

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

DATE..... March 20, 2019  
TIME..... 6:00 P.M.  
PLACE..... County Office Bldg.  
20 N. 3<sup>rd</sup> Street  
Lafayette, IN 47901

**MEMBERS PRESENT**

Roland Winger  
Diana Luper  
Larry Leverenz  
Michelle Long  
Tracy Brown  
Tom Murtaugh  
Gary Schroeder  
Jackson Bogan  
Vicki Pearl  
Lisa Dullum  
Perry Brown  
Dr. Carl Griffin  
Jerry Reynolds  
Greg Jones  
Tyrone Taylor

**MEMBERS ABSENT**

Jake Gray  
Gerry Keen

**STAFF PRESENT**

Sallie Fahey  
Ryan O’Gara  
Rabita Foley  
Diana Trader  
Zach Williams, Atty.

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 20th day of March 2019 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Tom Murtaugh called the meeting to order.

**I. BRIEFING SESSION**

Tom Murtaugh asked for the Briefing Session.

**CONTINUED CASES**

Sallie Fahey said **S-4822 MORTON MINOR SUBDIVISION (minor-sketch)** must be continued to the April 3, 2019 Executive Committee meeting in order to add two subdivision variance requests to waive the dedication of the required right-of-way along Chauncey Avenue and Salisbury Street.

**II. APPROVAL OF MINUTES**

Gary Schroeder moved to approve the minutes from the February 20, 2019 meeting.  
Greg Jones seconded, and the minutes were approved by unanimous voice vote.

**III. NEW BUSINESS**

**IV. PUBLIC HEARING**

Tom Murtaugh 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 to continue **S-4822 Morton Minor Subdivision** to the April 3, 2019 Executive Committee meeting. Greg Jones seconded, and the motion passed by unanimous voice vote.

#### A. ORDINANCE AMENDMENTS

##### **UZO AMENDMENT #95 ZONING VIOLATION CITATIONS:**

This amendment to the UZO would provide the Administrative Officers with a way to issue citations to help enforce zoning ordinance regulations.

Gary Schroeder moved to hear and vote on **UZO AMENDMENT #95 ZONING VIOLATION CITATIONS:**  
Greg Jones seconded.

Ryan O’Gara said this amendment has been many months in the making and it creates a way for the Administrative Officers of our localities to enforce the UZO without sending every violation to court. Ryan said there will be a list of routine use violations which the AOs could issue tickets from. He said in that event an investigation would be conducted, and violations would be identified. Ryan said the owner would then have 15 days to contact the AO to work out a solution to the violation. Ryan said if the citation is ignored a fee will kick in after 15 days, after 30 days the fee doubles and, after 45 days the fee triples. If there is still no contact with the AO at that point, the violation will be turned over to the attorney to file suit. Ryan said this is a tool in the toolbox to bring violators into compliance, which is the point of doing zoning violation work. He said the Ordinance Committee has reviewed the amendment and some revisions have been made. He said what the Area Plan Commission has before it is the final version. Ryan said staff recommends approval of UZO Amendment #95.

Vicki Pearl asked if someone received the notice from the AO and they have contacted the AO and are working toward a solution to the problem, would the problem have to be corrected within the 45-day period.

Ryan O’Gara said it is about communication so if the person is moving toward compliance and communicating with the AO that demonstrates the person’s intention.

Zach Williams said he and Mike Wolf, Tippecanoe County Building Commissioner, had talked about the very stiff penalties the ordinance has for any type of violation. Zach said these can be up to \$1,500 per day. He said the total of the fines staff has proposed will only be \$1,500 after the 45-day period. Zach said the goal is to get people to comply with the ordinance and not to fine them or to seek court judgements. He thinks this amendment will help with the inter-active process. He said it is better to enforce the ordinance by writing a ticket rather than by sending things to court.

Gary Schroeder said the issue had been discussed by the Ordinance Committee a couple of times and he felt they had come up with a workable solution to help address the issue. Gary said one concern he had was the \$500 filing fee to appeal the zoning violation citation. He said he did not think that passed the due process clause if someone had to pay a fee to have their ticket reviewed. He said the cities of Lafayette and West Lafayette do not charge anything to have a zoning violation citation reviewed. Gary said some of the members suggested he make a motion to amend the ordinance so the \$500 filing fee to appeal the ticket would be waived.

Gary Schroeder moved to waive the \$500 filing fee to appeal the ticket. Greg Jones seconded.

Tom Murtaugh asked if there were any questions concerning that.

Roland Winger asked for clarification about the language that applies the \$500 filing fee as it exists today. Zach Williams said because the schedule of fees is adopted in the APC bylaws it might be quickest to add a line of an adoption in the fees stating that if this passes, an appeal from the decision of the AO is \$500 currently, and a second line could be added stating that an appeal from the zoning citation process would be a lesser dollar amount or nothing at all. Zach said that would be the easiest way to do it and it would be consistent with the way fee charges have been handled previously by not putting them in the ordinance, so they can be changed from time to time as needed.

Tom Murtaugh asked if that would take an amendment to the motion.

Zach Williams said there was already a motion and a second on the floor. He said if that passes his advice would be rather than amend what has been drafted, that motion should be converted to a change to the bylaws and adopted under the bylaw procedures for the APC.

Jackson Bogan asked if Gary Schroeder could amend his motion.

Zach Williams said yes, he could amend the motion on the floor.

Carl Griffin asked about the process of the citation. Carl said once the AO determines there is a violation that starts the process of the timelines. He said if the individual claims there is no violation, he still has to pay the \$500 filing fee for the appeal.

Zach Williams said that is correct. He said the process is the same for any other decision on any point in the ordinance regardless of what it is. Zach said there is a flat fee of \$500 to offset the cost of staff time and attorney time. He said any decision can be appealed and the AO can choose to bring it to the organization's attorney. He said the attorney could proceed to take it to court and seek fines up to \$1,500 per day beginning on the first day. Zach said the alternative procedure will allow the AO to give notice under the rules the commission has set here and allow 15 days for the individual to comply or seek a plan of compliance and then follow that procedure. He said if someone wants to appeal the decision, they can pay the filing fee and appeal to the BZA. Zach said if the individual did not appeal it and did not pay the fine then the case would go to the attorney and be treated the same as any other zoning violation and end up in court.

Carl Griffin said with the proposed change the appeal would still go to the BZA, there would still be a hearing, and a quasi-judicial body would rule on whether the citation could be appealed.

Zach Williams said under this procedure because of the way the ordinance is written, if the individual did not pay the fine and used up the 45-day process, then the enforcement mechanism would still be to go to court. It would require a filing in the court system and the normal due process of the court. Zach said in those cases rather than seeking a \$1,500 per day fine, the fine sought for the first 45 days would be the revised penalty structure which would be a maximum of \$1,500.

Carl Griffin asked if there was a clear timeline of when the appeal could be filed.

Zach Williams said there are timelines of when the decision of an AO can be appealed. He said because it is a continuing violation and a continuing decision of the AO, it could be appealed at any time.

Jackson Bogan asked how many of these types of appeals there have been in the past, where the AO issues a citation and the individual feels they have done nothing wrong and appeals the citation to the BZA.

Gary Schroeder said he could remember one case about 12 or 14 years ago regarding a junkyard violation, but he thought the individual fixed the problem and the appeal did not go very far. Gary said the other case would be an appeal to the AO's decision which is an interpretation of the zoning ordinance. He said in that case West Lafayette would not issue a building permit for a billboard. He said that was appealed about 18 years ago and the petitioner won that case. Gary said the most recent case was Randy Sanders and he did not win his case and was charged some large fines.

Jackson Bogan said if someone appeals and does not win the case the fines are still in play.

Zach Williams said if someone lost their appeal at the BZA level, the fines would remain and if they chose not to pay the fines the case would default to the attorney and wind up in court seeking enforcement.

Gary Schroeder said if someone lost their case and paid the fine but still did not fix the problem then the process would start all over again with another ticket.

Zach Williams said at that point it would likely go to court because the underlying problem is not the fine it is the violation.

Tom Murtaugh said if there is no cost to appeal why wouldn't everybody appeal.

Gary Schroeder said a traffic ticket can be appealed and it doesn't cost anything. He said if someone in Lafayette got a ticket for leaving a trash can out, they can go to court and defend themselves at no cost. Gary said in a normal appeal the individual is appealing a decision. He said the AO might think the ordinance says one thing and the individual might disagree. He said there are not many of those cases either. He said he thought people could

possibly abuse the appeals process but if they are wrong it will cost them some money. He said citizens should have the right to appeal a decision. He said the constitution says people are entitled to due process without purchase. He thought that meant without cost.

Tom Murtaugh said if Mike Wolf issued a fine and the individual thought it was not warranted, he said the county commissioners would be getting phone calls and he thought the mayors would also.

Zach Williams said if someone chose not to pay the fine the AO does not have the mechanism to enforce the fine. He said the enforcement mechanism would default back to the court system. Zach said there are people who because they are worried about the \$1,500 per day fine, would pay to have the decision appealed to the BZA if they believe they are right. Zach said it may be too late once they get into court. Zach said the AOs and staff look at this as a lesser-cost remedy than what would happen absent this change. Zach said someone could choose to appeal in the middle of the process rather than face 30-days of \$1,500 fines. Zach said in that case the person would have to pay the \$500 filing fee the way it is set up now. He said the difference with the new process is rather than paying \$1,500 per day the person would be charged according to the revised fee structure that is being proposed. He said if a person chose not to pay those fines the case would end up in court anyway.

Tom Murtaugh said if someone paid the \$500 filing fee and won the appeal, then the decision on the fines would be reversed, but the \$500 filing fee would not be refunded.

Zach said he did not believe there is a mechanism to refund the filing fee.

Jackson Bogan said if someone won their appeal, he thought the filing fee should be reversed.

Tom Murtaugh said he thought so too, and maybe \$500 is too high. He said no one knows yet how many cases will be appealed through this new process. He said he worried that if the appeals process is free why wouldn't everybody appeal their citation? He said APC staff and the attorney may spend a lot of time working on cases that are truly unwarranted. He thought maybe there should be a \$100 filing fee that would be refunded if the appeal was won.

Zach Williams said he thought that could potentially have the opposite effect. He said someone could use this process to drag out the issue rather than using the time to work with the AO to solve the problem.

Larry Leverenz asked Zach Williams if there are any appeals that have fees attached to them in the county or the cities.

Zach Williams said he did not believe West Lafayette had an appeals fee charge for an ordinance violation to be heard by a judge. He said he could not speak to the jurisdictions of Tiptecanoe County and Lafayette.

Larry Leverenz said he agreed with Gary Schroeder that if someone has a right to appeal why should they have to pay for that right.

Carl Griffin said if he was charged with speeding, he could go to court to refute the charge and a judge would determine whether he was guilty or not. He asked if he would have to pay the court cost for that.

Zach Williams said most likely he would not pay the court cost if he was found not guilty but if he was found guilty, he would probably have to pay the court cost.

Carl Griffin said he thought there were similarities between that type of situation and the filing fee for appealing the zoning violation citation. Carl said in the speeding scenario he has the option of paying the fine or the option of going to court to appeal the facts of the case. He said the judge will either find him guilty in which case he would pay the speeding ticket, or the judge would find him innocent in which case he would not pay the speeding ticket. Carl said his understanding was that he does not have to pay for the process itself.

Tom Murtaugh asked Carl Griffin he thought the appeal process should be removed from the ordinance altogether.

Carl Griffin said he was not saying the appeal process should be removed. He said he was saying he should not have to pay for the appeal process.

Diana Luper said the person should pay for the appeal process if they are found guilty but not if they are found innocent.

Jackson Bogan asked if there should be a fee on the back end of the process.

Gary Schroeder said there would be because if someone appeals the citation and is found guilty, they will have to pay the fine.

Zach Williams said staff should be recognized.

Sallie Fahey said the fee is in the APC bylaws because the statute says the Area Plan Commission sets the filing fees for all types of cases in the Unified Zoning Ordinance. Sallie said the BZA does not have the authority to set its own fees. She said the \$500 filing fee came from an extensive research project that Ryan O'Gara did a few years ago when staff was asked to look at filing fees. Sallie said the \$500 filing fee for an appeals process was the average for the state of Indiana. Sallie said all types of appeals have a filing fee. She said there is a fee for filing a variance which is an appeal from having to meet the requirements of the zoning ordinance. Sallie said she did not see a reason for not having a filing fee for appealing a zoning violation citation. Sallie said that would be the cost for the privilege of having your day in court. Sallie said the most common types of appeals have been when an AO denied a building permit, because the application or layout did not meet the requirements of the zoning ordinance. Sallie thought the Sanders case was the closest to a violation that was appealed. She said that case ultimately wound up in court. Sallie said under Indiana law you cannot take a zoning matter directly to court, she said all administrative remedies must be exhausted first. Sallie said if someone disagrees with an AO's decision, they would have to appeal to the BZA first before going to court.

Zach Williams said this amendment is the opposite of what Sallie referred to because it is an enforcement. Zach said the way the ordinance is currently structured if someone is going to be fined the AO does not go to the BZA to request permission, they go to the attorney to make a reasonable cause finding and file a law suit in court. Zach said with this change the AOs would have the ability to issue citations.

Sallie Fahey said if someone gets a citation and they don't think they have violated the ordinance they should appeal it right away to avoid getting a 2<sup>nd</sup> citation. Sallie said she does not see any reason why one type of appeal should not have a filing fee and another type of appeal does have a filing fee. She said she hopes the APC is not suggesting that filing fees for all types of appeals should be waived. She said she did not think there was anyplace in Indiana that does not charge a filing fee for an appeal to the BZA. Sallie said there was not much distinction between someone who appealed a violation citation and someone who appealed a decision from an AO.

Carl Griffin asked if a person is denied a building permit and wants to appeal that decision would they have to pay to appeal that decision.

Sallie Fahey said they would pay the \$500 filing fee, staff would file the case, and it would go to the BZA.

Gary Schroeder said those types of appeals are very rare. Gary said there is a \$500 filing fee to appeal a setback, but he thought that was voluntary. He said someone can choose not to request a setback variance, but it is not a choice to be cited for a violation. He thought the difference between the two was that one was voluntary, and the other was not. Gary said the City of Lafayette only charges \$100 to file a setback variance with the BZA and he thought \$500 was too high.

Sallie Fahey said Lafayette is not charging enough because the fees for BZA are set by APC. She said they do not get to set their own fees.

Gary Schroeder said he helped someone do one and the fee was \$100.

Sallie Fahey said the filing fees are supposed to be the same for all jurisdictions.

Roland Winger asked what the goal of the fee was supposed to be. He said an AO may make a decision that an individual may disagree with. Roland said we don't want rogue AOs and we don't want non-compliant citizens. He said he doesn't want to be overrun with appeals, but it does not seem like the risk of that is very great. He said appeals are not without cost and there should be some fee charged, but he thought \$500 was too much.

Lisa Dullum asked about the fee schedule and charging \$250 for the first fee.

Zach Williams said that was the consensus with this alternative procedure. Zach said there can be a fine up to \$1,500 for any type of violation.

Lisa Dullum said she did not see why it would cost \$500 to appeal a \$250 citation.

Ryan O'Gara said that was to cover the cost of staff time. He said otherwise the taxpayers would be on the hook for the cost of the appeal. Ryan said the fee at one time was \$100 but he did not think it was ever free.

Jackson Bogan said when the fee was \$100 there was still only one appeal in 20 years.

Ryan O'Gara said they are very rare.

Jackson Bogan said if the fee is decreased to \$100 and there is an influx of appeals cases then staff could come back to APC and say there is a problem. He asked if that would be a rational solution. He said if need be, they can make amendment #96 later on.

Ryan O'Gara said our fee schedule is on the conservative side compared to other communities around the state. Ryan said staff is only asking to recoup some of the cost of their time spent on these appeals. He said our fees are not arbitrary and he had put a lot of research into coming up with them.

Roland Winger said an incremental appeal has incremental costs, but he said the taxpayers are already paying the salaries for the staff involved with these processes. Roland said as a taxpayer he hopes he is paying the salaries of people who do their job well and don't write tickets needlessly. He said he hoped there would be minimal appeals because the AOs are doing a good job in the first place.

Ryan O'Gara said when the filing fee was \$100 there were not a lot of appeals at that time.

Roland Winger said the cost of appeals is the cost of doing business and we need to make sure there are not too many of them as a result of not doing our business well.

Gary Schroeder agreed with Roland Winger and said if there are more appeals filed as a result of lowering the fee then the commission can always revisit the issue.

Sallie Fahey wanted to speak to Lisa Dullum's question as to why the filing fee would be \$500 to appeal a \$250 citation. Sallie said the alternative would be to take the violator to court in which case they would have to hire an attorney and both parties will have a lot more time involved. She said it is a lot less expensive to issue a \$250 citation and charge a \$500 filing fee to appeal the citation.

Tom Murtaugh said the only reason someone would receive the \$250 citation is because they have not been cooperative with the AO in the first place.

Larry Leverenz asked if the fees will accrue during the time of appeal. He asked if the BZA can fine someone during the course of an appeal.

Sallie Fahey said once an appeal is filed with the BZA then no more citations will be issued.

Zach Williams said at that point if the person is not successful in their appeal the matter is going to proceed to court. Zach said from there they will be charged \$1,500 per day and there has already been a determination made by an administrative body that they are in violation.

Larry Leverenz said he does not see an advantage to using that as a delaying tactic.

Zach Williams said there would not be an advantage unless they win their case.

Gary Schroeder said the ultimate goal is to get the violator to fix the problem. He said paying the fine doesn't make the problem go away. Gary said they can pay the ticket, but they still have to resolve the zoning violation.

Sallie Fahey said it is a matter of how much time and money everyone has expended to get to that point. Sallie said she feels that all the effort and time that APC staff, Building Commission staff and West Lafayette staff spend on violations is considerable and that cost should not be borne by all the taxpayers.

Larry Leverenz said the person who got the ticket should not have to pay for something if it is decided that the AO was wrong. Larry said that person should not have to pay for our mistake.

Roland Winger said that assumes the AOs are wrong a lot of the time and he does not think they are. He said they are rarely wrong. Roland asked what the original goal of writing this ordinance was.

Sallie Fahey said the original goal was to give the AOs a method that doesn't take years of dragging someone into court to get them to comply. Sallie said right now all the AOs can do is write a letter telling the violator they are not in compliance and if they don't respond then more letters are sent out. She said finally Zach Williams will write a letter telling the violator the county is taking him to court, but sometimes that can take years. Sallie said it takes up a lot of staff time and a lot of Zach Williams' time and this is intended to be a quicker way to get compliance. Sallie said if

someone is facing having to pay a fine rather than extending their violation out forever then we are more likely to stop future violations because word will get out. Sallie said it is like the violation at the pit for the Hoosier Heartland that ended up with stuff getting dumped from the I-65 project. She said a lot of contractors have been watching that case because if there is going to be a fine or if a bond is going to be called, people are going to wake up and start complying. Sallie said in her opinion having something like this will be a deterrent. She said she thinks there will be a reduction in violations and people will clean up their violations more quickly.

Roland Winger said with the new system we would get to the finding date much quicker and at much less cost than we would have otherwise. Roland said if that was the case then we will have saved the taxpayers lots of money and the \$500 filing fee would be almost moot.

Zach Williams said historically the planning commission has given people ample opportunities to correct their violations. Zach said by the time a violation reaches him a substantial period of time has already passed and the violator is potentially on the hook for a \$1,500 per day fine beginning on day 1. He said the way the system is set up there are no fines entered until the very end of the process. He said at that point the \$1,500 per day fines are astronomical before it even gets to court. He said once it does get to court, he has the discretion to seek fines beginning on day 1 up through the multi-year process. He said just because something gets to court that doesn't mean there will be a judgment entered overnight. Zach said that is the extreme version of how the ordinance operates. He said ideally you would get compliance and in exchange for compliance the fees would be waived. He said that remedy is pretty much all or nothing because of the time it takes to get to that point. Zach said this will be a much smaller compromise and the financial impact on the violator will be smaller. Zach said he understands the point Gary Schroeder made about not having a choice in the matter, but Zach said once the ticket has been issued, the person does have a choice as to whether to comply or not. He said the idea of this amendment is to give the AOs something in between that will help them work with people to get into compliance. He said if they don't get in compliance, they will be charged a fine pretty quickly and if they don't pay the fine then it will go to court.

Jackson Bogan said there are 2 items to vote on, the first is either we charge the \$500 filing fee, or we don't.

Zach Williams said that the current motion on the floor now is to waive the appeal fee.

Gary Schroeder said the motion is to waive the appeal fee only for the zoning violation citations.

Zach Williams said the motion on the floor is that if this change is passed then the appeal fee will be waived to zero for ordinance violation citations.

Tom Murtaugh asked those in favor of motion #2 to raise their right hand and then he asked those opposed to raise their right hand. The vote was 14-Yes to 1-No.

#### **Yes Votes**

Jackson Bogan  
 Carl Griffin  
 Roland Winger  
 Gary Schroeder  
 Tracy Brown  
 Lisa Dullum  
 Perry Brown  
 Jerry Reynolds  
 Vicki Pearl  
 Tyrone Taylor  
 Diana Luper  
 Larry Leverenz  
 Michelle Long  
 Greg Jones

#### **No Votes**

Tom Murtaugh

Tom Murtaugh said they would now vote on the ordinance change itself.

Roland Winger said they could revisit the fee issue tomorrow if need be and he encouraged everyone to keep a close eye on the consequences of it.

Jackson Bogan asked staff to direct the commission if there is an unintended consequence.

Mike Wolf, Tippecanoe County Building Commissioner, said he wondered if the \$500 filing fee for an appeal could be kept in place but then if the person won their appeal the fee could be returned. He said if the person did not win their appeal then the county would keep the filing fee to help recoup the attorney fees.

Carl Griffin said he thought all the members were thinking along those lines also and he thought they would revisit the issue at some point. He said it had been alluded to along the way but the 2<sup>nd</sup> motion to waive the fee was already on the floor. He said it was a good point.

There were 15-Yes votes and 0-No votes to adopt **UZO Amendment #95 as amended on the floor.** The recommendation will be sent to all 6 jurisdictions.

## B. SUBDIVISIONS

### 1. **S-4823 NORFLEET COMMERCIAL SUBDIVISION (major-preliminary):**

Petitioner is seeking primary approval for an 8-lot industrial subdivision on 11.676 acres, located on the north side of Brady Lane, between Concord Road and Sagamore Parkway, in Lafayette, Wea 3 (NE) 22-4.

Gary Schroeder moved to hear and vote on **S-4823 NORFLEET COMMERCIALSUBDIVISION (major-preliminary).** Greg Jones seconded.

Sallie Fahey presented the zoning map and aerial photos; she highlighted the area zoning history and area land use patterns. Sallie said the site is zoned mainly I3 with some flood plain along the north boundary. Sallie said that for years the property was in the flood plain but then a study was done of Elliott Ditch which reduced the flood plain and made the property developable. Sallie said there is a little land to the east adjacent to the Tippecanoe County Highway Garage that will be transferred to the county because they had encroached into that area. Sallie said there were 4 curb cuts installed when Brady Lane was reconstructed a few years ago and those will be used along with a potential 5<sup>th</sup> curb cut for access to the subdivision. Sallie said on the 11.676 acres there is a proposal for 8 industrial lots. Sallie said in commercial and industrial subdivisions, final plats can deviate from the preliminary plat in terms of lot size and lot number. She said the lots can be custom designed for the end user. Sallie said Twin City Electric is located to the west and because it is a non-conforming use in an R1 zoning district there will have to be a bufferyard between the I3 and the R1 zones. Sallie said the flood plain will be certified at a later date, and pad elevations will have to be designed for the construction plans so their floor elevations are 2 feet above the flood plain. Sallie said there is sewer water and storm drainage in Brady Lane, but the sanitary sewer is a combined sewer and the city will not allow it to be tapped. Sallie said there is another sanitary sewer line along the south side of Elliott Ditch which will serve these new industrial lots. Sallie said the petitioner has requested permission to bond and staff recommends conditional primary approval with the following 10 conditions:

#### A. Conditions

**CONSTRUCTION PLANS** – The following items shall be part of any required subdivision Construction Plans application and approval:

1. Any required sanitary sewer, water and drainage plans shall be approved by the Lafayette City Engineer.
2. Any new fire hydrant locations shall be approved by the Lafayette Fire Department.
3. The required bufferyard shall be shown with the standard plant unit details. The bufferyard shall be installed as part of required public improvements.
4. On the grading plan, the lowest floor elevation for any building pad within 100 ft. of the FP (Flood Plain) district shall meet the flood protection grade.

**FINAL PLAT** – The following items shall be part of the Secondary Application and Final Plat approval:

5. Except for the approved entrances, a "No Vehicular Access" statement shall be platted along the Brady Lane right-of-way line.
6. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
7. All required building setbacks shall be platted.

8. The Regulatory Flood Elevation and Boundary for the Elliott Ditch Flood Plain shall be shown, described and certified as specified in Unified Zoning Ordinance, Section 2-27-17.
9. The street addresses and County Auditor's Key Number shall be shown.

**SUBDIVISION COVENANTS** – The following items shall be part of the subdivision covenants:

10. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.

Pat Cunningham, Vester & Associates, Inc., representative for petitioner, said he agrees with staff's comments. He said the petitioner is requesting this subdivision now because the flood plain issues on Elliott Ditch have finally been resolved. He asked for the commission's approval for the subdivision.

The Commission voted by ballot 15-Yes to 0-No to authorize bonding for **S-4823 NORFLEET COMMERCIAL SUBDIVISION (major-preliminary)**.

The Commission voted by ballot 15-Yes to 0-No for conditional primary approval of **S-4823 NORFLEET COMMERCIAL SUBDIVISION (major-preliminary)**.

#### C. REZONING ACTIVITIES

##### 1. **Z-2757 LISA BECKER (NB to R1U):**

Petitioner is requesting rezoning of a lot with a nonconforming residence located on the southwest side of Main Street between Shortridge Drive and S. 18<sup>th</sup> Street, specifically 1825 Main Street, in Lafayette, Fairfield 28 (NE) 23-4.

Gary Schroeder moved to hear and vote on **Z-2757 LISA BECKER (NB to R1U)**. Greg Jones seconded.

Ryan O'Gara presented the zoning map and aerial photos; he highlighted the area zoning history and area land use patterns. Ryan said the area is located near Columbian Park. He said it had been zoned R2 previously but in 2002 it was rezoned to NB to accommodate a therapist's office. Ryan said the house was built as a single-family residence in 1930 and was expanded in 1953. The home currently has a driveway on the alley that runs along the northern property line. Ryan said the City of Lafayette recently conducted a neighborhood plan for the 5-Points area which identified historic homes such as this for preservation. Ryan said the reason for the rezone is to return the home to its original purpose as a single-family residence. He said the utilities are in place and there are no other issues. Ryan said staff recommends approval.

Lisa Becker, 1825 Main Street, Lafayette, IN 47905, said her bank is requiring the rezone in order to mortgage the property.

The Commission voted by ballot 15-Yes to 0- No for approval of **Z-2757 LISA BECKER (NB to R1U)**.

This case will be heard by the Lafayette Common Council at its April 1, 2019 meeting. Petitioner or her representative must appear.

#### V. ADMINISTRATIVE MATTERS

None

#### VI. APPROVAL OF THE APRIL EXECUTIVE COMMITTEE AGENDA

Gary Schroeder moved that the following request for subdivision be placed on the April 3, 2019 Area Plan Commission Executive Committee agenda at petitioner's request, placement thereon being without reference to compliance or non-compliance with the adopted subdivision ordinance:

**S-4825 WISE FARMS NORTH SUBDIVISION**

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

**VII. 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-2009 CUMBERLAND PARTNERS, LLC**

**BZA-2011 SECOND CIRCLE ACQUISITIONS, LLC**

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

**VIII. DIRECTOR'S REPORT**

In addition to her written report, Sallie Fahey said that at this time of year she, Zach Williams, Tom Murtaugh and Tracy Brown spend a lot of time monitoring bills going through the state legislature. Sallie said inevitably there are bills that would significantly change the way Tippecanoe County does business if they were to pass. She said most of them attempt to take away local control of planning and zoning. She said amendments to these bills can be attached up until the last minute and so they need to be closely monitored which takes a great deal of time.

Sallie said on a happier note, that Rabita Foley is now a member of the American Institute of Certified Planners which is no small accomplishment.

Sallie also asked for special recognition for Commissioner Tom Murtaugh's selfless act of donating a kidney to his former school teacher.

Sallie announced that Cat Schoenherr, Assistant Director of Transportation, would be leaving her position in April.

Catherine Schoenherr thanked everyone for the opportunity to work with Tippecanoe County for the past year and a half. She said she is looking forward to her new position as Project Manager with INDOT.

Roland Winger said he was chair of the personnel committee who reviewed the applicants for the job when Cat was hired. Roland said in speaking for the entire committee he felt they had made the right decision to hire Cat and he was sorry to see her leave.

**IX. CITIZENS' COMMENTS AND GRIEVANCES**

None

**X. ADJOURNMENT**

Gary Schroeder moved to adjourn.

The meeting adjourned at 7:15 p.m.

Respectfully Submitted,

*Diana E. Trader*

Diana E. Trader  
Acting Recording Secretary

Reviewed By,

A handwritten signature in black ink that reads "Sallie Dell Fahey". The signature is written in a cursive style and is placed on a light gray rectangular background.

Sallie Fahey  
Executive Director