 5 of the Traffic Impact Study. The concern was directly related to the impacts that opposing left turn movements would have on the entrances. As VS indicated, there should be a 300 ft. minimum distance. There was concern with Entrance C aligning between Southpoint and Pennwood, the left turn movements would essentially overlap and cars would turn left into one another instead of at an intersection.

Mike Arnould asked about Entrance A and the 10 ft. difference between the desired 100 ft. and proposed 90 ft. and if that was that such a problem. Mr. Barker said that the recommendation was a minimum of 100 ft. so they could start stacking. If the accel/decel lane was lessened, that would lessen the stacking distance and that would result in less area for cars going in and back out onto 56th Street. Larry Longman said that was not as pertinent to cars as trucks. He added that there were currently 56 curb cuts and only 23 aligned with anything. He was trying to access the relevancy if only 23 applied. He felt this condition was being imposed on them. Charles Bischoff said those were lessons learned and the Town did request alignment now. Mr. Longman said that Northfield Dr. was now a 5-lane road that had been improved and was supposed to better handle left hand turns.

Mr. Bischoff asked if Staff considered a right in/right only movement. Mr. Barker said that all of the entrances were requested as full access and there wasn't significant concern to limit movement to right in/right out only.

Mr. Jones said he respected the need for public safety but there had to be some common sense to develop the final parcel. He had an interest in moving forward in the current state.

Mr. Lacey asked Tricia Leminger about the requirement for a public hearing on the previous commitments. Ms. Leminger said that there was a commitment as part of another public hearing and that would require another public hearing to change. Larry Longman asked if the Director of Development Services could vacate that condition as a part of a condition of approval and Ms. Leminger said it had to be done by the BZA.

ADVERTISED PUBLIC HEARING OPENED (FOR BZDV-11-16-1463, BZDV-11-16-1464 and BZDV-11-16-1465)

Jim Sering, 6 W. Tilden-

Mr. Sering stated he felt this was a pretty good project and that there were multiple lanes on 56th St. and Northfield Dr. and that it appeared that truck drivers could handle going in and out. He understood Staff concerns; they needed to make plans for today for problems that might be 20 years down the road and traffic might be different. He felt for this project that part should be overlooked. His main concern as a citizen was getting businesses into Town. He hoped they could get this project approved.

Brian Jessen, 339 Andscott Drive -

Councilman Jessen came before the Board as a citizen. When he first moved here, he lived in Austin Meadows and looked over the wasteland of a lot. He was glad to see the project finally finished. This would be the last big parcel there. He spoke to the discussion over Entrance A, and felt that if that were moved, it could dramatically cut down on the property usage if it was moved to line up with Southpoint Cir. Mr. Jones added that Entrance C would change the functionality of the lot. Mr. Jessen said that companies that were looking for a large building, this could be one thing checked off list. While he understood the what-ifs and concerns, he was looking toward to the future with 56th Street and the Ronald Reagan Parkway connection. He felt that to finish this project would be most beneficial to the community.

ADVERTISED PUBLIC HEARING CLOSED (FOR BZDV-11-16-1463, BZDV-11-16-1464 and BZDV-11-16-1465)

Tom Lacey asked when Entrance B came about and Mr. Barker said it was existing now. Jim Sering wanted to ask the Applicant if they saw using Entrance B as an exit for their property. Mr. Jones said they could not tell which one would be used the most, it would depend on where the office was located and that cars would migrate wherever but trucks would not.

Charles Bischoff asked what the timeframe was for a signal being installed at Entrance A and if the signal was a result of this project because of the increased traffic. Mr. Barker said that it was part of conditions from a previous Plan Commission case. The Applicant had requested to amend some commitments but a previous condition was a signal.

Mr. Bischoff asked if the recommended 100 ft. length at Entrance A was for stackability for existing and learned that it was and that it would also allow for vehicles coming into the site to not stack onto 56th Street. Charles Bischoff asked if there was any concern coming into the lot, such as 2 semis coming in? Mr. Barker said that that was part of the issue of interconnectivity, how one would get from entrance A to the rest of the site, such as multiple semis or during a shift, did they have sufficient space to disperse without stacking onto 56th St.

Charles Bischoff said that he agreed with Staff regarding Entrance C. There had been several discussions over Northfield Drive and having curb cuts line up. He didn't feel that the UDO or Comprehensive Plan recommended random curb cuts. Traffic studies had consistently recommended that curb cuts be directly across from others.

Mike Arnould added that while he knew this was important for traffic flow and could see the value of lining up, he just didn't know if there would be that much cross traffic. He felt that he could see a justification for an exception for this case.

Charles Bischoff said that was only a proposed building and could be realigned, angled, or shrunken.

Motion: Charles Bischoff made a motion to **APPROVE** BZDV-11-16-1463, subject to and conditioned upon Staff recommendations amending #3 to state "as for the Northfield Dr. side of building (or south side), seconded by Mike Arnold, motion carried 3 In Favor/0 Opposed/0 Abstained.

Motion: Tom Lacey made a motion to **APPROVE** BZDV-11-16-1464, subject to and conditioned upon Staff recommendations, seconded by Charles Bischoff, motion carried 3 In Favor/0 Opposed/0 Abstained.

Motion: Charles Bischoff made a motion to **APPROVE** BZDV-11-16-1465, subject to and conditioned upon Staff recommendations, seconded by Mike Arnould, motion carried 3 In Favor/0 Opposed/0 Abstained.

Larry Longman asked if the 100 ft. drive throat was included and Mr. Barker confirmed that it was included in the Staff recommendations and motions.

H. NEW BUSINESS

1. **BZDV-12-16-1475 Brownsburg Office Suites Front Yard Setback

A request for a Development Standards Variance from Article 2, § 2.28 "Maximum Front Yard Setback" of the Unified Development Ordinance; to increase the maximum front yard setback within the Urban Commercial (UC) District.

Parcel No(s): 32-07-11-140-001.000-016, 32-07-11-140-007.000-016 & 32-07-11-100-002.000-016

ADVERTISED PUBLIC HEARING

Represented by: Brad Untraur, Brownsburg Office Suites, LLC

2. **BZDV-12-16-1476 Brownsburg Office Suites Parking Standards

A request for a Development Standards Variance from Article 5, § 5.62(B)(2) "Aisle Exits" of the Unified Development Ordinance; to allow a dead-end drive aisle within the Urban Commercial (UC) District.

Parcel No(s): 32-07-11-140-001 .000-016, 32-07-11-140-007.000-016, & 32-07-11-100-002.000-016

ADVERTISED PUBLIC HEARING

Represented by: Brad Untraur, Brownsburg Office Suites, LLC

** Testimony was taken on both BZDV-12-16-1475 and BZDV-12-16-1476 with separate motions recorded for each.

Shelby Bowen of Envoy Inc. appeared before the Board for both of these cases. Mr. Bowen stated that this property was located off Green St and the lot had already gotten primary plat approval.

For case BZDV-12-16-1475, Front Yard Setback, if you looked at the site plan, the property had an entrance off Twin Street, the only public right of way contiguous with the parcel. In accordance with the Town's desire of the Comprehensive Plan, they wanted to have an architecturally significant impact on the main entrance off of Green Street (to be called Arbuckle Commons). They would comply with the setback requirement off of Twin St. but this was not feasible nor was it the desire of the Town as well. They were requesting a variance to exceed the 20 ft. front yard setback and be on Arbuckle Commons. Jonathan Blake showed Tom Lacey the layout, the roads and the request for this case.

Mr. Bowen stated they had been through a TECH meeting, presented their plan, and agreed with Staff recommendations. He did have one question regarding Recommendation #3, and the prohibition against EIFIS and vinyl and wanted to know if that was a part of the BZA process or was that separate with the architectural review. He was felt there were some good EIFIS products. Mr. Blake said that recommendation came out of the Town's desire for overall design. The prohibition did not include stucco.

Mr. Bowen also spoke to case BZDV-12-16-1476, Parking Standards. This would be an office suites building with 115 single office suites so each suite would have its own tenant. This would be a high density building so parking density was something they paid a lot of attention to but because the Town was proving some public parking options, they reduced what they typically want. In an effort to maximize the first phase of parking in the midst of the downtown redevelopment, this variance addressed the handful of spaces that would be a dead-end turn around. In the meantime, they wanted to utilize the parking on the land they would own.

Jonathan Blake reviewed the case for the Board telling them it would be an office suite complex with 28,000 sq. ft. of gross area under the roof and 115 office suites with common features conference such as rooms and work rooms. This project did represent the first private investment on the former St. Malachy site and represented the office component of the overall development. There would be office, retail and commercial components that would be developed on site.

As far as the setback request, BZDV-12-16-1475, this was unique because the Applicant wanted to increase the setback. The Urban Commercial (UC) zoning was the only district where there was a maximum setback. Mr. Blake said the purpose of that maximum setback was to create the street wall effect along the Main Street and Green Street corridors. The ordinance prohibited a setback further than 20 ft. In order to comply, this building would have to be 20 ft. from Twin Street and that would not be conducive to development and was not what the Town desired. The setback would allow for placing the building adjacent along the Northside of Arbuckle Commons. He said again that the UC district was only district that had this requirement. This variance request did achieve several recommendations of the Comprehensive Plan including providing "pedestrian-oriented" development and locating surface parking lots behind the primary structures, supporting the "street wall" concept to improve the walkability of the downtown core. This project would be an important feature and benefit to the proposed development as it would be the first thing one saw as they came into the park. Mr. Blake expressed his excitement about the proposed development.

As downtown development begins, the Town wanted to commit to high quality architecture. Staff did not eliminate the possibility of using stucco as it was a sturdier product.

Staff did believe they had satisfied the requirements for approval with the following recommendations:

- (1) The Maximum Front Yard Setback for the primary structure shall be no greater than three-hundred and sixty feet (360') from the southern right-of-way of Twin Street.
- (2) The TECH Review Minutes, dated 12/21/2016; the Applicant's Detailed Statement of Reasons, dated 12/29/2016; and the Zoning Variance Exhibit, dated 12/29/2016.
- (3) Exterior Insulation and Finish System (EIFS) and vinyl siding materials shall be prohibited on all exterior building facades.
- (4) The approval of the Findings of Fact and Conclusions of Law.

Mr. Blake added that as far Recommendation #1 went, their request was for 355 ft. but so there was no issue in case they had to shrink or move the building, Staff wanted to give them a little room to provide same the level of development so they increased the permitted setback to 360 ft.

For the Parking Standards case, BZDV-12-16-1476, Mr. Blake said that Art. 5, §5.62 of the UDO prohibited dead end parking so drivers didn't have to back up long distances without the ability to turn around safely. That this prevented accidents, from hurting pedestrians and was generally safer. Staff believed that the Applicant had satisfied the requirements for approval because ultimately it was the Town's desire to see the overall redevelopment including those parcels that fronted along Green St. so the approvals would be for a temporary nature. He added that there were ongoing discussion with other developers for continuing the development of the downtown area and that this parking lot was adjacently west of those properties fronting Green Street so any development would require additional parking that could connect to this. The Applicant did provide a bump out at the east end of the parking lot so two vehicles did

have the ability to back out and start driving west. Staff did believe they had satisfied the requirements for approval and had the following recommendations:

- (1) The Final Plat shall include a Cross-Access Easement (CAE) pursuant to the Town of Brownsburg Unified Development Ordinance, granting access to the parking lot from adjoining real estate, for the purpose of extending or reconfiguring the parking area to provide proper traffic circulation in compliance with the Town of Brownsburg Construction Standards and Unified Development Ordinance.
- (2) The TECH Review Minutes, dated 12/21/2016; the Applicant's Detailed Statement of Reasons, dated 12/29/2016; and the Zoning Variance Exhibit, dated 12/29/2016.
- (3) The approval of the Findings of Fact and Conclusions of Law.

Shelby Bowen added that Envoy would be motivated to reconfigure the parking lot as well for their tenants and guests.

Tom Lacey asked to see the layout of the site and where the parking would exist. Mr. Blake indicated this. Mr. Bowen added that even their drive would provide a reciprocal easement to the Town for adjoining properties. One could pull in and go to their building or to the development to the east.

Charles Bischoff asked about Arbuckle Commons and why that was not used as a frontage road. Mr. Blake that the only front yard for this building would be Twin Street. Arbuckle Commons would be a private street and would not be public right of way. Then the Town had ultimate control in what goes in, on and under. If that road became public, then the Town would have to open to that to utility and other uses. Todd Barker added that there would be underground detention under there as well.

Charles Bischoff asked how the location of the building worked with aesthetics and Mr. Blake said that it fit in with the overall master plan that the Town had been considering. Mr. Bowen said that it would be complementary to the overall development. They would have an architecturally significant building.

Mr. Bischoff asked what the address would be and Mr. Blake that address would come from Arbuckle Commons and not Green Street.

Mike Arnould asked about the temporary dead end parking and when those would be opened. Mr. Blake said that part of that came down to what other developer came down the corridor. At some point they would look for that to be connected. Once the Public Green was under construction and went to bid, plus the public project and then once Envoy was under construction the Town would see a lot of activity at that site that would drive further retail. Mr. Bowen said that they were interested and were looking at the potential of developing the site.

ADVERTISED PUBLIC HEARING OPENED

Jim Sering, 6 W. Tilden-

Mr. Sering asked if this was a multiple story building and learned that it was. Mr. Sering asked if it would be all business and Mr. Blake said that it would be office suites. Mr. Sering inquired about apartments and etc. and Mr. Blake said that this project was only one component of several projects. The residential development would be south of the Public Green and retail elsewhere.

ADVERTISED PUBLIC HEARING CLOSED

Motion: Charles Bischoff made a motion to **APPROVE** BZDV-12-16-1475, subject to and

conditioned upon Staff recommendations, seconded by Tom Lacey, motion carried 3 In Favor/0 Opposed/0 Abstained.

Motion: Charles Bischoff made a motion to **APPROVE** BZDV-12-16-1476, subject to and conditioned upon Staff recommendations, seconded by Tom Lacey, motion carried 3 In Favor/0 Opposed/0 Abstained.

I. REPORTS FROM OFFICERS AND COMMITTEES

1. Withdrawn Case:


BZDV-12-16-1474 1650 E. Northfield Dr. Onsite Landscaping Requirements

J. COMMUNICATIONS & BILLS

1. None

K. ADJOURNMENT

Motion: Mike Arnould made a motion to **ADJOURN**, seconded by Tom Lacey, motion carried 3 In Favor/0 Opposed/0 Abstained. 9:26 p.m.



Brett Scowden, President

ATTEST:



~~Heather Wetzel~~, Recording Secretary
Todd A. Barker Zoning Admin.