

THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY, INDIANA, WILL HOLD A REGULAR COUNCIL MEETING IN THE THIRD FLOOR ASSEMBLY ROOM IN THE CITY/COUNTY BUILDING ON THURSDAY, NOVEMBER 15, 2018 AT 7:00 P.M.

INVOCATION: To be given by ministers of different faiths, if present. If none are present, then a moment of reflection.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

**Work Session Meeting Minutes for October 22, 2018
Regular Meeting Minutes for November 5, 2018**

COMMUNICATIONS – COUNCIL:

COMMUNICATIONS – MAYOR:

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

REPORTS – COMMITTEES, BOARDS OR OTHER OFFICIALS AS REQUESTED BY A MAJORITY VOTE OF THE COUNCIL:

HISTORIC PRESERVATION – Mr. Barksdale

PLAN COMMISSION – Mr. Phipps

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES:

READING

COMMUNICATIONS – PUBLIC: Z-18-04 (Green Valley Road PUDD)

COMMUNICATIONS-PETITIONER: Z-18-04 (Green Valley Road PUDD)

**Z-18-04 Ordinance Amending the Code of Ordinances of Phipps 3
New Albany, Indiana, Title XV, Chapter 156,
(Thieneman Group, LLC requests a Preliminary
Planned Unit Development District (PUDD) to
permit single-family attached dwellings in the
R-2 Urban Residential District at 2406 & 2412
Green Valley Road and 115 East Daisy Lane)**

COMMUNICATIONS – PUBLIC: Z-18-05 (Zoning Code)

COMMUNICATIONS-PETITIONER: Z-18-05 (Zoning Code)

**Z-18-05 An Ordinance Concerning the Adoption of a Phipps 1&2
Replacement Zoning Ordinance and Official
Zoning Map for the City of New Albany and
the Unincorporated Two-Mile Fringe Area**

INTRODUCTION OF RESOLUTIONS:

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

ADJOURN:

INDIVIDUALS WITH DISABILITIES WHO MAY REQUIRE SPECIAL ASSISTANCE TO ATTEND THE ABOVE MENTIONED MEETINGS MAY MAKE THEIR REQUEST KNOWN BY CONTACTING THE CITY CLERK IN ROOM 332 OF THE CITY/COUNTY BUILDING OR BY CALLING 948.5336

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, HELD A REGULAR COUNCIL MEETING IN THE THIRD FLOOR
ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING ON MONDAY,
NOVEMBER 5, 2018 AT 7:00 P.M.**

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Caesar, Mr. Phipps, Mr. McLaughlin, Mr. Nash, Mr. Blair, Mr. Aebersold, Mr. Barksdale and President Knable.

ALSO PRESENT: Ms. Stein, Police Chief Bailey, Police Officer Applegate, Mr. Thompson, Mr. Staten, Mr. Wood, Mr. Streips, Mr. Hall and Mrs. Glotzbach

President Knable called the meeting to order at 7:00 p.m.

MOMENT OF REFLECTION:

Mr. Phipps asked that they take a moment to remember those that were affected by the tragedy at the Tree of Life Synagogue.

PLEDGE OF ALLEGIANCE:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. McLaughlin moved to approve the Regular Meeting Minutes for October 18, 2018, **Mr. Barksdale** second, all voted in favor.

COMMUNICATIONS – COUNCIL:

Dr. Knable reminded everyone that Election Day is tomorrow and asked everyone to get out and vote if they haven't already done so.

COMMUNICATIONS – MAYOR:

Michael Hall stated that the Mayor also wanted to remind everyone that tomorrow is Election Day and encouraged them all to get out and vote and to be safe while navigating the polling sites. He added that everyone has worked very hard on the tree ordinance appropriation and asked for their support.

Mr. Barksdale stated that Mayor's Prayer Breakfast is this Saturday at 8:30 a.m. and tickets are available on the third floor.

Dr. Knable added that they can also get tickets at the door for a dollar more.

Mr. Caesar stated that this is the 50th year so it is a very special year.

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

**REPORTS – COMMITTEES, BOARDS OR OTHER OFFICIALS AS
REQUESTED BY A MAJORITY VOTE OF THE COUNCIL:**

HORSESHOE BOARD – Mr. Aebersold and Mr. Caesar

Mr. Caesar reported that they reviewed everyone that signed up for grants at their last meeting. He added that a lot of needy people signed up on that list and they hope to finalize at their next meeting in November.

REDEVELOPMENT – Mr. Barksdale

Mr. Barksdale reported that they only had one meeting in October. He explained that they are still in negotiations on the purchase of seven properties located in some of the most blighted areas of Vincennes Street. He stated that the designs for the pocket park at East Main and 15th Streets are almost complete and they discussed partnering with outside groups for more trees/plantings or public art. He explained that they are working on guidelines for building standards for builders interested in purchasing NARC property because they want to make it easier for builders interested in these properties by letting them know before-hand what is expected. He stated that they are looking for firms to do a housing-market study for the City and explained that this will give them a better idea of the housing stock within the City and what kind of projects to prioritize moving forward.

APPROVAL OF CF-1 FORMS:

Dr. Knable explained that he had a request to move R-18-07 up on the agenda and asked if the council would entrain a motion for this.

Mr. Coffey made a motion to move R-18-07 up on the agenda, Mr. Barksdale second, all voted in favor.

COMMUNICATIONS – PUBLIC: R-18-07 (Confirmatory ERA)

COMMUNICATIONS – PETITIONER: R-18-07 (Confirmatory ERA)

R-18-07	A Confirmatory Resolution of the City of New Albany, Indiana for the Designation of an Economic Revitalization Area and for Real and Personal Property Tax Abatement	McLaughlin
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Mr. McLaughlin introduced R-18-07 and moved to approve, Mr. Blair second, all voted in favor.

Mr. Staten stated that they held public hearing earlier and this would confirm that the two parcels be designated as ERA so they can move forward with the abatement. He explained that it will come back in the spring for the voluntary annexation and Mr. Dick Jones is here to answer any questions they might have.

INTRODUCTION OF ORDINANCES:

READING

COMMUNICATIONS – PUBLIC: Z-18-04 (Green Valley Road PUDD)

Dr. Knable stated that every member of the council received a letter from Mr. Schultze. Said letter is on file with the City Clerk's office.

Richard Schultze, Kettering, OH, spoke in opposition of Z-18-04 on behalf of Ms. Opal Sorrels who is his mother-in-law. He explained that that Ms. Sorrels strongly believes that the changes made weren't significant and that it is still an inappropriate development with an adverse impact on her community including an intrusion of unwanted kids, reduced property value, sewage backup, flooding and traffic. He stated that if the council does approve this that they closely monitor the development as it progresses and mitigation efforts are included.

Patty Reid, 2416 Green Valley Road, reviewed a map with the council and pointed out that the Comprehensive Plan calls for protection of steep slopes and flood plain areas. She stated that they are concerned about both of these issues with this development as well as density because it is an environmentally sensitive area. She added that this beautiful piece of property is rare in New Albany and should be spared from overfill. She presented the council with a petition, said petition is on file with the City Clerk's office.

Scott Reid, 2416 Green Valley Road, explained that what is proposed is overdevelopment. He stated that even within the new zoning this is 25% more infill than what the current zoning is and they changed the zoning to R-2 for a reason. He added that the area is surrounded by schools, a fire department, and shops that draw a lot of traffic and this development will add even more. He added that if this was being proposed at a different location he would possibly be in favor of it but where it is at it is overfill and they have to plan for the future.

Fred Metzmeier, 118 N. Bohannon Lane, stated that the council has a rare opportunity to vote twice to destroy the character of a neighborhood. He passed around a photo from 2009 illustrating the flooding issues that are already going on in that area and stated that this happens every time they get a hard rain. He stated that they trust in the council to do the right thing and hope they aren't treated like the board treated them last week.

Rosalind Metzmeier, 118 N. Bohannon Lane, stated that they, along with their neighbors, bought or built their homes on the edge of the city to have spacious yards to raise their families. She added that they love this area and do not want to see this development move in particularly with in addition to all the other things that have gone in close to them.

Bruce Weddle, 208 S. Bohannon Lane, he stated that he has been at this location for 38 years and it is a great place which is why they don't want to see anything change. He added that he respects the Grantz and their piece of property as well as their right to develop it but he doesn't believe this PUDD is the right thing. He asked why they would even need to change the zoning because they could still build homes with the R-2 and they won't see such opposition. He stated that they area is already a bottleneck and it will only get worse and he is not confident with the assertion that there will not be issues with flooding or drainage.

COMMUNICATIONS-PETITIONER: Z-18-04 (Green Valley Road PUDD)

John Grantz, 306 Valley Dale Drive, stated that he is here for the Grantz brothers and they feel that with all of the changes that Mr. Thieneman has made and with the blessing of the zoning board that this plan should be approved. He explained that they want something that the Grantz family can be proud of and they feel that this is the right plan, the right location and the right time to build.

John Kraft, Young, Lind, Endres & Kraft, representing Mr. Thieneman explained this plan comes to the council with a favorable recommendation from the Plan Commission with a vote of 7-2-1. He stated that this is a 5.17 acre track of property and what is being proposed is 47 units on those acres. He explained that and the primary thought going through the process was the zoning change and stated that the Indiana Code looks at five elements dealing with the comprehensive plan, current conditions/structures, desirable uses of the structures, conservation of property values and responsible development and growth. He stated that in this instance the PUDD allows for flexibility in development and allows for the City of New Albany, through the Plan Commission, to keep their thumb on the project via multiple reviews and conditions imposed all the while being monitored by the City as previous speakers have asked for.

Jason Copperwaite, Paul Primavera & Associates, stated that the proposed development is actually for 5.57 acres with frontage on Green Valley Road and Daisy Lane, including entrance and access to both. He added that there are three unit types including 19 single story homes sprinkled throughout the project to preserve the streetscape and 2 types two-story units that are less deep and allow for them to preserve the area close to the detention basin to address drainage concerns. He explained that the streets will be private with driveways and parking spaces equal to the parking in the

garages along with 11 additional parking spaces indicated on the plan. He added that the streets and parking would be maintained by the homeowners association. He stated that each unit will be sold individual and would be zero lot lined lots. He referred to a drawing of the development of the units and went over those with the council detailing the open-space and unit aesthetics that will set each one apart. Said drawings are on file with the City Clerk's office. He stated that the price-point for the single-story units will be \$170,000-180,000 and the price point for the two-story units will be \$200,000 + and the project fits a definite need in the City at this price point. He explained that no water will flow from this project on to an adjoining lane and they are flowing the City storm water ordinance that requires a 50% reduction in the amount of runoff because it's location in Falling Run. He stated that it will make the drainage better and that doesn't just come from him but from Mr. Summers who is the City Engineer. He added that he cannot control the flood plain for Falling Run but they can make the individual from this site in accordance with the ordinance better. He explained that no sanitary sewers will drain towards Bohannon Lane and stated that he spoke with both Mr. Sartell and Mr. Christmas who assured him that there are no capacity issues at Daisy Lane where the sewers will run. He explained that in addition to that they have to pay for the EPA study which will prove to the EPA that the City has capacity in that watershed before they will be allowed to move forward with a sanitary sewer permit. He referenced excerpts from the traffic study that reports and stated that they aren't trying to deny that there are traffic issues at Daisy Lane & Green Valley, but what the traffic study says is that this development will not make it worse. He added that the traffic study did not recommend any improvements at Daisy Lane, Green Valley or the signal but the Plan Commission did impose a conditions regarding all of those. He went over the progression of the project over time and all the changes that were made due to concerns raised by residents and the Plan Commission which illustrates that Mr. Thieneman is listening and is trying to accommodate the different perspectives on this project. He added that they achieved a favorable recommendation from the Plan Commission and respectfully request approval on this first and second reading. .

Mr. Blair asked Mr. Copperwaite to go over the units types on North Bohannon.

Mr. Copperwaite went over the map again with the council.

Mr. Blair stated that there is a swimming pool at the Sorrels house and believes they will overlook into that. He asked if there was any way to buffer that or shield the view.

Mr. Copperwaite stated that in the historical plans there was a proposal to create a landscape buffer along the north edge and he doesn't think that Mr. Thieneman would have a problem with adding that back into the plan.

Dr. Knable asked how many trees they have planned for planting.

Mr. Copperwaite stated that they were evergreen trees with 12' centers separating the project and added that there is a requirement in the approval that the staff review and approve the landscaping plan.

Dr. Knable asked what type of trees would be throughout the project.

Mr. Copperwaite stated that they would use typical residential plantings including trees, flowering ornamentals throughout and shrubs around the foundations.

Mr. Nash asked if the tree line along the north can be maintained.

Mr. Copperwaite stated that he thinks that the ones near the property line could be maintained but they will want to create a swale to facilitate drainage.

Dr. Knable asked what the timing is of the EPA study.

Mr. Copperwaite stated that it takes Clarke-Dietz 2-3 weeks to complete their study and then it has to be submitted to the EPA for approval which could take 60-90 days.

Dr. Knable asked if the traffic study was done before the plan for the soccer field to go in at Green Valley Elementary School.

Mr. Copperwaite stated that the traffic study was done in February and was based on 64 units and they are now down to 47 units. He added that there is a letter in the traffic study that the reduction in units didn't affect the recommendation.

Mr. Blair stated that he thinks that the soccer traffic would probably be heading towards Daisy Lane.

Dr. Knable stated that it will just really depend on the time of day.

**Z-18-04 Ordinance Amending the Code of Ordinances of Phipps 1&2
New Albany, Indiana, Title XV, Chapter 156,
(Thieneman Group, LLC requests a Preliminary
Planned Unit Development District (PUDD) to
permit single-family attached dwellings in the
R-2 Urban Residential District at 2406 & 2412
Green Valley Road and 115 East Daisy Lane)**

Mr. Phipps introduced Z-18-04 and moved to approve the first and second readings, Mr. Blair second, Mr. McLaughlin, Mr. Blair, Mr. Aebersold, and Dr. Knable voted yes, Mr. Coffey, Mr. Caesar, Mr. Nash, Mr. Barksdale voted no and Mr. Phipps abstained.

Mr. Phipps stated that it was passed by the Plan Commission and he abstained in order to reserve his vote for tonight as a member of the council. Mr. Thieneman explained that during the meeting the president did say that they had already heard the issues regarding traffic and drainage at the previous hearing so he preferred that it not be addressed again. He stated that they did address other concerns so there limits but only because they had already been heard.

Dr. Knable asked if that meeting took place prior to the School Board's decision to go forward.

Mr. Phipps stated that he thinks it was the same night. He explained that he did vote e voted against it on the first go around and he thinks a lot of progress has been made. He stated that the density has been reduced, aesthetically it is much more pleasing with the variety of materials, and while he doesn't understand the current residents view is not protected by the code even if he wished that it were. He explained that he does sympathize with regards to the loss of trees and wildlife but it is also not protected unless it is a refuge. He stated that in the absence of this PUDD where the City has some control over what is built there they could by-right so in many respects this is a better option. He added that he knows there is massive traffic issue there but the study does say this development will not add to it but he isn't sold on that.

Mr. Barksdale stated that he agrees with Mr. Phipps that with the second go around there have been improvements made. He explained that the design is much better but he still has concerns about density, traffic and water. He stated that the price points look good to him but he does go back to the Comprehensive Plan where it mentions implementing new policies to encourage smart growth. He added that they are so close

with the new zoning ordinance so in a few months they might have a new set of rules to go by which might be helpful to all of them when addressing a project like this.

Mr. Phipps stated that he concurs but they have to go with what the law says now. He agreed that the only issues he has is drainage and traffic and doesn't think it would be too much to ask for a privacy fence on the north side.

Mr. Coffey stated that he has seen a lot of studies that weren't worth the paper it was written on because they take a snapshot. He explained that there is another development being pushed on Daisy Lane, two schools, churches, an industrial park down the road and the traffic is horrendous. He stated that they need to slow down and take a look at this before they vote because it is really going to impact the quality of life of everyone living there.

Mr. Blair stated that he looks at New Albany as more of a bedroom community with nice housing that are in an affordable range. He asked them how many people that they know that were born in New Albany that have moved out to different areas because this type of housing isn't available. He stated that this is a chance to have the choice to stay in the City and from that standpoint they would be increasing the housing stock and adding to the property tax base. He explained that he disagrees with the assertion that Summit Springs is causing problems in this area because it is far enough away and reminded them that they have had two sets of engineers look at the plan that are satisfied that it won't cause additional flooding. He added that this body will also have a chance for a secondary review and among the three of them he can't imagine that they won't get it right. He stated that traffic is an issue that will need to be addressed regardless if this development goes in or not and another drop in the bucket is not going to make this a worse problem than it already is.

Dr. Knable stated he was really proud of the way that the council has gotten involved in walking the ground and really taking an interest in this project.

Mr. Phipps stated that the traffic study was published on February 1 and asked when it was conducted.

Mr. Copperwaite stated that it was done in January.

Mr. Phipps stated that the swimming pool wouldn't have been open at that time and that would add traffic to the mix.

Mr. Copperwaite added that school is out during most of that season as well which would reduce the traffic.

Mr. Aebersold stated that he looks at the traffic as the City's problem not the developer's problem those are issues already there and all over the city. He stated that he is trying to do a development on a piece of property and is jumping through hoops to appease everyone. He stated that the fencing and/or foliage and trees to block off the view is a great idea as well as the single houses on Green Valley. He reiterated that the traffic is something the City should have worked on 15 years ago and is something. He asked if they did a traffic study before the soccer field was developed and if they had to jump through the same hoops. He added that if they are so concerned with traffic with this development they should have the same concerns regarding the soccer field.

Mr. Phipps stated that will not be coming before this board because it isn't a PUDD but the BZA will be hearing it tomorrow night.

Mr. McLaughlin stated that soccer complex is basically high school and they have a light there on Charlestown Road to handle the heavier tournaments.

COMMUNICATIONS – PUBLIC: Z-18-05 (Zoning Code)

COMMUNICATIONS-PETITIONER: Z-18-05 (Zoning Code)

Z-18-05	An Ordinance Concerning the Adoption of a Replacement Zoning Ordinance and Official Zoning Map for the City of New Albany and the Unincorporated Two-Mile Fringe Area (Scheduled for Vote on November 15th)	Phipps (Introduction Only)
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Mr. Phipps introduced Z-18-05 for introduction only.

Mr. Blair moved to amend the scope of the work to include proofreading, adherence to State Statute, add/review the definitions, compatibility of the sections with each other, reference State Code and Federal Laws, overlapping Ordinances with other City Ordinances, can specific uses be designated/restricted to only certain districts, look to see if other municipalities worked through zoning map changes and if some districts be grandfathered or should there be a streamlined process to amend zoning map, work any other changes concurrently while it is being reviewed by the attorney (Bellamy is recommended) and giving the review a time frame, **Mr. Caesar** second, all voted in favor.

Dr. Knable stated that the ordinance is being placed into the official record of the minutes tonight with no further action at this time.

Ms. Stein explained that she found two different firms to review the ordinance and give their opinion on it and they both estimated \$3,000-\$4,000 to review the ordinance with charges to consult with them and share their findings. She stated that if this is something the council is interested in she needs to know to move forward because they both estimated that it would take four-five weeks to get through it. She added that both firms had experience in the legal side as well and the urban planning side and she thinks that both were involved in the rezoning that Indy recently did.

Mr. Coffey asked if they would be able to prove to them if there is a problem.

Ms. Stein stated that she asked them to review it and red flag for any legal issues.

Mr. Blair clarified that they are just looking at the legal part.

Ms. Stein stated that they have the city planning aspect as well.

Mr. Blair stated that they can ask that they add references to state statute or federal law. He stated that he took it upon himself this afternoon to put down some scope of the work issues. He went over the list that included proofreading, adherence to State Statute, add to the definitions, compatibility of the seconds with each other, reference State Code and Federal Laws, overlapping Ordinances with other City Ordinances, can specific uses be designated/restricted to only certain districts, have other municipalities worked through zoning map changes, should some districts be grandfathered and should there be a streamlined process to amend zoning map. He added that he thinks Ms. Stein did a great job of finding these two groups and either looks very capable to him and both have represented the two sides of the issues.

Mr. Caesar stated that he wants to make sure conflicting ordinances are taken care of as well. He asked if this is going to take four-five weeks they need to get together and work on the changes that they want to make as well.

Mr. Aebersold stated that he would think that they could get started on it and are liable to come up with a list of things that need to be addressed. He added that they have done anything with this in a long time so not is the time to take the time to do it right.

Mr. Blair stated that he thinks they should do these thing concurrently.

Mr. Phipps stated that he is opposed to making exceptions because that destroys the whole zoning code.

Mr. Nash stated that proofreading and adding definitions seem out of the scope of a legal review.

Mr. Nash stated that the staff should have proofread it to begin with and he gave them changes and they didn't incorporate them.

Mr. Caesar asked if the overlapping ordinances changes the scope of what Ms. Stein asked the other firms to do.

Ms. Stein replied yes.

Mr. Coffey stated that they need to have it done.

Mr. Wood stated that they have been working with one of the major law firms in Indianapolis throughout the entire development of the zoning ordinance so they have already had a legal team reviewing this from the start of the process. He added that he understand the concern about duplicating ordinances and that is why they added language about whichever is more restrictive. He stated that zoning is not permanent and is always changing but he can say that an individual could apply to be governed by the current ordinance for 7 years if they are going to purchase a property.

Mr. Blair stated that there are some changes recently made that aren't compatible with their own document and there are a dozen or so typos and that doesn't give him a lot of confidence that it is put together professionally. He added that this is a drastic improvement over what they have and he thinks it is about 95% there but he would like to get it closer to 99% and show a little more pride in the workmanship.

Mr. Caesar asked again where they stand on the overlapping ordinances and if they want Ms. Stein to get another estimate.

Mr. Blair stated that what he visualized was that they would say where sections belong and where to move things to and from.

Ms. Stein suggested that they recommend areas to review instead of combing through the entire code of ordinances.

There was a lengthy discussion regarding capping hours or dollars spent on a review.

COMMUNICATIONS – PUBLIC: A-18-09 (Tree Canopy)

COMMUNICATIONS – PETITIONER: A-18-09 (Tree Canopy)

**A-18-09 Ordinance for Appropriation of Funds for Barksdale 3
Tree Canopy Planting**

Mr. Barksdale introduced A-18-09 and moved to approve the third reading, Mr. Phipps second, all voted in favor. Bill A-18-09 becomes Ordinance A-18-17.

Mr. Barksdale stated that Mr. Streips is present if anyone has any questions.

Mr. Phipps asked Mr. Streips to send a copy of the complete list of trees and their conditions.

Mr. Nash asked about the location of possible trees on the list and how that was determined.

Mr. Streips explained that they walked each street and had a rough estimate of where the right-of-way was so there will be spots that were deemed potential that aren't.

INTRODUCTION OF RESOLUTIONS:

COMMUNICATIONS – PUBLIC: R-18-08 (Hate Crimes Law)

COMMUNICATIONS – PETITIONER: R-18-08 (Hate Crimes Law)

**R-18-08 Resolution in Support of the Adoption of a Hate Barksdale/
Crimes Law by the State of Indiana Phipps**

Mr. Barksdale introduced R-18-08 and moved to approve, Mr. Phipps second, all voted in favor.

Mr. Coffey stated that he has noticed that a lot of these type of ordinances give generic wording of what they are about and asked if that also includes Christians.

Mr. Phipps stated that if the actions was directed at someone specifically because of their religion, regardless of what that religion may be, then it would be a hate crime.

Dr. Knable stated that he wondered this week what one person could do and concluded that if they start this off and other communities follow they could send a clear message to Indianapolis that it is time that Indiana join the brotherhood of other states that have adopted a hate crime law. He explained that the governor introduced this last year and was very close so he doesn't look at this as a fee good resolution but something he will hand deliver to the governor in the hopes that they take this up to session and push it forward.

Mr. Barksdale thanked Dr. Knable for authoring this Resolution and asked that it be read into the record in-full.

Mr. Phipps pointed out that this is not a partisan issue and has support from both Democrats and Republicans.

COMMUNICATIONS – PUBLIC: R-18-09 (Urban Enterprise Zone)

COMMUNICATIONS – PETITIONER: R-18-09 (Urban Enterprise Zone)

**R-18-09 A Resolution Renewing the Urban Enterprise Zone Barksdale
of the City of New Albany, Indiana for an Additional
Five (5) Years**

Mr. Barksdale introduced R-18-09 and moved to approve, Mr. Caesar second, all voted in favor.

Mr. Barksdale stated that Mr. Staten was present as well Tonya Fischer to answer any questions they may have.

Mr. Staten stated that the Urban Enterprise Zone is due to expire on December 31, 2019 and they have until December 31 of this year to renew it for another five years. He explained that the state is phasing this program out so it will no longer be active passed 2024.

Mr. Blair asked what kind of budget they have.

Mr. Stated replied that Ms. Fischer informed him that right now they have a budget of a little over \$300,000.00.

Ms. Fischer stated that annual is about \$100,000.00.

Mr. Blair asked if that is coming from mortgages revenue.

Mrs. Fischer replied yes.

Mr. Staten stated that it is a property tax deduction and is similar to how TIF works.

Mr. Barksdale stated that one of the newest members is the Mansion on Main.

Dr. Knable stated that the council does appoint four members to the board and Mr. Barksdale is the council representative along with 3 other members. He explained that at some point they will need to reappoint those and asked Mr. Barksdale to speak to the three current members to see if they would like to continue to serve. He asked the rest of the body to consider if they would like to recommend anyone new.

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

There being no further business before the board, the meeting adjourned at 9:10 p.m.

Al Knable, President

Vicki Glotzbach, City Clerk

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, HELD A COUNCIL WORK SESSION IN THE THIRD FLOOR
ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING ON MONDAY,
OCTOBER 22, 2018 AT 6:00 P.M.**

President Knable called the meeting of the New Albany City Council to order at 6:00 p.m.

PRESENT: Council Members, Mr. Caesar, Mr. Phipps, Mr. McLaughlin, Mr. Nash, Mr. Blair, Mr. Aebersold, Mr. Barksdale and President Knable. Mr. Coffey was not present.

OTHERS PRESENT: Ms. Stein, Mr. Wood and Mrs. Glotzbach

President Knable called the meeting to order at 6:00 p.m.

Mr. Brian Stump, 11th Street Development, stated that they were very tight to the elements in the comprehensive plan in creation of the zoning ordinance, as you will see with the zoning map, which has been updated to reflect the land use areas of the comprehensive plan and the zoning classifications. He said that in the zoning ordinance they have gone from 23 zoning districts down to about 12 so that is a huge simplification. He stated that the updated zoning ordinance identifies many of the standards and processes and they made it easy to use with the formatting and some of the hyperlinks. He mentioned that they have two different addendums to the ordinance and the first change was that they added language on transitional housing on Addendum No. 1 and the another change was the rental housing inspection program, which was updated with language that the building inspector recommended to them. He said that the second addendum was in reference to lot coverage and they increased the density from 35% to 40% and the other thing that the addendum did was if you have a duplex then that is two units on one lot and now there is the option to split that property.

Mr. Caesar stated that sounds that it could be problematic and asked if that is a good move because he hates the idea of subdividing something that has already been subdivided.

Mr. Stump stated that the lot size is already permitted so it just allows separate owners for each half of the duplex.

Mr. Caesar asked if there is something in there about maintenance.

Mr. Stump stated that would be between the parties.

Mr. Wood stated that it would be covered under Indiana Code, Chapter 32, which is a property law and it simply says that the plan commission stays out of it.

Dr. Knable asked if there were any concerns at the public meetings that reached the threshold to make any changes.

Mr. Stump replied no. He stated that they had three different public meetings and what they did hear was that people were happy about the fact that there is more covered on the steep slopes than previously.

Mr. Blair asked if we have more of a formal process from the building community, would we learn more from them because he is just afraid that there are things that the council may not see that they may see from a different perspective. He added that they are the ones who will invest in the community.

Mr. Stump stated that they did have a gentleman with the Builders Association as well as a developer at one of the meetings and they had reviewed the document and liked the changes.

Mr. Blair stated that he thinks this is the most important document that they are going to work on and if they don't get it right the first time then they will have to make amendments and changes by ordinances. He proposed that the council select a group of maybe a dozen people who work with the city such as developers, the Builders Association, engineers, etc. and ask them to review the ordinance and then come back with any suggestions.

Dr. Knable asked how many of the folks attended the public meetings.

Mr. Blair stated that he thinks they didn't because they didn't feel their opinions were going to be heard.

Mr. Aebersold stated that if he was one of the developers in town, he would want to review this carefully. He suggested picking 10-15 of them to go over it and if 4-5 of them come up with the same thing that they would like to see changed then he would really like to hear their opinions. He then asked if there is a rush on this because it has been worked on for the last year and a half and he just wants to make sure it is right.

Mr. Nash stated that we can change anything at any time by ordinance.

Dr. Knable asked Mr. Stump to review his qualifications for the council so that maybe that would put some minds at ease and put some perspective on it. He said that he is playing devil's advocate because if we give it to 12 people, they all have skin in the game and might want less regulation.

Mr. Stump stated that he has been involved in this profession for close to 30 years and moved to Indiana back in 1997 in Monroe County. He said he was hired by the plan commission to write the city's zoning code ordinance and it was at a time when the county was taking over the two-mile fringe area so it was a pretty intricate ordinance. He stated that he worked for a national consulting firm after that for several years and did about 24 zoning ordinances total and served as on-call planning staff for several jurisdictions. He also stated that he worked for a developer for many years and started his own company back in 2012 so he has been doing this on his own since that time. He said that he also does development work so he understands both sides as far as how the ordinance is written and how it gets implemented.

Dr. Knable asked him if there was anything that stood out when he reviewed our ordinance in comparison to what other communities have on their books.

Mr. Stump stated that the biggest thing was the lack of standards that existed in the ordinance as well as the lack of direction both from a procedural side and a standard side and the new ordinance codifies a lot of that. He said that this ordinance is tailored to make sure we provide standards to raise the bar but aren't heavy handed so it sets guidelines that address compatibility.

Dr. Knable wanted to make sure that this will not push any existing businesses and that they are grandfathered in.

Mr. Wood stated that everything that is legal now will be legal after the council adopts the new ordinance.

Mr. Blair stated that we want developers to come in and spend money in our community and develop projects and if they have an input, he feels that they will be more likely to invest in New Albany. He added that at least they would be educated to the new ordinance and there would be no surprises to them if they were to review it prior to adoption.

Mr. Nash asked if there is a timeframe that we have to have this done.

Ms. Sue Beesley stated that there are two key timing issues. She explained that at the next regular council meeting following certification, you have to take some action but that doesn't mean it has to be approved or amended, it just means it at least has to be on your agenda. She said that you then have 90 days after the certification to act.

Dr. Knable stated that he thought they had options.

Ms. Beesley stated that the council can approve it, amend it or say no. She added that if it is amended, it would go back to the plan commission.

Mr. Blair asked if the process just starts over again if they say no.

Ms. Beesley replied yes.

Dr. Knable stated that he had some issues with the design committee but he is willing to hear that out and it is not necessarily a deal ender for him but his biggest bone of contention is some of the issues with the rental housing. He said that they discussed changing the term tourist home to short-term rental or Airbnb and his personal preference will be not to exempt them from the registration process and right now they are. He said that it was a huge issue for the council two years ago that inspections would be complaint driven. He said he is okay with a compromise on this that would allow inspection at time of occupancy and complaint driven thereafter as one form of an inspection process and the other would be some sort of a voluntary self-certification program. He said that if you are talking about an inspection that can be random or no less than once every three years as it now states, that is a deal breaker for him but otherwise, he feels it is a very good document.

Mr. Caesar stated that he would go along with Dr. Knable on most everything he said and feels that the Airbnbs should be registered and would like for inspections to be complaint driven or when someone moves out and someone moves in but feels it is more about manpower more than anything else. He asked how you would go around and inspect everything every year and stated that would take too many people to get that done.

Dr. Knable stated that he agrees with Mr. Caesar because pragmatically, how would you do it.

Mr. Caesar stated that he thinks it would be a good idea to tweak that.

Mr. Stump stated that there is a separate permit required for the short-term rentals knowing that it is a different animal from true rental housing.

Dr. Knable asked Mr. Wood if he was okay with the term tourist homes in there because he thinks short-term rentals is the more modern definition.

Mr. Wood stated that it is the state's language as well and he is generally in favor of trying to follow state language.

Mr. Blair asked if the inspections are really zoning or building commissioner and if it is zoning, are we taking over the county's jurisdiction in the fringe area and mentioned the Hausfeldt Lane situation.

Mr. Wood stated that was property maintenance on Hausfeldt Lane and we are not taking over any county jurisdiction.

Mr. Blair stated that he reads it as the city limits plus the two-mile fringe area and asked if property maintenance falls under building code or zoning code.

Mr. Wood explained that it can be either because a lot communities have their building commissioner under their planning and zoning.

Mr. Blair stated that is a big shift that we are doing here and asked if we are going to run into conflicting laws from one body to another because he sees a real conflict between the two documents. He then stated that the rental registration is now in the building commissioner's office and asked if that would be moved over.

Mr. Wood stated that we are small enough that we can do it

Mr. Blair asked if we would go back over the building codes and see what is conflicting with this document.

Mr. Wood replied no.

Mr. Blair stated that when he reads the building code, there are things in there about property maintenance and asked if this will supersede that.

Mr. Stump stated that when you do land use, developments, etc., there are multiple codes on multiple jurisdictions that come into play. He said there will be elements of overlap and that's why there is language in it that when there are conflicting requirements, it tells what takes precedence. He said that if there is a more stringent standard that applies from the county then it would apply in areas where they have jurisdiction.

Dr. Knable stated that he thinks it would be beneficial for at least the council attorney and the city attorney go through it to make sure there is nothing contradictory in it.

Mr. Blair stated that he is just concerned about having two documents trying to control the same thing but with different wording.

Mr. Barksdale stated that one of his major concerns is the rental inspection and he would prefer it to be complaint driven and then upon occupancy as Mr. Caesar and Dr. Knable said. He said that one of the stipulations on the short-term rentals is that the owner provides off-street parking on paved portions of the premises and there are several Airbnbs in the downtown area which have no parking on their premises. He asked if something should be addressed in it as far as the area.

Mr. Wood stated that he will have to check and see if that is still in the ordinance. He said he absolutely agrees and will make sure that language is not in there.

Mr. Phipps asked about the building maximum heights because there was some concern about it being limited to three stories in the downtown where there is a historic precedence for four stories.

Mr. Caesar asked if that is in the C-2 district or anywhere.

Mr. Wood stated that it is 80 ft. in the C-2 district as well as anywhere in the city with the exception of cell towers, Park View Towers, etc.

Mr. Barksdale asked what that equates to in stories.

Mr. Stump stated that it would be six-eight stories.

Mr. Phipps stated that is reasonable.

Mr. Caesar stated that an exemption could be applied for in a case where something made sense to be higher.

Mr. Blair asked how they would go about applying for that.

Mr. Wood stated that it would be a PUDD because they couldn't do it through a variance.

Mr. Phipps stated that he can think of other situations where depending on elevation, a building could stick out way above the community and throw it out of character as well but he is not going to make that a sticking point. He then said that he concurs with Mr. Caesar and Dr. Knable on the registration of the Airbnbs and more of a complaint driven or occupancy inspections.

Mr. Blair stated that there is a section that says this does not apply to residential hotels but he does not see a definition for residential hotels in the document.

Mr. Barksdale stated that it should go into the definitions and he noticed several items that should have been in definitions that weren't.

Mr. Blair said that throughout the document, he sees a lot of proofreading errors that need to be cleaned up and feels that it should be reviewed from a critical standpoint. He suggested that they ask an attorney that does not do business in the city to tighten it up. He said that in some ways he is a little disappointed because we keep talking about all of the groups who read this document yet there are a lot of proofreading type errors.

Dr. Knable stated that he is much more inclined to do that rather than hand out 12 different copies to 12 different people who may have 12 different opinions.

Mr. Stump stated that he wanted to address Mr. Blair's concerns on the small apartment complexes. He explained that in the description of that building type, it identifies that is has the appearance of a large size family and is appropriate to scale to fit in with residential or mixed use. He stated that is says it is an appropriate use for that but that language does not say that it is a by right use. He said that on the permit of use table, they are showing the small apartment complexes as a mixed density residential just because they could be out of scale for that neighborhood so that's why the decision was made to make those special exceptions. He also said that there is a review process that has to happen and the board of zoning appeals can address any potential conflicts.

Mr. Blair stated that he understands it since it was explained but most lay people won't understand those nuances so he feels we should be as specific as possible. He then told Dr. Knable that having an attorney review this is different from having another group review it. He said that it is two different entities for two different purposes.

Mr. Caesar stated that we are open for business in New Albany and we want to see new development come in but we have paid professionals here that have been in business for many years that know Indiana code and know it better than any contractor out there. He is all for proofreading it in some way but he likes what he sees and thinks it is a great document.

Mr. Blair stated that he is concerned about the design committee because he is wonders if developers are going to view that as another unnecessary bureaucracy that they have to go through and look at it has a hindrance to doing business in our city. He added that he personally does not like the design review board and feels that is a staff function.

Mr. Phipps stated that they heard those same arguments from the historical district as well and Mr. Barksdale can concur with him that it has not had that effect.

Mr. Barksdale stated that he is definitely for the part of the design review because he doesn't think they are going to pick at everything and will be looking mainly for compatibility and he fills that is the key with infill. He also stated that New Albany does not have a lot of open space for large developments so there will be a lot of infill and he feels it is very important for it to be compatible with what is around it. He added that we want to take our city to the next level and to take it there, we need to be very cognizant of what is being built in the future.

Mr. Blair stated that we do that now with our staff

Mr. Wood stated that he does design review when instructed by the board of zoning appeals but wanted to get something in the code because he feels that the community deserves that.

Mr. Stump stated that the design board is intended to speed up the process so that it is not something that you are trying to negotiate at a public hearing. He said that it will also flush out issues with infrastructure or anything that needs to be done.

Mr. Blair stated that he just likes people who have more familiarity with planning and zoning to make those types of decisions versus someone who may not have familiarity with it. He pointed out that the way it is written, you can appoint pretty much anyone on it. He also stated that he would like to see the technical advisory committee expanded to storm water, mail services, etc.

Mr. Phipps stated that on the same rationale of having developers review this, would we want to invite landlords to weigh in on the inspections portion because he thinks that would really open up a can of worms.

Mr. Blair stated that he would like to have a couple of landlords in too. He added that he is just afraid that we are going to lose good developers and investors in this community.

Mr. Phipps stated that he sees his point but respectfully disagrees.

Dr. Knable asked if there is a restriction on the duration of the review process by the design board.

Mr. Stump stated that the application is what triggers the date with the board of zoning appeals and the plan commission so the design review board is obligated to meet within that time to give its recommendation.

Mr. Wood stated that from the time that an application is received to the time of the public hearing is about three weeks. He then went into more detail about the design review board.

Mr. Barksdale asked if that could go in a definition for the design review board and spell out exactly what the board is about.

Mr. Wood replied absolutely.

There was a lengthy discussion regarding the design review board and its purpose.

Mr. Barksdale stated that he had some concerns about definitions in the document because there are items discussed in the document in several places but there are no definitions for them. He said that he gave them a list of maybe five or six items.

Dr. Knable then stated that he is interested in Ms. Stein's opinion on legal proofing of the document.

Ms. Stein said that she is open to that and could certainly look into it.

Dr. Knable asked her to talk with Mr. Gibson to see where they are on the administrative end.

Ms. Stein pointed out that it has been certified so they will not be changing anything before the council discusses it.

Mr. Stump explained that the design board participates in the process when a development is proposed that has more than one building on a parcel, if the site is five

acres or larger, if you are expanding a building more than 50,000 sq. ft. and if it is required by a PUDD ordinance.

There was more discussion on the design review board.

Mr. Blair stated that there is a category called retail special handling and it includes things such as massage parlors, tattoo parlors, vapor smoke shops, pawn shops, gun sales, etc. and are things that are detrimental and maybe deadly to the community. He said that right now we have them allowed in the industrial district and the way this document is written, they can be an exception in the highway commercial district and he would just like to eliminate them entirely from highway commercial and regulate them to industrial. He added that he thinks these types of businesses deter development and investment in the highway commercial districts.

Mr. Phipps asked how a tattoo parlor poses a risk to the community.

Mr. Blair stated that would be an exception and was just listed in that category but he has seen statistics on the other establishments. He added that it seems that the board of zoning appeals and the plan commission tend to approve everything so he wants to make it as hard as possible to get those things approved as they can.

Dr. Knable stated that something that may not be savory to one person may be to another. He pointed out that there is a gun shop and massage therapist located in the Underground Station right now.

Mr. Barksdale stated that in the adult entertainment section under location standards it says that establishments are only permitted on the permitted use table and he didn't see the table.

Mr. Stump stated that it is listed in Chapter 5, Page 8.

Mr. Blair asked why it could be a special exception in the mixed corridor use.

Mr. Stump stated that some communities have had that.

Mr. Blair stated that he doesn't understand why we would ever allow that as a special exception.

Mr. Phipps stated that you can't outlaw it.

Mr. Blair stated that you can put it in industrial and that's where he would like to put the special handling retail too.

Ms. Beesley stated that we can't just totally outlaw them and then if you start putting all of this stuff in the industrial area then what will you be creating in that area. She added that you always have the grandfathering issue too.

Mr. Blair stated that he thinks if we limit how many of those types of establishments we have then we will have a better community.

Mr. Phipps pointed out that in his neighborhood a tattoo parlor went in where the old laundromat was and the appearance has significantly improved.

Mr. Nash pointed out that in his district the old Taco Bell was turned into a vape shop and it looks nice and he doesn't notice anything nefarious going on there.

Mr. Blair stated that the vape shops do pose health risks but he would probably take tattoo parlors out of that category. He then stated that the sign portion of the zoning ordinance has changed quite a bit.

There was a lengthy discussion regarding luminated sign regulations.

Mr. Stump stated that you are not allowed to create a hazardous road condition with lighting.

Mr. Blair asked about campaign signs because there is a stipulation that you can only have one sign in your yard.

Mr. Stump stated that is mainly for home-based businesses but they couldn't set that out.

Dr. Knable stated that he thinks that state law probably covers campaign signs and that would supersede this.

Mr. Blair stated that he thought there was a case in Clarksville where a campaign sign was too large and asked if that isn't what we are saying in this.

Mr. Caesar stated that he doesn't know exactly but there are a lot of things that don't apply to campaign information.

Mr. Blair stated that if that is the case, then it just needs to be noted in here.

Mr. Barksdale stated that he wanted to bring up another issue on signs in Chapter 6, Page 77, which is business uses in the downtown. He asked Mr. Wood if this is in line with the preservation commission's design guidelines because signs come before that group quite often.

Mr. Wood stated that he would double check that.

Mr. Barksdale then asked about billboards.

Mr. Wood stated that they are outlawing billboards other than existing billboards.

Mr. Blair asked about the section that states you can swap out two regular signs for a LED sign at the sole discretion of the director. He questioned if they really want to give that kind of authority to the director to make that kind of decision or should it come before the plan commission or council. He added that they really shouldn't even allow it and would like to eliminate that section.

There was a lengthy discussion regarding LED signs.

Mr. Barksdale stated that he agrees with Mr. Blair to just eliminate it because we do not need any more LED signs.

Mr. Caesar asked Mr. Stump if he will be present for the November 5th meeting.

Mr. Wood stated that he is the sole proprietor of his business and will be traveling on that date so he will not be able to make the meeting.

Dr. Knable asked if the council is under any stipulations or timeline on this.

Mr. Wood stated that if the council has not acted by January 26th then it will become law.

Ms. Stein stated at the beginning of meeting it needs to be decided if the council is going to amend it or ask for outside input.

Dr. Knable stated that he is in favor of this being proofed by a legal team but he is not in favor of turning over copies to people in the community because there have been lots of opportunities for them to give input and feels there will be more forthcoming.

Mr. Phipps stated that he concurs with Dr. Knable.

Mr. Barksdale stated that he agrees with Dr. Knable.

Mr. Caesar stated that he thinks the process should start now because he doesn't want to wait until the November 5th meeting.

Ms. Stein stated that she will research some firms.

ADJOURN:

There being no further business before the board, the meeting adjourned at 7:45 p.m.

Al Knable, President

Vicki Glotzbach, City Clerk

8 November 2018

From: Fred & Rosalind Metzmeier
118. N. Bohannon Lane
New Albany, Indiana

To: New Albany Council Members

We know that you have a tough decision but before you make that decision, please verify the dubious facts. We feel that the Thieneman Group is not providing you with complete factual information. After consulting a local realtor on the sale of Trinity Run properties, none have sold for more than \$133,025. Not \$188,000 as Mr. Kraft quoted.

There needs to be a REAL TRAFFIC STUDY with an ELECTRONIC COUNTER - not a hand clicker count from January.

Thieneman decreased the number of units but INCREASED the number of bedrooms, therefore increasing the density. Hardy Board is a lot cheaper than brick and has to be maintained. What are the sides & backs of these units going to look like?

Please use "the comprehensive plan" as it is intended to be used.

Rosalind Metzmeier
