

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
MINUTES OF A PUBLIC HEARING**

DATE.....April 17, 2019
TIME.....6:00 P.M.
PLACE.....County Office Bldg.
20 N. 3rd Street
Lafayette, IN 47901

MEMBERS PRESENT

Roland Winger
Diana Luper
Larry Leverenz
Tracy Brown
Tom Murtaugh
Gary Schroeder
Jackson Bogan
Vicki Pearl
Lisa Dullum
Perry Brown
Dr. Carl Griffin
Jerry Reynolds
Greg Jones
Tyrone Taylor
Jake Gray

MEMBERS ABSENT

Michelle Long
Gerry Keen

STAFF PRESENT

Sallie Fahey
Ryan O’Gara
Larry Aukerman
Diana Trader
Zach Williams, Atty.

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 17th day of April 2019 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Tom Murtaugh called the meeting to order.

I. BRIEFING SESSION

Tom Murtaugh asked for the Briefing Session. Sallie Fahey said that staff is waiting for the public notice paper work for S-4830 SCI WEST POINT FIRST ADDITION. She also announced that Prof. Gary Steinhardt’s Agronomy 585 – Soils and Land Use class is expected to be in attendance at tonight’s meeting.

II. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the March 20, 2019 meeting.
Greg Jones seconded, and the minutes were approved by unanimous voice vote.

III. NEW BUSINESS

A. BYLAW AMENDMENT

APC Resolution 2019-01: Amending the “Schedule of Filing Fee Charges” for certain types of Appeals

Gary Schroeder moved to hear and vote on **APC RESOLUTION 2019-01: RESOLUTION AMENDING THE BYLAWS OF THE AREA PLAN COMMISSION OF TIPPECANOE COUNTY.** Greg Jones seconded.

Sallie Fahey presented the bylaw amendment which will change APC Bylaws Exhibit 1: SCHEDULE OF FILING FEE CHARGES to eliminate the filing fee of an appeal of a zoning ordinance violation citation notification. She stated that filing fees for all other appeals from a decision of an Administrative Officer stay the same.

The Area Plan Commission voted by ballot 15-Yes to 0-No to approve **APC RESOLUTION 2019-01: AMENDING THE BYLAWS OF THE AREA PLAN COMMISSION.**

IV. PUBLIC HEARING

Tom Murtaugh read the meeting procedures.

Gary Schroeder moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the By-laws of the Area Plan Commission, the application and all documents filed therewith, the staff report and recommendation on the applications to be heard this evening and responses from the checkpoint agencies.

Greg Jones seconded, and the motion carried by voice vote.

A. ORDINANCE AMENDMENTS

UZO AMENDMENT #96 REGARDING WECS:

This amendment would prohibit large wind energy conversion systems (WECS) from locating in Tippecanoe County.

Gary Schroeder moved to hear and vote on **UZO AMENDMENT #96 REGARDING WECS.** Greg Jones seconded.

Ryan O'Gara presented the ordinance amendment which changes the Wind Energy Conversion System (WECS) regulations which have been in place since 2007. Discussions on this topic occurred at Ordinance Committee meetings on October 3rd and December 5th (2018) and again at the February 6th and March 6th meetings. Concerns came from the interest of a wind farm developer who was signing contracts with landowners in rural southwestern Tippecanoe County. Concerned citizens asked the Ordinance Committee to revisit the WECS regulations to ensure that the development standards were still appropriate, given the larger size and height of today's wind turbines.

Ryan noted that topics under consideration included the existing setback of large wind turbines from non-participating properties and whether a height limit was needed. He said that staff's research concluded, in part, that the UZO was in-line with several of our peer communities. The setback from participating properties is based on a ratio to ensure that the taller a tower is the farther it needs to be set back. The setback from non-participating landowners, however, is static regardless of height. The ordinance currently requires that a large wind system be set back from a non-participating property line by at least 750 feet and the setback from the non-participating dwelling be at least 1200 feet. This setback from non-participating property owners made sense when wind towers were around 300 feet tall. Now that some towers in other states are being constructed well over 500 feet tall, this setback would not function as intended.

Ryan stated that the Ordinance Committee decided, with overwhelming support of concerned citizens, that Large Wind Systems (over 140' in height) were not desired or appropriate in Tippecanoe County. This was not only because of the taller than originally anticipated turbines, since a height limit could have

been imposed; but because of the more urban nature of Tippecanoe County as compared to surrounding counties like White, Benton, Warren and Clinton Counties. The overall population density of the county further supports this notion even though there are pockets of Tippecanoe County with population densities very similar to those rural counties.

Ryan explained that the UZO amendment prohibits Large Wind Systems in any zone by altering the Permitted Use Table in chapter 3, keeping the definitions of Large Wind System and Wind Farms, and removing the development standards regarding Large Wind Systems. Small Wind Systems and Micro Wind Systems will still be permitted with no change as accessory uses in all zones where the primary use is permitted. Ryan also emphasized that staff and the Commission still support renewable energy sources but that this amendment is strictly a matter of location, the rights of neighboring property owners and a land use not appropriate in Tippecanoe County. Ryan O'Gara said staff recommends approval of **UZO Amendment #96**.

Speaking in favor of **UZO Amendment #96**:

Julie Peretin, 10 N. 19th Street, Lafayette, IN 47904, explained her PowerPoint slides that compare Tippecanoe County population density, WECS ordinances, and projected population growth with nine other counties in Indiana (from Hamilton at the densest to Boone at the least dense). She next presented a slide showing setback increments from a turbine property line, their application and potential benefit. Other information included setback, height and sound limits for four eastern counties in Illinois and Tipton County, IN. The last two slides showed 1) an example of turbine locations imposed on parcel maps for Benton and White Counties and 2) a comparison map of parcel density in three rural areas of Tippecanoe County.

Tim Strueh, 624 Bennett Road, Linden, IN 47955 talked about Indiana counties with total income and population growth similar to Tippecanoe County that have already imposed wind farm bans or adopted stricter regulations. He also said wind farms would be taking valuable land for future industrial expansion and subsequent residential growth needs.

Ed Hetherington, 1218 W 925 S Romney, IN 47981 discussed loss of property value for owners who do not sign leases with wind energy developers.

Ryan O'Gara read 6 letters in favor of **UZO Amendment #96** from the following citizens:

Tobias Johnson 7730 S 625 W, Westpoint, IN 47992

Mark D. Russell, Plant Manager - Frankfort Plant, Custom Building Products, 3800 W Old State Road 28, Frankfort, IN 46041

Joe Findlay, jfindlay@gmail.com

Doug and Ronda Milsaps, 8329 W 1200 S, Westpoint, IN 47992

Matt Davis, 1210 E 1300S, Romney, IN 47981

Del and Grace Craig, 6817 S 700 W, Westpoint, IN 47992

Jennifer Teising, Wabash Township, asked if Tippecanoe County has a sustainable energy plan.

Tom Murtaugh said there is not, and he is opposed to the long-term leases of the large wind energy companies which could possibly be up to 75 years. Tom said that only the large wind energy conversion systems will be banned. He said that small wind farms with turbines under 140-feet and micro-WECS will still be allowed.

In response to another question from Jennifer A., Roland Winger said that although they were not built two wind energy companies had shown interest in locating in Tippecanoe County several years ago and the Area Plan Commission wanted to prevent more wind energy companies from attempting to locate here.

Speaking in opposition to **UZO Amendment #96** and expressing concerned about the effects of climate change, speaking in favor of clean and renewable energy, and supporting the current UZO regulations were:

Linda Prokopy, 116 Arrowhead Drive, West Lafayette, IN 47906, professor of Natural Resources Social Science at Purdue and member of the West Lafayette Go Greener Commission;

Kara (last name unknown), 2243 US 52W, the Avenue Apartments, West Lafayette, IN 47906;

Iris O'Donnell, 810 N 15th Street, Lafayette, IN 47904, Purdue student from West Lafayette;

Rick Reuss, 911 Carrollton Blvd, West Lafayette, IN 47906, a member of the West Lafayette Go Greener Commission; and

Andrew Yang, 1016 W Stadium Avenue, West Lafayette, IN 47906.

The Area Plan Commission voted 11-Yes to 4-No to recommend adoption of **UZO Amendment #96 BANNING LARGE WIND ENERGY CONVERSION SYSTEMS**. The recommendation will be sent to all 6 jurisdictions.

Yes Votes

Jackson Bogan
Carl Griffin
Tom Murtaugh
Roland Winger
Gary Schroeder
Jake Gray
Tracy Brown
Jerry Reynolds
Vicki Pearl
Greg Jones
Larry Leverenz

No Votes

Lisa Dullum
Perry Brown
Tyrone Taylor
Diana Luper

B. SUBDIVISIONS

1. **S-4829 BLACK WALNUT FARM SUBDIVISION, PHASE 2 (minor-sketch):**
Petitioner is seeking primary approval for a one lot subdivision on 2.28 acres, located on the southwest side of Newcastle Road, approximately 1/4 mile south of CR 460 S, Sheffield 17 (SE) 22-3.

Gary Schroeder moved to hear and vote on **S-4829 BLACK WALNUT FARM SUBDIVISION, PHASE 2 (minor-sketch)**. Greg Jones seconded.

Sallie Fahey presented the zoning map, aerial photos and plat, highlighting the area zoning patterns land uses patterns. She noted that the one lot comes from a 24.2-acre parent tract that has been parcelized three times in the past and that this will be the fourth and final division of land from this parent tract. She explained that County Highway is not requiring a "No vehicular access" statement, approval of the drainage on site was given by the County Surveyor's Office and the Health Department will consider the lot suitable for a shallow trench subsurface absorption system.

She finished by saying that staff recommends conditional primary approval, contingent on the following:

A. Conditions

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

1. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date

recorded).

2. All required building setbacks shall be platted.
3. The street addresses and County Auditor's Key Number shall be shown.

Krista Jesse, 4750 Newcastle Road, Lafayette, IN 47905, petitioner and representing the rest of the family stated that her mother had passed away and that the land divisions she and her sisters have been doing to sell off to support her are no longer needed after this division. She asked for approval of the subdivision.

Stephen Wolfe, 6943 Wyandotte Road, Lafayette, IN 47905, spoke in opposition and said that he believed that too many lots were being created in this part of the county.

The Commission voted by ballot 15-Yes to 0-No for conditional primary approval of **S-4829 BLACK WALNUT FARM SUBDIVISION, PHASE 2 (minor-sketch)**.

Sallie announced that the required paperwork was filed for the next case and confirmed with attorney Zach Williams that photocopies would suffice for the hearing so long as petitioner filed the originals the next day.

2. S-4830 SCI WEST POINT FIRST ADDITION (major-preliminary):

Petitioner is seeking primary approval for a one lot commercial subdivision on 3.18 acres, located on the northwest side of SR 25, near the north end of West Point, in Wayne, Burnetts Reserve Section 5 (NE) 22-6.

Gary Schroeder moved to hear and vote on **S-4830 SCI WEST POINT FIRST ADDITION (major-preliminary)**. Greg Jones seconded.

Sallie Fahey presented the zoning map, aerial photos and plat highlighting the area zoning and land uses. She said that this past January, the Board of County Commissioners rezoned this site from A to GB for the Dollar General store proposed for this site. The proposed lot abuts SR 25, classified in the *Thoroughfare Plan* as a rural secondary arterial. A commercial drive permit will be required from INDOT for the proposed driveway. She said that the County Health Department has provided an approval letter stating that based on a soils report and review by the Indiana State Department of Health this lot can be considered for a shallow trench subsurface absorption system with a perimeter drain. The site's storm drainage has been planned but will need to be approved by the County Drainage Board. She also discussed the bufferyard requirement and the variance petitioner filed to reduce the lengths of the bufferyards along the north and south boundaries, and to eliminate the bufferyard that would be required along the west border. Petitioner also filed a variance to reduce the required parking from 46 to 30 spaces. Those requests will be heard at the ABZA meeting on April 25. She concluded with a staff recommendation of conditional primary approval contingent on the following:

A. Conditions

CONSTRUCTION PLANS – The following items shall be part of the Construction Plans application and approval:

4. The detailed plans and driveway permit for the SR 25 entrance shall be approved by the Indiana Department of Transportation.
5. An Erosion and Sediment Control Plan and a Stormwater Quality Management Plan meeting the requirements of 327 I.A.C. 15-5 shall be submitted to the Tippecanoe County Soil and Water Conservation District and shall also be

approved by the Tippecanoe County Drainage Board as required by Tippecanoe County Ordinance #2011-27-CM.

6. The County Drainage Board shall approve the drainage plans.
7. The bufferyards shall be shown as required (as approved or denied by the Area Board of Zoning Appeals) with the standard plant unit details. The bufferyards shall be installed as part of required public improvements.

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

8. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
9. All required building setbacks shall be platted.
10. The street addresses and County Auditor's Key Number shall be shown.

Joe Leonard, Second Circle Acquisitions, LLC, 14137 Warbler Way N, Carmel IN 46033, petitioner spoke about the plans for the new Dollar General and the reasons for the variance requests. He said he agreed with the conditions and asked for approval.

Dean Craig, 3492 E 1400 N Attica, IN 47918, expressed his concerns about storm drainage issues.

Tom Murtaugh explained that the drainage would be heard at a public meeting of the County Drainage Board at a future date which would be set after the petitioner filed his stormwater plans with the County Surveyor.

The Commission voted by ballot 15-Yes to 0-No to approve bonding for **S-4830 SCI WEST POINT FIRST ADDITION (major-preliminary)**:

The Commission voted by ballot 15-Yes to 0-No to grant conditional primary approval of **S-4830 SCI WEST POINT FIRST ADDITION (major-preliminary)**:

C. REZONING ACTIVITIES

1. **Z-2758 PAUL BRANHAM (NB to I1):**

Petitioner is requesting rezoning of 7.034 acres out of a 14-acre tract for a proposed Reindeer Shuttle business located north and west of the corner of Klondike and CR 250 N (aka Cumberland Avenue) in Wabash 10 (NE) 23-5.

2. **Z-2759 PAUL BRANHAM (NB to GB):**

Petitioner is requesting rezoning of 6.734 acres out of a 14-acre tract located adjacent to the south of the 7-acre tract mentioned above in Z-2758, right at the northwest corner of Cumberland and CR 250 N, in Wabash 10 (NE) 23-5.

Gary Schroeder moved to hear and approve **Z-2758 PAUL BRANHAM (NB to I1)**: Greg Jones seconded.

Gary Schroeder moved to hear and approve **Z-2759 PAUL BRANHAM (NB to GB)**: Greg Jones seconded.

Ryan O’Gara presented the zoning map, aerial photos and site plan explaining the area zoning and land use patterns as well as the uses proposed for the lots. The first request is for the 7.034-acre northern site (I1) where petitioner would build the new Reindeer Shuttle garage, bus storage facility and wash. The second request is for 6.734 acres (GB) for a commercial center and a gas station. He also noted that the land in this request is west of and outside of the study area in the recently adopted *US 231 Corridor Plan* which is farther east of the site in this request.

Ryan explained that the sites have frontage on both Klondike and CR 250 N and will seek access to this proposed 3-lot subdivision from both streets. Klondike Road is currently under construction and is expected to be completed at the end of 2020. The reconstruction includes two driving lanes and a center two-way left turn lane. The west side of the road will have sidewalk and the east side will have a ten-foot multi-use trail. A roundabout will serve the intersection of Klondike Road and Cumberland Avenue (CR 250 N) at the southeast corner of the site. Petitioner is consulting with the Highway Department to finalize the location and width of the proposed commercial driveway. Because of the proximity of the roundabout to the proposed development entrance, a traffic impact study is being requested by the Highway Department.

Sewer and water are required, and Ryan said that Indiana-American Water has existing mains along Klondike Road and American Suburban Utilities serves the apartment complex to the east and Lindberg Village to the southwest. A bufferyard is required on the north side of the development where I1 abuts A zoning. Internally the bufferyard depends on the subdivision design for internal public streets.

Ryan said that in Z-2758, staff suggested the I1 zone because unlike GB it requires uses to be conducted entirely indoors. In Z-2759, staff can support a GB rezone because it is consistent with the existing zoning pattern in the area. The *US 231 Corridor Plan* identified areas adjacent to the intersection of Cumberland and US 231 as ideal for regional commercial use and this site, though not within the study area, meets that criteria. He said staff believes this future shopping node could be connected to Klondike’s trails and sidewalks, promoting pedestrian and bicycle infrastructure connectivity. He ended by saying that staff recommends approval of both Z-2758 and Z-2759.

Dan Teder, Reiling, Teder & Schrier, LLC, 250 Main Street, Suite 601, Lafayette, IN 47901, attorney for the petitioner, spoke on the petitioner’s behalf further explaining the overall project, the growth of Reindeer Shuttle and its need for more space, and how the bus terminal, maintenance and wash bay would work. He said that customers would not come to this site to board the shuttles, but that they will still be picked up at the Sheraton on Cumberland. He also explained the proposal for the commercial center and the gas station and how they will serve the area. He finished by asking the Commission to recommend approval of both petitions to the Board of County Commissioners.

Ryan O’Gara read 2 letters in opposition to the rezones from:

Rhonda D. Florian, owner of Lafayette Limo, 2525 Klondike Road, West Lafayette, IN 47906

Amanda Florian, Lafayette Limo, 2525 Klondike Road, West Lafayette, IN 47906

Benjamin Florian, West Lafayette IN, said that he recently moved back to the area having grown up next to the Lafayette Limo property. He said he was opposed to the rezone because bus terminals don’t make good residential neighbors. He also thought that it would be nearly impossible to operate Reindeer Shuttle entirely indoors.

The Commission voted by ballot 14-Yes to 1- No for approval of **Z-2758 PAUL BRANHAM (NB to I1)**:

This case will be heard by the Tippecanoe County Board of Commissioners at its May 6, 2019 meeting. Petitioner or his representative must appear.

Yes Votes

Jackson Bogan
Carl Griffin
Tom Murtaugh

No Votes

Lisa Dullum

Roland Winger
 Gary Schroeder
 Jake Gray
 Tracy Brown
 Jerry Reynolds
 Vicki Pearl
 Greg Jones
 Larry Leverenz
 Perry Brown
 Tyrone Taylor
 Diana Luper

The Commission voted by ballot 14-Yes to 1- No for approval of **Z-2759 PAUL BRANHAM (NB to GB):**

This case will be heard by the Tippecanoe County Board of Commissioners at its May 6, 2019 meeting. Petitioner or his representative must appear.

Yes Votes

Jackson Bogan
 Carl Griffin
 Tom Murtaugh
 Roland Winger
 Gary Schroeder
 Jake Gray
 Tracy Brown
 Jerry Reynolds
 Vicki Pearl
 Greg Jones
 Larry Leverenz
 Perry Brown
 Tyrone Taylor
 Diana Luper

No Votes

Lisa Dullum

V. ADMINISTRATIVE MATTERS

None

VI. APPROVAL OF THE MAY EXECUTIVE COMMITTEE AGENDA

There are no new cases to put on the agenda for the May 1 Executive Committee meeting.

VII. DETERMINATION OF VARIANCES -- Area Board of Zoning Appeals

Gary Schroeder moved that the following requests for variance from the Unified Zoning Ordinance are not requests for use variances, prohibited from consideration by ordinance and statute:

BZA-2011 SECOND CIRCLE ACQUISITIONS, LLC:

BZA-2012 WEST LAFAYETTE SCHOOL BUILDING CORPORATION:

Greg Jones seconded, and the motion carried by unanimous voice vote.

VIII. DIRECTOR'S REPORT

Sallie Fahey said she only had one update from the report she sent this month. She said that at the county's wellness fair held for employees today, Doug was able to make the right connection with the director of the Northend Community Center. We have been hoping to use the community center as a place to engage hard to reach citizens about their transportation challenges and how projects funded in the TIP might help with those challenges. Not only was the wellness fair a nice opportunity for employees,

but we also had this serendipitous encounter that solved a different problem.

IX. CITIZENS' COMMENTS AND GRIEVANCES

None

X. ADJOURNMENT

Gary Schroeder moved to adjourn.

The meeting adjourned at 7:40 p.m.

Respectfully Submitted,

Diana E. Trader

Diana E. Trader
Acting Recording Secretary

Reviewed By,

Sallie Dell Fahey

Sallie Fahey
Executive Director