APC

Planning for Tippecanoe County, Lafayette, West Lafayette
Battle Ground, Clarks Hill, and Dayton

David Hittle, AICP, Executive Director

Area Plan Commission of Tippecanoe County, Indiana

March 16, 2023
Ref. No.: 2023-043

Tippecanoe County Commissioners
20 North 3rd Street
Lafayette, Indiana 47901

CERTIFICATION

RE: **UZO AMENDMENT #107**
This amendment would update and amend the planned development portion of the ordinance.

Dear Commissioners:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on March 15, 2023, the Area Plan Commission of Tippecanoe County voted 12 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,

David Hittle
Executive Director

DH/kl

Enclosures: Staff Report & Ordinance

CC: Mike Wolf, Building Commissioner

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APC

Unified Zoning Ordinance Amendment #107
PLANNED DEVELOPMENTS AMENDMENT

Staff Report
MARCH 9, 2023

BACKGROUND:

Previously amended in 2014, the planned development ordinance (Chapter 2-28) of the UZO has been a very popular zoning tool for establishing unique and site-sensitive residential, non-residential, and mixed-use developments in our community. Given its extensive use over the years, the staffs of our member jurisdictions (via our Administrative Officer's meetings) have routinely offered recommendations for amendments to better streamline the process and provide greater flexibility to developers utilizing this type of zoning. This comprehensive revision of the planned development ordinance incorporates these ideas.

Among them, include:

- Creating a pathway for a "Change in Use Planned Development", wherein an existing developed PD can pursue an expedited rezone approval path to change its allowable uses within the context of its existing development.
- Simplifying and updating the submission process to conform with recent changes to the Bylaws.
- Extending PD-rezone petition expiration and Final Detailed Plan abandonment periods.
- Allowing for an unlimited number of Final Detailed Plan approval extension requests.

The Ordinance Committee at its February 1, 2023 meeting recommended approval of this amendment.

STAFF RECOMMENDATION:

Approval

ORDINANCE NO._____

**AN ORDINANCE AMENDING CHAPTER 2
OF ORDINANCE NO._____
BEING THE UNIFIED ZONING ORDINANCE
OF TIPPECANOE COUNTY.**

Be it ordained by the (County Commissioners of Tippecanoe County, Indiana; the Common Council of the City of Lafayette, Indiana; the Common Council of the City of West Lafayette, Indiana; the Town Council of the Town of Battle Ground, Indiana; the Town Council of the Town of Dayton, Indiana; and the Town Council of Clarks Hill, Indiana), that Ordinance No._____, being the Unified Zoning Ordinance of Tippecanoe County is hereby amended as follows:

Section 1: Change **UZO Section 2-28 PLANNED DEVELOPMENTS**:

2-28-1 INTENT: (Amend 83)

(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: (Amend 83)

(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 below, PD zoning is mandatory for any new ***condominium*** construction or ***condominium*** conversion.

2-28-3 CLASSIFICATION OF PLANNED DEVELOPMENTS: (Amend 83)

(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) Change of Use Planned Developments: For existing PD ***zones*** that have not either ***lapsed*** or been ***abandoned***, a new PD rezone may be sought to augment and/or otherwise change the ***uses*** permitted in their PD ***zone*** while adhering to the development standards recorded in that PD ***zone's*** most recent Final Detailed Plans (as amended by minor modification, if applicable). Given that the only change being sought with this type of PD rezone is a change in the permitted ***uses*** and not the Construction Plans and Final Plat

of the most recently recorded Final Detailed Plans, Change of Use Planned Developments follow a more expedited track to approval, as is specified in this section.

(c) 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: (Amend 83)

(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 the Intent section and bring, unless the proposal is a Change of Use Planned Development, 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 concerning a Planned Development that is not a Change in Use Planned Development 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 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; and
(8) a proposed schedule for the rezoning process.

(e) Discussion at this meeting concerning a Planned Development that is a Change in Use Planned Development shall include:

(1) The reason for the request;
(2) A comparison document that juxtaposes the uses currently permitted in the PD zone with those uses being proposed with the Change of Use Planned Development rezone proposal;
(3) An explanation of how the proposed change of use will not negatively impact the existing Planned Development and/or surrounding neighborhood including, but not limited to, traffic impacts, parking impacts, and noise.

(f) 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 before clearing the proposal for draft plan submission.

(g) 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: (Amend 83)

(a) With the conclusion of the pre-submission conference stage, or to initiate a PDCC action, the petitioner may file a rezoning request to one of the PD classifications with draft plans. There is no deadline for such submissions.

(b) The initial submission, for a PD rezone petition that is not a Change of Use Planned Development submission, shall fulfill all the requirements for rezone petitions in the By-Laws of the Area Plan Commission and also contain the following:
(1) a non-refundable processing fee as set by the Commission;
(2) 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;
(3) 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.
(4) 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
(5) signatures of all required checkpoint agencies, or post office receipts of certified mailing, indicating receipt of one set each of the items listed as

(2) through (4) above.

(c) The initial submission, for a Change of Use Planned Development submission, shall fulfill all the requirements for rezone petitions in the By-Laws of the Area Plan Commission and also contain the following:
   (1) a non-refundable processing fee, as set by the Commission;
   (2) a document providing recordation information for the most recent Final Detailed Plans for the site (including all minor modifications, if applicable), a list of the proposed uses for the site, and a statement tying the list of the proposed uses to the most recent recorded Final Detailed Plans (including all minor modification, if applicable);
   (3) signatures of all required checkpoint agencies, or post office receipts of certified mailing, indicating receipt of one set each of item (2) above;

(d) 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 the Bylaws of the Area Plan Commission. 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 & 84).

2-28-6 REQUIRED REVIEW (DRAFT PLAN) MEETING: (Amend 83)

(a) The Commission's staff shall determine if the petitioner's submission is complete within five business days of the day after the submission is made. 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. If the submission is found to be incomplete, the staff shall provide the petitioner a written statement detailing its deficiencies. A Draft Plan Meeting shall be scheduled by staff once all deficiencies have been remedied.

(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. With the conclusion of the discussions, the petition shall be cleared by APC staff to submit Preliminary Plans.

2-28-7 PRELIMINARY PLAN APPLICATION REQUIREMENTS: (Amend 51 & 83)

(a) Following the Draft Plan Meeting stage, the petitioner shall submit a Preliminary Plan no later than 30 days prior to a scheduled Area Plan Commission 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 if the comments raised during the negotiation have been addressed and whether minor corrections can be made, if possible and needed, before the case is heard 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, 3 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, 3 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, 3 copies and electronic copy of any covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to Covenants and Maintenance provisions 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, the staff is free to recommend either denial or amendment in their report.

(c) If the petitioner fails to submit a complete Preliminary Plan application within 6 months after the date of the last Draft Plan Meeting or within 6 months of the submission date and no Draft Plan Meeting was held, the rezoning petition shall be void. If the petitioner wishes to continue with the project, a new pre-submission meeting must be scheduled.

2-28-8 PRELIMINARY PLAN HEARING AND DISPOSITION: (Amend 83)

(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
denial 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 to, including but not limited to, 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 for a later rehearing by the Commission. Such rehearing shall count against the allowed number of continuances for a rezone petition. If all continuances are used and the Preliminary Plans still have not met the Commission's required amendments, the Commission may vote to either continue or dismiss the rezone petition.

(d) If the Commission recommends approval, denial 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 shall be permanently retained in the office of the Commission;
   (2) 1 set shall be returned to the petitioner;
   (3) 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.

(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*: (Am. 83)

(a) Unless seeking final approval of a Change in Use Planned Development PDCC rezone, 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 5 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***; and
   (3) unless directed otherwise by the Commission's staff, a minimum of 5 signed copies and electronic copy of any covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to the Covenants and Maintenance section below). These shall include a table of contents and be written in plain language easily understood by most readers.

(c) The staff shall review these Final Detailed Plans generally within 5 working days of the petitioner's submission. If the staff finds they comply the requirements of this section, 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 the

requirements of this section, the staff shall notify the petitioner of the deficiencies. After this certificate is attached, the submission may then be recorded with APC staff. The petitioner shall not submit an alternate or revised set of Final Detailed Plans for the same legal description, except under the circumstance described below where Final Detailed Plans were approved but not recorded within the required time frame.

(d) For Change in Use Planned Development **PDCC** rezones, after the rezone has been approved by the legislative body, the petitioner may seek Final Detailed Plan approval from APC before recording the submission. A complete Change in Use Planned Development 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 5 sets of drawings and electronic copy, identical in content to the Approved Preliminary Plan (within the context of the imposed conditions), reviewed and signed by the appropriate ***Administrative Officer***

If the staff finds the submission to be in compliance, the staff shall approve them by attaching a certificate of approval, signed and dated by the ***Executive Director***, stating its finding of compliance. The submission may then be recorded with APC staff. If the staff finds them incomplete, the staff shall notify the petitioner of the deficiencies.

2-28-10 APPROVAL OF FINAL DETAILED PLANS FOR PDRS, PDNR AND PDMX *ZONES*: (Amend 83)

(a) Unless seeking final approval of a Change in Use Planned Development rezone, 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, 5 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, 5 signed copies and electronic copy of any covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to the Covenants and Maintenance section 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, 5 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 and recorded.

(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 below where Final Detailed Plans were approved but not recorded within the required time frame.

(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.

(e) For Change in Use Planned Development **PDRS, PDNR, and PDMX** rezones, after the rezone has been approved by the legislative body, the petitioner may seek Final Detailed Plan approval from APC before recording the submission. A complete Change in Use Planned Development 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 5 sets of drawings and electronic copy, identical in content to the Approved Preliminary Plan (within the context of the imposed conditions), reviewed and signed by the appropriate ***Administrative Officer***

If the staff finds the submission to be in compliance, the staff shall approve them by attaching a certificate of approval, signed and dated by the ***Executive Director***, stating its finding of compliance. The submission may then be recorded with APC staff. If the staff finds them incomplete, the staff shall notify the petitioner of the deficiencies.

2-28-11 RECORDING APPROVED FINAL DETAILED PLANS: (Amend 83)

(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.

(d) Any construction that does not fully comply with recorded Final Detailed Plans will be subject to appropriate enforcement action as provided for in this ordinance.

2-28-12 AMENDING RECORDED FINAL DETAILED PLANS (Minor Modifications): (Amend 83)

(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.

(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 increase in ***building*** dimension or change in ***building*** location other than within the defined ***building envelope***; any change in landscaping other than increases in the amounts of approved landscaping (substitution of species or redesign with the same materials is allowed); 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 this section.

(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 prior to the issuance of a Certificate of Occupancy.

2-28-13 *LAPSED* AND *ABANDONED* PLANNED DEVELOPMENTS: (Amend 83)

(a) An intended ***condominium*** conversion has ***lapsed*** if 5 years have passed since the date on which rezoning to PDCC was granted, and no Final Detailed Plans have been approved and recorded. Following such ***lapse***, the Commission may initiate a petition to rezone the property.

(b) A planned development has been ***abandoned*** if 5 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; or

(c) Parts or phases of a planned development 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.

(d) Prior to the effective date of a planned development becoming ***abandoned*** 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***. 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 shall be 5 years from the date of the Commission or Executive Committee public hearing on which the project's extension approval will be heard.

(e) 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 before the property's owner once more becomes eligible to receive an ***improvement location permit*** at that location.

The Commission or any legislative body retains the authority to initiate at their discretion a rezone of a PD-zoned property once such property has either ***lapsed*** or been ***abandoned.***

2-28-14 COVENANTS AND MAINTENANCE:

(a) To assure property owners that all aspects of a planned development remain in conformance with plans adopted by the legislative body at the time of rezoning, restrictive covenants and any horizontal property ownership and owner's association documents can only be changed through the procedures detailed above concerning minor modifications.

(b) These changes may be initiated only by a majority of property owners within the planned development. Multiple owners of a single property shall be considered a single owner. The developer shall be considered a single owner until all property is sold.

(c) The ***Administrative Officer*** may determine that these changes constitute a minor modification if they meet the requirements of above concerning minor modifications. Changes to these documents which would alter design aspects of the project, or which are determined by the ***Administrative Officer*** to be beyond the scope of minor modification require rezoning. Covenants and any horizontal property ownership and owner's association documents must reflect the provisions of this section.

(d) A planned development containing common facilities shall be provided with an owners' association or other private organization responsible to and controlled by the property owners. This organization's purpose is to ensure adequate operation and maintenance of these common facilities, which may include, but are not limited to private ***streets***, common areas, landscaping, and amenities such as a clubhouse, pool or tennis courts. Recorded legal assurances shall be provided which show this organization to be self-perpetuating.

(e) All ***streets*** and roadways not dedicated to nor accepted by a public agency, and all other common facilities not dedicated to the public, shall be operated and maintained at no expense to any governmental unit.

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

ORDINANCE NO._____

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 2-28 PLANNED DEVELOPMENTS**:

2-28-1 INTENT: (Amend 83)

(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: (Amend 83)

(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 below, PD zoning is mandatory for any new ***condominium*** construction or ***condominium*** conversion.

2-28-3 CLASSIFICATION OF PLANNED DEVELOPMENTS: (Amend 83)

(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) Change of Use Planned Developments: For existing PD ***zones*** that have not either ***lapsed*** or been ***abandoned***, a new PD rezone may be sought to augment and/or otherwise change the ***uses*** permitted in their PD ***zone*** while adhering to the development standards recorded in that PD ***zone's*** most recent Final Detailed Plans (as amended by minor modification, if applicable). Given that the only change being sought with this type of PD rezone is a change in the permitted ***uses*** and not the Construction Plans and Final Plat of the most recently recorded Final Detailed Plans, Change of Use Planned Developments follow a more expedited track to approval, as is specified in this section.

(c) 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: (Amend 83)

(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 the Intent section and bring, unless the proposal is a Change of Use Planned Development, 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 concerning a Planned Development that is not a Change in Use Planned Development 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 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; and
(8) a proposed schedule for the rezoning process.

(e) Discussion at this meeting concerning a Planned Development that is a Change in Use Planned Development shall include:
(1) The reason for the request;
(2) A comparison document that juxtaposes the uses currently permitted in the PD zone with those uses being proposed with the Change of Use Planned Development rezone proposal;
(3) An explanation of how the proposed change of use will not negatively impact the existing Planned Development and/or surrounding neighborhood including, but not limited to, traffic impacts, parking impacts, and noise.

(f) 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 before

clearing the proposal for draft plan submission.

(g) 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: (Amend 83)

(a) With the conclusion of the pre-submission conference stage, or to initiate a PDCC action, the petitioner may file a rezoning request to one of the PD classifications with draft plans. There is no deadline for such submissions.

(b) The initial submission, for a PD rezone petition that is not a Change of Use Planned Development submission, shall fulfill all the requirements for rezone petitions in the By-Laws of the Area Plan Commission and also contain the following:

(1) a non-refundable processing fee as set by the Commission;

(2) 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;

(3) 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.

(4) 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

(5) signatures of all required checkpoint agencies, or post office receipts of certified mailing, indicating receipt of one set each of the items listed as (2) through (4) above.

(c) The initial submission, for a Change of Use Planned Development submission, shall fulfill all the requirements for rezone petitions in the By-Laws of the Area Plan Commission and also contain the following:

(1) a non-refundable processing fee, as set by the Commission;

(2) a document providing recordation information for the most recent Final Detailed Plans for the site (including all minor modifications, if applicable), a list of the proposed uses for the site, and a statement tying the list of the proposed uses to the most recent recorded Final Detailed Plans (including all minor modification, if applicable);

(3) signatures of all required checkpoint agencies, or post office receipts of certified mailing, indicating receipt of one set each of item (2) above;

(d) 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 the Bylaws of the Area Plan Commission. 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 & 84).

2-28-6 REQUIRED REVIEW (DRAFT PLAN) MEETING: (Amend 83)

(a) The Commission's staff shall determine if the petitioner's submission is complete within five business days of the day after the submission is made. 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. If the submission is found to be incomplete, the staff shall provide the petitioner a written statement detailing its deficiencies. A Draft Plan Meeting shall be scheduled by staff once all deficiencies have been remedied.

(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. With the conclusion of the discussions, the petition shall be cleared by APC staff to submit Preliminary Plans.

2-28-7 PRELIMINARY PLAN APPLICATION REQUIREMENTS: (Amend 51 & 83)

(a) Following the Draft Plan Meeting stage, the petitioner shall submit a Preliminary Plan no later than 30 days prior to a scheduled Area Plan Commission 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 if the comments raised during the negotiation have been addressed and whether minor corrections can be made, if possible and needed, before the case is heard 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, 3 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, 3 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, 3 copies and electronic copy of any covenants and horizontal property ownership and owners'

association documents (including amendment provisions that conform to Covenants and Maintenance provisions 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, the staff is free to recommend either denial or amendment in their report.

(c) If the petitioner fails to submit a complete Preliminary Plan application within 6 months after the date of the last Draft Plan Meeting or within 6 months of the submission date and no Draft Plan Meeting was held, the rezoning petition shall be void. If the petitioner wishes to continue with the project, a new pre-submission meeting must be scheduled.

2-28-8 PRELIMINARY PLAN HEARING AND DISPOSITION: (Amend 83)

(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
denial 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 to, including but not limited to, 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 for a later rehearing by the Commission. Such rehearing shall count against the allowed number of continuances for a rezone petition. If all continuances are used and the Preliminary Plans still have not met the Commission's required amendments, the Commission may vote to either continue or dismiss the rezone petition.

(d) If the Commission recommends approval, denial 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 shall be permanently retained in the office of the Commission;

(2) 1 set shall be returned to the petitioner;

(3) 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.

(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*: (Am. 83)

(a) Unless seeking final approval of a Change in Use Planned Development PDCC rezone, 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 5 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***; and
   (3) unless directed otherwise by the Commission's staff, a minimum of 5 signed copies and electronic copy of any covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to the Covenants and Maintenance section below). These shall include a table of contents and be written in plain language easily understood by most readers.

(c) The staff shall review these Final Detailed Plans generally within 5 working days of the petitioner's submission. If the staff finds they comply the requirements of this section, 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 the requirements of this section, the staff shall notify the petitioner of the deficiencies. After this certificate is attached, the submission may then be recorded with APC staff. The petitioner shall not submit an alternate or revised set of Final Detailed Plans for the same legal description, except under the circumstance described below where Final Detailed Plans were approved but not recorded within the required time frame.

(d) For Change in Use Planned Development **PDCC** rezones, after the rezone has been approved by the legislative body, the petitioner may seek Final Detailed Plan approval from APC before recording the submission. A complete Change in Use Planned Development 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 5 sets of drawings and electronic copy, identical in content to the Approved Preliminary Plan (within the context of the imposed conditions), reviewed and signed by the appropriate ***Administrative Officer***

   If the staff finds the submission to be in compliance, the staff shall approve them by attaching a certificate of approval, signed and dated by the ***Executive Director***, stating its finding of compliance. The submission may then be

recorded with APC staff. If the staff finds them incomplete, the staff shall notify the petitioner of the deficiencies.

2-28-10 APPROVAL OF FINAL DETAILED PLANS FOR PDRS, PDNR AND PDMX *ZONES*: (Amend 83)

(a) Unless seeking final approval of a Change in Use Planned Development rezone, 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, 5 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, 5 signed copies and electronic copy of any covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to the Covenants and Maintenance section 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, 5 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 and recorded.

(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 below where Final Detailed Plans were approved but not recorded within the required time frame.

(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.

(g) For Change in Use Planned Development **PDRS, PDNR, and PDMX** rezones, after the rezone has been approved by the legislative body, the petitioner may seek Final Detailed Plan approval from APC before recording the submission. A complete Change in Use Planned Development submission shall contain the following:
   (3) evidence that any conditions imposed by the Commission at the time of its hearing have been met;
   (4) unless directed otherwise by the Commission's staff, a minimum of 5 sets of drawings and electronic copy, identical in content to the Approved Preliminary Plan (within the context of the imposed conditions), reviewed and signed by the appropriate ***Administrative Officer***

   If the staff finds the submission to be in compliance, the staff shall approve them by attaching a certificate of approval, signed and dated by the ***Executive Director***, stating its finding of compliance. The submission may then be recorded with APC staff. If the staff finds them incomplete, the staff shall notify the petitioner of the deficiencies.

2-28-11 RECORDING APPROVED FINAL DETAILED PLANS: (Amend 83)

(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.

(d) Any construction that does not fully comply with recorded Final Detailed Plans will be subject to appropriate enforcement action as provided for in this ordinance.

2-28-12 AMENDING RECORDED FINAL DETAILED PLANS (Minor Modifications): (Amend 83)

(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.

(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 increase in ***building*** dimension or change in ***building*** location other than within the defined ***building envelope***; any change in landscaping other than increases in the amounts of approved landscaping (substitution of species or redesign with the same materials is allowed); 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 this section.

(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 prior to the issuance of a Certificate of Occupancy.

2-28-13 *LAPSED* AND *ABANDONED* PLANNED DEVELOPMENTS: (Amend 83)

(a) An intended ***condominium*** conversion has ***lapsed*** if 5 years have passed since the date on which rezoning to PDCC was granted, and no Final Detailed Plans have been approved and recorded. Following such ***lapse***, the Commission may initiate a petition to rezone the property.

(b) A planned development has been ***abandoned*** if 5 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; or

(c) Parts or phases of a planned development 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.

(d) Prior to the effective date of a planned development becoming ***abandoned*** 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***. 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 shall be 5 years from the date of the Commission or Executive Committee public hearing on which the project's extension approval will be heard.

(e) 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 before the property's owner once more becomes eligible to receive an ***improvement location permit*** at that location.

The Commission or any legislative body retains the authority to initiate at their discretion a rezone of a PD-zoned property once such property has either ***lapsed*** or been ***abandoned.***

2-28-14 COVENANTS AND MAINTENANCE:

(a) To assure property owners that all aspects of a planned development remain in conformance with plans adopted by the legislative body at the time of rezoning, restrictive covenants and any horizontal property ownership and owner's association documents can only be changed through the procedures detailed above concerning minor modifications.

(b) These changes may be initiated only by a majority of property owners within the planned development. Multiple owners of a single property shall be considered a single owner. The developer shall be considered a single owner until all property is sold.

(c) The ***Administrative Officer*** may determine that these changes constitute a minor modification if they meet the requirements of above concerning minor modifications. Changes to these documents which would alter design aspects of the project, or which are determined by the ***Administrative Officer*** to be beyond the scope of minor modification require rezoning. Covenants and any horizontal property ownership and owner's association documents must reflect the provisions of this section.

(d) A planned development containing common facilities shall be provided with an owners' association or other private organization responsible to and controlled by the property owners. This organization's purpose is to ensure adequate operation and maintenance of these common facilities, which may include, but are not limited to private ***streets***, common areas, landscaping,

and amenities such as a clubhouse, pool or tennis courts. Recorded legal assurances shall be provided which show this organization to be self-perpetuating.

(e) All ***streets*** and roadways not dedicated to nor accepted by a public agency, and all other common facilities not dedicated to the public, shall be operated and maintained at no expense to any governmental unit.

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 _____ day of _____, 2023.

VOTE:

_____ _____
Tracy A. Brown, President

_____ _____
Thomas P. Murtaugh, Vice President

_____ _____
David S. Byers, Member

ATTEST:

_____
Jennifer Weston, Auditor