This meeting was held live and in-person, with virtual access additionally available. Members of the public may watch the livestream of the meeting at https://www.facebook.com/TippecanoeCountyIndiana or https://www.youtube.com/channel/UCJleeA9ZQo9E11GdZTdjurQ/featured

MEMBERS PRESENT
Vicki Pearl
Greg Jones
Carla Snodgrass
Larry Leverenz
Diana Luper
Michelle Dennis
Tracy Brown
Tom Murtaugh
Jackson Bogan
Kathy Parker
Lisa Dullum
Perry Brown (virtual)
Bob Metzger
Roland Winger
Gary Schroeder

MEMBERS ABSENT
Jason Dombkowski
Jerry Reynolds

STAFF PRESENT
David Hittle
Ryan O’Gara
Larry Aukerman
Don Lamb
Kathy Lind
Eric Burns, Atty

The Area Plan Commission of Tippecanoe County Public Hearing was held virtually on the 19th day of May 2021 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

Jackson Bogan thanked all parties in advance for their patience as the APC set about running its first hybrid (both in-person and virtual) meeting, then called the meeting to order. Eric Burns called the roll to establish members present.

I. BRIEFING SESSION

David Hittle noted that petitioner Joshua Shives requested a continuance of case Z-2827 from the May 19, 2021 Area Plan Commission meeting to the June 16, 2021 meeting to allow for required published notice, and that Heron Bay Development, LLC requested a continuance for case Z-2828, as they have amended their request to rezone to R1-B, rather than the initially-requested R1-A.

APPROVAL OF THE MINUTES

Gary Schroeder moved to approve the minutes from the April 21, 2021 meeting. Greg Jones seconded and the motion carried by unanimous voice vote.

II. NEW BUSINESS

Gary Schroeder moved to hear and approve a requested primary plat approval extension for Rainybrook Subdivision, Part 2, Section 2. Greg Jones seconded.
Don Lamb provided the staff report, noting that the plan commission saw this matter last month, at that time voting to authorize this request’s appearance at this meeting. Staff recommends approval.

Tim Balensiefer, representing petitioner T-Bird Design, noted he has nothing to add.

There were no questions from the commission members, no other party spoke in favor or against, and there was no comment from social media.

Yes-Votes
Jackson Bogan
Larry Leverenz
Roland Winger
Vicki Pearl
Lisa Dullum
Diana Luper
Michelle Dennis
Gary Schroeder
Kathy Parker
Tom Murtaugh
Carla Snodgrass
Michelle Dennis
Perry Brown (virtual ballot)
Bob Metzger
Tracy Brown

No-Votes

Eric Burns conducted a vote by roll call. The motion was approved 15 yes to 0 no.

III. 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 rezoning cases Z-2827 and Z-2828 be continued from the May 19, 2021 Area Plan Commission meeting to the June 16, 2021 meeting.

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

A. ORDINANCE AMENDMENTS

1. UZO Amendment #100.
   This proposed amendment to the Unified Zoning Ordinance would amend the ordinance in four ways.
   a. Basement Window Well setbacks. The West Lafayette Administrative Officer (AO) asked ordinance revision staff to look at basement window well setback requirements. After review of existing regulations, staff proposes an amendment which would allow for a four-foot encroachment into the front setback and rear setback for basement window wells, with AO approval. The existing ordinance language allows only for side setback encroachment of window wells.
b. **Building Contractor building size.** Currently the ordinance requires a minimum lot area of 5 acres and a maximum building area of 8,000 square feet. And those standards are included in the use table of the zoning ordinance, not in the ordinance’s conventional text. Staff proposes an amendment to move that language from the use table to Chapter Four, which would allow for filing of a variance, if desired. Staff also recommends increasing minimum building size from 5,000 square feet to 8,000 square feet.

c. **Parking requirements for industrial truck services and farm machinery service and repair.** Currently the UZO requires these businesses to provide the same parking as a grocery store, which is, in staff’s opinion, much too excessive. Staff proposes to dial that standard back to one parking space per 200 square feet of office/sales area, plus one parking space for each employee on the largest shift.

d. **Use of shipping containers for on-site storage on non-commercial properties.** Building Commissioner Mike Wolf has been receiving regular calls inquiring about the limits for use of shipping containers for storage. No such regulations exist, so Mr. Wolf asked for clarity from ordinance revision staff. After researching the matter, staff arrived at a proposed regulation allowing up to four shipping containers on farming operations, and no more than one shipping container on properties used residentially with an area of at least two acres (including Rural Estate lots). Also, AO’s would have the ability to administratively approve temporary shipping containers used for moving (such as “pods”).

There were no questions from the commission members, no other party spoke in favor or against, and there was no comment from social media.

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**Eric Burns announced the voting result. The motion was approved 15 yes to 0 no.**

**B. REZONING ACTIVITIES**

1. **Z-2829 Faith Legacy Properties, Inc. (A to I1)**

Gary Schroeder moved to hear and approve Z-2829. Greg Jones seconded.

Ryan O’Gara presented the staff report, zoning map and aerial photos. He noted that the petitioner approached staff earlier in the year to ask what needed to be done to realize the use and development
contemplated in this petition. Staff informed the petitioner that this rezoning, from Agricultural to Light Industrial, was required. Petitioner filed the rezoning soon thereafter.

Mr. O’Gara noted that the subject site and surrounding area was heavily agricultural, with occasional single-family homes interspersed. The area is served by septic systems.

Mr. O’Gara noted that the petitioner submitted a commitment which would prohibit all I1 uses, except for those which directly pertain to the vocational rehabilitation center, carpentry shop, and sawmill operation contemplated by petitioner’s filed documents.

Mr. O’Gara asserted that the prohibitive commitment proffered by the petitioner made the request supportable, particularly given the site’s relatively isolated nature.

Attorney Tyler Ochs, representing the petitioner, requested support for the rezoning petition. He noted that the petitioner operates a halfway house and sawmill on the large subject site, and that an agricultural buffer zone would remain in place along the south end of the site.

Joe Blake, 4922 E 500 N, Lafayette, spoke on behalf of the petitioners. He is chairman of the board for the petitioning ministry and is a licensed real estate developer. He also serves the petitioning ministry as a Biblical counselor. He provided a history of the ministry and an overview of its operations and participants.

Ken Clark, 98 Pennridge Court, Lafayette, spoke in favor of the request. Mr. Clark is a member of the Faith Church congregation and spoke of his experience working with the men who participate in the program.

Phil Lichti, 2023 S 100 W, Lafayette, spoke in favor of the request. He is a deacon with the church and has worked with the program for several years. He spoke about how much more effective the program is when counselors and volunteers are able to engage the participants daily.

Jerry Jamison, 3904 Pasadena Drive, Lafayette, spoke in favor of the request. He has been a member of Faith Church for 53 years. He spoke about two particular young men he is counseling who are soon to finish the program. He also spoke about the value of having significant time where participants and helpers are engaged together... rather than just weekly or occasional appointments.

John McInnis, 7700 Posey Lane, Lafayette, spoke in favor of the request. He’s been a volunteer with the program for four years. He works with participants on resumes, job interviewing, and career goal plans. He asserted that the sawmill is the perfect setting for learning a work ethic and career skills.

Luke Flowers, 538 S 27th Street, Lafayette, spoke in favor of the request. He is a former resident of the program and plans to graduate on August 11th. He spoke of how the program has impacted his life, and his family’s life, very much for the better.

Joe Fornwell, 408 Main Street, Battle Ground, spoke in favor of the request. He is a former participant and was hired on staff immediately after graduation. He spoke about the program’s impact on him and his capacity to be a father and husband.

Gary Shiverdecker, 2318 Drexel Drive, Lafayette, spoke in favor of the request. He and his wife have been a member of the church for 18 years and has seen the program grow from its infancy to its current state. He mentors and transports the participants, and spoke to how committed the participants are.

Mr. Bogan asked Ryan O’Gara to read a single remonstrance letter into the record. O’Gara read the letter, signed by 12 individuals. The letter stated simply that the undersigned were opposed to the rezoning request.

Mr. Bogan called for any remonstrators to speak.
Joe Urbanski, 7860 Kipp Farm Road, spoke in opposition to the request. He noted that he was aware of all the good that Faith church does in the community, but he has concerns for security and safety relative to the rehabilitation program. He stated that the church has not approached the neighbors to discuss their plans.

Brent McKenzie, 7865 Kipp Farm Road, spoke in opposition to the request. Mr. McKenzie is the president of the neighborhood HOA. He reiterated the concerns stated about safety and security and expressed additional concern that the hearing so far tonight has been about the program, rather than about the actual rezoning. He spoke of several examples of uncomfortable interactions between program participants and neighbors. He also noted that the level of information provided so far has not been sufficient.

John Kuntz lives north and west of the property. He said that he is very impressed with the church and with the program's mission. He noted, though, that Faith has been horrible about community outreach, despite all their good works and activities. He stated that neighbors are generally very unaware of the program and what it entails.

Mary (last name undecipherable), Road 1000, spoke against the request. She lives right behind the subject site. She stated that someone has been in her house, and that she moved to the area because she wanted to live in an agricultural area, not an industrial area.

Ken Suit, 7890 Kipp Farm Road, spoke against the request. He stated that he moved to the country for the peace and quiet and was unhappy with the constant beeping of the vehicles on site. He also was concerned with the lack of security.

Dawn McKenzie (no address given) spoke against the petition. She stated that she met with the pastor and another neighbor in recent months but was essentially dismissed. She stated that she felt unsafe in the area due to the presence of the men in the rehabilitation program.

Tyler Ochs, attorney representing the petitioner, spoke in rebuttal. He noted that the petitioners fully met the notification requirements as set by the Area Plan Commission. He also noted that security, as an issue, is not germane to the discussion at hand. He asserted that the commitment prohibiting certain uses was arrived at with staff and is sufficiently strict to address neighbors’ fears.

Steve Viars, senior pastor at Faith Church, spoke in favor of the petition. He noted that he freely hands out his cell number to neighbors so that he can address any issues immediately as they arise. He also noted that he, and the church in general, will work to achieve better communication with neighbors.

Tom Murtaugh asked what the capacity of the program is. Pastor Viars replied, saying the maximum capacity is 12, and the average capacity is seven. The average stay is seven months.

Roland Winger verified with staff that the request seeks to legitimize the existing sawmill operation, which is not otherwise legal per the zoning ordinance. Mr. O'Gara confirmed as much. Mr. Winger noted that a denial of the petition would then make the site's current use incongruent with the zoning ordinance. Mr. Bogan acknowledged that fact and stated for the petitioners that time would be allotted for them to privately discuss that as a potential outcome, if they so desired. The petitioner declined the opportunity to do so.

There were no additional comments or questions from the plan commissioners. There were no questions or comments from other interested parties, and no comments from social media.

The APC members voted first on the proposed commitment, and the commitment only.

Lisa Dullum left the meeting, due to a prior commitment, before the vote.
Mr. Bogan then called for a vote on the rezoning request.

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Eric Burns announced the voting result. The motion was approved 14 yes to 0 no.

Mr. Bogan then noted that the matter would be forwarded to the June 7, 2021 County Commissioners meeting with a favorable recommendation.

**IV. ADMINISTRATIVE MATTERS**

David Hittle stated that the Plan Commission discussed during its April meeting issues involving the plan commissioners' online participation in Plan Commission meetings, but has not yet discussed issues involving online participation of other parties, particularly petitioners, remonstrators and other interested agents. He asked Eric Burns to discuss with the plan commissioners the latest developments in terms of governor mandates and state legislation.

Mr. Burns stated that current legislation allows for a “dual option”, or the ability to conduct live meetings with virtual attendance so long as at least 50% of a given hearing body’s members attend in-person. He suggested that he would draft a document adopting that state language for the APC. He also noted that members of the public must be afforded the ability to participate virtually if plan commissioners are afforded that ability.
Mr. Bogan asked for clarification on what differences, if any, distinguish “attending” and “observing”. Mr. Burns replied, saying that the same rules must apply to plan commissioners, petitioners, remonstrators and other interested parties.

Mr. Murtaugh noted that the online meeting links have not been publicly published because of concerns for the possibility that the meeting could be hijacked by a meddlesome, unaffiliated party.

Gary Schroeder asked Eric Burns if the opportunity to conduct virtual meetings would remain beyond the pandemic. Mr. Burns indicated that as long as the governor’s emergency order exists, virtual meetings can be conducted without need for adopting a new local policy. When the emergency order runs out, we’ll need local language in place allowing for virtual attendance, if that’s what we want.

Michelle Dennis asked why a link to the online meeting cannot simply be provided to all interested parties.

David Hittle followed, saying during his time in Johnson County a link to online meetings was made available universally. They experienced no problems, in terms of security, or otherwise, with that policy.

Roland Winger noted that there would be difficulty pulling back from such a wide-open policy, if the desire to do so came about in the future.

Eric Burns spoke off-microphone.

Kathy Lind noted that it is very helpful for staff to know in advance who plans on attending virtually and who plans to attend in person, so that staff can prepare accordingly. She referred to the emails sent out to all plan commission and committee members by Diana Trader, and encouraged all members to respond to those emails.

Jackson Bogan recommended that the issue be sent to the next Ordinance Committee meeting for further review, and his suggestion was supported by consensus.

V. APPROVAL OF THE MAY EXECUTIVE COMMITTEE AGENDA

Gary Schroeder moved that the following requests for subdivision be placed on the June 2, 2021 Area Plan Commission Executive Committee agenda at petitioner’s request, placement thereon being without reference to compliance or noncompliance with the adopted subdivision ordinance:

**RE-0082 GRACEWOOD ESTATES II (Rural Estates Preliminary).**

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

VI. 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 variances, prohibited from consideration by ordinance and statute:

**BZA-2054 REITH REILLY CONSTRUCTION, INC.**

**BZA-2055 TONYA LOWERY**

**BZA-2056 WEST LAFAYETTE GREENHOUSE FACILITY, LLC**

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

VII. DIRECTOR’S REPORT
David Hittle noted that the Director’s Report was emailed to members earlier. He called attention to one item which notes that staff will begin the process of updating the comprehensive plan, prioritizing those areas most in need of update.

VIII. CITIZEN’S COMMENTS AND GRIEVANCES

Jackson Bogan announced there will be a 30-second pause for citizen comment and or grievances. There were none.

IX. ADJOURNMENT

Gary Schroeder moved to adjourn, and subsequent voice vote supported the motion.

The meeting adjourned at 8:10 PM.

Respectfully Submitted,

David L. Hittle
Executive Director