

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

DATE.....FEBRUARY 01, 2023
TIME..... 4:45 P.M.
PLACE.....COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

This meeting was held in-person. Members of the public could watch the livestream of the meeting at <https://www.facebook.com/TippecanoeCountyIndiana> or <https://www.youtube.com/c/TippecanoeCountyGovernment>

| MEMBERS PRESENT | | MEMBERS ABSENT | STAFF PRESENT |
|------------------------|--------------|-----------------------|----------------------|
| Larry Leverenz | Kathy Parker | Jerry Reynolds | David Hittle |
| Gary Schroeder | Vicki Pearl | Greg Jones | Ryan O’Gara |
| Jackson Bogan | Tom Murtaugh | | Austin Hammerli |
| | | | Eric Burns, Atty. |

Gary Schroeder called the meeting to order at 4:35 PM.

I. APPROVAL OF MINUTES

Larry Leverenz moved to approve the minutes from the December 7, 2022 public hearing. Jackson Bogan seconded, and the minutes, as submitted, were approved by unanimous voice vote.

II. PROPOSED CHANGES TO THE PLANNED DEVELOPMENT SECTION OF THE UNIFIED ZONING ORDINANCE:

APC staff Ryan O’Gara presented. Currently a Change in Use is tied to a legislative body’s decision with a rezone petition. A new Change of Use PD has been created. When submitting a PD, the petition will either be a new PD submission or a Change of Use PD. A Change in Use PD would allow for a PD rezone, given that the only change being sought with the PD rezone is a change in the permitted use and not Construction Plans and Final Plat of the most recently recorded Final Detailed Plans. Nothing physical is changing with the site plan, only the permitted use(s). When submitting for the rezone, the petitioner would reference the Final Detail Plans that were recorded, and then submit a document outlining the change of use they are proposing. A draft plan meeting would occur with APC staff, the rezone would be part of a public hearing and then would go before the appropriate jurisdiction for a final vote. If the rezone is approved, the petitioner would record the Change of Use document and reference the Final Detailed Plans that were originally recorded. A list of items the petitioner will need to provide has been added, including the reason for the request, a comparison document that juxtaposes the current uses, and an explanation for how the request will not negatively impact the existing PD or surrounding neighborhood.

At the pre-submission stage, before they file, APC staff reviews the proposed idea. If APC staff is not comfortable with the proposal, the petitioner will not be cleared to submit draft plans in a rezone petition. If the petitioner does not agree, they could file a by-right rezone petition and go before the Area Board of Zoning Appeals, as a path to avoid negotiations.

The non-refundable processing fee remains, however, the verbiage that it is sufficient for ‘up to three draft plan meetings’, has been eliminated. Before a draft plan is submitted, APC staff has already attempted to iron out the differences at the pre-submission stage. There is no charge for a pre-submission meeting, they are strongly encouraged, and can be held multiple times before a filing.

Submission requirements have been revised to include the Notice of Public Hearing form, the release

form for the Notice of Public Hearing, and a completed Notice of Interested Parties form. Receiving all documents at once makes for a cleaner submission process. The petitioner can make revisions to the date of the hearing on the submitted forms, should the PD process take longer than first anticipated.

Proposed changes are also being made to the Draft Plan meeting. Currently the Draft Plan meeting is to be held on or before the third Wednesday of the month. That is the ideal and normal schedule we follow, however, the proposed change is to add the word *typically*, as sometimes it is difficult to get all involved parties scheduled. This would allow for flexibility. The staff shall then provide the petitioner within 5 days, instead of 10, a detailed written statement of deficiencies. Once the deficiencies have been remedied, a Draft Plan meeting will be scheduled.

The current bylaw revisions that have been approved result in a necessary timeframe revision. In section 2-28-7, the new verbiage will become *thirty days* preceding the intended public hearing, instead of the last Wednesday of the month.

Instead of seven sets of drawings, the proposed change is three copies: one for APC, the locality, and the petitioner.

Section 2-28-7-b presents a large, proposed change. In the current ordinance, an arbitration process is outlined, should there be a negotiation breakdown during the Draft Plan meeting stage. The proposed change is to remove the appeal process. Instead, the PD would move through the process and go before the Area Plan Commission and the local jurisdiction for review. APC staff currently negotiates the petition on behalf of the Commission using the *Comprehensive Plan* and guidance that is in place within the locality. The Commission's vote then becomes the decision recommended to the local legislative body. APC staff could recommend denial to the Commission. APC staff could recommend an amendment to the petition, if staff feel the changes are more than reasonable, and the staff report would list the items and recommended amendments. The Commission would then vote using staff recommendation, or could add additional amendments, or could remove one or more suggested amendments. The Commission would then vote and make their suggestion to the local jurisdiction. Amendments can be made at the Commission level, but not with the local legislative body.

Another proposed change is to void the rezone petition if the petitioner fails to submit a complete Preliminary Plan application within six months after the Draft Plan meeting. This change is intended to prevent a filing from sitting stagnant with no expiration date and to make the pre-submission stage very productive. Should the six-month period pass, the submission would become void, and the case would be dismissed. To begin the project again, a re-filing of the petition would need to occur. The question was asked if a six-month period would ever not be enough time for a Preliminary Plan to be submitted if they are still actively working on the project. Would the petitioner reach the six-month date and need to cancel the case due to a technicality of this specified timeframe? The Board asked for members of the audience to address this proposed change.

Tim Balensiefer, T-Bird Design, 105 N. 10th Street, Lafayette, explained there are instances where there can be delays caused by other entities, out of the control of the petitioner. For example, the Historical Association or INDOT. He proposed an additional statement that would allow the petitioner to ask for an extension to the six-month period. If the petitioner does not ask for the extension, void the project. If the project is still alive with moving parts, the possibility to ask for an extension is a desired option.

Eric Burns asked Ryan O'Gara if it is helpful to bring the extension request before the Board, to encourage the petitioner to keep moving the project forward.

Ryan O'Gara said staff manage these projects and would know if the six-month period has been reset. He did not see a need for the Board to issue an extension. The verbiage of the proposed change was revised to read as follows: 'If the petitioner fails to submit a complete Preliminary Plan application within six months after the date of the *last* Draft Plan Meeting, the rezoning petition shall be void'.

If the Commission requires changes to the proposed site, utilities or landscape plans, the Commission

shall vote to recommend an amendment. The petitioner may resubmit a second Preliminary Plan, for a later hearing, but the rehearing shall count against the allowed number of continuances for a rezone petition. If all continuances are used, and the Plans still have not met the Commission's required amendments, the Commission may vote to either continue or dismiss the rezone petition. The Commission can extend the number of continuance allowances.

Section 2-28-9 addresses Final Detailed Plans for condominium conversions (PDCC). A PDCC can petition for a Change in Use Planned Development PDCC rezone. Section 2-28-9-d is added language to address submission requirements when seeking Final Detailed Plan approval for a Change in Use Planned Development PDCC rezone.

Section 2-28-12-a-2, Amending Recorded Final Detailed Plans minor modifications, was edited to remove the statement of 'any decrease in residential density of 10% or more', as it does not impact the community in a negative way.

Section 2-28-13, Lapsed and Abandoned Planned Developments, currently states an intended condominium conversion has lapsed if two years have passed since the date on which rezoning to PDCC was granted and no Final Detailed Plans have been approved and recorded. A Planned Development has been abandoned if two years have passed since the rezoning and no Final Detailed Plans have been approved and recorded for the project, or any part or phase of it. The proposed change is to allow for *five* years of time before being considered lapsed or abandoned. If the PD project has parts or phases, they will be considered abandoned if 15 years have passed since the date of the rezone, and only Final Detailed Plans for other parts or phases have been approved and recorded. Reference to acreage size of the PD has been removed. Prior to the abandonment date, the petitioner can ask for an extension of five years. Staff is attempting to prevent PD dead zones that force the locality, or someone else, to rezone the property. The Commission or any legislative body retains the authority to initiate a rezone of a PD-zoned property once the property has either lapsed or been abandoned. No one is forced to rezone it, but they can if they choose to. There are some dead PD zones that the localities could ask to know about, and then could choose to do a large neighborhood rezone based on that information. Ryan O'Gara offered to answer any questions.

Jackson Bogan moved to send the proposed changes of the Planned Development section of the UZO to the March 2023 Area Plan Commission public hearing, with a recommendation of approval. Larry Leverenz seconded. Motion carried by unanimous voice vote.

Jackson Bogan thanked Ryan O'Gara for his review and edits, simplifying the process for those involved.

III. CITIZEN COMMENTS

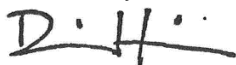
There were none.

IV. ADJOURNMENT

Larry Leverenz moved to adjourn. The meeting adjourned at 5:29 p.m.

Respectfully Submitted,
Kristina Lamb
Recording Secretary

Reviewed By,



David Hittle
Executive Director