Notice of Public Hearing

Date: December 18, 2019
Time: 6:00pm
Place: County Office Building
    Tippecanoe Room
    20 North Third Street
    Lafayette, Indiana 47901

AGENDA

I. BRIEFING SESSION

II. APPROVAL OF MINUTES

Documents:

APC 11.20.2019 MINUTES.PDF

III. NEW BUSINESS

A. RESOLUTION #2019-04:
   A resolution determining that the Declaratory Resolution and the plans
   for the Dayton Economic Development Area No. 1 conform to the
   Comprehensive Plan for Tippecanoe County which includes the Town of
   Dayton.

Documents:

RESOLUTION 2019-04.PDF

IV. PUBLIC HEARING

A. SUBDIVISIONS

1. S-4883 WESTBAKER INDUSTRIAL SUBDIVISION (MAJOR-PRELIMINARY):
   Petitioner is seeking primary approval for a 5-lot industrial
   subdivision (plus one outlot) on 23.2 acres, located on the east side
   of Wabash Avenue / South Beck Lane, at the Old Romney Road
   intersection, in Lafayette, Fairfield 31 (NE) 23-4.

Documents:

S-4883 WESTBAKER INDUSTRIAL SUBDIVISION.PDF
B. REZONING ACTIVITIES

1. Z-2779 INDIANA BETA OF SIGMA ALPHA EPSILON HOUSE CORP. (R1 TO R1U):
   Petitioner is requesting rezoning of three single-family houses located at 424, 426, and 430 Littleton Street, (all of them adjacent to the west from the fraternity on the northwest corner of Quincy Street and North River Road) in West Lafayette, Wabash 20 (NW) 23-4.

   Documents:

   Z-2779 SIGMA ALPHA EPSILON HOUSE CORP..PDF

V. ADMINISTRATIVE MATTERS

VI. APPROVAL OF THE THURSDAY, JANUARY 2ND EXECUTIVE COMMITTEE AGENDA

   Documents:

   01022020 EXEC AGENDA.PDF

VII. DIRECTOR’S REPORT

VIII. CITIZENS’ COMMENTS AND GRIEVANCES

IX. ADJOURNMENT
The Area Plan Commission of Tippecanoe County Public Hearing was held on the 20th day of November 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.

CONTINUED CASES

Ryan O’Gara said there is one case to be continued: Z-2776 TAMMY APPELBAUM (GB to AW). The petitioner has requested a continuance to the December 18, 2019 meeting. All other cases are ready to be heard.

II. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the October 16, 2019 meeting. Carl Griffin seconded, and the minutes were approved by unanimous voice vote.

III. NEW BUSINESS

A. RESOLUTION RATIFICATION

RATIFICATION OF RESOLUTION #2019-03:
This resolution was adopted by the Executive Committee on November 6, 2019 regarding the Economic Development Plan for the Town of Battle Ground and Tippecanoe County Economic Development Area.
Gary Schroeder moved to hear and vote on the Ratification of Resolution #2019-03. Carl Griffin seconded.

Zach Williams said this is a legal cleanup item. Sallie had meant to get approval at the October APC meeting. The Executive Committee did hear and find that the resolution complies with the Comprehensive Plan. He asked that the full Commission ratify the decision made by the Executive Committee. Staff believes that the TIF and the proposed resolution comply with the Comprehensive Plan. He deferred all questions to staff.

The Area Plan Commission voted by ballot 11-Yes to 0-No to ratify RESOLUTION #2019-03.

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.

Carl Griffin seconded, and the motion carried by voice vote.

Gary Schroeder moved that Z-2776 TAMMY APPELBAUM (GB to AW) be continued to the December 18th, 2019 APC meeting at petitioner’s request. Carl Griffin seconded and the motion passed by unanimous voice vote.

A. SUBDIVISIONS

S-4881 MAUCH MAJOR SUBDIVISION (major-preliminary):

Petitioners are seeking primary approval for a two-lot subdivision on 14.0 acres located on the southeast side of Prophets Rock Road, just northeast of Burnetts Road and bordering the southwest side of I-65, in Tippecanoe 27 (SW) 24-4.

Gary Schroeder moved to hear and vote on S-4881 MAUCH MAJOR SUBDIVISION (major-preliminary). Carl Griffin seconded.

Don Lamb presented the zoning map, plat, and aerial photos. This is a two-lot major subdivision because the division rights have already been used for the parent tract. The lot is zoned R1 like most of the surrounding lots. There is flood plain to the southeast of the property. The 14-acre tract is occupied by a single-family home and an out building. Petitioner plans on creating two lots; Lot A will be 10.5-acres and Lot B will be 3.5-acres. Prophets Rock Road is considered a secondary arterial which requires additional right-of-way to be dedicated. Because this is a major subdivision, petitioner is required to widen their portion of Prophets Rock Road. Petitioner has filed a variance to waive that requirement. The Board of Commissioners recommended approval for that variance. The existing home is on a septic system and well. The Health Department has approved the new lot to be on septic as well. Staff is recommending conditional primary approval, contingent on the following:

Variances
1. A variance to waive the required half width pavement improvements to the Prophets Rock Road frontage. (USO 5.3-3-b)

Conditions
FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:
2. Except for the approved entrance, a "No Vehicular Access" statement shall be platted along the Prophets Rock Road right-of-way line.
3. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
4. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
5. All required building setbacks shall be platted.
6. The Regulatory Flood Elevation and Boundary for the Burnetts Creek Flood Plain shall be shown. It shall also be described and certified as specified in Unified Zoning Ordinance, Section 2-27-17.
7. The street addresses and County Auditor's Key Number shall be shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

8. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners

Kyle Betz, 625 South Earl Avenue, Lafayette, IN 47904, representative for petitioner, said they agree with staff recommendations and comments. He said he would be happy to answer any questions and respectfully requested approval.

Charles Bryan, 20 Burnetts Road, West Lafayette, IN 47906, said he owns the property adjacent to the petitioner. He asked if all the access will come off Prophets Rock Road.

Don Lamb said Lot B will share the existing driveway with Lot A.

The Commission voted by ballot 11-Yes to 0-No to approve VARIANCE #1 for S-4881 MAUCH MAJOR SUBDIVISION (major-preliminary).

The Commission voted by ballot 11-Yes to 0-No for conditional primary approval of S-4881 MAUCH MAJOR SUBDIVISION (major-preliminary).

The Commission voted by ballot 11-Yes to 0-No to permit bonding for S-4881 MAUCH MAJOR SUBDIVISION (major-preliminary).

B. REZONING ACTIVITIES

Z-2777 ALEXANDER BOWMAN (NB to R2U):
Petitioner is requesting rezoning of a house located between S. 21st and S. 22nd Streets, on the south side of Kossuth Street, specifically, 2113 Kossuth Street, Lafayette, Fairfield 28 (SE) 23-4.

Gary Schroeder moved to hear and approve Z-2777 ALEXANDER BOWMAN (NB to R2U). Carl Griffin seconded.

Ryan presented the zoning map, plat, and aerial photos. He said this is the fourth request for an NB rezone to a residential zone in this area. All other petitions were granted. There is history in this area of the former LB zone which allowed a residential mix with commercial. This was separated in the 1998 ordinance with the creation of the NB zone. Per the 1998 rezone, this area achieved NB status. The existing lot has a house and detached garage. All adjacent properties are zoned R2. R2U zoning is applicable even though the owner does not have any intention of creating a duplex. This rezone would legitimize this residential use for mortgage purposes. Staff is recommending approval.

Alexander Bowman, 2113 Kossuth Street, Lafayette 47905, petitioner, said he agreed with the staff report and would be happy to answer any questions.
Brenda Flick, 1712 S 22nd Street, Lafayette, IN 47905, said the alley that she shares with the petitioner is the only access. It would be impossible for a business to exist on this property because there is no on-street parking. She said she supports Mr. Bowman’s request for rezone.

The Commission voted by ballot 11-Yes to 0-No to recommend approval to the Lafayette Common Council for Z-2777 ALEXANDER BOWMAN (NB to R2U).

Z-2778 KENNETH L. JAMES & JANET I. JAMES (AW to I3):
Petitioners are requesting rezoning of a 11.078-acre tract and a 1.436-acre tract to legitimize the expansion of an existing nonconforming salvage yard located at 5608 SR 25S, in Wayne 23 (SE) 22-6. With Commitment.

Gary Schroeder moved to hear and approve Z-2778 KENNETH L. JAMES & JANET I. JAMES (AW to I3). Carl Griffin seconded.

Ryan presented the zoning map and aerial photos. He said there was an amendment to the legal description by approximately an acre to exclude a portion of the lot. There is a long history to this site which is currently zoned AW. There is a nonconforming junkyard that has been on this site since before the zoning ordinance was established in the county which has grandfathered the use. Research has indicated that the junkyard has expanded further than what existed in 1965. This rezone is an attempt to remedy the irregularity as the owners are interested in selling. The business existed on the 21-acre tract prior to the 1965 ordinance. The legal description captures the portion of the tract the petitioner would like to legitimize. There is an existing single-family home on the site. If the rezone is approved, the home would become nonconforming and would be a grandfathered use until it ceases. Traffic counts from 2016 indicate that over 6,000 vehicles pass the site daily. A Type C bufferyard, which is 30-feet wide, would be required where I3 zoning abuts AW zoning. The Administrative Officer has authority to decide if existing vegetation can account for the bufferyard. Staff is concerned about this site; it was originally recommended that the legal description be taken back much further to preserve the existing woods. The reduction in the legal description currently does not do that. If approved, nothing prevents the woods from being cut down and the junkyard being expanded. An I3 rezone off the sewer grid is not recommended by the Comprehensive Plan. Staff is recommending denial. If the rezone is approved, staff recommends approval of the commitment.

Roland Winger asked if the current site is zoned AW and if the two parcels highlighted are the only parts being rezoned I3.

Ryan O’Gara said that is correct. If there is a junk yard in the AW zoning, it would have to be moved to the I3 area.

Carl Griffin asked Ryan to elaborate on the benefit of the site being on the sewer grid as opposed to being off the sewer grid.

Ryan O’Gara said the site would be likely to contain fluids from leaking cars. This junkyard has existed for 56 years. It is logical to assume there would be environmental problems with an expansion.

Lisa Dullum asked what the long-term implications would be if this rezone was denied. She asked if the site would remain the same.
Ryan O’Gara said the site has a grandfathered use within the parameters. The owners could sell the site with the knowledge of the grandfathered use. If the new owner wanted to continue the use, they would be limited to the grandfathered area. Outside of the grandfathered area, where the junk yard has already been expanded, is a zoning violation that would need to be remedied. The Building Commission has held off on zoning violations until the APC and County Commissioners have weighed in.

Lisa Dullum asked if the purpose of the rezone is to expand the grandfathered area.

Ryan O’Gara said this is about eliminating the grandfathered status and legitimizing the use. Given the legal description, it would be an expansion of the junkyard use.

Carl Griffin clarified that APC staff suggested the legal description be smaller.

Ryan O’Gara said that is correct. There was a request to compress the legal description to save the existing wooded area.

Diana Luper asked why the grandfathered status continues to the next owner.

Ryan O’Gara said per the zoning ordinance, the use can stay if it is continued by any owner. Only once the use has ceased for a year will the grandfather status be lost.

Jackson Bogan asked if this rezone will flip one nonconforming use for another nonconforming use.

Ryan O’Gara said that is correct. The junkyard will be conforming, and the residential use will become nonconforming because the use existed before the rezone. The residential use would be allowed to continue until the use has ceased for a year or if the home is destroyed.

Tracy Brown said this is just an expansion of the junkyard use.

Ryan O’Gara said every part of the legal description could become a junkyard. The aerial photo shows where the junkyard is currently. The highlighted area on the map shows where the junkyard would be permitted to go.

Roland Winger clarified that the area surrounding the amended site would not be permitted to have the junkyard in it. The area in front of the road would not have the permitted use.

Jackson Bogan asked how large the strip of land is.

Ryan O’Gara said petitioner’s attorney would be able to answer that question.

Vicki Pearl clarified that the petitioner currently owns the whole site. She asked if by taking these lots and making them I3, if the rest of the area could still be used for the nonconforming use.

Ryan O’Gara said yes, if it were determined that the area contained a junkyard prior to 1965.

Lisa Dullum asked where the current grandfathered area is on the site.

Ryan O’Gara said it is in the current legal description.
Ryan Munden, 250 Main Street, Lafayette, IN 47902, representative for petitioner, said with respect to being on the sewer grid, this type of business is highly regulated by multiple agencies. There is no discharge from the property. Oil and antifreeze are collected on-site and disposed of off-site by hired contractors. If there is a spill of any fluid, IDEM must be contacted to investigate the area and conduct water sampling. According to the petitioner, there have not been any EPA or IDEM violations, or any spills reported to IDEM, to date. Other fluids like windshield washer fluid or gasoline are removed from the car while being processed and reused. As part of the IDEM and EPA regulations, this site must comply with a fluid management process that includes proper collection and off-site disposal. Regarding expansion, the reason the legal description was not reduced is because everything to the northwest is heavily wooded with large ravines. It would not be practical to expand the junkyard into this area. The area outside of the highlighted legal description is the grandfathered area. The area in the yellow is not the grandfathered area and must rezoned to allow for the junkyard use. In the commitment, the primary use has been limited. Petitioner does intend on selling the property and the business to a person that has been involved with its current operation. With respect to the neighbors to the south, a 30-foot buffer yard with vegetation has been required. This is the only salvage yard in Tippecanoe County. This business performs a valuable service to the community. He said that the petitioners are here to answer any questions. He respectfully requested approval.

Carl Griffin asked as a clarifying point, if the area between the yellow boxes is grandfathered and the area in the yellow boxes will be zoned I3.

Ryan Munden, 250 Main Street, Lafayette, IN 47902, representative for petitioner, said that is correct. The house that becomes nonconforming, if the business and property are sold, would continue to be occupied by Mrs. James. The new owners do not have any intention to live there.

Roland Winger asked if the home will remain in the AW zone.

Ryan Munden, 250 Main Street, Lafayette, IN 47902, representative for petitioner, said the petitioner’s son lives in the home in that area. There was a split the same day the legal description was created. Shortly after that, the correct legal description was created to exclude the petitioner’s son’s home.

Roland Winger asked if the home closer to the road would be Mrs. James primary residence. He asked if the land that is not able to be used is to the northwest of the yellow box.

Ryan Munden, 250 Main Street, Lafayette, IN 47902, representative for petitioner, said the land that is not able to be used is within the yellow box. The left half of the yellow box is wooded area.

Roland Winger asked why petitioner is seeking a rezone in the area if it cannot be used.

Ryan Munden, 250 Main Street, Lafayette, IN 47902, representative for petitioner, said to pay for a legal description to correct this problem is expensive. From a practical standpoint, this use could be expanded to these areas.

Lisa Dullum asked if there is a reason that the grandfathered area cannot be used. She asked why the use has expanded into the yellow areas.

Ryan Munden, 250 Main Street, Lafayette, IN 47902, representative for petitioner, said this is being done out of necessity. The use must stay out of the yellow area as of right now. People will come to drop off salvaged vehicles and will be turned away because there is not enough room. This is needed for the growth
Vicki Pearl asked to clarify that the staff report states this is a legal, nonconforming use for the 21 acres. She asked if the 21 acres is just middle the tract or the lot as a whole.

Ryan Munden, 250 Main Street, Lafayette, IN 47902, representative for petitioner, said the middle area between the two yellow boxes is the nonconforming area.

Vicki Pearl asked if the two yellow boxes are two separate parcels. If this is not separate parcels, how does part of it become conforming and the other remain nonconforming.

Tom Murtaugh said GIS maps have determined that in past maps, the space between the boxes is where the salvage yard was located.

Ryan Munden, 250 Main Street, Lafayette, IN 47902, representative for petitioner, said this is three separate parcels.

Tom Banes, 5722 SR 25 S, West Point, IN 47992, said he owns the adjoining property. He does not want a salvage yard next to his property. He did not think a salvage yard would be allowed in this area. He does not have a problem with the salvage yard expanding to the land next to the building on that lot. He does not want the salvage yard to adjoin his property. He does not have a problem with the current owner operating the business but is concerned with the new buyer not following the same rules.

Jackson Bogan asked what the required size of the bufferyard would be.

Ryan O’Gara said the bufferyard is required to be 30 feet.

Tom Murtaugh asked what the terrain is like in the area between the two properties. He said he thought it was steep and wooded in that area.

Tom Banes, 5722 SR 25 S, West Point, IN 47992, said there are trees in that area. He does not want anything falling or leaking onto his property. Not everyone conforms to the rules as they should. He said if the legal description was changed so the salvage yard was further away from his property, he would be happy with having the salvage yard next door. The current owner takes good care of the business, but he is concerned about the next owner.

Carl Griffin said he would feel better about this rezone if the use would not expand beyond where it currently is nonconforming.

Tom Murtaugh asked if the property was split where Mr. Banes had indicated, would the 30-foot bufferyard be required from the new line. He asked if the 30-foot bufferyard would be further to the north.

Ryan O’Gara said if the legal description is reduced, the bufferyard will be required from the new line in the I3 part of the property.

Tom Murtaugh asked what the length of the proposed new line would be to the adjoining property.

Ryan O’Gara said that would be roughly 200 feet.
Tracy Brown asked about the property lines being amended before the meeting. He asked if the map of the legal description has been changed. If it has not, would the new legal description address Mr. Banes issue.

Ryan O’Gara said no, the map presented is the most current legal description.

Jackson Bogan asked if the area in the yellow is conforming currently.

Ryan O’Gara said that area does not contain any of the grandfathered zoning.

Gary Schroeder clarified that the south line of the property would require a 30-foot bufferyard in the I3 zoning. He asked if the line was pulled back, the bufferyard would be pulled back as well. The bufferyard is between zones; not property owners.

Ryan O’Gara said that is correct. A bufferyard is between zones not property lines.

Carl Griffin said it appears there is already a bufferyard with the trees.

Ryan O’Gara said from the aerial photos, it seems most of the salvage yard that has spilled into that area does not fall within the required bufferyard.

Tom Murtaugh asked if it would be easy to reduce the legal description for rezoning purposes.

Ryan O’Gara said the case would possibly need to be continued.

Zach Williams said that would be the petitioner’s decision. The petitioner is fully briefed and ready for the hearing. The motion on the floor could possibly be amended, but that would be incredibly difficult. He deferred to Mr. Munden as to whether the amendment would be possible.

Ryan Munden said a change in the legal description would require a surveyor.

Zach Williams asked if this is a time sensitive issue.

Ryan Munden said this is a time sensitive issue.

Lisa Dullum said this started with a grandfathered area that over time expanded beyond where it was supposed to be. She said now we are making this an I3 zoned area to legitimize the areas not grandfathered. She said this use has strayed away from when it was established that this area should not be industrial. Now this is being legitimized as an industrial area. She said it feels like we are rewarding something that we did not originally want to happen.

Ryan O’Gara said the Comprehensive Plan would not recommend zoning a property off the sewer grid. The industrial zone would be problematic in this area; not the use.

Vicki Pearl said petitioner came to the Commission to do the right thing.

Tom Murtaugh said in their defense, they had been operating for many years.
Roland Winger said they were operating correctly to the extent that they were operating within the grandfathered area.

Tom Murtaugh said that is correct but when the business was started and had been operating for many years, they were conforming.

Roland Winger said until they expanded into the area that was not grandfathered.

Jackson Bogan said they only became nonconforming because of the Comprehensive Plan.

Ryan O’Gara said Tippecanoe County adopted a zoning ordinance and made this nonconforming. The Comprehensive Plan is a policy statement about how the community should be planned. It discouraged zoning industrial off a sewer grid.

Jackson Bogan asked if they were operating prior to 1965 as a junkyard.

Ryan O’Gara said that is correct. Prior to 1965 there was no zoning.

Vicki Pearl said petitioner was doing what they thought was right because they would not have known otherwise.

Ryan O’Gara said a nonconforming use is kind of a free for all. There is typically a state building code to abide by but there is no local ordinance.

Roland Winger asked if someone wanted to buy residential property to the north or to the south of this site, and the buyer saw the nonconforming use and asked if that use can expand, the answer would have been no.

Ryan O’Gara said when the ordinance was adopted in 1965, a boundary went around every grandfathered use in the unincorporated county. This is an example of one that has held over for decades.

Jackson Bogan asked if this case could be continued for thirty days if we asked for a new legal description.

Zach Williams said that would be up to the petitioner. They can decide if they would like to continue this case.

Jackson Bogan asked if the petitioner could come back in thirty days with an amended legal description.

Zach Williams said if the petitioner is able to get that done within thirty days and before the filing deadline for the next meeting.

Ryan Munden, 250 Main Street, Lafayette, IN 47902, representative for petitioner, said given the upcoming holidays, he is unsure they would be able to get a surveyor to get the legal description done before the filing deadline. This is not an easy legal description to create. The extent of the delay could ruin a potential sale with the new buyer.

Zach Williams asked Mr. Munden if petitioner would like to move forward with the vote this evening or if they would like to continue the case.
Ryan Munden, 250 Main Street, Lafayette, IN 47902, representative for petitioner, said he does not have a way to contact those that would be averse to the continuance. He said their position would be to move forward with the vote this evening.

Becky Risch, 13623 S 175 W, Romney, IN 47981, said she drove by this site today. The aerial view of the property is much different from the roadside view. It is not a wide property and she could not tell that there was a salvage yard on this property. If this was changed to I3, it would not be noticeable.

Gerald Beck, 5907 Poinsettia Drive, Lafayette, IN 47905, said he owns a small business that he took over from his grandfather that was ran out of a barn. Things are changing with businesses all the time. If someone has a car they need to get rid of, there is no where else in Tippecanoe County that can take it. This operation is highly regulated by IDEM. The original parcel is too small to run an entire business on.

Tom Murtaugh said he did not know this site existed; one can drive by it and not notice it. He said he has never received a complaint on this property.

Gary Schroeder said the petitioner started their business legally conforming and it has expanded over time. The zoning ordinance now requires I3. When the Comprehensive Plan was created, specific properties were not given the proper zoning. He asked where would one put this business otherwise. An I3 zoned piece of property with sewer and water is very expensive. A business that does not require sewer or water like this one, is probably in the right place. The commitments would keep the site salvage only and the site could not be changed to have any type of manufacturing. This is not perfect, but this is a reasonable accommodation.

Ryan Munden, 250 Main Street, Lafayette, IN 47902, representative for petitioner, said in terms of expansion, they are not able to go further to the left because of the terrain. Scrap cars are sold for $60 a ton. The margins are so thin that if they were to buy property in an I3 zone, near Nanshan or GE, they would be bankrupt in a month.

Tom Murtaugh asked if there is a creek that runs through the south of the property.

Ryan O'Gara said Flint Creek runs through that area.

Tom Murtaugh said the southern portion of this property has a rough terrain. It seems it would be impossible to expand into that area.

The Commission voted by ballot 10-Yes to 1-No to recommend approval to the Tippecanoe County Commissioners for Z-2778 KENNETH L. JAMES & JANET I. JAMES (AW to I3).

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<th>Yes-votes</th>
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<td>Roland Winger</td>
<td>Lisa Dullum</td>
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<td>Diana Luper</td>
<td>Jackson Bogan</td>
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<td>Tom Murtaugh</td>
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<td>Gary Schroeder</td>
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The Commission voted 11-Yes to 0-No to approve the commitment for Z-2778 KENNETH L. JAMES & JANET I. JAMES (AW to I3).

V. ADMINISTRATIVE MATTERS

Ryan presented the 2019 Tippecanoe County Student Rental Report. The survey had more participants this year. The population of the county is continuing to grow at the same rate. The university population has been spiking which will have ripple effects on the economy and development. There are currently 14,000 bed spaces and almost 45,000 students. Most of these students will live off campus. There is a low vacancy rate on campus. The report lists the vacancy rates for the census tract. There are certain tracts that come into the city limits that include some of the county. The West Lafayette data is tracking downwards because of the number of units that have been added with the new developments. Lafayette has grown at a rate that is not a cause for concern. There were three survey areas and then the data was lumped together by location. The C-Permit boundary was expanded into downtown Lafayette a few years ago. The second area is in West Lafayette outside of the C-Permit area. The third area is outside of the C-Permit area in Lafayette. There have not been great fluctuations as the trends have remained consistent. There was more response from Lafayette than last year. The conclusion includes land use policies that are in place. Staff has been discouraging multi-family developments in the areas that are geared towards students. Since the last of three high-rises went up, there has been a pause in development in the downtown core area of West Lafayette. There are more developments finishing up but do not have the magnitude of the high-rises. The City of West Lafayette was able to obtain bedroom vacancies data for the large projects that just opened. Only half of the eight major developments achieved 80% or more occupancy as of early into the school year. This data supports the pause in major developments. It makes sense to let the market adjust from the major influx of rental units. As long as the university population keeps growing, both cities will benefit from absorbing the demand for more housing.

Roland Winger asked if there is anyway to assess what the net effect was on the existing units not listed in the addendum. The data in the main report is before the opening of the large developments.

Ryan O’Gara said what we do not know yet, but that information will be listed in the report next year. After letting the school year run its course, data about occupancy will be available next summer.

Roland Winger asked if there was any anecdotal information that would indicate any effect on existing units.

Ryan O’Gara said he has not heard anything directly. Rent has decreased because there are more options available now.

Erik Carlson said the city has heard from developers that lenders are not interested in lending for large scale projects for the city because of the saturation of new units. There has been a significant decrease in rents according to aggregate studies conducted by developers.

Roland asked if the decrease is in total rental revenue or prices.

Erik Carlson said the decrease has been in prices. Most places are wanting to fill vacancies rather than increase prices. He thanked the APC staff for putting together the report.

VI. APPROVAL OF THE NOVEMBER EXECUTIVE COMMITTEE AGENDA

There are no new subdivisions this month.
VII. APPROVAL OF THE DECEMBER BZA AGENDA

Gary Schroeder moved that the following petitions be placed on the December 4, 2019 Area Board of Zoning Appeals Public Hearing agenda:

BZA-2027 Scott Jones; and
BZA-2028 Dave Helton and Associates, Inc.

Carl Griffin seconded and the motion carried by voice vote.

Gary Schroeder moved that the following BZA petitions for Special Exception do not substantially adversely affect the Comprehensive Plan:

BZA-2027 Scott Jones; and
BZA-2028 Dave Helton and Associates, Inc.

Carl Griffin seconded and the motion carried by voice vote.

VIII. DETERMINATION OF VARIANCE – AREA BOARD OF ZONING APPEALS

None.

IX. DIRECTORS REPORT

None.

X. CITIZEN COMMENTS AND GRIEVANCES

None.

XI. ADJOURNMENT

Gary Schroeder moved to adjourn.

The meeting adjourned at 7:19 p.m.

Respectfully submitted,
Chyna Lynch
Recording Secretary

Reviewed by,
Sallie Dell Fahey
Executive Director
On November 20, 2019, the Dayton Redevelopment Commission adopted Resolution No. 2019-1 creating the 38@65 Economic Development Area (EDA) and approving the Economic Development Plan for the area. On December 16, 2019, the Board of County Commissioners adopted Resolution 2019-34-CM which assigned an area of Tippecanoe County to the Dayton Redevelopment Commission for the allocation of property tax proceeds from the TIF district and for the purpose of economic development. The map of the 38@65 EDA is attached to this report.

The redevelopment commission submitted its resolution and plan to the Area Plan Commission as required. The plan commission is now being asked to determine whether the resolution and plan conform to The Comprehensive Plan for Tippecanoe County. The Area Plan Commission must issue its written order - Resolution 2019-04 - approving or disapproving the redevelopment commission’s resolution and plan. The redevelopment commission may not proceed with its plans until the approving order of the Area Plan Commission is issued and approved by the Town Council of the Town of Dayton.

PROJECT DESCRIPTION
The economic development area is focused on the land east of I65, north of SR38 and south of Haggerty Lane (CR 200S) and west of Yost Drive at its south end and west of Dayton Road at its north end. The one exception is additional land between Hine Drive and the NS rail line lying on both sides of SR 38 and east of Yost Drive. The current north corporate boundary of the town is located midway between SR 38 and Haggerty Lane. All the land north of the corporate boundary between I65 and Dayton Road is in unincorporated Tippecanoe County and represents the county portion of the EDA-TIF. The town intends to annex this portion of the EDA but must wait until 2020 because no annexations may occur in the year prior to a decennial Census.

The south end of the area along SR 38 supports primarily highway related businesses – fueling stations, a general merchandise store and convenience stores associated with gas stations. North of Hine Drive properties on both sides of Yost Drive already support industrial uses or are being prepared for industrial uses. Land in the county portion of the EDA is mostly farmed.

The EDA Plan seeks to “further encourage retail and commercial development in the Area, including the location of a trucking company facility, the construction of a building by TDS Automation, LLC to provide computer programming, data processing and other computer-related services and the construction of a road, including a pedestrian bicycle trail and sidewalk and extension of utilities.”

The road mentioned in the quote above is Yost Drive. It currently dead ends at Hine Drive, but will be extended to Haggerty Lane as a Federal-aid road project with funds managed by the Area Plan Commission in its capacity as the Metropolitan Planning Organization. Federal funds for preliminary engineering are being used by the town, the consultant has been selected and
the contract signed. Most other roads needed to serve the EDA should be constructed by land developers as part of the land division process.

The plan lists the following capital improvements as part of the economic development of the area:

- Site preparation, excavation and drainage
- Construct or reconstruct and extend sewer lines and/or sewer treatment facilities
- Construct or reconstruct and extend water lines
- Construct or repair water towers
- Construct or reconstruct water treatment systems
- Construct or reconstruct storm water drainage systems
- Construct or reconstruct buffer zones/mounding
- Construct or reconstruct beneficial environmental projects
- Purchase or lease fire equipment, which will serve the Area
- Parking and lighting for parking areas
- Equipment that promotes economic development (subject to useful life and financing issues)
- Construct or reconstruct facilities to house electronics and the installation of fiber optic cable
- Construct or reconstruct roads
- Soil reclamation
- Alternative energy infrastructure
- Construction, reconstruction and/or extension of any and all other utility infrastructure
- Construct or reconstruct culverts
- Construct or reconstruct a public park
- Construct or reconstruct a pedestrian bicycle trail
- Construct or reconstruct sidewalks
- Construct or reconstruct utility lift stations.

The EDA plan also states that the Redevelopment Commission presently has no plans to acquire real property.

Dayton water and sanitary sewer (water supplied and sanitary sewer treated by the City of Lafayette) will serve the entire EDA-TIF area. Some sites are already served, other sites can be served following infrastructure improvements. Needed public improvements will aid economic development of the area.

**COMPLIANCE WITH THE COMPREHENSIVE PLAN FOR TIPPECANOE COUNTY**

Like the EDA-TIF, the *Dayton and Vicinity Land Use Plan* includes the incorporated Town of Dayton and additional land surrounding the town in unincorporated Tippecanoe County. Two amendments to the comprehensive plan for Dayton have been adopted since the 1981 *Comprehensive Plan for Tippecanoe County*. The first, in 1987, was in response to the announcement of the SIA plant to be constructed on the west side of I 65. The second and the one reviewed for this report titled, *A Second Amendment to the Adopted Land Use Plan for Dayton and Vicinity*, was adopted by the Area Plan Commission on October 16, 1996 and by both the town (Resolution 13-96) and the county commissioners (Resolution 96-13-CM) on November 4, 1996. The plan envisions a mix of retail shopping and highway related business closest to SR 38 with office/research park and light industrial between I 65 and Yost Drive. A portion of this area was also designated for new multi-family development. On the east side of Yost Drive the plan calls for a town park and low and urban density residential abutting the
existing town. In the years since the plan amendment was adopted, opportunity knocked on Dayton’s door in the form of MacAllister Rentals, a company renting heavy equipment. The company expanded several times, each expansion reinforcing the heavy industrial nature of the south end of the EDA and leading to additional successful rezones along I65 and Yost Drive.

Because some of the plan’s usefulness is diminished with the area’s changes in land use, the Town Council asked APC and its staff to revisit the land use plan for Dayton in the 38@65 EDA-TIF. This land use planning activity will begin in 2020 following the annexation of the county portion of the EDA.

The **2045 Metropolitan Transportation Plan: The Future of Mobility** (MTP) includes more than 25 years of transportation projects all designed to improve the community, add infrastructure to aid economic development, and improve quality of life with sidewalks, trails, bicycle and transit facilities. Projects from the MTP located in this economic development area include the improvement and extension of Yost Drive north to Haggerty Lane. That project was moved from the MTP to the Transportation Improvement Program (TIP) for PE funding in FY2020 and right-of-way in FY2024. Construction funds will be added in the next 5-year TIP spanning FY2025 to FY2029. The engineering contract for PE was let and work is beginning.

Now that sewer, water and other essential infrastructure will become available to the entire 38@65 EDA, the *Comprehensive Plan* elements and future updates can respond to those changes. Staff is satisfied that the Declaratory Resolution and Economic Development Plan conform to all elements of the adopted *Comprehensive Plan for Tippecanoe County*, including the *Dayton and Vicinity Land Use Plan* (including its 2020 update), and the **2045 Metropolitan Transportation Plan: The Future of Mobility**.

**STAFF RECOMMENDATION**

Approval
Map and Parcel list of 38@65 Economic Development Area
RESOLUTION NO. 2019-04

ORDER OF THE AREA PLAN COMMISSION OF TIPPECANOE COUNTY
DETERMINING THAT A DECLARATORY RESOLUTION AND
ECONOMIC DEVELOPMENT PLAN APPROVED AND ADOPTED BY THE
DAYTON REDEVELOPMENT COMMISSION CONFORM TO THE PLAN
OF DEVELOPMENT OF THE TOWN AND APPROVING SAID
RESOLUTION AND PLAN

WHEREAS, the Dayton ("Town") Redevelopment Commission ("Commission") on the
20th day of November, 2019, initially approved an Economic Development Plan ("Plan") for
38@65 Economic Development Area ("Area") in the Town and adopted a Declaratory
Resolution ("Resolution") declaring that the Area is an economic development area and subject
to economic development activities pursuant to IC 36-7-14 and IC 36-7-25 and all acts
supplemental and amendatory thereto ("Act");

WHEREAS, a portion of the Area is within the jurisdiction of the Tippecanoe County
("County") Redevelopment Commission ("County Area") and is contiguous with the portion of
the Area within the jurisdiction of the Commission;

WHEREAS, IC 36-7-25-4 authorizes the County and the Commission to jointly
undertake economic development projects in contiguous areas;

WHEREAS, the Board of Commissioners of the County did on December 16, 2019
assign the County Area to the Commission for the purpose of economic development and the
allocation of property tax proceeds and authorized the Commission to take all action in the Area
that could be taken by a redevelopment commission in an allocation area under IC 36-7-25-4; and

WHEREAS, the Act requires approval of the Declaratory Resolution and the Plan by the
Area Plan Commission of Tippecanoe County ("Plan Commission");

NOW, THEREFORE, BE IT ORDERED BY THE AREA PLAN COMMISSION OF
TIPPECANOE COUNTY, AS FOLLOWS:

The Declaratory Resolution and the Plan for the Area conform to the plan of development
of the Town.

The Declaratory Resolution and the Plan for the Area are in all respects approved.

The Secretary of the Plan Commission is hereby directed to file a copy of the Declaratory
Resolution and the Plan with the permanent minutes of this meeting.
Passed by the Area Plan Commission of Tippecanoe County, this 18th day of December 2019.

AREA PLAN COMMISSION
OF TIPPECANOE COUNTY

____________________________
Thomas P. Murtaugh, President

ATTEST:

____________________________
Sallie Dell Fahey, Secretary
S-4883
WESTBAKER INDUSTRIAL SUBDIVISION
(major-preliminary)

STAFF REPORT
December 12, 2019
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioner and owner, Tecspan Concrete Structures LLC by C. Jeffrey Mahan (represented by attorney Dan Teder and Clem Kuns of TBIRD Design Services) is seeking primary approval for a 5 lot industrial subdivision (plus one outlot) on 23.2 acres, located on the east side of Wabash Avenue / South Beck Lane, at the Old Romney Road intersection, in Lafayette, Fairfield 31(NE)23-4.

AREA ZONING PATTERNS:
This site is zoned I3 (Industrial), as are properties to the north and west (across Wabash Avenue). The south half was rezoned from R1 to I3 this past July. Adjoining along the northeast boundary is land zoned PDRS (Planned Development – Residential). R1 zoning abuts along the south of this stairstep shaped site. To the southeast is a large R2 zoned property. GB (General Business), NB (Neighborhood Business), R3 and R1 zoned lots are located to the southwest across Beck Lane.

AREA LAND USE PATTERNS:
The site is largely open with a number of buildings and structures related to the current occupying businesses. An asphalt and concrete paving company (American Paving and Asphalt) currently occupies most of proposed Lot 3 (southwest corner of the site). An existing temporary batch plant (Sagamore Ready Mix) occupies proposed Lot 4 and part of Outlot A (northwest corner of the site). A cell tower is located in the southeast corner of proposed Lot 2 (one of the southeast corners of the site).

Just off-site in the wooded area to the north is the Norfolk Southern railroad tracks. To the east is the newest Lafayette city park - Crosser Sports Complex (currently under construction). Single-family homes border on the south. To the west, between Beck Lane and Old Romney Road are a few single-family homes and an apartment complex. To the west, across Wabash Avenue are the Waste Management-Lafayette Hauling business and St. Mary's Cemetery.

TRAFFIC AND TRANSPORTATION:
The Thoroughfare Plan classifies Wabash Avenue as an urban secondary arterial, which requires a 35-ft half width right-of-way. The existing Wabash Avenue right-of-way meets this standard. South Beck Lane is classified as an urban non-residential local road, which requires a 30-ft half width right-of-way. The existing South Beck Lane right-of-way is 25-ft. The additional 5-ft of required right-of-way has been shown for dedication.
There will be one new cul-de-sac constructed on-site to serve the five lots in this subdivision. Six proposed street names have been approved for use -- Spangler Circle, Runner Place, Pedigo Place, Boatman Place, Shortcut Place and Citation Circle. Petitioner will need to choose one from this list to label the cul-de-sac in the construction plans and on final plat.

There are existing entrances from Wabash Avenue and Beck Lane that are intended to be maintained for Lot 3 and Outlot A. The Unified Subdivision Ordinance (USO) requires improvements to these existing roads when any lot in the subdivision will have direct access (USO Section 5.3-3-b). Two subdivision variances were filed with this application to waive the required improvements to Wabash Avenue and Beck Lane. On November 19th, these variance requests were heard by the Lafayette Board of Public Works and Safety and recommended for approval.

There is a private road (known as Walker Lane) that runs east and west along the southern boundary, connecting Beck Lane to the publicly maintained Walker Lane. This plat will dedicate right-of-way for this section of road to allow it to be taken into the City’s street system.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
City sanitary sewer and water mains will be extended into the subdivision along the new cul-de-sac from existing mains along Wabash Avenue. Stormwater will be directed to a new detention pond in Outlot A.

CONFORMANCE WITH UZO REQUIREMENTS:
All required building setbacks appear to be shown correctly. This past June and August, the Lafayette Division of the Area Board of Zoning Appeals granted variances that eliminated the required bufferyards along the bordering PDRS, R1 and R2 districts to the east and south (Cases #2019-19 and #2019-23). Instead of the ordinance required bufferyards, alternative landscaping and a sound wall were approved by the Board.

A commitment recorded with the R1 to I3 rezone excludes a number of by right industrial uses (refuse systems, trash transfer stations, junk yards, etc.).

IMPROVEMENTS AND PERFORMANCE BOND:
Petitioner has requested permission to bond, in lieu of completing all of the required public improvements prior to the submission of the final plat.

STAFF RECOMMENDATION:
Conditional primary approval, contingent on the following:

A. Variances
   1. A variance to waive the required half width pavement improvements along the Beck Lane frontage. (USO Section 5.3-3-b)
2. A variance to waive the required half width pavement improvements along the Wabash Avenue frontage. (USO Section 5.3-3-b)

B. Conditions

1. In the construction plans and on the final plat, the cul-de-sac shall be labeled with one of the approved street names -- Spangler Circle, Runner Place, Pedigo Place, Boatman Place, Shortcut Place or Citation Circle.

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

2. The sanitary sewer, water and drainage plans shall be approved by the Lafayette City Engineer.

3. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. The assigned street addresses for each lot shall be included. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.

4. The landscaping and sound wall required in Lafayette ABZA variance cases #2019-19 and #2019-23 shall be shown.

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

5. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.

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

7. All required building setbacks shall be platted.

8. The street addresses and County Auditor’s Key Number shall be shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

9. The purpose, ownership and maintenance of Outlot A shall be specified.
Z-2779
INDIANA BETA OF SIGMA ALPHA EPSILON HOUSE CORP.  
(R1 to R1U)

STAFF REPORT  
December 12, 2019
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioner, with consent of the owners and represented by attorney Joseph Bumbleburg of Ball Law, is requesting the rezoning of three properties on Littleton Street (with three separate owners; one being the fraternity) from R1 to R1U. No new development is planned. If approved, a portion of the rear yard from the three properties will be transferred to the adjacent fraternity property to the east. The R1U zoning is needed because the land area for these three properties will fall below the minimum lot size for R1, which is 10,000 square feet. The minimum lot size in R1U is 4,000 square feet. The three properties in the request are commonly known as 424, 426 and 430 Littleton Street, West Lafayette, Wabash 20 (NW) 23-4.

ZONING HISTORY AND AREA ZONING PATTERNS:
The earliest zoning maps available show this property with R1 zoning. A large expanse of R1U zoning is adjacent to the north and west across Littleton. R1 zoning is adjacent to the east and occupies much of the area on the west side of North River Road (the fraternity is a long-standing nonconforming use in the R1 zone). PDRS zoning is south across Quincy Street.

Three variances were granted to the fraternity adjacent to the east in 2016 to reduce the no-parking setback, reduce the number of parking spaces and to reduce the size of some parking spaces (BZA-1945).

AREA LAND USE PATTERNS:
The lots in this request, located in the New Chauncey Local Historic District, contain three historic homes as identified in the “Tippecanoe County Interim Report” built between 1905 and 1920. The homes appear to be single-family and two-family rentals. Land to the north and west also contains single-family homes but most are owner-occupied. Land adjacent to the east contains the Sigma Alpha Epsilon fraternity house and the Crestview North apartments are located south across Quincy.

TRAFFIC AND TRANSPORTATION:
Land in this request has frontage on Littleton Street, which is classified as an urban local road.

Parking for the adjacent fraternity has historically been underserved with only 29 spaces located on-site (by a parking variance, BZA-1945). If this rezone is approved and the lots
are reconfigured, additional land will exist for the fraternity to provide much needed parking on-site and reduce the need for on-street parking in the area. According to petitioner’s representative, the reconfigured lots will also improve access to the fraternity for police and fire responders.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
City utilities serve the area. No buffering is required between these two residential zones.

STAFF COMMENTS:
This request is somewhat of a lateral change from one-single family zone to another single-family zone, with the main difference being the minimum lot size required. The zoning change would not result in any additional homesites being created. Instead, it would allow the three lots in this request to be reduced in size. The excess land would then be sold and attached (by deed with Exemption E language) to the adjoining fraternity property creating area for an expanded parking lot.

Allowing these 3 lots along Littleton to be reduced in size would afford the fraternity additional land for badly needed parking. Access for emergency responders to the fraternity will also be improved. This property is on the eastern edge of a large expanse of R1U zoning and staff can support this 3-lot expansion of the adjacent R1U zone.

STAFF RECOMMENDATION:
Approval
EXECUTIVE COMMITTEE
NOTICE OF PUBLIC HEARING

DATE .......................................................... THURSDAY, JANUARY 2, 2020
TIME ........................................................................... 4:30 P.M.
PLACE ....................................................................... COUNTY OFFICE BUILDING
.............................................................................. 20 N. 3RD STREET
.............................................................................. LAFAYETTE, IN 47901

(TENTATIVE)

AGENDA

I. APPROVAL OF MINUTES
II. NEW BUSINESS
III. PUBLIC HEARING
IV. APPROVAL OF THE JANUARY APC PUBLIC HEARING AGENDA
V. APPROVAL OF THE JANUARY ABZA PUBLIC HEARING AGENDA
VI. DETERMINATION OF VARIANCES
  A. Lafayette Division of the Area Board of Zoning Appeals
VII. REVIEW AND APPROVAL OF THE DECEMBER BUDGET REPORT
VIII. OTHER BUSINESS
IX. ADJOURNMENT