

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY  
ORDINANCE COMMITTEE MEETING  
MINUTES OF PUBLIC MEETING**

DATE..... DECEMBER 4, 2019  
 TIME..... 4:45PM  
 PLACE..... COUNTY OFFICE BLDG.  
 20 N. 3<sup>RD</sup> STREET  
 LAFAYETTE, IN 47901

**MEMBERS PRESENT**

Jackson Bogan  
 Greg Jones  
 Gerry Keen  
 Jerry Reynolds  
 Gary Schroeder  
 Larry Leverenz

**MEMBERS ABSENT**

Tom Murtaugh  
 Carl Griffin

**STAFF PRESENT**

Sallie Fahey  
 Ryan O’Gara  
 Kathy Lind  
 Chyna Lynch  
 Zach Williams

**ALSO PRESENT**

Ed Garrison  
 Erik Carlson  
 Chad Spitznagle  
 Don Teder  
 Lisa Dillum  
 Peter Bunder

Bill Miller  
 Zachary Baiel  
 Kody Hall  
 Steve Clevenger  
 Gerald Thomas

Chair Jackson Bogan called the meeting to order.

**I. APPROVAL OF MINUTES**

Gary Schroeder moved to approve the minutes from the November 6, 2019 Ordinance Committee meeting. Greg Jones seconded, and the motion passed by unanimous voice vote.

**II. THE WEST LAFAYETTE DOWNTOWN PLAN**

A look at the final draft plan before the APC public hearing in January – Ryan O’Gara

Zach Williams said the previous meeting left off with a staff presentation and an open comment section on the plan. During the discussion, there was a motion and a second regarding changing the language for Block 27’s western three parcels to downtown village space. This motion was seconded but time ran out before this was discussed. There are other items that need addressed at this meeting; however, the previous motion was continued. This motion is still on the floor and leaves the Committee in an open discussion.

Gary Schroeder said the property owner of Block 27 wished to have the narrative changed to that of Block 28. The motion on the floor reflected these changes.

Ryan O’Gara said he had relevant information to present that pertains to this discussion. The motion was to leave the parcels that contain Tommy Johnston Park as greenspace and change the rest of the block to downtown village space.

Zach Williams clarified that the motion would change the western three parcels.

Ryan O’Gara said that is correct. Johnston Park is comprised of the two eastern horizontal blocks. There is one block behind it and three other lots that are not city owned for a total of 6 lots in this block. If the change occurred, the color of the map and the language of the block would be changed.

Gary Schroeder asked if the Committee wanted to discuss amongst themselves or if there is anyone from the public that would like to speak on this.

Ryan O'Gara said city staff has been in touch with Mr. Teder who had the original comment on Block 27. There may be a change in the motion.

Jackson Bogan said he would like to ask for public comments regarding Block 27, so the Committee can move through this item and discuss other items.

Don Teder, 2110 S. 9<sup>TH</sup> Street, Lafayette, IN 47905, said he called the city and asked for a meeting to iron this out. He discussed this matter via email on Monday. The following day when he called to tell the city that he would stick with the solution discussed at the previous Ordinance meeting, he was told that changes had been incorporated into the plan. He asked that Block 27 be replaced with the narrative from Block 28. He said he agrees with putting in a park but not zoning an area as a park before the park is installed. He is concerned that putting this label on the property will decrease the value.

Jackson Bogan asked if the narrative change would be for Block 27 as a whole or just the western three parcels.

Don Teder said he is requesting that the narrative for the western three parcels be changed.

Jackson Bogan asked if a park can be in the downtown village space.

Ryan O'Gara said a park is appropriate anywhere. These areas were selected because it made sense to have a park.

Gary Schroeder asked in reference to the permitted use table, if parks are allowed in every zone except for rural estate.

Ryan O'Gara said a park of any kind can go anywhere with the exception of rural estate.

Erik Carlson, 1200 N. Salisbury, West Lafayette, IN 47906, said to keep in mind that this document is not aimed at zoning; zoning will come after this plan is adopted. The zoning plan will go through the same process as this plan. The goal of this master plan is to put a document in place that future development departments can look at to see what is being planned in this timeframe. Everything can be rezoned. If the densification is occurring, the urban areas should be expanded to create more amenities to make South Chauncey a friendly place to live. He said he met with Mr. Teder earlier in the week to find a solution that does not damage the value of the property. The new language addresses his concerns because it goes away from condemnation. When and if a redevelopment commission buys property, they are bound by state statute to pay only the appraised value. This was put in place after The Hub on State Street; the developer agreed to a \$35,000 donation to the park's foundation. If a developer for a large-scale project needed the land, the property owner would be able to sell for above market value. The language for this block spells this out more clearly. This block is recommended for development with an eye towards preservation and conservation as it presently contains the only park in Chauncey Village. An expanded park would provide the city with more acreage to serve the growing public's recreation needs in this intensely developed area of Chauncey Village. This plan supports the idea of park expansion to the west, assumedly without the use of condemnation, by taking one of the three neighboring parcels. The western portion of the block could develop by right under the downtown village designation or a planned development. This was the language agreed upon by Mr. Teder as a compromise to allow the eastern parcel to be a part of the park and the two western parcels would remain. The discussed language is a good compromise for everyone. He thanked the Committee for hearing the plan.

Larry Leverenz asked if the same issue existed for Block 6 and Block 20 which are also greenspace. He asked if this issue is only being raised for Block 27.

Ryan O'Gara said all the proposed park spaces are under this umbrella.

Larry Leverenz asked if the other blocks currently have things other than a park on them.

Ryan O’Gara said that is correct, they have their existing zoning rights which would not change even if this plan is approved. There would still be development rights attached to the property.

Jerry Reynolds said the market value and the appraised value can be different. During a negotiation, when only the appraised value is offered, value is lost and it can feel like a trap.

Erik Carlson said that is why the language was changed for this block; it does not trap people into the appraised value. The language was changed to say that procurement of the property would not be done through condemnation. This takes the city out of the transaction to make it a fair market value transaction. Developers could work directly with property owners to buy the property needed. If the city were involved in the transaction, only the appraised value would be paid. This language has been changed to eliminate the concern of losing value.

Don Teder said if the city decided to use eminent domain on the property, the property owner can proceed against the eminent domain to show that the property has a higher value.

Zach Williams asked Mr. Teder if he had a rebuttal to Mr. Carlson, to address that first. Otherwise, the motion on the floor needs to be voted on.

Don Teder said it seems that the city is trying to impress upon the Committee that they are saving property owners’ money by moving toward an eminent domain. He said he does not agree with that.

Sallie Fahey said it is her understanding that the language that was proposed by Mr. Carlson would not allow for eminent domain. It would be a developer purchasing the block from the property owner. The developer would then donate that block to the city as part of the planned development negotiation. There would be no eminent domain if the language proposed is adopted. The transaction would be between a developer negotiating a planned development in the village and the owner of these lots. If the property owner is willing to sell, the developer would buy the property at fair market price and then donate the land to the city as part of the negotiation of the planned development.

Jackson Bogan asked if the current owner of the three parcels could develop a planned development on those three parcels.

Sallie Fahey said the owner would have the right to do that under the proposed language.

Jackson Bogan asked if staff would be comfortable supporting a PD even if it does not go along with the West Lafayette downtown plan.

Ryan O’Gara said this language would replace the current description of Block 27. This elaborates the development potential of the western portion. It lays out a strategy for how to achieve a possible park option as well. There are multiple scenarios that could occur. A third-party developer could buy this at whatever rate they negotiate. Or the developer could build under the downtown village category and work with the developer to expand part of the park. There would be a seamless connection of the project and the park space. In this instance, everyone wins.

Jackson Bogan asked what if the developer does not want a park.

Ryan O’Gara said they have every right to not sell to that developer. They can build by-right. This plan recommends an expansion of the park whether it be a full block expansion or a small portion. If a developer comes in with a planned development, it can be asked of them to expand the park. There will always be a by-right development option. Should a developer choose the PD option, they must negotiate.

Jerry Reynolds said what is the worst-case scenario.

Ryan O’Gara said the worst-case scenario is condemnation of the property, which will not happen. There is no need to condemn this property; it is too costly and does not benefit anyone. The city would only condemn a property with direct city interest or for an emergency.

Larry Leverenz said he has two questions; first, can a city give up the right to condemn a property.

Zach Williams said it is possible they could contractually give up that right but, he is not sure. However, there could be an issue with public policy where the statute could prohibit a city from doing that. For example, if there were a health and safety concern, where the property must be condemned, it would be concerning that the city could say they will not condemn under any circumstance.

Larry Leverenz asked if this change in language is giving up the right to condemn.

Zach Williams said that is unclear. He believes the intent of this document is to be forward thinking policy for staff to use as they plan for future developments. He does not believe this document will bind the city.

Ryan O’Gara said this document is a policy statement; it does not have the force of law.

Gerry Keen asked Mr. Teder what exactly it is that he wants.

Zach Williams said it has been made clear that the motion on the table would change the western three parcels in Block 27 to downtown village narrative.

Ryan O’Gara said the hope is that the recommended changes will be made after the motions this evening to create a final December version to take to the January APC meeting.

Jackson Bogan clarified that the city would like to see the adoption of the proposed wording in Block 27. He said there is currently no motion for that change.

Gerry Keen asked if Mr. Teder supported the motion on the floor.

Don Teder asked why the city is so intent on putting the cloud over the property and not buying the property right now. The instant that the property becomes a greenspace, the price of the property will depreciate.

Larry Leverenz asked why Mr. Teder is opposed to the language proposed by the city.

Don Teder said that language diminishes the value of all three lots.

Sallie Fahey asked which lots Mr. Teder owns.

Don Teder said he owns the eastern and the western lots but not the center lot.

Jackson Bogan asked if the motion on the table addresses his concerns.

Don Teder said the motion that was discussed last month changes the language for the western three parcels in Block 27 to the same language as Block 28, which is downtown village.

Ryan O’Gara said the description in Chapter 6 would be amended to reflect the changes. Each of the block descriptions are unique to each block.

Jerry Reynolds asked if the person that owned the middle lot can build a park in their lot.

Ryan O’Gara said the language will be changed for all three lots.

Larry Leverenz asked what Mr. Teder’s opposition is to the wording that Mr. Carlson presented.

Don Teder said it makes his property right next to the park, which damages the value. If a developer sees that this property is labeled as a park, they will offer less than the property is worth.

Gary Schroeder said he would like a chance to discuss the motion on the table after public comment period is over. If the proposed language is put on the parcel and the park does not happen, a future development will not be supported by staff or city. He said he does not see the harm to the city by approving the motion on the floor. A park can still be on these parcels until a development happens.

Larry Leverenz said it seems that Mr. Carlson's proposed language takes away the threat of condemnation.

Gary Schroeder said Mr. Teder welcomed condemnation because he would have the opportunity to make his case in court. Condemnation is the fair way because there is an opportunity to argue value. Value is highest and best use. An appraisal is someone's opinion; three appraisals can yield three different values. What a buyer and seller agree to is the value. Mr. Teder wants the same value for his property that he has today, next year. It does not hurt the city to put that language in the description. Negotiations for the property can always happen. The city would like for the property to be donated by a developer. Things can change during this process.

Jackson Bogan said there was a first and a second motion for the eastern three parcels to remain green space and the western three parcels to be changed to downtown village space with the narrative adjusted to fit the new description. The Committee voted by voice vote 5- in favor to 1-opposed.

Ryan O'Gara said he would discuss the comments that were submitted to staff and staff's response to those comments. Dr. Carl Griffin submitted comments regarding the Wabash Riverfront North site specifically Block 33, 34, and 35. The downtown riverfront category north of the Harrison Bridge had a five-story limitation. Dr. Griffin proposed that Block 33, and half of Blocks 34 and 35, where the plan has a potential alley going through, be changed to downtown edge which has a four-story limitation. Staff did not have an issue with the subtle change.

Jackson Bogan asked to make a motion for the proposed changes to the block.

Larry Leverenz said he would make the motion, but it is still unclear what the proposed change is.

Jackson Bogan said this is taking Block 33, 34, and 35 from a five-story limit to a four-story limit.

Ryan O'Gara said the use could change because the downtown edge is a residential category as opposed to downtown riverfront being a mixed-use category.

Larry Leverenz motioned to change Block 33, and half of Block 34 and 35 to downtown edge category. Gary Schroeder seconded. The motion passed by unanimous voice vote.

Ryan O'Gara said Dr. Griggs from the Sycamore Audubon Society prepared and submitted a document at the last meeting. Staff went through the document to address each issue. Ryan said he would discuss only the comments where staff recommended changes to the plan. Dr. Griggs discussed West Lafayette City Council Resolution 12-19 being incorporated into the plan. Staff does not have an objection to that. Staff is recommending changing Goal 4 to add another implementation strategy that references support for Resolution 12-19. This would be a statement of support and incorporate the goals of the resolution into the plan.

Jackson Bogan asked if this would only be an implementation strategy.

Gerry Keen said the purpose of referencing the resolution in the document is to be a guiding factor in development.

Ryan O'Gara said that is correct; a similar strategy was done with WREC's planning materials as well.

Gerry Keen motioned to include West Lafayette City Council Resolution 12-19 into the West Lafayette Downtown Plan. Gary Schroeder seconded.

Gary Schroeder asked if this will affect certain parts of the plan.

Ryan O'Gara said this is applicable to the entire study area.

Gary Schroeder asked how staff sees that playing out if someone came with a proposed project.

Ryan O'Gara said after reading resolution 12-19, it is mostly work items for the city to do in house. APC supports the efforts, but it is up to the city to accomplish them. In terms of how this would affect a planned development, staff has a track record of incorporating environmentally friendly design short of having formal ordinance requirements to achieve these goals. This plan already explores adding changes to zoning or municipal ordinances to address some of the issues that resolution 12-19 speaks on. This stage is simply supporting the goals and objectives that resolution lays out.

Gary Schroeder said he does not understand how adopting the resolution into the plan would change standards or effect future planning.

Ryan O'Gara said the resolution deals with broad topics on environmental stewardship and climate change issues. When changes are made in zoning, the form-based code developed in the plan brings this resolution to life. There is bonus density for projects that achieve certain efficiency standards or having a charging station. Modest efforts that accumulate through numerous projects can make a significant difference. Once the plan is adopted and zoning changes are explored, staff has the intent of creating a form-based overlay in the downtown area to benefit developers for pursuing environmentally sound practices.

Gary Schroeder said he is worried this may be too cumbersome if West Lafayette has already adopted the resolution.

Ryan O'Gara said this would not hold up development. Staff already looks for ways to improve the natural environment.

Jackson Bogan asked if adding the resolution to the plan is being redundant.

Ryan O'Gara said this is partially redundant because the plan will reference what has already been adopted by the city. Nothing will be changed; this will simply state that the West Lafayette Downtown Plan supports Resolution 12-19.

Jackson Bogan said there is a motion and a second to include West Lafayette City Council Resolution 12-19 into the West Lafayette Downtown Plan. The motion passed by unanimous voice vote.

Ryan O'Gara said Dr. Griggs commented on protecting and preserving wildlife habitat. Staff has recommended to add an implementation strategy to Goal 4 concerning expanding and protecting the urban natural environment. This strategy will require new developments to work with the city's Greenspace Administrator to preserve and expand natural habitat. Most of the Audubon comments were related to urban habitats that already have a lot of wildlife. Staff would explore incentives for existing property owners to preserve some of these habitats. New developments would have requirements for preservation of flagged greenspaces. The planned development process already takes some of these steps.

Jackson Bogan asked if this is already being done.

Ryan O'Gara said yes, but this would become official policy if adopted by city council.

Gary Schroeder said he is concerned this, in the long-term, would make it too cumbersome to do a project. The system that is utilized right now works.

Ryan O’Gara said he does not think the opportunity to study this should be taken away. The ordinance created to study this would come before the Committee.

Jackson Bogan asked if there was a motion on the recommendation.

Larry Leverenz moved to accept staff’s recommendation to Goal 4. There was no second. The motion was not passed.

Gerry Keen moved to hear the West Lafayette Downtown Plan at the January 15, 2020 meeting. Gary Schroeder seconded and the motion carried by unanimous voice vote.

### III. CITIZEN COMMENTS

Zach Baiel, 124 Connolly Street, West Lafayette, IN 47906, said he was happy to hear that amendments were passed to achieve transparency. He asked what the desired future size and growth is for Downtown West Lafayette. The plan discusses ranges of density but not the goal density. The recent increase in local income tax is being used to expand public safety because of the increase in developments in Tippecanoe County. Workers are now being taxed to keep up with the lost tax revenue. The plan is missing the analysis of the relationship between the new downtown area with the other parts of the city including Lafayette. It is important to see the trajectory of the developmental impact from the new downtown on the neighboring areas. It is difficult to design an entire plan without these guides to dictate development goals. He said he holds a core democratic value of good governance; making sure that the public understands how decisions are made. The public does not always have access to the information to understand why plans are proposed. He thanked the Committee for having more discourse around this important plan. Since the August meeting, there has not been any public meeting outside of the Ordinance meetings. He recommended that there be an update on the development planning process including the retirement of the private steering committee structure. He called for the implementation of public steering committee meetings that are advertised and documented for public access. This could help as a point of good governance to allow the public to understand the planning process. Within this, there are no links between the objectives and goals on how they will be obtained and by who. Anyone familiar with the New Chauncey Neighborhood knows that there are still goals and objectives yet to be addressed. Without having a way to measure the goals, the public is relying on ambiguous strategies rather than a specific timeline. There need to be tools that allow for feedback from the public to advocate for updates on aspects of the plan. He said he is worried that this plan will fail in the same ways the New Chauncey Neighborhood plan did with the implementation of these strategies. He thanked the Committee for their time.

Gary Schroeder asked if there are more steps after the plan is adopted. There was mention of form-based code to create overlay zoning.

Ryan O’Gara said the first implementation strategy after adoption is a change in zoning which includes form-based overlay. This will start next year.

Gary Schroeder said with New Chauncey, we started the form-based overlay and then stopped. He asked if this plan will be structured the same.

Ryan O’Gara said the Area Plan Commission relies on our member jurisdictions to tell us when they want to initiate projects. Overlay was initiated as planning moved into the new US 231 Plan and the West Lafayette Downtown Plan, there was a desire, by staff and elected officials, to pause the work on the New Chauncey overlay. It is important to note that the Historic District came after the plan was adopted. This is still an open work item; APC can reactivate it and send it to this body for further discussion.

Gary Schroeder asked what the procedure is for the West Lafayette Downtown Plan. He asked if form-based overlay will be done first.

Ryan O’Gara said staff will look at potential changes to conventional zoning districts. This will begin by doing a study-wide rezone based on the current zoning districts. The New Chauncey overlay was in progress when it was paused. The Historic District became the priority. Staff was asked to stay out of it.

The implementation strategy for the 231 Plan is being fulfilled with the overlay in Discovery Park. A similar track will be followed with the West Lafayette Downtown plan by looking at the Future Land Use Plan and finding changes in zoning that can be done immediately. Same with the process of getting the plan adopted; the new zoning will be presented before the Committee for discussion. This will be a lengthy process.

Gary Schroeder asked what it would take, to take the New Chauncey Plan off pause.

Ryan O'Gara said it would require direction from Economic Development and city council.

Gary Schroeder asked if it is up to the Committee to make a motion and pass it to restart work on New Chauncey.

Ryan O'Gara said no because this is an item the city would have to initiate.

Sallie Fahey said staff received the approval from city council to start working on the form-based overlay. Staff began work on the form-based overlay and the city asked staff to pause work until the Historic District process was completed. Staff has not yet been asked to restart the process. The city can be asked if they are ready for that to happen, but it seems that staff should not spend time working on something unless city council wants it to happen.

Gary Schroeder said there has been a lot of time spent on the West Lafayette Downtown Plan. He asked if this will also be paused. It seems like most of the plans the Committee works on gets put on hold.

Sallie Fahey said New Chauncey is the only plan that has been stopped.

Erik Carlson said to clarify, a year and a half ago, staff and the city began looking at the form-based code. With the development pressure downtown, they prioritized getting the downtown master plan finished. Immediately following the downtown plan, if staff has the capacity, the city is ready to start back on the New Chauncey form-based code. The concerns with New Chauncey have been remedied with the Historic District.

Gary Schroeder asked if New Chauncey will be back on track once staff has the time.

Erik Carlson said that is correct. Staff is ready to go, and the recommendation must come from city council.

Peter Bunder, 1200 N. Salisbury, West Lafayette, IN 47906, thanked the Committee for their hard work on this plan and asked them to hurry because development pressure is high. West Lafayette City Council looks forward to examining the plan and proposing amendments as they see fit.

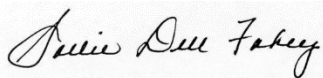
#### IV. ADJOURNMENT

Gary Schroeder moved to adjourn.  
The meeting adjourned at 5:56 p.m.

Respectfully Submitted,

Chyna R. Lynch  
Recording Secretary

Reviewed By,



Sallie Fahey  
Executive Director