

The
AREA PLAN COMMISSION
of Tippecanoe County

Ordinance Committee
Notice of Public Hearing

Date: October 3, 2018

Time: 4:35PM

Place: County Office Building

Tippecanoe Room

20 North Third Street

Lafayette, Indiana 47901

AGENDA

I. APPROVAL OF MINUTES FROM THE SEPTEMBER 5TH MEETING

Documents:

[ORD 09.05.2018.PDF](#)

II. PROPOSED CHANGES TO THE UNIFIED SUBDIVISION ORDINANCE REGARDING THE FURTHER DIVISION OF TEN ACRE TRACTS:

A discussion requested by a citizen at a previous meeting; staff has attached a proposed amendment to the Unified Subdivision Ordinance - Kathy Lind

Documents:

[TEN ACRE TRACTS.PDF](#)

III. REVISING THE STANDARDS FOR WIND FARMS:

A presentation by concerned citizens regarding changing the UZO's existing standards regarding wind energy conversion systems (WECS).

IV. CITIZEN COMMENTS

V. ADJOURNMENT

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
ORDINANCE COMMITTEE MEETING
MINUTES OF PUBLIC MEETING**

DATE.....SEPTEMBER 5, 2018
TIME.....5:00PM
PLACE.....COUNTY OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE, IN 47901

MEMBERS PRESENT

Larry Leverenz
Jackson Bogan
Carl Griffin
Greg Jones
Jerry Reynolds
Gary Schroeder
Tom Murtaugh

MEMBERS ABSENT

Gerry Keen

STAFF PRESENT

Sallie Fahey
Ryan O’Gara
Kathy Lind
Zach Williams, Atty.

OTHER APC MEMBERS PRESENT

OTHER ATTENDEES

Steve Clevenger
Katie Bierman
Chuck Hardesty
Adam Arnold
Cayla Chitwood
Kelli Lank
Mark Hennessey
Chad Spitznagle
Ryan Chen
Malinda Fowler
Joe Furrell
R. Reifenberger
E. Reifenburger
Jeanette Bennett
Kay Miller
Mike Devine
Julie Peretin
Betsy Blair
Gary Stair
Bob Gross
Erin Ehrman

Chair Jackson Bogan called the meeting to order.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the August 1, 2018 Ordinance Committee meeting. Greg Jones seconded and the motion passed by unanimous voice vote.

II. PROPOSAL TO ALLOW ELEVATING HOUSES IN THE FLOOD PLAIN

A discussion requested by a citizen at the August Ordinance Committee meeting.

Erin Ehrman, 9736 Morningside Lane, Delphi, IN 46923, asked for an ordinance amendment allowing homes in the Flood Plain to be elevated. He understands there was a previous amendment passed in 2008 that allowed homes in the FP to be raised for a set amount of time and the time was extended. Unfortunately, he was financially unable to raise his home at that time. His home has been uninhabitable since the most recent flood but his home is in a nice area and he would like to be able to fix his home up rather than let the home rot away.

Jackson Bogan asked Sallie Fahey to let the Committee know the history of the previous amendment allowing homes to be raised in the Flood Plain.

Sallie Fahey thinks this issue first came up after the 2008 flood and it took about six to nine months to work on an ordinance amendment because the amendment would also need to be approved by DNR. At one point the amendment needed to be redone because DNR required changes. She thinks the ordinance was in effect for 15-18 months but Commissioner Byers asked that the amendment be extended because there were some people who asked for additional time at the last minute. The amendment was extended for a year and then it sunsetted.

Tom Murtaugh said Commissioner Byers was the one who spearheaded this amendment as well as the extension when he was on the Ordinance Committee. Commissioner Byers told him that he does not feel the issue should be reopened at this point and he agrees with Commissioner Byers. At one time there was a window but unfortunately that window has closed.

Erin Ehrman thinks he is the only one interested in raising his home because to his knowledge no one else has asked. He thinks it will be a simple thing to allow him to raise his home.

Tom Murtaugh recalls that there was significant outreach to folks in the affected areas in 2008 when the ordinance was discussed and passed.

Sallie Fahey added that there were numerous public hearings that were well-attended by people who spoke to the issue. Three homeowners had their contractors come in at the end of the sunset period and we tried to help them meet the deadline and she knows of one who was able to raise their home.

Carl Griffin said there were consequences at that time for those who were unable to raise their homes.

Tom Murtaugh asked if fewer than 10 people raised their homes.

Sallie Fahey thinks less than five people raised their homes.

Erin Ehrman pointed out that at that time he wanted to raise his home but was unable to. He added that a lot of people illegally raised their homes and there is no recourse for that.

Tom Murtaugh said there would be a recourse if a home was raised in the Flood Plain without a permit.

Erin Ehrman said many homes have been raised without permits.

Carl Griffin asked what legal hurdles we may have to get over to amend the ordinance.

Zach Williams said this Committee has to recommend approval of an ordinance amendment allowing homes to be raised in the Flood Plain and then the ordinance would go to the full Area Plan Commission and then to the jurisdiction for adoption. He said this is not the appropriate forum to discuss whether or not someone has done something illegally but he knows issues like those are discussed by the Building Commissioner. He would like to limit the discussion on this issue to five minutes. If the Committee does not make a motion to

entertain the idea of amending the ordinance to allow raising homes in the Flood Plain there is nothing further to be done.

Erin Ehrman knows he can fix his home up because he has been able to do that in the past but he did not have the money to raise his home before the previous amendment sunsetted.

Sallie Fahey said FEMA may give money when there is a loss. Our local ordinance only permits so much damage to be repaired after a certain amount of damage which also can be cumulative and cumulative from FEMA's perspective. There might come a time when a home can no longer be repaired.

Erin Ehrman knows he is bumping up against restrictions but he is running short on time. He just wants some consideration because he wants his house back.

Gary Schroeder asked what will happen to the Ehrman property if the Committee does not take up this issue.

Sallie Fahey replied that if a property owner would like some money after any one event where there has been a determination of substantial loss or if there has been a finding of repetitive loss over a succession of flood events or if the property owner would like money from their insurance policy for that purpose, according to FEMA, once the determination is made the money can be spent to elevate or tear the house down or potentially be used in the buy-out program. She went on to say some communities permit elevation and others do not. The money could be used to tear down the building and the property could be used as an open-space property. She knows there is not very much money in the buy-out program but once the money is paid out the property becomes the property of the County Commissioners who have to maintain the property in perpetuity as park land. That is not always the best option from the County's perspective. Staff feels the best option is to have the house taken down and allow the property owner to continue to use the property as open space.

Erin Ehrman said the County will offer enough money through a FEMA program to destroy and haul away but he prefers to have his house on his property.

Jackson Bogan asked if a motion is needed for this issue to move forward.

Gary Schroeder moved to **DISCUSS REOPENING THE WINDOW TO RAISE A HOME IN THE FLOOD PLAIN ZONE.** Carl Griffin seconded.

Tom Murtaugh asked if a person wanting to raise a home in the Flood Plain has to file for a permit. He is unsure of the time-line for completion.

Gary Schroeder suggested a person wanting to raise their home should have to draw a building permit within the extension period.

Sallie Fahey thinks a person had to have a complete application for raising the home because that is the state standard for what is in effect. A permit application is reviewed and judged based on the ordinance in effect at the time of a complete application.

Zach Williams thinks that is correct. He added that once the motion is approved the Committee usually directs staff to look at the subject and bring back a proposal for the Committee to look at to start the discussion.

Jackson Bogan said it was mentioned earlier that two parties were unable to raise their homes when the amendment was in effect. Will we need to notify all affected landowners that reopening the window to raise homes in the Flood Plain is being discussed again.

Sallie Fahey said we do not typically notify every property owner in the county every time we amend the ordinance. She is concerned about receiving a request that would ask staff to do that.

Jackson Bogan said he just wants to be sure we are not obligated to notify all property owners.

Gary Schroeder amended the motion on the floor **TO EXTEND THE END DATE TO BE DETERMINED ON ELEVATING CERTAIN STRUCTURES OUT OF THE FLOOD PLAIN (5-1-11 (g))**. Greg Jones seconded and the motion was approved by a 5 yes to 2 no voice vote.

<u>Yes Votes</u>	<u>No Votes</u>
Larry Leverenz	Tom Murtaugh
Jerry Reynolds	Jackson Bogan
Carl Griffin	
Greg Jones	
Gary Schroeder	

Jackson Bogan asked staff to bring back a proposal to extend the end date to raise homes in the Flood Plain.

Sallie Fahey asked when the Committee would like to discuss this issue because right now staff has a backlog of items for the Ordinance Committee to talk about. She then asked if the Committee is willing to meet twice a month for a while. That is part of the discussion she planned to take up late in the meeting.

Jackson Bogan said the Committee will discuss a time for staff to bring back a proposal at the conclusion of the meeting.

Carl Griffin thinks we should notify Erin Ehrman when this issue will be discussed again.

Jackson Bogan informed the audience that the Committee needs to get to item #4 on the agenda so the discussion on agenda item #3 will end at 5:50pm.

III. PROPOSED CHANGES TO UNIFIED SUBDIVISION ORDINANCE REGARDING THE FURTHER DIVISION OF TEN ACRE TRACTS:

A discussion requested by a citizen at the previous meeting. Staff has attached a couple of different options for discussion purposes.

Kathy Lind said a parent tract is the shape and size of a property as of November 19, 1979 and parcels are allowed in unincorporated areas and only in A, AA, and AW zones. Each parent tract is allowed up to two parcels which must be at least 2 acres in area with tracts of 10 acres or more exempt from the subdivision ordinance (Exemption A) making parcels between 2 and 9.9 acres in size. She went on to say four lots with a minimum of 30,000 sq. ft. each is the maximum number of lots per parent tract using the minor subdivision technique in the A, AA, and AW zones. That means the total number of parcels and lots from a parent tract cannot exceed four.

A citizen spoke at the August Ordinance Committee meeting and asked the Committee to change the subdivision ordinance regulations that prohibit him from further dividing his 10-acre tract. Staff has also heard from two other families about dividing 10-acre tracts. The Committee asked staff to investigate how the regulations might be changed. She and Don Lamb, Senior Planners that do the bulk of the subdivision review work, met several times and came up with three proposals that would address these concerns. Parcelizations did not exist before the subdivision ordinance was enacted in 1979 and at that time five-acre tracts were the smallest tracts that could be created without subdividing.

Staff is making the following proposals to start the discussion on this topic:

- #1 Allow up to four parcels per parent tract between 2 and 5 acres and also an additional 2 parcels between 5 and 9.9 acres.
- #2 Tracts between 10 and 19.9 acres created by Exemption A within a parent tract that has no further division rights may be further divided into no more than 2 parcels if the Exemption A tract was created by recorded deed a number of years ago.
(This proposal would allow more 10-acre tracts to be divided because it does not limit the number allowed except for the time limit imposed from when the tract was created and recorded.)

- #3 Farmsteads, located on a tract of 15 acres or more, may be parcelized from surrounding farmland and will not count as one of the parcelization rights available per parent tract. (This option would require amending the ordinance by adding a definition for the term "farmstead".)
- #4 Make no changes to the ordinance.

OPTION #3 FARMSTEAD

Kathy Lind said a family approached staff about dividing off their farmstead (house and farm buildings) but they were unable to it because the farmstead is on about 50-acres of land and the parent tract had already been parcelized/subdivided. They only wanted a 3-acre lot for the farmstead instead of 10 acres because taking the additional 7 acres would have cut into their farmland. She went on to say people often come in to parcelize off their farmstead but that takes one of their parcelizations rights away.

Tom Murtaugh asked if it matters if the lot being parcelized was being farmed. He asked if the lot has to be wooded.

Kathy Lind said she is thinking that the lot needs to be on farm. A farmstead by definition is on a piece of land that is farmed. She thinks that means it has to be farmed.

Tom Murtaugh said that means the property must be in agricultural production or not in agricultural production.

Sallie Fahey said we are talking about separating the house and barns off of the land that is being farmed. She added that the land that is being farmed and the house would have to be at least 15 acres before it would be eligible.

Kathy Lind said the house would have had to have been built prior to 1979.

OPTION #1

Kathy Lind said this option would allow four parcels per parent tract and two additional larger parcels. She used an example of a 40-acre parent tract that was subdivided into four lots, using all the division rights in the parent tract. The only division option left is to create three, 10-acre tracts. This proposal would allow an additional two, 5-acre tracts to be created.

Sallie Fahey added that the two additional tracts could be created out of only one of the 10-acre tracts.

Jackson Bogan said this proposal allows for two extra lots to be created but the lots will have to be larger tracts of land.

Sallie Fahey said this proposal would allow two additional tracts to be created but each tract would need to be at least 5-acres.

Kathy Lind said the downside to this option is that the people owning the other 10-acre tracts could not divide their land because all the rights have been used.

Jackson Bogan said the current ordinance would prevent any further division of the three, 10-acre tracts. This might be a solution but not to everyone's problems.

OPTION #2

Kathy Lind said this proposal would allow tracts between 10 acres and 19.9 acres to be further divided into two. She said someone having a 20-acre tract that was never sold off separately could today be divided into two, 10-acre tracts. After 10 years, the two, 10-acre tracts could be parcelized. This proposal acknowledges that the community grows and changes over time.

Sallie Fahey said on the other hand we do not want a wholesale opening of every 10-acre tract in the county eligible to be divided again, again, and again.

Kathy Lind said two tracts is the maximum number of lots that can be created.

Jackson Bogan asked if the tracts need to be divided equally.

Kathy Lind said two tracts can be created but the tracts do not need to be the same size.

Jackson Bogan said that means someone with a 17-acre tract could divide it into a 7-acre and a 10-acre tract and then wait 10 years and then divide the 10-acre tract into two tracts.

Kathy Lind said that is an interesting thought. She then displayed a map only showing the rural zones with mint green zoned A, the darker green zoned AA, and the brownish-green is zoned AW. The red shows all the tracts of land that are between 10 and 19.9 acres in size. We created the map hoping a pattern would emerge showing where the 10-acre tracts are located but they are spread out all over the county.

Sallie Fahey said the AW zoned areas are the areas most likely to be eligible for rural estate subdivisions (RE) if they have not actively been farmed. That option is still open to somebody with 10+ acres. She said that option is not used often because the cost and the process is similar to what a subdivision requires. In some cases we are being asked to create development without having to go through the development process. She said some of staff's proposals are minimalist so she may have exaggerated a bit. Everybody wants to get as much money as they can out of their property for the least expense and the rural estate process is not an inexpensive process to go through.

Jackson Bogan thinks staff does not want to create subdivisions without going through the proper channels/process.

Kathy Lind said that is correct and added that staff wants to preserve farmland.

Jackson Bogan thinks the least intense option is #3 because it will allow the family farm to break out the home and sell the rest of the land for development by going through a development process.

Kathy Lind explained that generally the farmstead is broken off because the farmer wants to sell off the farm land or sell the house. Those divisions are generally not for development purposes.

Sallie Fahey said often there is a generational change where the parents who farmed are either infirm or deceased and the heirs want to sell off the house and either keep the farmland or sell it to another farmer.

Gary Schroeder asked Kathy Lind if staff has a preference which option is chosen.

Kathy Lind said she would like to have the farmstead proposal approved.

Gary Schroeder said it seems like staff wants to allow some divisions but he knows there always are unintended consequences. He asked how we can craft an ordinance that allows reasonable/smart division and proper use of the land. A lot of people do not need 10 acres because they do not want to mow that much land but it will be difficult to allow that without getting carried away.

Kathy Lind said that is a discussion she had with Mrs. Chitwood. Mrs. Chitwood spoke to some farmers about 10-acre tracts and the farmers told her that with the farm equipment as large as it is now a 10-acre tract is almost too small to farm but it is too large for a house. She wonders if maybe a 20-acre minimum would make more sense.

Sallie Fahey said the idea is to allow a person to divide their land into as many 20-acre tracts as possible, based on the size, without having to go through any approval process. That can be done now if the tracts are at least 10-acres in size. 20-acre tracts would be less attractive as homesites so we would not end up with the problem of somebody thinking a 10-acre tract is great when they are in their 30's but it becomes a pain when they are in their 60's. She thinks requiring 20-acres tracts is a good idea to discourage the individual home buyers from thinking they are purchasing a rural paradise. She thinks some of that is what has led to these discussions. She thinks that is another piece of the puzzle to consider at this point.

Adam Arnold, 4761 US 52 West, West Lafayette, IN 47906, said he is representing the Chitwood family and understands the proposal will not be done on a tract-by-tract basis but has to work for everyone. The Chitwood family owns a 10+-acre tract and they want to divide the tract basically in two so they can build a house for themselves and a house for their daughter, his fiancé. He grew up on a family farm and he knows there are places where you can farm a 10-acre tract but the 10-acre tract the Chitwood's bought cannot be farmed because of access and the other homes around it. The person farming the ground now informed him that he no longer will be farming the ground. The plan is to use the ground agriculturally with cattle, horses, pasture, etc.

Chuck Hardesty, 3609 Morningside Drive, Lafayette, IN 47905, said he is in the same boat as the Chitwoods.

Tom Murtaugh asked Kathy Lind if **#3** will help the Chitwoods or Chuck Hardesty.

Kathy Lind said **#3** will not help either one of them. Only **#1** and **#2** will solve their problems.

Chuck Hardesty asked if **#2** is less intense than **#1**.

Kathy Lind thinks **#1** is less intense because it only permits one additional division of two tracts.

Sallie Fahey added that that is close to Chuck Hardesty's situation.

Tom Murtaugh asked if there could be a timeframe from the last parcelizations to do an additional parcelizations.

Kathy Lind said that idea is like **#2** where we set a time frame when the 10 acre tract can be further divided.

Tom Murtaugh said he is confused about the Exemption A process in **#2**. He does not understand why the tracts had to be created by Exemption A.

Sallie Fahey explained that Exemption A is one of several exemptions to the definition of **subdivision** (what defines when somebody had to subdivide their land or not). Exemption A is when you create tracts that are 10 acres or larger in size even though we tend to call them 10-acre tracts. There are also exemptions for parcelizations, land division because a public entity purchased right-of-way through the middle of it, and the platting of a cemetery. Exemption E is the other most commonly used exemption and it was discussed earlier when presenting the Neuhoff Subdivision. The 6 acres below the radio station would be added to the adjacent property through Exemption E. Exemption E is used when no new building site is being created.

Carl Griffin said there are three families actively involved in this process with potentially more as shown on the map. The ordinance has remained the same for reasons we feel still hold. He asked if there is any proposal staff can envision that will take care of all three families and bring it back to the September Ordinance Committee meeting. He added that he is not asking for an answer to that question right now. He then asked for the pros and especially the cons/downsides for each proposal. He does not want this ordinance amendment to be a loophole because we want growth in an organized fashion. He is not sure he grasped the nuances of the proposals at this point.

Kathy Lind said she will bring another proposal to the Committee next month that ties everything together. She mentioned that she thinks we can do **#3** along with **#1** or **#2** at the same time.

Jackson Bogan asked if we can add "one time per owner" or something similar so that a parcel cannot be split every 10 years.

Sallie Fahey thinks we would need to define who the "owner" is by the time the original parcelization happened, every subsequent owner, etc. She has concerns about doing that.

Kathy Lind said she is envisioning the 10-acre tracts because she knows there are a lot of 10-acre tracts out there because that is the minimum. She gets a lot of calls from people who own a 10-acre tract and want to

divide it but usually the tract cannot be divided. She made the proposal 10 to 19.9 acres because if you have a 20-acre tract you can divide that in two.

Larry Leverenz asked why proposal #2 does not fit the Bennett situation.

Kathy Lind explained that the Bennett situation is different because it is on a 50-acre tract and proposal two is only for a 10-19.9 acre tract.

Gary Schroeder said it used to be five acres, then went to 10 acres, and now we are talking about making it 20 acres. He asked about the downside of going back to 5 acres.

Sallie Fahey said we would have five-acre tracts everywhere. She thinks it would absolutely eat up farm land.

Gary Schroeder said eating up farmland is another discussion because people will build whether it is on 5 or 10 acres as you grow housing.

Sallie Fahey said there are two reasons. The first is we have a *Comprehensive Plan*, that all the jurisdictions adopted, that said we are going to do our best to preserve the very best farm land we have and that is the reason we went to 10 acres from 5 in 1979.

Jackson Bogan interrupted to say the Committee has to get to the next item on the agenda and he asked Sallie Fahey and Gary Schroeder if their conversation can be resumed another time.

IV. PROPOSED ZONING MAP FOR THE US 231 CORRIDOR:

A second look at the draft zoning map (See attachment.) created based on the recently adopted US 231 Corridor Plan amendment to the *Comprehensive Plan*

Ryan O’Gara presented the current zoning map, Proposal #1, and Proposal #2.

Carl Griffin asked if the Committee is looking at the proposed map for informational purpose.

Ryan O’Gara explained that he now has two proposals after this was discussed at the August Ordinance Committee meeting. If the Committee needs more time, the subject can be tabled for a month.

Sallie Fahey clarified by saying that staff would like the Committee to pick one of the options to send on to the full Plan Commission for adoption.

Ryan O’Gara said the proposed zoning changes are shown on the current zoning map in white. He pointed out that there are many areas where the existing zoning is not changing like the commercial areas on the north side of the corridor at Cumberland and Sagamore. Staff originally recommended Proposal #1 based on the policy recommendations in the *US 231 Corridor Plan*. In that proposal, there was no plan for a commercial future at the Lindberg and US 231 intersection to try to prevent commercial stripification of the corridor by limiting the commercial nodes. The plan was to allow lower density, multi-family development at that intersection. West Lafayette staff was not in favor of immediately jumping into a multi-family zone and would prefer the City Council to make that final decision. The intersection is currently zoned R1 and A and it was decided to advance the density a bit by proposing R2 (duplex or single-family) zoning. He was unable to attend last month’s Ordinance Committee meeting but he learned there was some concern about the R2 on the west side of US 231 at Lindberg after reading through the minutes and discussion from that meeting. He then prepared Proposal #2 for the Committee to consider showing the proposed R2 areas in the northwest and the southwest intersections on Proposal #1 and to show R1B zoning in Proposal #2. A density increase is still being proposed at that intersection but the new proposal is smaller lot, single-family than the current R1 zoning. Purdue Research Foundation owns the southwest portion of the intersection and has no preference for zoning at that intersection. The property owner of the partially wooded portion furthest west in the northwest corner of the intersection expressed some interest in commercial zoning for his property but was informed that cannot be done at this time because it is not what the *Plan* recommends for that intersection. Ryan O’Gara said he explained the rezone process to that owner if he decides to apply for a

rezone for his property and take his chances with the West Lafayette Council. He talked to the other property owners at the intersection and explained what the proposed changes mean for their properties.

Ron Reifenberger, 4113 Copper Valley, Lafayette, IN 47909, said he owns some of the property being discussed and he asked if anyone lives out close to US 231 and are familiar with the area.

Carl Griffin said he does not live in the area but he is familiar with it.

Sallie Fahey said she travels that area often.

Ron Reifenberger said the intersection is extremely noisy, especially at the Lindberg/US 231 intersection and it was not always that way. When US 231 was built he asked the state to construct a barrier to abate the noise but the state did not do that. Before the road was built there was a nice barrier of trees that would have abated the noise but the state cut the trees down. He does not think anyone would want to buy a home in that area. He thinks the location might be okay for apartments because tenants only live in the area for a short time and then move out but he does not believe anyone would want to build a home there.

Gary Schroeder is concerned about the airport being zoned I2. He looked at the *Permitted Use Table* in the *UZO* where the Maurice J. Zurko Research Laboratories is located next door. At one the labs did jet propulsion research, sat inactive for 20 years, and now is back in operation. The lab generates a lot of noise and stores things outside same as the airport does. He thinks the airport has looked at the proposal but he is not sure the airport activities will continue to be in compliance with an I2 zone. He is fine with the proposal if Purdue has looked at it and is happy with it.

Sallie Fahey explained that an airport and all its activities is permitted in an I2 zone. She went on to say research facilities are also permitted in I2 zones.

Ryan O’Gara pointed out that PRF is fine with the proposal and that Purdue University is exempt from zoning. Anything university-owned is exempt.

Sallie Fahey explained that R2 zoning is a philosophy that looks at the Lindberg intersection as a node just like we are looking at the commercial node at Cumberland and that is what the increase in intensity represents. Last month we heard the other philosophy from people that already live on the west side in single-family homes. The other philosophy is that we have higher-density residential uses on the east side of US 231 at Lindberg but right now we have all single-family on the west side of the intersection. The people already in single-family homes are guaranteed that their neighbors on the east side of the intersection will be renters and less permanent if the properties are zoned R2. There is a possibility that an owner-occupied neighborhood will be developed if the property is zoned R1B. We either have to look at this area as a node for development or look at the existing uses and keep the single-family on the west side of the intersection and intensify residential on the east side.

Jackson Bogan asked if “node” is similar to “spot zoning”.

Sallie Fahey explained that a “node” is the intersection of two roads and everything around the intersection.

Jackson Bogan pointed out that there is no existing R2 around the proposed R2 zoning that abuts the R1 zoning in Proposal #1.

Tom Murtaugh said there is R2 zoning across the highway.

Sallie Fahey said the second philosophy she spoke about looks at the highway as more of a barrier than a divider.

Tom Murtaugh moved to recommend approval of the **ZONING MAP FOR THE US 231 CORRIDOR, PROPOSAL #2 AS AN AMENDMENT TO THE COMPREHENSIVE PLAN FOR TIPPECANOE COUNTY** to the Area Plan Commission. Carl Griffin seconded and the motion was approved by unanimous voice vote.

V. POTENTIAL ADDITIONAL MEETING TIMES

Sallie Fahey said the Committee had a backlog because it is currently considering the following topics:

- Elevation in the Flood Plain,
- Dividing 10-acre tracts,
- Prohibit quarrying the Flood Plain (critical because it has to be done before the next legislative session starts),
- Wind farms, and
- Changes to R3, R3W, and R4W.

She thinks it will take a fair amount of time just to work through these issues.

The Committee also has the following ordinance amendments to consider;

- West Lafayette Downtown and Levee plan,
- Form-based code for the Discovery Park area,
- Rental Study,
- Land Use Plan Amendments for Dayton and Battle Ground at their interstate areas.

She said she thinks we can move the ordinance amendments along faster if the Committee would like to meet two times a month for a while.

Tom Murtaugh asked when the second meeting date is.

Sallie Fahey said originally a date was held for the second Ordinance Committee meeting on the 4th Thursday and then that was changed to quarterly on the 3rd Thursday.

Jackson Bogan asked if we can hold a second Ordinance Committee meeting at 5:00pm on the 3rd Wednesday prior to the Area Plan Committee meeting.

Sallie Fahey said that time may not work for her because she has to attend the Technical Transportation Committee meeting at 2:00pm on the 3rd Thursday.

Jerry Reynolds suggested extending the regular Ordinance Committee meeting and meet until 7:00pm.

The Committee and staff concurred.

VI. CITIZEN COMMENTS:

None

VI. ADJOURNMENT:

Gary Schroeder moved to adjourn the meeting. Greg Jones seconded.

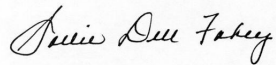
The meeting adjourned at 6:10p.m.

Respectfully submitted,



Linda Underwood
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director

MEMORANDUM

TO: APC Ordinance Committee
FROM: Kathy Lind and Don Lamb, Senior Planners
SUBJECT: Proposed Changes to the USO regarding 10-acre tracts
DATE: September 27, 2018

BACKGROUND:

During the August Ordinance Committee meeting, Mr. Hardesty spoke during Citizen's Comments to request the Committee change the subdivision regulations that prohibit him from further dividing his ten-acre tract. Staff has also heard from the Chitwood family (who has the same situation as Mr. Hardesty) and also recently from the Bennett family (who's situation is slightly different). At the August meeting, staff was directed to investigate how these regulations could be changed. The two senior planners that do the bulk of the subdivision review work met several times and came up with three different proposals to address the citizens' concerns. At the September Ordinance Committee meeting, the existing rules regarding land division and these new proposals were presented, but there was a limited amount of time to discuss these changes and no decision was reached.

After further discussion this month between staff members, the following Unified Subdivision Ordinance amendment has been drafted. But first, since an understanding of our current land division regulations is critical, below is a quick overview of those regulations which create the biggest tracts to the smallest lots:

CURRENT SUBDIVISION REGULATIONS:

Under the definition of "Subdivision" in the Unified Subdivision Ordinance (USO) there are listed five exemptions (lettered A through E). Exemption A states, "A division of land into two (2) or more tracts all of which are at least ten (10) acres in size." This is where our size limit comes from. The smallest size tract of land that can be created by deed or recorded survey without first parcelizing or subdividing it, is ten acres. (Before the current USO went into effect in 1980, 5 acre tracts were the minimum under the previous Subdivision Control Ordinance.)

To understand how "development rights" for both parcelizations and minor subdivisions are determined, it is necessary to know the definition of "parent tract." A parent tract is, "A piece of land, the location, shape and size of which is determined by the official record of the last transfer of its ownership transacted before this ordinance was enacted or the last division by recordation of a plat prior to the enactment of this ordinance...on November 19, 1979 in Tippecanoe County."

Parcels, or tracts of land created through the parcelization process, are between 2 and 9.9 acres in size. Parcels are only allowed in the A, AA, and AW zones, and a maximum of 2 parcels can be created from a “parent tract”. (Between the years 1980 and 2002, four parcels were the minimum number allowed per parent tract.) No public hearing is required for a parcelization and as such, they are both cheaper and faster to create. This is also the technique that was misused to create “sliders”; however, an amendment from 2002 effectively blocked this loophole.

Lots created through the minor subdivision process must have road frontage on an existing publicly maintained road; and must be at least 30,000 square feet in area if on a septic system. There can be no needed public improvements to serve future residences; if a sanitary sewer main, water main, or public street is required to be built to serve these lots, the land division must be done as a major subdivision. (Replats of existing lots are also considered minor subdivisions.) The USO allows only 4 minor subdivision lots per parent tract; however, the total number of parcels and lots added together per parent tract cannot exceed four in number.

Rural Estate Subdivisions require:

- A minimum distance of ½ mile from the nearest sanitary sewer;
- 50% of the land involved must be either wooded and untilled, non-tillable, or not mechanically harvested for at least 3 or the 5 years between 1997 and 2001;
- A successful rezone to the RE zoning district; and
- No more than 12 lots created per request with a maximum density of no more than 1 dwelling unit per 2 acres and a minimum residential lot area of 1 acre.

Major (residential) Subdivisions require residential zoning which almost always requires sanitary sewer and water. Lot size depends on the type of residential zone (R1U requires 4,000 square feet, R1 requires 10,000 square feet). Major subdivisions often require extensive public improvements such as public streets, sewer main extensions, water main extensions, sidewalks, drainage systems, etc.

PROPOSED USO CHANGES:

The proposed changes to the Unified Subdivision Ordinance would do the following:

- Make changes to the 200’ parcel width requirement that would address concerns that have arisen over the years.
- Create a farmstead parcelization exemption that would allow the division of a house and farm buildings from the surrounding farm field without being required to use one of the parent tract’s four development rights. (To qualify, a residence must have existed since 1980 on a farmed tract of 30 acres or more.)

- Allow up to four parcelizations per parent tract (instead of the current maximum of 2) or four minor subdivided lots or a combination of the two techniques with the maximum number of lots/parcels (aka “development rights”) being created totaling four.
- Change the Exemption A tract definition so that the minimum tract size is 20 acres instead of 10 acres.
- Allow tracts created by Exemption A of between 10 and 19.9 acres (created before the adoption of this amendment) to be divided into no more than two parcels. This division of Exemption A tracts would not count against the four development rights per parent tract.

The proposed amendment to the Unified Subdivision Ordinance is attached.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER _____
OF ORDINANCE NO. _____
BEING THE UNIFIED SUBDIVISION 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 Subdivision Ordinance of Tippecanoe County is hereby amended as follows:

Section 1. Add the following definitions to **USO Section 2.2** as follows:

FARM. An area used for agricultural operations, including truck gardening, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry.

FARMSTEAD. The residence (primary use building) of a farm. The farmstead land area may include accessory buildings and adjacent service areas of the farm. For the purposes of this definition, the residence must have been in existence since November 19, 1979 or earlier and be located on a farm of 30 acres or more.

FARMSTEAD PARCELIZATION. The one parcelization lot including the farmstead of a parent tract.

ORIGINAL EXEMPTION A (OE A) TRACT. A lot greater than or equal to 10 acres and less than 20 acres in size, eligible as a primary use building site that was created by Exemption A (from the definition of Subdivision) after the enactment date of this ordinance (November 19, 1979) and prior to the adoption of this amendment (Amendment 11). For the purposes of this definition, a lot is "created" on the date of its recording.

ORIGINAL EXEMPTION A (OE A) TRACT PARCELIZATION. The two lot parcelization permitted per OE A Tract.

PARCELIZATION TYPES. Farmstead Parcelization, OE A Tract Parcelization and Standard Parcelization.

STANDARD PARCELIZATION. The four lot parcelization permitted per parent tract.

Section 2. Replace paragraph A (Exemption A) in the definition of Subdivision in **USO Section 2.2** with the following:

- A. For land in the Agricultural (A), Select Agricultural (AA) or Agricultural Wooded (AW) zones (including any adjacent FP zoned land), a division of land into two (2) or more tracts all of which are at least twenty (20) acres in size. For all other zones, a division of land into two (2) or more tracts all of which are at least ten (10) acres in size.

Section 3. Replace the second paragraph in **USO Section 3.1(1)** with the following:

Exempt divisions are not subject to the requirements of this ordinance. To be eligible as primary use building sites, lots created by exempt division shall be twenty (20) or more acres in size if zoned Agricultural (A), Select Agricultural (AA) or Agricultural Wooded (AW), or ten (10) or more acres in size if in any other zone (Exemption A in the definition of subdivision), unless created by order of a court (Exemption C). Subsequent to the adoption of the May 1988 amendment (on June 6, 1988 by the Tippecanoe County Commissioners; on July 11, 1988 by the Lafayette City Council; on June 6, 1988 by the West Lafayette City Council; on July 5, 1988 by the Battle Ground Town Board; on July 11, 1988 by the Dayton Town Board; on April 1, 1996 by the Clarks Hill Town Council), no primary use building site created as an Original Exemption A Tract shall be reduced below ten (10) acres unless by subdivision, parcelization, or order of a court (Exemption C). No A, AA or AW zoned primary use building site created through Exemption A shall be reduced below twenty (20) acres through Exemption E. In any other zone, no primary use building site created through Exemption A shall be reduced below ten (10) acres through Exemption E. For purposes of this paragraph, a lot is "created" on the date of its recording.

Section 4. Replace the second paragraph in **USO Section 3.1(2)** with the following:

However the further division of a parent tract from which four (4) minor subdivision lots or four (4) standard parcels (or a combination of both) eligible as primary use building sites have already been created, shall be classified as a major subdivision, unless this further division is classified as a Rural Estate Subdivision, or exempt by Original Exemption A Tract Parcelization or Farmstead Parcelization, or complies with Exemption A or C in the definition of Subdivision. For purposes of this paragraph, a lot is "created" on the date of its recording.

Section 5. Replace the table in **USO Section 3.5(3)(a)** with the following:

Parcelization Type	Maximum Number of Lots permitted per Parent Tract	Minimum Lot Area (Exclusive of Right-of-Way)
Farmstead	1	2 acres
OE A Tract	2 (per OE A Tract)	2 acres
Standard	4	2 acres

Parcelization land divisions are only permitted in the Agricultural (A), Select Agricultural (AA) and Agricultural Wooded (AW) zones.

Section 6. Change **USO Section 3.5(3)(b)** as follows:

(b) Parcels Abutting a Public Road.

For parcels that abut a public road, the minimum parcel width shall be 200 feet. Parcel width shall be measured along the right-of-way line of the public road. For parcels abutting more than one public road, parcel width standards need only apply to one public road abutted. For parcels abutting a public road that cannot derive access from that road, an easement for vehicular access and utility placement, connecting all such parcels to a public road, shall be provided at the time of parcelization. Where a physical impediment or the shape of the parent tract prevents a proposed parcel from meeting the minimum 200-ft of frontage standard, the Executive Director may waive this requirement; however, the parcel width may never be less than the minimum lot width required by the Unified Zoning Ordinance for that particular zone.

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