

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

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

MEMBERS PRESENT

Greg Jones
Diana Luper
Tyrone Taylor
Tracy Brown
Tom Murtaugh
Gary Schroeder
Jackson Bogan
Vicki Pearl
Lisa Dullum
Perry Brown
Dr. Carl Griffin
Gerry Keen
Michelle Long

MEMBERS ABSENT

Roland Winger
Larry Leverenz
Jake Gray
Jerry Reynolds

STAFF PRESEN

Sallie Fahey
John Burns
Diana Trader
Zach Williams, Atty.

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 20th day of February 2019 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Tom Murtaugh called the meeting to order.

I. BRIEFING SESSION

Tom Murtaugh asked for the Briefing Session.

Sallie Fahey said that both cases were ready to be heard.

II. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the January 16, 2019 meeting.
Greg Jones seconded, and the minutes were approved by unanimous voice vote.

III. PUBLIC HEARING

Tom Murtaugh read the meeting procedures.

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

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

A. SUBDIVISIONS

S-4815 McKINLEY MINOR SUBDIVISION (minor-sketch):

Petitioners are seeking primary approval for a 4-lot subdivision on 12.987 acres, located on the east side of Old SR 25, just north of the Nikole Drive intersection, in Fairfield 2 (NE) 23-4. CONTINUED FROM THE FEBRUARY 6TH EXECUTIVE COMMITTEE MEETING AT PETITIONER'S REQUEST.

Gary Schroeder moved to hear and vote on **S-4815 McKINLEY MINOR SUBDIVISION (minor-sketch)**. Greg Jones seconded.

Sallie Fahey presented the zoning map and aerial photos; she highlighted the area zoning history and area land use patterns. Sallie said the property is located on the east side of Old State Road 25. She said it is just under 13 acres, and it is zoned Agricultural. Sallie said there are existing houses on Lot 1 and Lot 2. She said the main house is located on Lot 1 and a smaller house is located on Lot 2. Sallie said that Lot 3 has an existing pole barn and Lot 4 is a flag lot with the pole attached to Old State Road 25. Sallie said the sketch plan shows an opening in the "no vehicular access" restriction along the right-of-way of Lot 3, which is allowed by the Tippecanoe County Highway Department. Sallie said the final plat will show a shared driveway easement for Lot 3 and Lot 4. Sallie said that the small house on Lot 2 is located within the front building setback. She said the petitioner is aware that if this house is ever torn down and they want to rebuild it, it would have to be rebuilt in the larger portion of the lot out of the setback area.

Tom Murtaugh asked if the house could be rebuilt if it were destroyed.

Carl Griffin said it would need a variance to be rebuilt on the same location.

Sallie Fahey said the staff does not encourage variances. She said the lot has been set up to have a nice building site farther back. Sallie said the other issue is that both existing houses are on one water well. She said the Health Department will allow that, since both houses are under one ownership. She said if the ownership of Lot 2 should ever change then Lot 2 will be required to have its own well. Sallie said Lot 1 has a newer septic system which has a permit from the Health Department. She said the Health Department has no record of the septic system on Lot 2, but it is assumed there is an older septic system on the lot. Sallie said the Health Department is not requiring a new septic system for Lot 2, however if the existing septic system should ever fail the soil work has been performed to show there is an area where a new septic system could be installed.

Sallie Fahey said staff is recommending conditional primary approval, contingent on the following:

A. Conditions

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

1. Except for the approved entrances, a "No Vehicular Access" statement shall be platted along the Old SR 25 right-of-way line as shown on the sketch plan.
2. A shared driveway easement must be shown on Lot 3 in favor of the future owners of Lot 4.
3. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
4. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
5. All required building setbacks shall be platted.
6. Either the County Surveyor or the County Drainage Board shall approve drainage onsite.

7. The street addresses and County Auditor's Key Number shall be shown.

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

8. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.
9. A note that states if Lot 2 is ever sold separately from Lot 1, a new water well will be necessary to be created on Lot 2.

Pat Cunningham, Vester and Associates, Inc., 309 Columbia Street, Suite 101, Lafayette, IN 47901, said he represents Steve and Kelly McKinley. He said Steve and Kelly McKinley recently purchased the property in question. He said they plan to keep the 2 existing homes on Lot 1 and Lot 2 as income properties. He said they plan to build their own home on Lot 3, and their son is planning to build a home on Lot 4. He asked for approval from the Area Plan Commission.

The Commission voted by ballot 13-Yes to 0-No for conditional primary approval of **S-4815 McKINLEY MINOR SUBDIVISION (minor-sketch)**.

B. REZONING ACTIVITIES

Z-2756 MARKET SOUTH, LLC (NB to GB):

Petitioner is requesting rezoning of a commercial lot located at 1909 Veterans Memorial Parkway, on the south side of VMP, between S. 18th Street and Regal Valley Drive, Lafayette, Wea 9 (SE) 22-4. WITH COMMITMENT.

Gary Schroeder moved to approve the commitment for **Z-2756 MARKET SOUTH, LLC** and to hear and approve **Z-2756 MARKET SOUTH, LLC (NB to GB)**. Greg Jones seconded.

Tom Murtaugh said Vicki Pearl had a conflict of interest and left the meeting at 6:10 pm.

Sallie Fahey presented the zoning map and aerial photos; she highlighted the area zoning history and area land use patterns. She said the property in question is located on the south side of Veterans Memorial Parkway. Sallie said there is a commercial center to the west zoned General Business. She said there is a Centier Bank located to the east and farther east is another commercial center, both of these are zoned Neighborhood Business. Sallie said the property is 1.22 acres and it is a lot in a commercial subdivision created on the south side of Veterans Memorial Parkway. Sallie said no specific use has been finalized by the petitioner but there has been interest on the part of a dog "daycare" business. The reason for the rezone request is that dog kennels of any kind are not permitted in NB zones, but they are permitted in GB zones. Sallie said the petitioner had also filed a commitment which will be voted on separately. She said the commitment will prevent less-compatible uses normally permitted in GB zones, such as motor vehicle dealers (new or used) as well as "adult entertainment or adult service establishments", from locating on the site once it is rezoned. Sallie said there had been previous requests to rezone the property to GB, but those requests were for the entire subdivision and none of the lots had an established use at the time. She said at this point all the area to the east has established businesses which are fine for the NB zoning, and there is no reason for the GB zoning to incrementally spread to the east. Sallie said because of this, staff supports the rezone request and staff also supports the commitment.

Christopher Shelmon, Gutwein Law, 250 Main Street, Suite 590, Lafayette, IN 47901, attorney for Market South, LLC, said the principle petitioner, Andy Gutwein, was also present. He said Market South, LLC developed the retail center to the east. He said the petitioner has been approached by a dog daycare business located in the nearby area that was looking for room to expand. He said he believes the project would be a vital asset to the south side of Lafayette and asked for a favorable recommendation from the Area Plan Commission.

The Commission voted by ballot 12-Yes to 0-No to approve the commitment for **Market South, LLC**.

The Commission voted by ballot 12-Yes to 0-No to recommend approval of **Z-2756 MARKET SOUTH, LLC (NB to GB) with commitment**.

This case will be heard by the Lafayette Common Council at its March 4, 2019 meeting. Petitioner or his representative must appear.

Tom Murtaugh said Vicki Pearl re-joined the meeting at 6:17 pm.

V. ADMINISTRATIVE MATTERS

None

VI. APPROVAL OF THE MARCH EXECUTIVE COMMITTEE AGENDA

Gary Schroeder moved that the following request for subdivision be placed on the March 6, 2019 Area Plan Commission Executive Committee agenda at petitioner's request, placement thereon being without reference to compliance or non-compliance with the adopted subdivision ordinance:

S-4820 ARCHERVILLA SUBDIVISION, A REPLAT OF LOT 6 (minor-sketch)

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

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

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

BZA-2003 LISA AND STEVE ROBINSON

BZA-2004 CIVIL AND ENVIRONMENTAL CONSULTANTS, INC.

BZA-2006 PRAVEEN SAXENA

BZA-2007 ROBERT WM. GROSS

BZA-2008 ROBERT WM. GROSS

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

VIII. DIRECTOR'S REPORT

Sallie Fahey said she had emailed the year end building permits summary with maps along with an abbreviated January report which contains the income statistics. Sallie said everything should be caught up by the March APC meeting.

IX. CITIZENS' COMMENTS AND GRIEVANCES

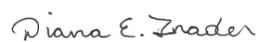
None

X. ADJOURNMENT

Carl Griffin moved to adjourn.

The meeting adjourned at 6:20 p.m.

Respectfully Submitted,



Diana E. Trader
Acting Recording Secretary

Reviewed By,



Sallie Fahey
Executive Director