

ORDINANCE NO. 2014-13-CM

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF TIPPECANOE COUNTY, INDIANA, NO. 97-51-CM

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF TIPPECANOE COUNTY, INDIANA, THAT THE UNIFIED ZONING ORDINANCE, BEING A SEPARATE ORDINANCE AND NOT PART OF A UNIFIED COUNTY CODE IS HEREBY AMENDED AS FOLLOWS:

Section 1: Change **UZO Section 1-10-2 DEFINITIONS** by adding the following:

BUILDING ENVELOPE. The three-dimensional space within which a structure is permitted to be built and which is defined by UZO regulations or planned development plans and documents governing building setbacks, maximum height and bulk; by other regulations; or any combination thereof.

BUILDING FOOTPRINT. The two-dimensional space containing the outline of the total area covered by a building's perimeter at the ground level.

Section 2: Change **UZO Section 2-28 PLANNED DEVELOPMENT ZONES** as shown below:

2-28-1 INTENT:

- (a) PD zoning is used to foster innovative and diverse design in land development that is still consistent with both the adopted *Comprehensive Plan* and the intent of the *Unified Zoning and Subdivision Ordinances*. To achieve this, the Commission does not apply any other provisions of this chapter or Chapter 4 below. Instead, the Commission -- through its staff -- negotiates a specific development plan with the petitioner for PD zoning and representatives of the checkpoint agencies. The combined elements of this negotiated plan -- rather than zone regulations -- then become the subject of the rezoning process. All restrictions and regulations for a specific Planned Development are thus contained within the approved and recorded plan itself, having been arrived at prior to rezoning. PD zoning may be applied to a redevelopment site, existing **development**, undeveloped land, and on contiguous or non-contiguous tracts located within the same jurisdiction.
- (b) The Commission's goal is to provide a widening variety of environmentally appropriate residential, nonresidential and mixed-use **developments** to meet the needs of this community. To help create attractive, healthful, efficient and sustainable places to live, shop and work, the Commission encourages use of PD zoning within the following contexts:
 - (1) to accommodate compatible **development** in environmentally sensitive locations;
 - (2) to enhance compatibility with surrounding land **uses**;
 - (3) to permit a harmonious variety of **uses** within a single **development**;
 - (4) to promote efficiency, sustainability and thus economy by clustering

- structures and/or by using shared facilities or services;
- (5) to foster new site treatments not contemplated in other kinds of **zones**.
 - (6) to advance the policies of the *Comprehensive Plan* in innovative ways less easily achievable through other zoning districts while providing a demonstrable community benefit.

2-28-2 ORIGINATION OF PROPOSALS:

- (a) A request to rezone from any other zoning classification to PD may be initiated by:
 - (1) all owners of the property in question; or
 - (2) any group of owners united in interest, acting jointly in pursuance to an agreement to carry out the proposal in separate ownership.
- (b) Because of the unified design of a planned development and because the combined elements of the negotiated plan are the substance of the **zone** itself, this ordinance requires that a request to reclassify from PD to PD shall include amongst the petitioners either:
 - (1) all owners of the property within the current planned development; or
 - (2) the owners' association acting on behalf of a majority of property owners in the current planned development, as constituted in the recorded bylaws.
- (c) Also, in keeping with provisions of 5-2-3 below, PD zoning is mandatory for any new **condominium** construction or **condominium** conversion.

2-28-3 CLASSIFICATION OF PLANNED DEVELOPMENTS:

- (a) To identify the nature of planned developments on zoning maps, they shall be classified as one of these four **zones**:
 - (1) **PDRS (Residential Planned Development)**, in which all **buildings** and land are developed for residential **use** and those activities customarily accessory to residential **use**;
 - (2) **PDNR (Nonresidential Planned Development)**, in which no **buildings** or land are developed for residential **use**, but rather for commercial and/or industrial and/or recreational and/or some other nonresidential **use**;
 - (3) **PDMX (Mixed-Use Planned Development)**, in which **buildings** and land are developed as a mix of both residential and nonresidential **uses**; and
 - (4) **PDCC (Condominium Conversion Planned Development)**, in which the only change proposed involves either:
 - (A) the conversion to **condominium** ownership of a **development** which has received occupancy permits for all parts no less than three years prior; or
 - (B) the conversion to **condominium** ownership of an existing **building** in a CB or CBW **zone** or in a PD **zone** adjoining or surrounded by a CB or CBW zone;
where there is no further division of land involved.
- (b) Those PD **zones** and overlays approved prior to the adoption of this

amendment shall be reclassified as one of the above four zoning categories.

2-28-4 PRE-SUBMISSION CONFERENCE:

- (a) No pre-submission conference is required before submitting a rezoning request to PDCC.
- (b) Before submitting any of the materials required for a rezoning request to either PDRS, PDNR or PDMX, the petitioner shall arrange a meeting with staff and the appropriate **Administrative Officer**, and if outside the corporate limits of Lafayette and West Lafayette, the County Surveyor and Highway Executive Director, or their designees (Amend 15). If outside the service area of sanitary sewer, the County Health Department shall also be notified (Amend 41).
- (c) At the pre-submission conference, the petitioner shall be prepared to explain the justification for rezoning to a PD zone based on the criteria in Section 2-28-1(b) and bring a drawing or sketch of the proposed planned development that:
 - (1) is at least approximately scaled;
 - (2) includes the entire tract;
 - (3) shows, in at least schematic detail, location and description of proposed **uses** and major **buildings**, neighboring buildings and uses including those on the opposite sides of all streets, layout and classification of **roads**, all entrances and exits, any environmentally sensitive areas;
 - (4) proposes treatment of environmentally sensitive areas;
 - (5) indicates phasing and a time frame for **development**.
- (d) Discussion at this meeting shall include:
 - (1) the intent and requirements of PD zoning;
 - (2) the petitioner's intentions and objectives regarding land **use**, **street** improvements, utilities, the interrelationship of these aspects, and similar matters (Amend 15);
 - (3) the petitioner's intentions assuring compatibility between **uses** proposed for the perimeter of the PD and surrounding land **uses** and zoning classifications;
 - (4) general availability of utilities to the site;
 - (5) the area's current zoning pattern and all elements of the *Comprehensive Plan*;
 - (6) specific materials and documents required in 2-28-5 below to be included with the submission, and a list of checkpoint agencies to be involved;
 - (7) classification of the proposed rezoning as either PDRS, PDNR or PDMX, as per 2-28-3 above; and
 - (8) a proposed schedule for the rezoning process.
- (e) The Administrative Officer or staff present at the pre-submission conference may request additional pre-submission conference meetings in order to seek further clarification of the project's details required by this section.
- (f) Unless directed otherwise by the petitioner, the contents of pre-submission conferences are to remain confidential and are not to be disclosed by staff to

the public until the petitioner files for a PD rezoning request with draft plan.

2-28-5 FILING REQUIREMENTS FOR A PD REZONING REQUEST WITH DRAFT PLAN:

- (a) With the conclusion of the pre-submission conference stage per 2-28-4(e), or to initiate a PDCC action, the petitioner may file a rezoning request to one of the PD classifications. The last working day of each month is the deadline for a petitioner to make a complete submission intended to be heard, depending on the conclusion of the discussions required by Section 2-28-6-b, as a rezoning request no sooner than the Commission's public meeting about 1½ months later.
- (b) The initial submission shall contain the following:
 - (1) a non-refundable processing fee, sufficient for up to two draft plan meetings, as set by the Commission;
 - (2) a signed and notarized Petition to Rezone with metes and bounds legal description, indicating the PD classification being sought, signed by the owner or owners of all property involved, or with a notarized Affidavit of Consent of all owners attached;
 - (3) a list of names, addresses and auditor's key numbers of all property owners located adjacent to and directly across the street, alley, or railroad **right-of-way** from the property described in 2-28-5-b-2 above; an original and 16 copies of the proposed ordinance to rezone the property, using the sample format provided by the staff;
 - (4) A completed copy (both paper copy and electronic copy) of the Commission's publication, *Planned Development Submission Checklist*, the required number of drawing sets labeled Draft Plan and an electronic copy of the plans. Plans shall be organized and formatted according to the checklist's specifications and shall include a published and recorded boundary survey meeting the requirements of *IAC Title 865 Article 1 Rule 12* or its successor, plus a full and detailed site analysis and proposed **site plan**, utilities plan, landscape plan and all other items called for in that publication;
 - (5) if dividing or replatting land, the required number of drawings with electronic copy of the preliminary **plat**, prepared by a Registered Land Surveyor in conformance with the requirements of Appendix B-1 below.
 - (6) The required number of number of copies with electronic copy of any proposed covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to 2-28-14-a through 2-28-14-c below). These shall include a table of contents, and be written in plain language easily understood by most readers; and
 - (7) signatures of all required checkpoint agencies, or post office receipts of certified mailing, indicating receipt of one set each of the items listed as (7) through (9) above.
- (c) Checkpoint agencies to be provided with sets of plans and other documents will have been determined at the pre-submission meeting stage. They

include those agencies having jurisdiction in areas potentially affected by the petitioner's proposed **development**. The list may be drawn from the agencies listed in 2-28-5-c-1 on the following page. For a PDCC rezoning, upon request of the petitioner, the staff will provide a list of checkpoint agencies to be provided with sets of plans and documents (Amend 15).

- (d) If the petitioner fails to meet the filing requirements of 2-28-5 above within 6 months of the last pre-submission meeting date, the petitioner shall schedule a new pre-submission meeting, as per 2-28-4, in order to continue the project.

2-28-5-c-1 LIST OF CHECKPOINT AGENCIES:

CITY OF LAFAYETTE	
City Engineer	Redevelopment Commission
Water Dept.	Tippecanoe Soil and Water
Co. Health Department	Conservation District
Appropriate Wastewater Utility	Indiana Department of Transportation
Police Dept., Traffic Division	Lafayette or Tippecanoe
Fire Chief	School Corporation
Parks and Recreation Dept.	Wabash River Enhancement Corp.
CityBus	(Amend 54)
CITY OF WEST LAFAYETTE	
City Engineer	W. L. C. or Tippecanoe School Corp.
Traffic Commission	Appropriate Wastewater Utility
Development Department	Police Dept. Traffic Chief
Tippecanoe Soil and Water	Fire Chief
Conservation District	Parks and Recreation Dept.
Indiana Dept. of Transportation	CityBus
Wabash River Enhancement Corp.	(Amend 54 & 60)
TIPPECANOE COUNTY	
Highway Dept.	Parks and Recreation Dept.
Building Commission	Tippecanoe Soil and Water
Surveyor	Conservation District
Health Dept.	Tippecanoe, Lafayette, West Lafayette
County Sheriff or	or Benton County School Corp.
Municipal Police Dept.	Appropriate Water Utility
Local Fire Department	Appropriate Wastewater Utility
Indiana Dept. of Transportation	Wabash River Enhancement Corp.
CityBus	(Amend 54)
INCORPORATED TOWNS	
Town Council	Tippecanoe School Corporation
County Health Dept.	Tippecanoe Soil and Water
Town Marshall	Conservation District
Local Fire Dept.	Indiana Dept. of Transportation

2-28-6 DRAFT PLAN MEETING:

- (a) The Commission's staff shall determine if the petitioner's submission is complete within five business days of the day after the submission deadline. If it is, written notices shall be sent to the petitioner, the petitioner's representatives, the checkpoint agencies and the staff, scheduling a Draft Plan Meeting to be held on or before the third Wednesday of that month. If the submission is found to be incomplete within the time frame specified by this section, the staff shall provide the petitioner, within ten business days, a written statement detailing its deficiencies regarding items in 2-28-5-b above. The last day of that month will then be the next filing deadline for a complete submission.
- (b) At the Draft Plan Meeting, the staff and checkpoint agency representatives will have an opportunity to require reasonable changes to the Draft Plan submission and discuss them with the petitioner and petitioner's representatives. Checkpoint agencies may provide written comments to the **Executive Director**, or the director's designee, instead of being present. Additional draft plan meetings may be required by the staff and/or checkpoint agencies in order to complete the discussions of the required changes and recommended revisions to the Draft Plan submission.
- (c) Per Section 2-28-5, the processing fee is sufficient for up to two draft plan meetings. In the event that additional draft plan meetings are required by staff and the checkpoint agencies, or by the petitioner pursuant to Section 2-28-7-b, to complete the discussions required Section 2-28-6-b, an additional non-refundable processing fee set at half the specified amount shall be required which shall be sufficient for up to two additional draft plan meetings.
- (d) Additional draft plan meetings shall be scheduled only after the processing fee has been received by the Commission.
- (e) With the conclusion of the discussions required by Section 2-28-6-b or in the petition receiving a determination of completeness by the APC Executive Committee per Section 2-28-7-b and twenty-two days before the next available APC public hearing, the following items shall be submitted to complete the filing requirements for a PD rezoning request with draft plan:
 - (1) 2 Notices of Public Hearing, each with a metes and bounds or other proper legal description and the common address or location of the property;
 - (2) 2 release letters authorizing the staff to submit Notices of Public Hearings to the designated newspapers;
 - (3) A completed Notice to Interested Parties form.

2-28-7 PRELIMINARY PLAN APPLICATION REQUIREMENTS: (Amend 51)

- (a) Following the Draft Plan Meeting stage, the petitioner shall submit a Preliminary Plan no later than the last Wednesday of the month preceding the intended public hearing. The Commission's staff will notify the petitioner within five business days as to whether the Preliminary Plan application is complete. During this five business day review period, staff shall determine whether minor corrections can be made, if possible and needed, in order for

the Preliminary Plan application to be complete. A complete Preliminary Plan application shall contain the following: (Amend 51)

- (1) Unless directed otherwise by APC staff, 7 sets of drawings and electronic copy, labeled Preliminary Plan, containing all the elements of the Draft Plan reflecting changes resulting from the Draft Plan Meeting stage, including all reasonable changes requested by the staff and checkpoint agencies;
 - (2) Unless directed otherwise by APC staff, if dividing land, 7 copies and electronic copy of the preliminary *plat*, prepared by a Registered Land Surveyor as per Appendix B-1 below, included within the Preliminary Plans; and
 - (3) Unless directed otherwise by APC staff, 7 copies and electronic copy of any covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to 2-28-14-a through 2-28-14-c below). These shall include a table of contents, and be written in plain language easily understood by most readers.
 - (4) a non-refundable processing fee as set by the Commission;
- (b) If the Commission's staff determines that the Preliminary Plan is incomplete because it fails to include all reasonable changes requested by the staff and checkpoint agencies during the Draft Plan Meeting stage, and the petitioner disagrees with this determination, the petitioner may appeal this determination to the APC Executive Committee and request a public hearing for a Completeness Determination by the APC Executive Committee relative to the Preliminary Plan. At such public hearing, the petitioner and the Commission's staff, and any checkpoint agencies which desire to participate, shall each present a summary of the discussions outlined in Section 2-28-6-b and be available to answer questions from the APC Executive Committee. The APC Executive Committee shall then determine and render a decision as to whether the changes required by the staff and checkpoint agencies required by Section 2-28-7-a-1 have been sufficiently included in the Preliminary Plan application. The APC Executive Committee is making no determination as to the appropriateness of the changes. If the APC Executive Committee finds the Preliminary Plan Application to be complete, the application shall proceed to a full APC public hearing in accordance with Section 2-28-8. If the APC Executive Committee finds the Preliminary Plan Application to be incomplete the petitioner may request additional Draft Plan Meetings in accordance with Section 2-28-6-c or withdraw the application. To initiate an appeal and request a Completeness Determination public hearing before the APC Executive Committee the petitioner shall:
- (1) Request in writing, on forms provided by the Commission, a Completeness Determination Public Hearing.
 - (2) Submit, with the completed form, a non-refundable processing fee as set by the Commission.

- (c) If the petitioner fails to submit a complete Preliminary Plan application requirement within 6 months after the date of the last Draft Plan Meeting, the rezoning petition shall be void. If the petitioner wishes to continue with the project, a new pre-submission meeting, as per 2-28-4 above, must be scheduled.
- (d) If the petitioner fails to meet the Preliminary Plan application requirement within 6 months of the date of the last Draft Plan Meeting, and does not apply for a Completeness Determination with the APC Executive Committee per 2-28-7-b above, his rezoning petition shall be void. If the petitioner wishes to continue with the project, he shall schedule a new pre-submission meeting, as per 2-28-4 above. (Amend 51)

2-28-8 PRELIMINARY PLAN HEARING AND DISPOSITION:

- (a) The petition and Preliminary Plan shall then be heard by the Commission as a petition for zoning ordinance amendment, subject to the procedures that apply to such an amendment. Upon hearing the request, the Commission may recommend approval, amendment, or disapproval of the Preliminary Plan, or may vote no recommendation pursuant to **APC** bylaws.
- (b) The Commission may impose reasonable conditions with its recommendation. These conditions shall only involve the inclusion of additional items unrelated to the project's design. Such items include, but are not limited to, being granted additional approval by another governmental agency such as the Drainage Board, or obtaining permission to attach to an existing utility.
- (c) If the Commission requires changes in design, regarding the proposed site, utilities or landscape plans, then the Commission shall vote to recommend amendment. Should this happen, the petitioner may resubmit a second Preliminary Plan, as per 2-28-7 above, for a later rehearing by the Commission.
- (d) If the Commission recommends approval, disapproval or no recommendation, the required sets of Preliminary Plans (including drawings, **plats** and covenants) shall be stamped with that recommendation and signed by the President and Secretary of the Commission. The distribution of these sets shall be as follows:
 - (1) 1 set, including an electronic copy of the signed plans, shall be permanently retained in the office of the Commission;
 - (2) 1 set shall be returned to the petitioner;
 - (3) 4 sets shall be distributed by the staff, with 1 set going to each of the appropriate, gas, electric, telephone and cable television utilities; and
 - (4) 1 set shall be certified to the appropriate legislative body for adoption as a **Planned Development Zone** pursuant to the laws governing zoning ordinance amendments.
 - (5) Additional sets, as required by staff for distribution to additional utility providers of public agencies, shall be distributed accordingly.
- (e) The legislative body may adopt or defeat the certified Preliminary Planned Development, but shall not amend it. If it is adopted by the legislative body,

the petitioner may prepare Final Detailed Plans.

2-28-9 APPROVAL OF FINAL DETAILED PLANS FOR PDCC ZONES:

- (a) Following rezoning to PDCC by the legislative body, the petitioner may submit Final Detailed Plans. The petitioner cannot file required **condominium** documents with the County Recorder, until the staff approves these Final Detailed Plans.
- (b) A complete PDCC Final Detailed Plans submission shall contain the following:
 - (1) evidence that any conditions imposed by the Commission at the time of its hearing have been met;
 - (2) unless directed otherwise by the Commission's staff, a minimum of 8 sets of drawings and electronic copy, labeled Final Detailed Plans -- **Condominium** Conversion, identical in content to the Approved Preliminary Plan (within the context of the imposed conditions), reviewed and signed by the appropriate **Administrative Officer**. The number of sets shall be determined by the staff; and
 - (3) unless directed otherwise by the Commission's staff, a minimum of 8 signed copies and electronic copy of any covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to 2-28-14-a through 2-28-14-c below). These shall include a table of contents, and be written in plain language easily understood by most readers. The number of copies shall be determined by the staff.
- (c) The staff shall review these Final Detailed Plans within 5 working days of the petitioner's submission. If the staff finds they comply with 2-28-9-b above, the staff shall approve them by attaching a certificate of approval, signed and dated by the **Executive Director**, stating its finding of compliance. If the staff finds them incomplete as per 2-28-9-b above, the staff shall notify the petitioner of the deficiencies. After this certificate is attached, the petitioner shall not submit an alternate or revised set of Final Detailed Plans for the same legal description, except under the circumstance described in 2-28-11-c below.

2-28-10 APPROVAL OF FINAL DETAILED PLANS FOR PDRS, PDNR AND PDMX ZONES:

- (a) Following rezoning to PDRS, PDNR or PDMX, the petitioner may file Final Detailed Plans. The petitioner can neither seek **improvement location permits** nor begin any **development** (including earth moving) activity until the Commission approves these Final Detailed Plans and the petitioner records them (Amend 15). To be complete, Final Detailed Plans shall have already been approved and signed by the appropriate **Administrative Officer**, any applicable sanitary sewer and water provider, public or private; and if outside the Cities of Lafayette and West Lafayette, the Director of the County Highway Department, and the County Surveyor on behalf of the

- County Drainage Board. Final Detailed Plans may only be submitted in phases if a development phase plan was negotiated at the Draft Plan stage.
- (b) A complete PDRS, PDNR or PDMX Final Detailed Plans submission shall contain the following:
- (1) Evidence that any conditions imposed by the Commission at the time of its hearing have been met. If Final Detailed Plans for only part of the project are being submitted, per the negotiated and approved development phase plan, only those conditions bearing on that part need be met;
 - (2) Unless directed otherwise by the Commission's staff, 10 sets of drawings and electronic copy, labeled Final Detailed Plans, consisting of full Construction Plans, prepared in conformance with the requirements of Appendix B-2 below, including all public improvements to be installed by the developer, plus all the elements of the Approved Preliminary Plan (placed at the end of the Final Detailed Plans set as an appendix).
 - (3) Unless directed otherwise by the Commission's staff, 10 signed copies and electronic copy of any covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to 2-28-14-a through 2-28-14-c below). These shall include a table of contents, and be written in plain language to be easily understood by most readers; and
 - (4) a release from the mortgage company, if any, covering the necessary **right-of-way**, where **right-of-way** is to be dedicated.
 - (5) If one or more lots are being created, the petitioner shall provide, unless directed otherwise by the Commission's staff, 10 copies and electronic copy of the signed final **plat**, prepared by a Registered Land Surveyor in conformance with Appendix B-3 below, with a Planned Development Dedication Certificate appended. The final **plat** copies shall be included within the Final Detailed Plans set. The final **plat** cannot be recorded separately from the other elements of Final Detailed Plans unless a record-by date for the submission of the Final **Plat** was agreed to during the draft plan negotiations and included in the project's narrative. **No improvement location permit** shall be issued until the Final Detailed Plans are approved as per 2-28-10-d below, and recorded as per 2-28-11.
- (c) If public improvements or improvements for common usage are to be installed by the petitioner, he or she shall either:
- (1) complete the improvements upon approval of the Final Detailed Plans, or
 - (2) provide surety to the Area Plan Commission for these improvements (either post a performance bond, submit a certified check, submit an irrevocable letter of credit or submit a certificate of deposit per Appendix B-4 below) prior to approval of the Final Detailed Plans. **No improvement location permit** shall be issued until surety has been provided (Amend 15).

Improvements for common usage include landscaping, recreational components and all other facilities either located in common areas or designated for common **use**, and shall be included in the first phase per any negotiated and approved phase plan .

- (d) If the Commission finds the submission of Final Detailed Plans to conform to the Approved Preliminary Plan as adopted by the legislative body at the time of rezoning, the Commission shall adopt a resolution. After this resolution is adopted, the petitioner shall not submit an alternate or revised set of Final Detailed Plans for the same legal description, except under the circumstance described in 2-28-11-c below.
- (e) The adopted resolution shall be signed and dated by the President and Secretary of the Commission, and a copy shall be attached to the front of each set of approved Final Detailed Plans.
- (f) Adoption of a resolution shall neither constitute nor imply a participating jurisdiction's acceptance of any **street, easement** or park shown in Final Detailed Plans. Acceptance is only that of real property itself. The Commission may require notes to this effect.

2-28-11 RECORDING APPROVED FINAL DETAILED PLANS:

- (a) Before performing any **development**, construction or earth moving activity, or applying for **improvement location permits**, or filing any required **condominium** documents, the petitioner shall record approved Final Detailed Plans in the Office of the County Recorder.
- (b) The staff shall accompany the petitioner in the recording process. Final Detailed Plans shall first be stamped and dated at the County Auditor's office, with one set of plans given the County Auditor, along with any additional items required by that office. The remaining sets of Final Detailed Plans shall then be stamped, numbered and recorded at the County Recorder's office, and then distributed by the petitioner. The staff shall provide the petitioner a list of agencies to which the petitioner shall distribute sets of approved and recorded plans. The petitioner shall keep at least one set.
- (c) If the petitioner fails to record Final Detailed Plans for all or any part of the entire project within 30 days of the date of their approval, that approval expires. In order to continue, the petitioner then shall resubmit Final Detailed Plans for approval, as per 2-28-9 or 2-28-10 above.
- (d) Any construction that does not fully comply with recorded Final Detailed Plans will be subject to appropriate enforcement action as provided for in 6-3-1 below.

2-28-12 AMENDING RECORDED FINAL DETAILED PLANS:

- (a) A property owner may wish to propose changes to a PDRS, PDNR or PDMX project after Final Detailed Plans have been recorded. If these proposed changes are acceptable to the **Administrative Officer** and subsequently determined to conform to the Approved Preliminary Planned Development as adopted by the legislative body, and to constitute a minor modification

only, then the changes shall be recorded as an Amended Final Detailed Plan, as per 2-28-11 above.

- (1) This written determination of conformance and minor modification shall be made and signed by the appropriate **Administrative Officer**, and attached to each copy of the Amended Final Detailed Plans before recording with APC staff.
 - (2) A minor modification cannot include: any increase in residential **density**; any decrease in residential **density** of 10% or more; any increase in **building** dimension or change in **building** location other than within the defined **building envelope**; any change in landscaping other than increases, as determined appropriate by the administrative officer, in the amounts of approved landscaping, substitution of species or redesign with the same materials; any increase in the size of the signage approved with the Preliminary Plan; any change in type of land **use**; any change in the alignment or intersection of **streets**; or any change in restrictive covenants, or horizontal property ownership and owners' association documents regarding these items (Amend 15).
 - (3) Submission requirements and a timetable for seeking a determination of conformance and minor modification shall be set by each **Administrative Officer**. Amended Final Detailed Plans with minor modification shall be submitted to the APC once a determination of conformance from the **Administrative Officer** is received. Prior to recordation, APC staff will review the submission to ensure the submission meets all the requirements of this section. Any discrepancies with this section that are identified by APC staff shall be brought to the attention of the **Administrative Officer** who will work with the APC staff to resolve the discrepancies and coordinate with the petitioner to correct the submission prior to recordation.
 - (4) Changes beyond the scope of minor modification require rezoning.
 - (5) As the steward of a planned development project approved by the legislative body, the **Administrative Officer** is not compelled to approve a minor modification proposal simply because it meets the basic requirements of this section. Rather, in determining whether to accept a proposal that meets the basic requirements of this section, the Administrative Officer should consider whether the proposed changes bring the project into even greater conformance with the Commission's goals outlined in Section 2-28-1.
 - (6) Changes made to a planned development project as a result of a public infrastructure project or other similar public development project shall be permissible, subject to the approval of the **Administrative Officer**. The public agency responsible for the changes shall submit, on behalf of the planned development owner, the necessary plans and documentation detailing the changes to the planned development.
- (b) For any newly constructed **condominium** project or attached **zero-lot-line (ZLL)** project, the property owners shall provide exact measurements locating **buildings** and common **lot lines** after foundations have been put in

place. The revised *plat* reflecting exact locations needs to be approved and signed by the appropriate **Administrative Officer** as Amended Final Detailed Plans and recorded as per 2-28-11 above prior to the issuance of a Certificate of Occupancy.

2-28-13 LAPSED AND ABANDONED PLANNED DEVELOPMENTS:

- (a) An intended *condominium* conversion has *lapsed* if 2 years have passed since the date on which rezoning to PDCC was granted, and no Final Detailed Plans have been approved and recorded as per 2-28-9 and 2-28-11 above. Following such *lapse*, the Commission shall initiate a petition to rezone the property to its most recent non-planned development classification.
- (b) A planned development has been *abandoned* if 2 years have passed since the date on which rezoning to PDRS, PDNR or PDMX was granted, and no Final Detailed Plans have been approved and recorded for the project or any part or phase of it as per 2-28-10 and 2-28-11 above; or
- (c) Parts or phases of a planned development, for planned developments less than 20 acres in size, have been *abandoned* if 10 years have passed since the date on which rezoning to PDRS, PDNR or PDMX was granted, and only Final Detailed Plans for other parts or phases have been approved and recorded as per 2-28-10 and 2-28-11 above.
- (d) Parts or phases of a planned development, for planned developments equal to or greater than 20 acres in size, have been *abandoned* if 15 years have passed since the date on which rezoning to PDRS, PDNR or PDMX was granted, and only Final Detailed Plans for other parts or phases have been approved and recorded as per 2-28-10 and 2-28-11 above.
- (e) Prior to the effective date of a planned development becoming *abandoned* per Sections 2-28-13-c and 2-28-13-d the project's owner may request an extension of the approval of the Final Detailed Plans from the Commission or Executive Committee only after receiving a satisfactory endorsement from the Commission's staff and the **Administrative Officer** in consultation with the **Checkpoint Agencies**. The project's owner shall be responsible for organizing the meeting between the Commission's staff and the **Administrative Officer** and paying the applicable fee (the same fee charged for a minor modification). In the meeting, the project's owner shall present their request and explain why the extension is necessary in order to complete the project. The Commission's staff and **Administrative Officer** shall either jointly agree to the request as presented, recommend an alternative satisfactory to the project's owner or recommend against an extension.
 - (1) If the Commission's staff and the **Administrative Officer** jointly recommend against an extension the project's original abandonment date shall remain in effect. Notice of the recommendation against shall be sent in writing to the Commission and presented by the Commission's staff as an administrative matter during the Commission's next public hearing.

- (2) If the Commission's staff and **Administrative Officer** jointly recommend in favor of an extension, such endorsement shall be forwarded as new business to the Commission or Executive Committee's next public hearing and shall contain a new effective date for the planned development's abandonment. The new abandonment date cannot exceed 5 years from the date of the Commission or Executive Committee public hearing on which the project's extension approval will be heard.
- (3) Once approved, the project's owner cannot seek additional Final Detailed Plan approval extensions.
- (f) An **Administrative Officer** cannot issue an **improvement location permit** for an **abandoned** planned development or an **abandoned** part or phase of a planned development. An **abandoned** planned development or **abandoned** part or phase shall be rezoned (and if to a PD classification, comply with 2-28-11 above) before the property's owner once more becomes eligible to receive an **improvement location permit** at that location.
- (g) The Commission or any legislative body retains the authority to initiate a rezone of a PD-zoned property once such property has either **lapsed** or been **abandoned** or is found to be conforming to a non-PD **zone** per Section 2-28-13-h. Neither the Commission nor any legislative body shall initiate a petition to rezone any PD-zoned property until it has either **lapsed** or been **abandoned** or been found to be conforming to a non-PD **zone** per Section 2-28-13-h.
- (h) Applying only to a PD that is partially or completely constructed, if a PD that has not **lapsed** or been **abandoned** is found to be fully conforming, as determined by the **Administrative Officer**, to a non-PD **zone** as a result of a change to the **Unified Zoning Ordinance**, a rezone of the PD to the conforming non-PD **zone** may be sought. Such rezone petition must be accompanied by a written determination from the **Administrative Officer** detailing how the PD fully conforms to the non-PD **zone** being sought.
- (i) A petitioner, that is not the Commission or any legislative body, may initiate a rezone of a PD-zoned property to new PD **zone** regardless if the PD has **lapsed** or been **abandoned**. This petitioner may also initiate a rezone of PD-zoned property to a non-PD **zone** if the PD was never constructed, the PD has **lapsed** or been **abandoned**, or if the partially or completely constructed PD is found to be conforming to a non-PD **zone** per Section 2-28-13-h.

Section 3: Change **UZO Section 5-2-2 PLANNED DEVELOPMENTS** as shown below:

Planned developments are permitted only in these **zones**: PDRS, PDNR, PDMX, and PDCC, as per 2-26 above. PD zoning is used to foster innovative and diverse design in land development that is still consistent with both the adopted *Comprehensive Plan* and the intent of the *Unified Zoning Ordinance*. As such,

the requirements of Chapters 2 and 4 above do not apply to planned developments. All restrictions and regulations for a specific planned development are negotiated between the **APC**, the petitioner and participating checkpoint agencies, and thus are contained within the approved and recorded plan itself, having been arrived at prior to rezoning.

Section 4: Change **UZO Appendix B** as shown below:

B-2-2 FEATURES OF PD CONSTRUCTION PLANS:

Construction Plans for a PD shall include:

- (a) A cover sheet, labeled Final Detailed Plans, containing a sheet index, contact information for the developer and consultants, contact information for all public and private utility providers (in addition to space for the signatures required by Section 2-28-10-a), and the planned development's title and rezoning number.
- (b) A legend sheet, containing descriptions and definitions of all graphic features in the Final Detailed Plans.
- (c) If required by staff, a narrative/covenants sheet: If any conditions of approval require changes to any project narrative or covenant documents, such changes shall be incorporated into this sheet with final approval by APC staff and the Administrative Officer.
- (d) An existing conditions and demolition plan that meets the requirements of the Administrative Officer.
- (e) Plans and profiles showing existing and proposed elevations along center lines of all **streets**. Where a proposed **street** intersects an existing **street** or **streets**, the elevation along the center line of the existing **street** or **streets** within 100' of the intersection shall be shown, plus radii of all curves, lengths of tangents, and central angles of all **streets**. (Where steep slopes exist, and on request of the local government engineer, the **APC** may require that cross-sections of all proposed **streets** at 100' stations be shown on line at right angles to the center line of the **street**, at each **lot line**, and at points 25' inside each **lot line**.)
- (f) plans and profiles showing:
 - (1) location and typical cross-section of **street** pavements, including curbs and gutters, sidewalks, drainage **easements**, servitudes, **rights-of-way**, manholes and catch basins;
 - (2) location of street signs and traffic control signs;
 - (3) location, size and invert elevations of existing and/or proposed sanitary sewers, stormwater drains and fire hydrants, showing connection to any existing or proposed utility systems; and
- (g) location and size of all water or other underground utilities or **structures**;
- (h) location, size, elevation and other appropriate description of any existing facilities or utilities, including but not limited to: existing **streets**, sewers, drains, water mains, **easements**, water bodies, streams, **flood plains**, and other pertinent features within the proposed planned development;

- (i) topography, drawn to the same scale as the preliminary **plat**, with a contour interval of 2', referred to the latest National Geodetic Vertical Datum at the site;
- (j) all specifications and references required by the member government(s), including a site grading plan for the entire planned development;
- (k) a driveway permit for any state **road** entrance approved by the Indiana Department of Transportation, including detailed plans for this approved permit;
- (l) a driveway permit for any county **road** entrance approved by the County Highway Department, including detailed plans approved for this permit;
- (m) where required, plans for a temporary turnaround at the stub end of any **street**;
- (n) fire hydrants approved by the appropriate fire department, with plans for actual placement of hydrants approved by the jurisdiction in cooperation with its fire department;
- (o) an Erosion and Sediment Control Plan meeting the requirements of 327 I.A.C. 15-5 approved by the Tippecanoe County Soil and Water Conservation District (Amend 18);
- (p) a storm water management (drainage) plan approved by the appropriate drainage board or jurisdictional engineer (Amend 18);
- (q) an overall utility coordinating sheet approved and signed by the non-government utility companies (Amend 18);
- (r) name, address, title and signature of the Registered Engineer and Land Surveyor, plus date, including all revision dates (Amend 18).
- (s) A landscape plan in general conformance with the approved Preliminary Plans, subject to the approval of the APC staff and Administrative Officer.
- (t) For new construction or alterations of existing structures, architectural floor plans and exterior building elevations which shall be in general conformance with the approved Preliminary Plans and subject to the approval of the APC staff and Administrative Officer.
- (u) Any additional items APC staff or the Administrative Officer require that may include, but are not limited to, a maintenance of traffic plan, jurisdiction-specific landscaping standards, as well as all items required by the *Planned Development Submission Checklist*.
- (v) Per Section 2-28-10-b-2, the complete Preliminary Plans that were approved with the rezoning petition.

B-3 FINAL PLATS FOR PD SUBMISSIONS

B-3-1 GENERAL:

When a petitioner's PD creates one or more **lots**, (s)he must file a final **plat**, either as part of Final Detailed Plans, or after Final Detailed Plans have been approved. This **plat** shall be prepared in conformance with this section by a Registered Land Surveyor at a convenient scale not more than 100' to the inch. It shall show any conditions required by the PD rezoning, and any changes or additions required by government review of Construction Plans. If more than one

sheet is used, all sheets shall be numbered in sequence. All sheets shall measure 24" x 36".

B-4 SURETY REQUIREMENTS FOR PD SUBMISSIONS

B-4-1 GENERAL:

- (a) When the petitioner is to install public improvements or improvements for common usage as part of the planned development, he or she shall either:
 - (1) complete the improvement upon approval of the Construction Plans portion of Final Detailed Plans; or
 - (2) provide surety to the Area Plan Commission for these improvements (either post a performance bond, submit a certified check, submit an irrevocable letter of credit or submit a certificate of deposit per Appendix B-4 below) prior to *plat* approval (unless no plat is required, in which case prior to the approval of the Construction Plans). No *Improvement Location Permit* shall be issued until surety has been provided.
 - (3) Improvements for common usage include landscaping, recreational components and all other facilities either located in common areas or designated for common use, and shall be included in the first phase.
- (b) The petitioner shall make all such improvements at his or her expense, without reimbursement from the participating jurisdiction or any public improvement district within it, unless that public entity agrees to share those expenses. The signed agreement to share expenses shall be included in Final Detailed Plans.

B-4-2 ACCEPTABLE FORMS AND TERMS OF SURETY:

- (a) The petitioner may choose to provide surety in any of the following forms:
 - (1) a certificate of deposit;
 - (2) a performance bond;
 - (3) a certified check; or
 - (4) an irrevocable letter of credit.
- (b) Surety shall be equal to 100% of the completion cost of public improvements and/or improvements for common usage included in the final plat being submitted. The appropriate **Administrative Officer** shall approve the amount of surety the petitioner must provide.
- (c) Surety shall comply with all statutory requirements, and shall be satisfactory to **APC's** Legal Counsel in form, sufficiency and manner of execution. Examples of these forms are shown in B-4-3 through B-4-5 below.
- (d) If the selected form of surety is an Irrevocable Letter of Credit, the period of surety shall be approved by the **Administrative Officer** prior to issuance and delivery to the **APC**.

(e) The **APC** may at any time during the period of surety, accept a substitution of principal.

This ordinance shall be in full force and effect from and after its passage.

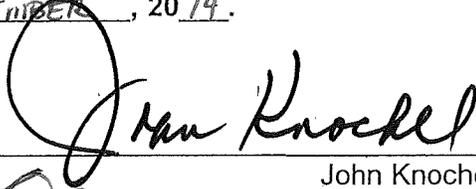
(Adopted And Passed) (Denied) by the Board of Commissioners of Tippecanoe County, Indiana, this 2nd day of SEPTEMBER, 2014.

VOTE:

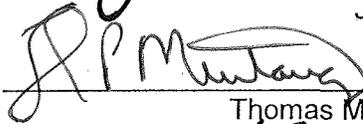
Yes

yes

Yes



John Knochel, President



Thomas Murtaugh, Vice President



David Byers, Member

ATTEST:


Jennifer Weston, Auditor

THE

Area Plan Commission

of TIPPECANOE COUNTY

20 NORTH 3RD STREET
LAFAYETTE, INDIANA 47901-1209

(765) 423-9242
(765) 423-9154 [FAX]
www.tippecanoe.in.gov/apc

SALLIE DELL FAHEY
EXECUTIVE DIRECTOR

August 21, 2014
Ref. No.: 14-236

Tippecanoe County Commissioners
20 N. 3rd Street
Lafayette IN 47901

CERTIFICATION

RE: UZO AMENDMENT #83--PLANNED DEVELOPMENTS:

This amendment includes changes to four sections of the ordinance; all of which are updates regarding the filing and reviewing of PD rezones.

Dear Commissioners:

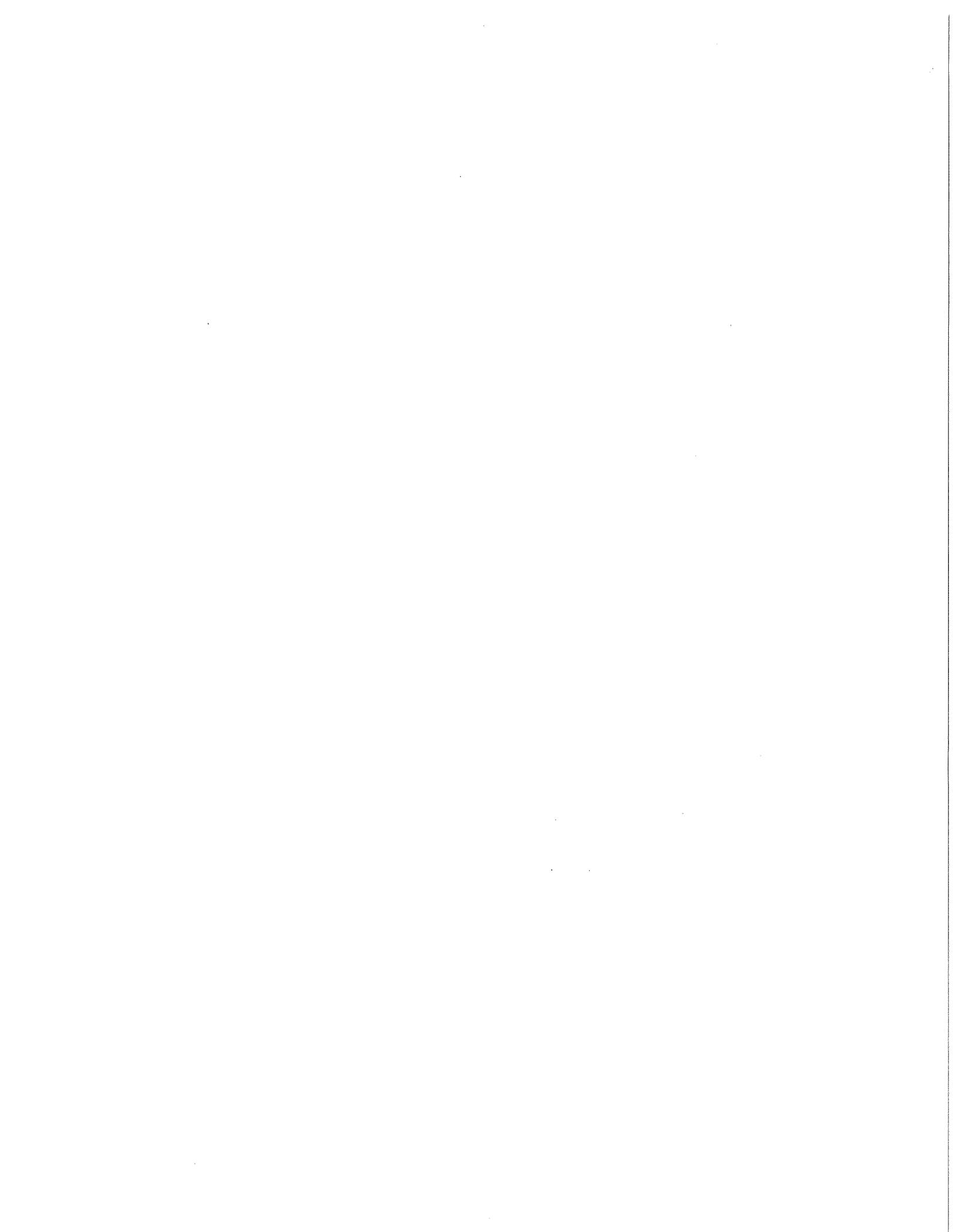
As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on August 20, 2014, the Area Plan Commission of Tippecanoe County voted 11 yes - 0 no on the motion to approve the enclosed amendment to the Unified Zoning Ordinance. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Tippecanoe County Commissioners that the proposed zoning ordinance amendment be approved.

Sincerely,


Sallie Dell Fahey
Executive Director

SDF/lmu

Enclosure: Staff Report and Ordinance



UNIFIED ZONING ORDINANCE AMENDMENT 83

PLANNED DEVELOPMENTS

STAFF REPORT
August 14, 2014

Unified Zoning Ordinance Amendment 83 Planned Developments

Staff Report
August 14, 2014

BACKGROUND and HISTORY

The purpose of these proposed revisions is to provide a general update of the PD ordinance and to address concerns about the PD process that have been raised over the years by staff, the Administrative Officers, the public and the development community. There are changes to Chapter 1: Definitions, Chapter 2: Planned Development Zones, Chapter 5: Supplementary Regulations and to Appendix B: Supplemental Requirements for Planned Developments. Additionally a checklist document (which is a separate item that is referenced in the draft ordinance) has been created to replace an outdated one which will assist in the submission process for the three stages of a planned development submission (Draft Plan, Preliminary Plan and Final Detailed Plan).

The principles guiding the following changes include:

1. Raise standards.
2. Increase efficiency in the negotiation process.
3. Expand opportunities for unique and desirable projects that meet the goals of the Commission as delineated in the "Intent" section.
4. Provide greater clarity to the submission, review and approval process.
5. Allow greater flexibility in various parts of the process that have, over the years, been determined to be unnecessarily strict and not serving the public interest.

Beginning over a year ago, a series of meetings with the Administrative Officers to create a draft ordinance culminated in three Ordinance Committee hearings (in April, May and June) where the public and legal community were invited to provide input to the committee regarding the proposed draft. Incorporating revisions coming out of these public hearings, with the third hearing on June 4, 2014, the Ordinance Committee unanimously recommended approval of the amendment to the Area Plan Commission.

Below is a brief summary of the changes. The full text can be found at the following link:

http://www.tippecanoe.in.gov/egov/documents/1407873283_97546.pdf

AMENDMENT SUMMARY

Section 1: 1-10-2 DEFINITIONS

Definitions for "Building Envelope" and "Building Footprint" have been added to support language concerning minor modifications to planned developments found in Section 2-28.

Section 2: 2-28 PLANNED DEVELOPMENT ZONES

There are multiple changes to the main body of the planned development ordinance including changes to submission requirements, minor modifications and abandonments.

Section 3: 5-2-2 PLANNED DEVELOPMENTS

This brief section has been updated to reflect the changes in Section 2.

Section 4: Appendix B SUPPLEMENTAL REQUIREMENTS FOR PD SUBMISSIONS

There are multiple changes to the Final Detailed Plans submission section which are designed primarily to clarify submission requirements for this last step of the planned development process.

STAFF RECOMMENDATION:

Approval