

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

DATE.....FEBRUARY 1, 2017
 TIME.....5:05PM
 PLACE.....COUNTY OFFICE BLDG.
 20 N. 3RD STREET
 LAFAYETTE, IN 47901

MEMBERS PRESENT

Larry Leverenz
 Jackson Bogan
 Carl Griffin
 Gerry Keen
 Tom Murtaugh
 Gary Schroeder
 Greg Jones

MEMBERS ABSENT

STAFF PRESENT

Sallie Fahey
 Ryan O’Gara
 Kathy Lind
 Rabita Foley
 Jay Seeger, Atty.

OTHER APC MEMBERS PRESENT

OTHER ATTENDEES

Steve Clevenger
 Shannon James
 Dave Bangert
 Chad Spitznagle
 Mike Wolf
 William Robinson

Chair Tom Murtaugh called the meeting to order.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the January 4, 2017 Ordinance Committee meeting. Greg Jones seconded and the motion passed by unanimous voice vote.

II. AirBnB

Renewed discussion on single-family dwellings being used as transient rentals, following last month’s APC meeting where the proposed amendment was tabled

Jay Seeger said he and staff have been directed by APC to again review the proposed AirBnB ordinance. At this time he is proposing that we reschedule this with respect to the points regarding the *transient guest rental* and *transient guest rooms* for owner-occupied structures for an upcoming meeting. He asked staff to send out notices to all those who spoke at the January APC meeting to notify the speakers when we are discussing those points again. The only people who spoke at APC were all owner-occupied AirBnB hosts. We had no public input on the provisions regarding non-owner occupied rentals. He suggested reconsidering that and amending the ordinance to just address that issue and send it back to the full Commission.

Tom Murtaugh thinks that makes a lot of sense. He had a conversation with Mayor Roswarski in regard to this issue and he has concerns about delaying the AirBnB amendment. The Mayor thinks just addressing the non-owner occupied rentals at this time is a great solution. The statehouse is currently looking at legislation with regard to AirBnBs. He thinks it makes sense to continue this Committee's conversations on the subject until after the session closes so we know what the state legislation is.

Jay Seeger agreed that we do not know what is going to happen at the state level and what limitations might be imposed on our ability to amend the ordinance. He thinks we should tentatively put the AirBnB discussion on the May Ordinance Committee agenda after the legislature acts on HB 1133.

Tom Murtaugh asked if there are any issues moving forward with the definition of transient guest house and allowing that to be permitted by right in the R3 and commercial zones.

The Committee agreed to move that part of the amendment forward.

Carl Griffin moved to recommend approval of the **TRANSIENT GUEST HOUSE AirBnB ORDINANCE AMENDMENT** as written to the Area Plan Commission. Greg Jones seconded.

Jay Seeger asked if the amendment will be heard at the February or March APC meeting.

Sallie Fahey said the amendment can be amended down at any time and it does not need to be re-advertised so she thinks it can be heard at the February meeting.

The motion was approved by unanimous voice vote.

III. MICRO WIRELESS POLES:

Discussion on a proposed amendment regarding locating "repeater poles" within public road rights-of-way to improve wireless data capacity

Jay Seeger said he and APC staff met with representatives from Tippecanoe County and West Lafayette this morning and got further input on related issues.

Sallie Fahey passed a copy of the advertisement on underground vaults from Planning Magazine.

Tom Murtaugh asked who is on the committee.

Sallie Fahey said it is Jay Seeger, Zach Williams, Don Lamb, Opal Kuhl, Mike Spencer, Marcus Smith, a representative from the Lafayette Engineer's Office, and herself. The poles will be located in the rights-of-way so in the county the Highway Department will be in charge and the Administrative Officer (AO) will be in charge in the other five jurisdictions. There is a lot of interest in this underground concept in locations where we already require underground utilities rather than having the equipment boxes on the sidewalk. We reached an agreement that the underground vault will be required unless the AO or Highway Engineer says it is not required. In those cases we will provide options for on the ground or pole vaults. The Committee is working on three different height requirements. The standard height in the cities where there is not an all-weather siren needed will be 35' including the antenna. There will also have to be a street light with the electricity paid by the tower company unless not required by the AO. There will also be an urban height where a siren is required and a rural height, restricted by zoning district, where a siren is required. We have not worked on the heights where sirens are required because we need to consult with TEMA about sirens and their locations, and pole heights. The committee agreed with a 600' separation that typically represents a city block. One of the tower providers told West Lafayette that one pole per block is sufficient. The tower provider would probably have to replace the light pole if the provider wants to construct a double-duty light pole close to an existing light pole. It was decided that the default material for the pole will be metal but that can be changed. Inside our existing urban area boundary, created and usually moved out after every 10-year census, the pole material will be metal unless the AO/Highway Director requires something else. The tower provider will have to match the color and style of other surrounding light poles. The committee is working on bonding for pole removal if the use is abandoned. Right now we are thinking about a company-wide bond that covers a number range of poles, like 1 -10 or 10-20, etc. There was talk of having to renew the bond

every five years but the committee will need Jackson Bogan's input as to whether bonds can initially be written for a five year period or not. This Committee talked about whether a company could come in and get a large number of permits to shut out their competitors but never actually build the poles. Jay Seeger and Zach Williams will work on an ordinance amendment regarding the timing of that but it definitely will be less than the one-year currently allowed in the county and the three towns. Permits issued in Lafayette and West Lafayette are only good for 120 days. A height trade-off if the pole is located in an alley is the issue the committee wants to talk about with a representative from Lafayette.

Gerry Keen asked if the desired pole location is underground.

Tom Murtaugh said there still needs to be a pole but the equipment box will be located underground.

Sallie Fahey concurred and added that there were concerns about ADA obstructions if they were located above ground. She went on to say there are some providers who like to put their equipment up on the pole so the AO/Highway Director could approve an above ground or on the pole location.

Jay Seeger said there are places where underground locations are already very congested and there is no room for the vault. All three options are available but ideally the boxes will be located underground.

Greg Jones asked if mounting antennas in the pole was discussed.

Jay Seeger explained that these antennas are about the size of a coffee can that sit right on top of the pole. We required that all the wiring is inside these data receiving poles. Standard cell towers generally have the antennas inside the poles.

Sallie Fahey referred to the article that was passed around and said it shows photos of actual micro poles.

Tom Murtaugh asked what was discussed about sirens in rural areas.

Sallie Fahey said the committee needs to talk with TEMA to get a map of where currently there are gaps. The towers in the rural areas would either have a siren or a street light. If neither was called for, the Highway Engineer could say neither a light nor a siren is needed on the pole.

Tom Murtaugh said he spoke with Smokey Anderson about this issue and was told there is a gap right now in the industrial area around GE Aviation. Smokey Anderson said a lot of the current siren locations are in school properties and not in the right-of-way. In those instances the company would have to negotiate with the schools.

Jay Seeger said right-of-way sirens are the focus of what the Committee is working on. The provider would have to work with the schools if they want to locate a pole on a school property.

Tom Murtaugh thinks that means these data poles do not have to be located on existing poles.

Jay Seeger explained that the providers will get to construct a taller pole if it has a siren on it as opposed to a street light or nothing.

Jackson Bogan believes this goes back to the fact that we cannot mandate that these poles be located on the tops of buildings because of the leasing fees involved. He asked if the providers still have the right to locate on buildings if they want.

Jay Seeger said the providers independently can cut deals with whoever they want. We have always encouraged co-location.

Sallie Fahey said someone who wants to put up a taller pole, height to be determined, in a rural area right-of-way will have to put a siren on it. Constructing a larger pole and putting a siren on it might be more beneficial if the larger pole can replace several smaller poles.

Carl Griffin asked if the proposal will come back to the Committee in ordinance form.

Sallie Fahey said that is right.

Carl Griffin thinks moving forward we need to be clear on minimizing the visual impact of the poles by emphasizing underground vaults. We have done a lot of work trying to improve the ways things look in our communities and he thinks this is not the way things will be in ten years.

Sallie Fahey said Jay Seeger had an over-arching stylistic statement in the draft.

Jay Seeger said the draft said they have to be stylistically and architecturally compatible with their location however they may be. We feel the poles should be some other utility. There is also a benefit to the provider because by locating in the right-of-way they avoid paying for easements, leasing, etc.

IV. REGULATIONS FOR HORSE OWNERS IN DAYTON

Continued discussion at the town's request, regarding amending the *UZO* to create standards for resident horse-owners in the town

Sallie Fahey said there are three large properties in Dayton and at one time the three property owners had more horses than the ordinance allows as accessory to a residence. Through counsel, the Town of Dayton is requesting the following ordinance amendment regarding owners of horses within its jurisdiction by adding a paragraph (g) to *UZO 4-11-2* which reads:

- (g) Within the incorporated limits of the Town of Dayton, the occupant of a residential property may keep horses as an accessory use thereon provided:
1. All horses kept on the property are owned by an occupant of the residential property;
 2. The property shall include a fenced open area of at least two (2) acres per horse;
 3. The property shall include a barn or other enclosed structure having a minimum of one 10' x10' stall for each horse; and
 4. No more than five (5) horses may be kept on a property.

She went on to say the Dayton Town Council has vetted this request and asked that this be heard by the full APC. The amendment will be sent to all six jurisdictions or it can be written for Dayton only. She asked the Committee if any of the other five jurisdictions might be interested in this amendment.

Carl Griffin does not want to see this sent back to the Committee because there is untapped interest so he suggested the amendment be limited to Dayton because that is where the request came from.

The Committee concurred.

Carl Griffin moved to recommend approval of the **DAYTON HORSE ORDINANCE AMENDMENT** as proposed by Dayton counsel to the Area Plan Commission. Gary Schroeder seconded and the motion was approved by unanimous voice vote.

V. AMENDING FENCE SETBACKS

Continued Discussion regarding *UZO's* largely unregulated fence setbacks on corner and through lots, particularly along major streets

Chad Spitznagle thanked Kathy Lind for explaining his ordinance amendment submittal in her staff report that was included in the packet. The proposal is for fences in West Lafayette on corner lots and through lots to allow fences to be in the front setback and higher than the allowed 42" if approved by the AO. West Lafayette would like to change the ordinance so that as long as it has Administrative Officer approval and is not in violation of the vision setback, privacy fences would be allowed on corner and through lots without the 40' or 60' setback.

West Lafayette is requesting to add (C) under 4-1 (b) (9) that reads as follows:

- (C) exceeding 42" in height on **side** and **rear lot lines** of **corner** and **through lots** can be allowed within the **setback** with AO approval and verification of **vision setback** compliance.

Carl Griffin asked for a summation of the request.

Chad Spitznagle explained that a fence on a corner lot can only be a maximum of 42" high. Right now higher fences are allowed if they are behind the setback. A typical neighborhood has 25' setbacks from local streets but there are some that have a required 40' setback or more. A bedroom could be on the back, left corner of a house on a corner lot with the road adjacent and right now you would not be allowed to have a privacy fence outside your bedroom. In West Lafayette there are countless examples of fences that are not ordinance compliant and no one is sure if that is due to enforcement or permitting. West Lafayette is now trying to incorporate a "fence compliance" permit with the next fee schedule. He knows permitting and inspecting fences is not the best use of staff time but there are safety issues with regard to vision triangles and other things that need to have compliance go along with it. There are a lot of situations where a taller fence offers privacy and other protections. Homeowner safety and privacy is the main issue.

Jay Seeger referred to staff's comment in the report where APC staff suggests adding "as long as platted utility and drainage easements remain unobstructed" to the proposal and asked what purpose the statement serves. A fence in the utility easement can be ripped out if the utility company has to fix their equipment at the fence owner's expense.

Sallie Fahey said the utility company can take a fence down if it is in their easement but most companies will not do that to keep peace with their customers or the utility company pays to reestablish the fence when they do not have to. It is less of a problem if the fence is parallel to the easement than when the fence crosses the easement. The Subdivision Dedication Certificate says that all easements have to be free and clear of all obstructions. She explained that an owner could always have a higher fence as long as it was built behind the setback.

Tom Murtaugh asked if the Lafayette Engineer's Office reviewed the proposal.

Kathy Lind said Lafayette is not interested in this proposed amendment.

Carl Griffin asked if the proposed amendment will indicate that it is only for West Lafayette.

Sallie Fahey said this Committee will decide if the amendment will be for all jurisdictions or just for West Lafayette because all jurisdictions are represented on the Ordinance Committee.

Jackson Bogan wants to make sure this amendment does not come back to the Committee and thinks the amendment should be just for West Lafayette.

Tom Murtaugh said he is comfortable moving this forward for everybody even though Tippecanoe County may not adopt the ordinance.

Chad Spitznagle said adopting or not adopting the proposed amendment is an enforcement decision.

Tom Murtaugh said the county will get more input before making its decision.

Carl Griffin moved to recommend approval of the **FENCE SETBACK ORDINANCE AMENDMENT** as written to the Area Plan Commission. Jackson Bogan seconded and the motion was approved by unanimous voice vote.

VI. CITIZEN COMMENTS

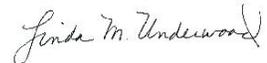
None

VII. ADJOURNMENT:

Carl Griffin moved to adjourn the meeting. Gary Schroeder seconded.

The meeting adjourned at 5:45p.m.

Respectfully submitted,



Linda Underwood
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director