

The
AREA PLAN COMMISSION
of Tippecanoe County

Ordinance Committee Notice of Public Hearing

Date: April 7, 2021

Time: 4:40 PM

Location: Tippecanoe County Office Building
Tippecanoe Room
20 North Third Street
Lafayette, IN

AGENDA

I. PLEASE NOTE:

Due to the public health emergency, public comment on agenda items may be submitted prior to the meeting at apc@tippecanoe.in.gov. Comments must include name and address to be heard. Comments may also be made live on the streaming platforms. Members of the public may watch the livestream of the meeting on Facebook or YouTube. Links can be found on the county website at www.tippecanoe.in.gov/apc.

II. APPROVAL OF MINUTES FROM THE MARCH 3, 2021 MEETING

Documents:

[ORD 03.03.2021.PDF](#)

III. TWO PROPOSED MINOR AMENDMENTS FROM THE FEBRUARY A.O.'S MEETING:

A continuation of the discussion started at last month's Ordinance Committee on these two topics:

- a. Electrical Contractor's Building Size Limitation, and
- b. Using Shipping Containers as On-site Storage Buildings

Documents:

[APRIL 2021 MINOR UZO CHANGES REVISED.PDF](#)

IV. CITIZEN COMMENTS

V. ADJOURNMENT

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

DATE..... March 3, 2021
 TIME.....5:00 P.M.
 PLACE..... COUNTY OFFICE BUILDING
 20 N. 3RD STREET
 LAFAYETTE, IN 47901

Due to the public health emergency, the meeting was held virtually. 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
 Jackson Bogan
 Greg Jones
 Kathy Parker
 Larry Leverenz
 Gary Schroeder

MEMBERS ABSENT

Tom Murtaugh
 Jerry Reynolds

STAFF PRESENT

Sallie Fahey
 David Hittle
 Ryan O’Gara
 Kathy Lind
 Chyna Lynch
 Eric Burns, Atty.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the December 2, 2020 Joint Committee meeting. Greg Jones seconded and the minutes, as submitted, were approved by unanimous voice vote.

II. FOUR PROPOSED MINOR AMENDMENTS FROM THE FEBRUARY A.O.’S MEETING:**A. Basement Window Wells**

Kathy Lind said window wells currently can extend 2 feet into any setback. If it is a 5-foot setback, it can only be extended one foot. According to our Administrative Officer, Indiana Building Code requires 3-foot-wide window wells for egress in case of fire. We are proposing adding a sentence that says window wells may extend up to a maximum of four feet into rear and front setbacks at the discretion of the Administrative Officer.

Gary Schroeder asked if window wells were not allowed to extend into the setback.

Kathy Lind they were allowed to extend 2 feet, but building code requires a minimum of 3 feet for egress. This is aligning our ordinance with Indiana Building Code.

Gary Schroeder moved to recommend approval of the window wells amendment to the full APC. Greg Jones seconded. The motion carried by unanimous voice vote.

B. Electrical Contractor’s Building Size Limitation

Kathy Lind said this is from the Sentry Real Estate GB rezone case that was heard last month. This is located on US 52 where the golf driving range used to be. The electrical contractor that wanted to locate there needed a building of 7,200 square feet. The issue is the footnote in our use table limits building size in the A zone to 5,000 square feet. This required the petitioner to rezone to GB instead of getting a special exception for this use. Staff took this to the A.O. last month to discuss this and came up with a few options for how to change the ordinance to modify the footnote.

Option A would change the limit for only SIC Group 17 which is construction special trade contractors. The original wording of this section was ambiguous. It stated that the maximum gross floor area would be 5,000 square feet. It was unclear if this meant all the buildings' square footage needed to be added up or if that was just the largest building. The new wording states that this would be permitted by special exception in A, AA and AW zones on 5 acres or more with the largest building's maximum gross floor area of 5,000 square feet. However, SIC Group 17 Construction special trade contractors largest building shall have a maximum gross floor area of 10,000 square feet.

Option B would be to change the limit for all businesses in the use table that footnote 8 attached. These include SIC 15 Building Construction, SIC 1611 Asphalt or Concrete Paving, and SIC 17 Construction - specialty trade contractors.

Option C was created after a conversation with Rabita Foley, the staff member who wrote the rezone staff report, and Mike Wolf, the Administrative Officer. This electrical contractor does maintenance and installation of wind energy conversion systems. This company uses huge equipment and has only four employees. They are going to need a much bigger building than just 5,000 square feet. Instead of increasing the size of the building in the footnote, we could take it out of the use table entirely and put it in Chapter 4. This way it could be varied and if someone needs a 12,000 square foot building, for example, they do not have to rezone. Option C would change the requirements to 2 acres instead of a minimum of 5 acres. The electrical contractor that is going in along US 52 is on 3.3 acres of land. Rural home occupations require a minimum of 2 acres and allow for a maximum total gross floor area of 10,000 square feet.. In unusual circumstances, such as this one, a property owner could file a variance and special exception instead of a GB rezone. She asked for any questions.

Gary Schroeder said this makes sense. It is an excellent idea to include the ability to get a variance. There can still be a public hearing and if it is appropriate, it can move along quickly and is less expensive than a rezone.

Sallie Fahey asked if the acreage is changing.

Kathy Lind said this was discussed during the conversation with Mike and Rabita. It was suggested to put it in Chapter 4 which could be varied. We could leave it with a minimum of five acres.

Sallie Fahey asked what Kathy proposed.

Kathy Lind said she proposed 2 acres in Option C.

Sallie Fahey asked if 2 acres is a minimum or a maximum.

Kathy Lind said it is a minimum. It is the same as a rural home occupation.

Sallie Fahey said she objects to the largest building having a gross floor area of 10,000 square feet because someone could have numerous accessory buildings and end up with 30,000 square feet of building in Agricultural districts.

Kathy Lind said Option C was changed to have a total gross floor area of 10,000 square feet.

Sallie Fahey asked if a contractor for wind turbines is SIC 17.

Kathy Lind said this would be considered specialty trade contractor. This SIC was written before there were wind turbines in the county.

Sallie Fahey asked if staff looked at the equivalency table and the NAICS.

Kathy Lind said no, they did not.

Larry Leverenz said he is not comfortable with passing this through. This is on the right track but he would like to see this in writing first.

Kathy Lind said she would take this back to A.O.s to come up with a solution.

Gary Schroeder asked if this would come back to Ordinance Committee next month.

Larry Leverenz asked if there was a time constraint on this.

Kathy Lind said there is not.

Larry Leverenz said this will be heard again next month.

C. Reducing the Parking Standard for Industrial Truck Services

Kathy Lind said this came from a BZA case that was a special exception for industrial truck services or miscellaneous. It was approved with no issue. While staff was reviewing the case, we realized that the required parking standard for this use was excessive. It is currently considered Parking Group 8 which requires one space for every 200 square feet of gross floor area. This is the same as a grocery store like Walmart. Because such a large area is needed to repair trucks and farm equipment, it does not necessarily translate to needing a lot of customer parking. For example, furniture stores only require one space per 400 square feet because furniture is naturally larger than items at a grocery store. Parking Group 6 would work well because it requires one space per employee on the largest shift and one per 200 square feet of office, sales or similar floor area. Staff believes this is a better option than the standard that is like a grocery store. Farm machinery and equipment service and repair would be adjusted to Group 6 as would industrial truck services which includes big truck repair.

Gary Schroeder moved to recommend approval to the full APC for the proposed parking amendment. Greg Jones seconded.

D. Using Shipping Containers as on-site Storage Buildings

Kathy Lind said the county Administrative Officer brought this for discussion because he has been getting a lot of inquiries about shipping containers. This item is more urgent. The question is whether shipping containers can be utilized to store personal items and kept in yards. We also discussed the reuse of these shipping containers as residences. There is one on South 4th Street currently. It was decided that if the residential requirements found in the Indiana Building Code are met, we would not limit the use of shipping containers as residences. This evening, we are discussing using shipping containers for storage not as residences. It was agreed that permitting one or two of these shipping containers for storage on a farm would be acceptable. However, we did not want to see them in the backyards of a residential subdivision of any zone. This proposal would allow a maximum of two storage containers used for permanent on-site storage per farming operation which would be SIC 01 or 02. This would only be allowed if the farm is not located in a residential zone. The shipping containers may not be stacked on top of each other, shall meet all building setbacks for an accessory structure and shall not be permitted on a lot within a residential subdivision or parcelization. In any zone, they shall only be permitted on a non-residentially zoned farm and are only allowed with an approved ILP. Staff would add metal shipping containers that are used for business or residential storage on a temporary basis shall be allowed on site for no more than 30 days. Metal containers on properties zone I1, I2, or I3 are exempt. She asked for any questions or comments.

Sallie Fahey asked if there is a prohibition for using shipping containers at stores zoned GB. She said she agrees with the proposal until the last paragraph.

Kathy Lind said the last paragraph was added because people use pods for storage. She said she does not think people would keep the pods on their property for more than 30 days. It would be more likely that they would keep them on their property for a few days then have it shipped out or put in storage. Business could be eliminated from that sentence in the last paragraph.

Vicki Pearl said she understands these will not be permitted on a lot within a subdivision. She asked why it is not allowed on a parcelization in any zone.

Kathy Lind said this originally stated that the shipping containers shall not be permitted on a lot within a residential subdivision in any zone because there are subdivisions that are zoned Agricultural. It was then added to include parcelizations. This is meant for farmers that have crops or livestock. If someone has a 2-acre parcel that was created through parcelization that is not a farm.

Vicki Pearl asked what is an ILP.

Kathy Lind said it is an improvement location permit or a building permit.

Vicki Pearl asked how properties with existing shipping containers will be handled.

Kathy Lind said they will likely be grandfathered in.

Gary Schroeder said his neighbors recently had a container delivered and it looks better than a storage shed. He said he would like some time to think about this item and get some feedback. He agreed that he would not want one on anything less than 2 acres or in a residential zone. If someone has 2 acres of property in the country, the shipping containers are a better option than outside storage. This allows people to put equipment without constructing an expensive building. He said he would like for this to come back next month after some consideration. It seems like some parcelizations with 2 acres have plenty of room to place a container where it will not be offensive.

Vicki Pearl agreed with Gary. She said one of her clients has a shipping container that they made into a furnished pull barn that looks nice. Not everyone is going to do this, but we need to give this more thought.

Kathy Lind asked if they wanted this to be a 2-acre minimum in a nonresidential zone.

Gary Schroeder said a Rural Estate might be too close together but a full 2-acre lot would be a good start.

Larry Leverenz said if someone gets one of the storage pods in their driveway for storage while remodeling their home, that work may not be done in 30 days. He asked where that falls in this.

Kathy Lind said that could be changed to be at the discretion of the Administrative Officer on a case-by-case basis.

Sallie Fahey said the pods can also be shipped back to that company's storage area rather than sitting in the driveway for 30 days.

Larry Leverenz said that is an option but some people leave them in the driveway.

Sallie Fahey said we could require that they not be in the driveway that long.

Vicki Pearl said she appreciates that the containers can be shipped back but it should be up to A.O. discretion. People may put things in the containers that they need to access.

Larry Leverenz said there are situations where these containers sitting for a while are not visually offensive to anyone. He agreed this should be up to A.O. discretion.

Eric Burns asked what I1, I2 and I3 zones are exempt from in this amendment.

Kathy Lind said they are exempt from requiring a permit and the 30-day restriction.

III. CITIZEN COMMENTS

Larry Leverenz said there will be a 30-second pause for citizen comments. There were none. He welcomed David Hittle to the Executive and Ordinance Committee. He asked if David had any comments.

David Hittle said he is glad to be here. At his previous position, this kind of business was conducted in conjunction with the Plan Commission meetings. He said he thinks it is great that these items are being heard with fresh ears and eyes in a dedicated committee like this.

IV. ADJOURNMENT

Gary Schroeder moved to adjourn.

The meeting adjourned at 5:27 p.m.

Respectfully Submitted,

Chyna R. Lynch
Recording Secretary

Reviewed By,

David Hittle
Executive Director

MEMORANDUM

TO: APC Ordinance Committee
FROM: Kathy Lind, Senior Planner
SUBJECT: 2 Minor Amendments from the Administrative Officer's Feb./March meetings
DATE: April 1, 2021

I. **ELECTRICAL CONTRACTOR'S BUILDING SIZE LIMITATION:**

Two months ago, the APC heard a rezone case from Agricultural to General Business for an electrical contractor's business. The use is allowed in the A zone with a special exception, but GB zoning was necessary for this particular business because petitioner was planning to construct a building of 7,200 square feet. A footnote in the use table limits electrical contractors, and all general construction contractors, to buildings of 5,000 square feet in the Agricultural zone. So a use that could have fit in the existing Agricultural zone was forced to rezone to GB because footnotes in the UZO Use Table are not variable.

Staff took this issue to the A.O.'s and solutions were discussed. Every month, the County Building Commissioner issues building permits for pole barns well over 5,000 square feet in size for farming or for "personal storage" and none of these permits require GB zoning. It was debated whether to increase the size limit or to simply remove the building size limitation. Finally, it was agreed to enlarge the size limit to 8,000 square feet and remove the requirement from the Use Table so the standard could be varied if necessary. It was also decided that allowing the use on 2 acre tracts made more sense than requiring 5 acre tracts.

Footnote 8 is attached to all of the following uses in the Permitted Use Table of the zoning ordinance:

- SIC 15: "Building Construction – general contractors & operative builders"
- SIC 1611: "Asphalt or Concrete Paving – roads, highways, public sidewalks & streets – contractors" and
- SIC 17: "Construction – specialty trade contractors"

If the Ordinance Committee decides to change this part of the ordinance, it would change the footnote for all the above categories of use. It would also take the land area and building size requirements out of the UZO's Permitted Use Table, which means these standards could be varied by the ABZA if the situation warranted it, eliminating the need for a GB rezone. Proposed changes are shown in gray below:

Footnote 8: Permitted in NB, NBU, OR, CB and CBW zones only with no outdoor operation or storage of materials and equipment, and maximum **gross floor area** of 5,000 square feet. ~~Permitted by Special Exception in A, AA and AW zones on 5 acres or more, with a maximum **gross floor area** of 5,000 square feet.~~ (Amend 36) See Section 4-11-14 for further requirements in A, AA and AW zones.

(New) Section 4-11-14: Uses falling under SIC 15, 16 and 17, which are permitted by special exception in A, AA and AW zones shall be located on properties with a minimum of 2 acres with the largest building's maximum gross floor area of 8,000 square feet.

II. **USING STORAGE/SHIPPING CONTAINERS AS A GARAGE:**

The County Administrative Officer brought this issue up for discussion. Building Commissioner Mike Wolf has been getting more questions recently about whether or not shipping containers can be utilized to store personal items and kept in yards. (We also discussed the re-use of these shipping containers as residences. It was decided that as long as the residential requirements found in the Indiana Building Code were being met, we would not limit this.)

The A.O.s agreed in February that permitting one or two of these containers for storage on a farm zoned A would be acceptable; however, allowing even one in a backyard of a residential subdivision of any zone would not. This was discussed at the March Ordinance Committee meeting where some tweaks were discussed. These tweaks were discussed further at the March A.O.'s meeting and the following language was decided:

A maximum of two metal shipping containers used for permanent on-site storage shall be allowed at a farming operation (SIC 01 or 02) in any zone and no more than one shipping container shall be allowed as an accessory use to a residence located on a minimum of two acres of non-residentially zoned property. These shipping containers:

- a) may not be stacked on top of each other,
- b) shall meet all building setbacks for an accessory building, and
- c) are only allowed with an approved ***Improvement Location Permit***.

Metal shipping containers that are used for residential storage on a temporary basis in any zone shall be allowed on site for no more than a period of 30 days or at the A.O.'s discretion.
