

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

DATE..... February 16, 2022
TIME..... 6:00 P.M.
PLACE..... County Office Building
20 North 3rd Street
Lafayette, IN 47901

This meeting was held in-person. Members of the public may watch the video of the meeting at <https://www.facebook.com/TippecanoeCountyIndiana> or <https://www.youtube.com/channel/UCJleeA9ZQo9E11GdZTdjurQ/featured>

MEMBERS PRESENT

Jackson Bogan
Carla Snodgrass
Perry Brown
Gary Schroeder
Lisa Dullum
Greg Jones
Vicki Pearl
Michelle Dennis
Diana Luper
Tracy Brown
Jody Hamilton
Kathy Parker

MEMBERS ABSENT

Bob Metzger
Larry Leverenz
Tom Murtaugh
Jerry Reynolds
Jason Dombkowski

STAFF PRESENT

David Hittle
John Burns
Ryan O’Gara
Eric Burns, Atty
Jennifer Ewen
Amanda Esposito
Maureen McNamara

The Area Plan Commission of Tippecanoe County Public Hearing was held in-person on the 16th day of February 2022 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

Jackson Bogan called the meeting to order.

Attorney, Eric Burns, called the roll to establish members present.

I. APPROVAL OF THE FEBRUARY 16, 2022 APC PUBLIC HEARING AGENDA

Gary Schroeder moved that the following subdivision petitions be placed on the February 16th Area Plan Commission public hearing agenda at petitioner’s request:

**S-5054 Concord Crossing South (major-preliminary); and
S-5055 Pretty Prairie Minor Subdivision (minor-sketch).**

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

II. BRIEFING SESSION

David Hittle stated the petitioner for **S-5055 PRETTY PRAIRIE MINOR SUBDIVISION (minor-sketch)** has requested a continuance to the March 2nd Executive Committee meeting in order to complete necessary soil testing, and the rezone **Z-2846 BENITO MUNOZ (AA to A)** must be continued to the March 16th APC public hearing because the legal ad was not published. The other two cases are set to go forward tonight.

III. APPROVAL OF THE MINUTES

Gary Schroeder moved to approve the minutes from the January 19, 2022 meeting. Vicki Pearl seconded, and the minutes, as submitted, were approved by unanimous voice vote.

IV. NEW BUSINESS

None.

V. PUBLIC HEARING

Jackson Bogan read the meeting procedures.

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

Gary Schroeder moved that **S-5055 PRETTY PRAIRIE MINOR SUBDIVISION (minor-sketch)** be continued to the March 2nd Executive Committee meeting at the petitioner's request. Greg Jones seconded, and the motion carried by unanimous voice vote.

Gary Schroeder moved that **Z-2846 BENITO MUNOZ (AA to A)** be continued to the March 16th APC public hearing due to the legal ad not being published. Greg Jones seconded, and the motion carried by unanimous voice vote.

A. Subdivisions

Gary Schroeder moved to hear and vote on **S-5054 CONCORD CROSSING SOUTH (major-preliminary)**. Greg Jones seconded.

1. **S-5054 CONCORD CROSSING SOUTH (major-preliminary):**

Petitioner is seeking preliminary plat approval of a duplex development of 152 units on 32.01 acres, located on the east side of Concord Road, south of Veterans Memorial Parkway, in Wea 10 (SE) 22-4.

APC staff David Hittle presented the zoning map, plat, and aerial photos. He stated this is a major-preliminary plat petition, and it involves a site just south of Veterans Memorial Parkway. It is bounded by the west by Concord Road and to the north by Kirkpatrick Ditch and to the south by the Benjamin Crossing Subdivision. It is 32 acres, and it is zoned R2, and it was rezoned to R2 about a year ago. It is currently unimproved and being farmed. This request would allow for eventual duplex development totaling 152 units over the 32 acres. It is zoned appropriately, and the subdivision plans, as submitted, do meet all the Subdivision Ordinance requirements; except for one, and they did get a subdivision variance approved by the County Commissioners, at the last commissioners meeting, that allows them to not have to do the usual road improvements which would be required along Concord Road, and the reason that the Highway Department and the Lafayette Streets Department were supportive of this request is because they are combined to do a joint road improvement project along Concord Road which would eventually create a roundabout which would provide the entrance to this subdivision, so the variance was approved

by the County Commissioners; otherwise, it does meet all of the standards of the Zoning and Subdivision Control Ordinance. It does have the staff's support. He offered to answer any questions.
Jackson Bogan called for the petitioner or the petitioner's representative.

Tim Balensiefer, TBIRD Design, 105 N. 10th Street, Lafayette, stated he is representing the petitioner Concord Crossing LLC. From the petitioner's standpoint, we agree with all the comments that were made by staff. One item he would like to add is one of the comments had to do with the floodplain elevations being within 100 feet, and they will make all of the building pads on the site 2 feet above the base-flood elevation instead of just the ones that are within the 100 feet, and that is because they have to do that for the Drainage Ordinance so all the pads will be above the floodplain. He offered to answer any questions.

Jackson Bogan asked if anyone wished to speak in favor of this petition. There was no response.

Jackson Bogan asked if anyone withed to speak in opposition of this petition. There was no response.

Jackson Bogan asked for any questions or comments from the Commission. There were none.

Jackson Bogan called for a vote, and he noted there are three items to vote on. The first item to vote on is the variance request. The second item to vote on is bonding. The third item to vote on is for conditional primary approval.

Ryan O'Gara collected the ballots and noted 12-Yes to 0-No for approval of the variance for **S-5054**.

Yes-Votes

Jackson Bogan
Perry Brown
Vicki Pearl
Lisa Dullum
Diana Luper
Michelle Dennis
Kathy Parker
Greg Jones
Carla Snodgrass
Tracy Brown
Jody Hamilton
Gary Schroeder

No-Votes

(None)

Ryan O'Gara collected the ballots and noted 12-Yes to 0-No for bonding approval for **S-5054**.

Yes-Votes

Jackson Bogan
Perry Brown
Vicki Pearl
Lisa Dullum
Diana Luper
Michelle Dennis
Kathy Parker
Greg Jones
Carla Snodgrass
Tracy Brown
Jody Hamilton

No-Votes

(None)

Gary Schroeder

Ryan O’Gara collected the ballots and noted 12-Yes to 0-No for conditional primary approval of **S-5054**.

Yes-Votes

Jackson Bogan
Perry Brown
Vicki Pearl
Lisa Dillum
Diana Luper
Michelle Dennis
Kathy Parker
Greg Jones
Carla Snodgrass
Tracy Brown
Jody Hamilton
Gary Schroeder

No-Votes

(None)

B. Rezoning Activities

Gary Schroeder moved to hear and vote on **Z-2845 JETBOY, LLC (GB to I3)**. Greg Jones seconded.

1. Z-2845 JETBOY, LLC (GB to I3):

Petitioner is seeking a rezone of 7.883 acres, for an existing limo service and proposed outdoor storage of RV’s and boats, located on the north side of Elston Road, specifically, 600 Elston Road, Lafayette, Fairfield 31 (SW) 23-4. With Commitment. CONTINUED FROM THE JANUARY MEETING TO ADD A COMMITMENT AND CORRECT A FILING DEFICIENCY.

APC staff John Burns presented the staff report with several exhibits including a zoning map and aerial photos. He stated Jetboy is requesting a rezoning from GB (General Business) to I3 (Industrial). The site is a 7.8-acre tract located in Lafayette on Elston Road. This is known as 600 Elston Road, so it is just east of US 231. The 7.8-acre tract has about 1.5 acres along the front of this property that are currently used by Express Air Coach, and the idea is to use the back part of this property for storage of boats and recreational vehicles. These two businesses would be brand together as one with one office and no subdivision is needed. Both of these uses are permitted in the GB zone, but there is a footnote that limits the acreage to no more than two acres, so rezoning this would legitimize this existing operation on more than two acres and allow for the expansion of a second business in the back. This case was originally filed a couple of years prior and went before this board, and they received a positive recommendation from staff and the plan commission based on the commitment that was supplied; however, that was turned down at the City Council level. The petitioners are back with a different commitment than what was originally proposed. This new commitment is not as limiting as what we had seen a few years ago and still allows a multitude of industrial uses that make staff a little uncomfortable with introducing industrial zoning into this area, so staff is recommending denial. He offered to answer any questions.

Jackson Bogan asked if the petitioner or the petitioner’s representative wished to speak.

Kevin Riley, Reiling Teder & Schrier, PO Box 280, Lafayette, stated he is representing the petitioner JetBoy, LLC, and the explanation about what they intend to do there is accurate. He stated it is true that this was brought a year or two ago and did not pass at the city level. He was not involved with that, but it is his understanding that the client didn’t talk to the city ahead of time and let them know what was going on and make sure they were comfortable with it. We have now done that, and we corrected a misstep from the previous filing. As noted, they are asking for a rezone from GB to I3 for this site. They do think it

is appropriate. The R1 property to the east of our site is currently surrounded by I3 and GB; the R3 property to the west is bordered in places by I3, and that property was developed knowing that there was I3 in the area already, so for those reasons, they think that the I3 zone at this location is appropriate. Staff has acknowledged that they think that these particular uses are appropriate, and they agree with that as well. When you look at the items on the staff's list of uses that would be permitted in an I3 that are not prohibited by the commitment they have submitted not including uses that would require a special exception which is an added protection for the city. They don't see any of those uses that are clearly concerning and that would realistically be feasible for this location, and Area Plan, in their report, has not indicated which of those uses they are concerned with in particular. As he mentioned, they have sat down with the city, the mayor, and Dave Griffee, and they discussed their plans. During that sit down, they did not talk about a commitment, and the mayor supports the rezone, and they have added the commitment to try and address staff's concerns, but it is not something that the city requires, so they have done that to try to satisfy some of the concerns of staff. They are not aware of any objections from any neighboring property owners, so they think this is an appropriate rezone, and they respectfully request approval. He offered to answer any questions.

Jackson Bogan asked if any persons wished to speak in favor of this petition. There was no response.

Jackson Bogan asked if any persons wished to speak in opposition of this petition.

Kelly Scott Ausherman, 550 Elston Road, Lafayette, stated his property is immediately to the east of this site. The facilities and the maintenance on Elston Road are ignored. There are no sidewalks for people walking up and down the road. He is currently still dealing with 24-hour truck noise, and they want to introduce more busses and trucks without any limitations on hours of operation. When they built Overlook Pointe, he saw 30 dead coyotes, and they were left on that property. Wildlife is being chased out of that sanctuary of the cemetery. He maintains his trees and all aspects of his property. He is very proud of his property. He is sure his property value has suffered not only from Overlook Pointe but potentially from this. He is strongly against this. He has lived there for 15 years. He stated if something were to be approved, he would have to oppose it and possibly recommend an amendment that would portion off the front part to be used as business and not the back. He doesn't want buildings and boats in his backyard. If this was approved, he would demand some type of barrier, permanent fence that would be maintained by the property owner. He stated he moved from Baltimore 15 years ago to find a nice happy spot for his family. It was a huge move on his family's part, but they found this property 800 miles away, and little did he know 15 years later, he would have apartments and a bus, boat, and RV park.

Jackson Bogan asked John Burns what is the bufferyard requirement.

John Burns responded along the western property line where R3 abuts this site, if it were rezoned, a Type C, 30 feet in width, would be required, so a 30-foot bufferyard along the western property line. The portion of Kelly's land that is zoned R1 would also require a 30-foot bufferyard. The GB where the house is located will require a 20-foot bufferyard. To the north where there is Industrial zoning there would be no requirement. The ordinance would require 30 foot on all of the western and a portion of the eastern, and then 20 foot on the remainder of the eastern.

Jackson Bogan stated the front portion of the property where the home sits currently is currently sitting in a GB which would require a 20-foot bufferyard is that what we are saying.

John Burns responded correct.

Vicki Pearl asked if we didn't have the rule in place that limited it to two acres, this property would already be conforming.

John Burns responded the existing business that is currently located on more than two acres he thinks would be conforming. He is not sure if that use was established before the requirement and if it is legally conforming or not.

Vicki Pearl stated she is trying to understand why there is a limitation on two acres.

John Burns responded there is some expectation that when commercial growth becomes so large that Industrial zoning is a better handle of how to deal with it. GB (General Business) properties generally are not multiple acres like this in this location. He thinks the idea was that these types of uses are okay in both Commercial and Industrial, but for the large-scale ones that take up a lot of land, they are more appropriate on larger tracts that are zoned Industrial.

Vicki Pearl stated to clarify it follows the SIC code number to determine if those would be preferable in larger tracts or is that across the board.

John Burns responded it is based on SIC, so not every use is limited to two acres only in GB; only some are.

Gary Schroeder stated this area is in a transition area where we have seen some residential rezoning and some redevelopment there, but your opposition is the I3 next to the residential which does seem pretty intense. He thinks the current use they are proposing is acceptable, but once that use runs out, you could have some heavy manufacturing or some intense operations which he can see the opposition. There is I3 to the north, but along Elston Road, it is a less intense zoning more of a residential.

John Burns stated the commitment that was supplied did not make staff comfortable enough to say what would happen to this property in the future. Some of the listed uses that could be permitted could be seen as an intrusive to the neighbors.

Gary Schroeder asked if I1 would suit their needs, but that doesn't allow outside storage.

John Burns responded the outdoor storage is the big component with the use in the back of RV and boat storage; that would not be admissible in I1, so I3 being the only one of the three industrial districts that allows outdoor storage, that is their only option.

Gary Schroeder stated there was a comment made that the City didn't object. He asked if anyone was present from the City who has a comment on that. There was no response.

Jackson Bogan asked John Burns to confirm nothing can be done by a special exception under the GB zoning today.

John Burns responded correct. The Airport Express Coach is not permitted by special exception as well as the Motor Freight Transportation Warehousing or the storage of RVs and boats those are not allowed either by special exception, so it is a by-right development in these zones.

Jackson Bogan called for the petitioner's rebuttal.

Kevin Riley, Reiling Teder & Schrier, PO Box 280, Lafayette, stated he wanted to respond to a couple of points. The storage area will be completely enclosed by fencing. There will be no new buildings or structures. His understanding is if they were to build a new building, they would have to subdivide, and that is not the plan, so there will be no additional buildings. There is not going to be outdoor lighting added, and it is going to be fenced. There are some mature trees and substantial vegetation already to provide some buffering. He stated there is quite a bit of I3 in the area, and there is GB in the area, and they think that this is appropriate under the circumstances.

Jackson Bogan asked staff if they are certain there is no other option but to take this to I3.

John Burns responded both of these uses are allowed in all three Industrial districts. Unless they are willing to build and do everything inside for both uses, I1 wouldn't work. He thinks by the nature of the business having outside components I3 or something less than two acres to be permitted in GB. The only

other option is A zoning by special exception for the boats and RV storage, but being in the city on sewer and water, A zoning is completely inappropriate. He doesn't see any other option.

Jackson Bogan asked for any questions or comments from the Commission.

Gary Schroeder stated maybe this use is appropriate as a fill-in until you get your more permanent use there. We approved this last time, and City Council turned it down. He stated he is probably going to vote no and let the City Council sort it out. If they want to approve it, they can approve it, since we don't have any comment from them.

Jackson Bogan called for a vote on **Z-2845 JETBOY, LLC (GB to I3).**

Jackson Bogan noted the first item to vote on is the commitment, and the second item to vote on is the rezone.

Jackson Bogan asked John Burns if he could speak on the commitment.

John Burns stated the commitment they gave us had a list of prohibited uses, and the prohibited uses are as follows:

Confined Feeding Operation, Laboratory Animal Farms, Crematory, Metal Mining, Coal Mining, Oil and gas Extraction, Mining and Quarrying of Nonmetallic Minerals, Heavy construction other than Building Construction-Contractors, Food and Kindred Products, Bakery Products, tobacco Products, Textile Mill Products, Apparel and Other Finished Products Made from Fabrics and Similar Materials, Furniture and Fixtures, Paper and Allied Products, Printing, Publishing, and Allied Industries, Chemicals and Allied Products, Printing, Publishing, and Allied Industries, Rubber and Miscellaneous Plastics Products, Leather and Leather Products, Stone, Clay, Glass and Concrete Products, Primary Metal Industries, Fabricated Metal Products, Except Machinery and Transportation Equipment, Industrial and Commercial Machinery and Computer Equipment, Electronic and Electrical Equipment and Components, Except Computer Equipment, Measuring, Analyzing, and Controlling Instruments; Photographic, Medical, and Optical Goods; Watches and Clocks, Miscellaneous Manufacturing Industries, Wholesale Trade –Durable Goods, Wholesale Trade – Nondurable Goods, Trash Transfer Station, Construction / Demolition Disposal Site, Scrap and Waste Materials; Junk Yard, Truck Stop, Flying Fields Maintained by Aviation Clubs, Child Care Homes, Child Care Centers, Wind Farm, Recycling Collection Facility, Recycling Processing Facility

John Burns stated those are the uses they are prohibiting with their commitment. On the staff report, we conversely showed what uses were not included in that list that brought staff concern, and it is probably a list twice as long of uses that would still be allowed in the I3 zone that the commitment would have no bearing on.

Jackson Bogan asked for clarification the list in the packet is what would still be allowed.

John Burns stated correct. It is labeled Exhibit A Staff's List of Permitted Uses. If everything went forward as proposed, these uses would be permitted with the commitment as proposed.

Jackson Bogan thanked John for the clarification, and he stated we will give everyone time to review that list.

Ryan O’Gara collected the ballots and noted the Area Plan Commission voted 4-Yes to 8-No, an inconclusive vote, for the commitment for **Z-2845 JETBOY, LLC (GB to I3)**.

Yes-Votes

Jackson Bogan
Perry Brown
Lisa Dillum
Michelle Dennis

No-Votes

Vicki Pearl
Diana Luper
Jody Hamilton
Gary Schroeder
Kathy Parker
Greg Jones
Carla Snodgrass
Tracy Brown

Ryan O’Gara collected the ballots and noted the Area Plan Commission voted 2-Yes to 10-No for the rezone of **Z-2845 JETBOY, LLC (GB to I3)**.

Yes-Votes

Perry Brown
Michelle Dennis

No-Votes

Vicki Pearl
Diana Luper
Jody Hamilton
Gary Schroeder
Kathy Parker
Greg Jones
Jackson Bogan
Carla Snodgrass
Lisa Dillum
Tracy Brown

Ryan O’Gara stated the recommendation of denial will move to the City Council.

VI. ADMINISTRATIVE MATTERS

None.

VII. APPROVAL OF THE MARCH EXECUTIVE COMMITTEE AGENDA

There have been no new subdivisions filed for this meeting.

VIII. DETERMINATION OF VARIANCES—Area Board of Zoning Appeals

No variances have been filed for the February ABZA meeting.

IX. APPROVAL OF THE FEBRUARY ABZA PUBLIC HEARING AGENDA

Gary Schroeder moved that the following petitions be placed on the February 23, 2022 Area Board of Zoning Appeals Public Hearing Agenda:

**BZA-2070 Destiny Peters-Blessing Barn, LLC; and
BZA-2071 Gathering Acres Event Center, LLC.**

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

Gary Schroeder moved that regarding the special exceptions **BZA-2070 Destiny Peters-Blessing Barn, LLC and BZA-2071 Gathering Acres Event Center, LLC**, that these cases will not adversely affect the Comprehensive Plan.

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

X. DETERMINATION OF VARIANCES—Lafayette Division of the ABZA

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

**CASE #2022-06 LEGACY SIGN GROUP;
CASE #2022-07 MARK E. EINSTEIN AND JANE A. EINSTEIN;
CASE #2022-08 BLACKTHORN HOLDINGS, LLC; AND
CASE #2022-09 RANDALL L. WAGNER.**

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

XI. DIRECTOR'S REPORT

David Hittle stated the director's report was emailed out earlier today; he offered to answer any questions. There were none.

XII. CITIZEN'S COMMENTS AND GRIEVANCES

None.

XIII. ADJOURMENT

Gary Schroeder moved to adjourn.

Meeting adjourned at 6:40 PM.

Respectfully Submitted,

Jennifer A. Ewen
Recording Secretary

Reviewed by,



David L. Hittle

Executive Director