

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

DATE.....April 18, 2018
 TIME.....6:00 P.M.
 PLACE.....County Office Bldg.
 20 N. 3rd Street
 Lafayette, IN 47901

MEMBERS PRESENT

Greg Jones
 Diana Luper
 Tom Murtaugh
 Gary Schroeder
 Michelle Long
 Jerry Reynolds
 Dave Williams
 Gerry Keen
 Perry Brown
 Dr. Carl Griffin
 Tyrone Taylor
 Roland Winger
 Tracy Brown
 Larry Leverenz
 Vicki Pearl

MEMBERS ABSENT

Jake Gray
 Jackson Bogan

STAFF PRESENT

Sallie Fahey
 Cat Schoenherr
 Ryan O’Gara
 John Burns
 Linda Underwood
 Zach Williams, Atty.
 Jay Seeger, Atty.

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 18th day of April, 2018 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

Sallie Fahey said the petitioners for **Z-2721—ANGIE BELAND & JACOB ROHLER (R1 to A)** have requested a continuance to the May APC meeting. Counsel for **Z-2722—W.K. BALDWIN (NB to GB)** has also requested a continuance to the May APC meeting in order to file a commitment.

II. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the March 21, 2018 meeting. Greg Jones seconded and the minutes were approved by unanimous voice vote.

III. NEW BUSINESS

RESOLUTION 2018-02:

A resolution to allow additional projects to be added to the Plan of Development for the West Lafayette 231 Purdue TIF Economic Development Area. The TIF district generally includes the Purdue Airport and areas known as the Innovation District and the Aerospace District in the City of West Lafayette.

Gary Schroeder moved to hear and approve **RESOLUTION 2018-02**. Greg Jones seconded.

Sallie Fahey displayed the Purdue Economic Development Area and TIF Aerospace and Innovation District. She said earlier today the West Lafayette Redevelopment Commission adopted Resolution No. RC 2018-2 to add additional projects to the Economic Development Plan for the West Lafayette 231 Purdue Economic Development Area. Exhibit A lists the Tier 1 and Tier 2 projects to be added and said most of the projects are public works and infrastructure support projects. The Area Plan Commission is being asked to determine whether the resolution and the projects it contains conform to *The Comprehensive Plan for Tippecanoe County*. All the projects were put up against *The Comprehensive Plan*, especially the Land Use Element. Availability of sanitary sewer and water in the area are no longer issues and APC, West Lafayette staffs and the West Lafayette Council are looking at a new vision for these areas that at one time had no development future because of a lack of sanitary sewer. In light of the Plan that will be heard next, staff can say that all of these projects are in conformity with the Plan that is about to be adopted for the US 231 Corridor area. All of the road related projects being added to the Economic Development Plan are also in conformance with the *2045 Metropolitan Transportation Plan* and what we commonly call the Purdue Ring Road. She said it is staff's recommendation that the projects do conform to *The Comprehensive Plan* and is recommending adoption of **Resolution 2018-02**. Various parties from West Lafayette and the attorneys for the Redevelopment Commission are available to answer any questions.

The Commission voted by ballot 15 yes to 0 no to recommend approval of the **RESOLUTION 2018-02**.

IV. PUBLIC HEARING

Tom Murtaugh read the meeting procedures.

Gary Schroeder moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County, and the Unified Subdivision Ordinance of Tippecanoe County, Indiana, are hereby entered by reference into the public record of each agenda item. Greg Jones seconded and the motion carried by voice vote.

Gary Schroeder moved to continue **S-4746—BLACK WALNUT FARM SUBDIVISION, PHASE 1 (minor-sketch)** to the May 2, 2018 Area Plan Commission Executive Committee public hearing and **Z-2721—ANGIE BELAND & JACOB ROHLEDER (R1 to A)** and **Z-2722—W.K. BALDWIN (NB to GB)** to the May 16th Area Plan Commission public hearing. Greg Jones seconded and the motion carried by voice vote.

A. COMPREHENSIVE PLAN AMENDMENTS

RESOLUTION 2018-01--US 231 CORRIDOR PLAN:

An amendment to the *Comprehensive Plan for Tippecanoe County* for land located on either side of US 231 from north of its intersection with US 52 to its intersection with South River Road all within the City of West Lafayette. To see a copy of the plan, please visit the APC office or our website at: www.tippecanoe.in.gov

Gary Schroeder moved to hear and adopt **RESOLUTION 2018-01--US 231 CORRIDOR PLAN AMENDMENT TO THE COMPREHENSIVE PLAN FOR TIPPECANOE COUNTY**. Greg Jones seconded.

Ryan O'Gara displayed maps showing the Plan's boundary, current land use, current transportation improvement map, wetlands and drainage map, and a color-coded future land use plan. He said the US 231 Corridor through the newly annexed part of West Lafayette is an important location for future growth. Development pressure will increase for the open land between the university and airport to the south and emerging commercial centers to the north. The West Lafayette Council asked APC to study the corridor and create a plan to provide a long-term vision for development. In 2017 the Council voted to include additional land in the Discovery Park District. A steering committee was formed to guide the development plan and its implementation. A formal public presentation was held in February 2018 and all property owners in the study area were invited by mail to attend. The meeting was followed by a month long public comment period. The Plan will be used to guide staff's recommendations to APC, the Council and the Board of Zoning Appeals regarding decisions on land use changes. The Plan is also intended to influence public improvements and steer private investment. He went on to say the future land use plan divides the corridor into north, central, and south sectors with detailed descriptions of specific land uses provided and illustrated.

The Plan's five goals are:

1. Diverse Residential Development
2. Regional Commercial Node Development
3. Environmental Preservation and Quality of Place
4. University Research and Innovation Development
5. Quality Infrastructure for Corridor Development

He went on to say the plan also included implementation strategies and added that some of the future land use plans are tied to specific zoning districts. The Future Land Use Plan is not a zoning document but rather is an illustrated policy statement that demonstrates the sort of development we would like to see. Some areas were left more open to see if we wanted to develop different zoning tools to accomplish the goals of those areas. The Innovation Mixed Use Area off State Street is the show-piece and we probably will pursue some type of form-based overlay like we did in Centennial Neighborhood, working in concert with PRF's Master Plan for this area. He requested adoption.

Gerry Keen asked if the Form-based code area will be applied to the entire area or just Purdue's Innovation District.

Ryan O'Gara said applying the Form-based code to the entire area is something that can be done if there is a need but it really comes down to whether the existing zoning districts in those areas are sufficient or not to develop to the plan. There was a lot of discussion about creating some sort of commercial node that has a different flavor at the Cumberland/US 231 intersection. There are other zoning tools that can be used to create standards that are not as strict as the Form-based code to create a certain area. The West Lafayette Council can suggest zoning tools we might use to control the architecture in the area.

Gerry Keen thinks it would be easier to do an overlay for the entire area now rather than later.

Ryan O'Gara thinks the overlay is not needed for the whole area because this is more of a suburban environment. It will be easy to make tweaks to the ordinance if needed.

The Commission voted by ballot 15 yes to 0 no to **ADOPT RESOLUTION 2018-01--US 231 CORRIDOR PLAN AMENDMENT TO THE COMPREHENSIVE PLAN FOR TIPPECANOE COUNTY.**

The amendment will be heard by the West Lafayette Common Council at its May 7, 2018 meeting.

B. ORDINANCE AMENDMENTS

UZO AMENDMENT #93--BUFFERYARDS:

The amendment strengthens bufferyard requirements and makes changes to the off-street loading berth requirements; the amendment would change Chapter 4 and Appendix E of the *Unified Zoning Ordinance*.

Gary Schroeder moved to hear and approve the **UZO AMENDMENT #93--BUFFERYARDS.** Greg Jones seconded.

Sallie Fahey said there is a question about if there might be a word missing in the ordinance and staff is trying to make that determination. We might need to move this agenda item to the end of the meeting.

Gary Schroeder moved to **TABLE UZO AMENDMENT #93--BUFFERYARDS.** Greg Jones seconded and the motion was approved by unanimous voice vote.

C. SUBDIVISIONS

1. S-4744--SCI DAYTON FIRST ADDITION (major-preliminary):

Petitioner is seeking primary approval for a two-lot commercial subdivision on 3.02 acres, located at the southeast corner of SR 38 (Walnut Street) and Yost Drive in the Town of Dayton, Sheffield 8 (NE) 22-3.

Gary Schroeder moved to hear and vote on **S-4744—SCI DAYTON FIRST ADDITION (major-preliminary).** Greg Jones seconded.

Sallie Fahey presented the zoning map, aerial photos and preliminary plat. She said a new Dollar General is proposed for Lot 1. She highlighted the area's zoning and referred to the aerial to point out the neighboring land uses. She said there is a "No Access" easement around the entire right-of-way from Yost. She then referred to the plat to highlight the small opening in the east end of Lot 2 to be able to get a driveway through there. INDOT would need to approve the drive but if the drive permit is denied the "No Access" statement would have to continue on to the property line on the final plat.

Petitioner is required to install urban cross section improvements (curbs, gutters, and sidewalk) on the east side of Yost Drive because Lot 1 will have direct access. Petitioner filed a variance to waive the installation of the curb and gutter, however the Dayton Town Council denied this request at its April 2nd meeting. The *UZO* requires APC to also

deny the request. Petitioner has also filed a parking variance (**BZA-1981**) and that request will be heard at the April BZA meeting. She summarized the remainder of the staff report and concluded with a recommendation of approval, contingent on the following conditions:

Variance

1. A variance to waive the required installation of curb and gutter along the Yost Drive frontage (USO Sections 5.3(3)(b) and 5.7(1)(b)).

Conditions

CONSTRUCTION PLANS – The following items shall be part of the Construction Plans application and approval:

1. The detailed plans and driveway permit for the SR 38 entrance shall be approved by the Indiana Department of Transportation.
2. The sanitary sewer, water and drainage plans shall be approved by the Town of Dayton.
3. The fire hydrants shall be approved by the Sheffield Township Fire Department. Plans for the actual placement of the hydrants shall be approved by the Town of Dayton in cooperation with the Fire Department.
4. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. The assigned street addresses for each lot shall be included. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.
5. The required bufferyard shall be shown with the standard plant unit details. The bufferyard shall be installed as part of required public improvements.

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

6. Except for the approved entrances, a "No Vehicular Access" statement shall be platted along the Yost Drive and SR 38 right-of-way lines.
7. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
8. All required building setbacks shall be platted.
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.

She added that petitioner has requested permission to bond.

Austin Tracey, 11988 Fishers Crossing Drive, Suite 154, Fishers, IN 46038, petitioner, thanked staff for doing such a great job explaining the project in the staff report. He said it will not be a problem to install the curbs, gutters, and sidewalks on the east side of Yost Drive. He concurred with the staff report, agreed to the conditions and requested approval. He added that he would be happy to answer any questions.

The Committee voted by ballot 0 yes to 15 no to deny **VARIANCE #1** for **S-4744—SCI DAYTON FIRST ADDITION (major-preliminary)**.

The Committee voted by ballot 15 yes to 0 no to grant conditional primary approval for **S-4744—SCI DAYTON FIRST ADDITION (major-preliminary)**.

The Committee voted by ballot 15 yes to 0 no to permit bonding for **S-4744—SCI DAYTON FIRST ADDITION (major-preliminary)**.

D. REZONING ACTIVITIES

1. **Z-2718 SOUTH STREET CAPITAL, LLC - MARC MUINZER (SSC STATE NORTHWESTERN PD) (PDMX to PDMX):**

Petitioner is requesting rezoning of two lots to construct a 5-story mixed-use building containing a maximum of 36 residential units with 96 bedrooms, approximately 7,833 square feet of ground floor retail, approximately 3,750 square feet of optional basement level retail and 34 off-site parking spaces. The property is located at the northwest corner of State and Northwestern, 304 W. State Street in West Lafayette, Wabash 19 (NE) 23-4.

Gary Schroeder moved to hear and approve **Z-2718—SOUTH STREET CAPITAL, LLC - MARC MUINZER (SSC STATE NORTHWESTERN PD) (PDMX to PDMX)**. Greg Jones seconded.

Ryan O’Gara presented the zoning map and aerial photos, topographical study, site plan, exterior elevation drawing, and rendering of the finished project. He summarized the zoning history and referred to the aerial to highlight the 11

recent PD rezones in the area as well as other uses in the area. He said the building has been vacant since the previous uses were vacated after the original State Street rezone was approved in 2012. He explained that parking for the area is consistent with recent approvals in the vicinity and will be housed in the West Lafayette Public Library garage or the Chauncey Square garage via lease agreements approved by the West Lafayette AO. The original two levels of retail are being replaced by a single level of ground-floor retail with four levels of residential apartments above. The basement will be used as storage for Target but flexibility for the space is built in if Target ever leaves. In 2012 staff believed the original State Street Corner Planned Development would be a true landmark for the City and by honoring the intent of the original design it still will be. He concluded with a recommendation of approval, contingent on meeting all requirements of UZO 2-28-10 and the following for submission of Final Detailed Plans, signed off by those noted in that section to include:

1. All sheets (other than preliminary plat) that make up the approved Preliminary Plan;
2. Planned Development construction plans per UZO Appendix B-2;
3. A final plat per UZO Appendix B-3 as applicable;
4. Appropriate surety submitted with Final Detailed Plans;
5. FAA Determination shall be submitted with the Final Detailed Plans;
6. Final landscape plan and plant schedule approved by the West Lafayette Greenspace Administrator that is in conformance with the approved Preliminary Plan;
7. Per the Planned Development narrative, parking agreement(s) shall be executed and approved by the Administrative Officer with the submission of the Final Detailed Plans.
8. An application for a street address assignment shall be made to the Area Plan Commission with the submission of the Final Detailed Plans and the Address shall be affixed to the Final Plat.

Daniel Teder, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, said he and his client worked diligently with West Lafayette staff and APC staff to come up with this preliminary plan. He thinks the PD process is working well. This project will bring a Class A retail tenant and improve an eyesore in The Village. Target has a 15-year lease with the opportunity to be there for forty years. The store will employ 45 people and most of them will be students, hopefully from the apartments above. Target will pay a minimum of \$12.00 per hour that will increase to \$15.00 by 2020. This project is a win-win for West Lafayette, The Village, Purdue, and the petitioner. The project will start late summer or fall, cost about \$7,000,000, and petitioner hopes to be done by fall or winter of 2019.

The Commission voted by ballot 15 yes to 0 no to recommend approval of **Z-2718—SOUTH STREET CAPITAL, LLC – MARC MUINZER (SSC STATE NORTHWESTERN PD) (PDMX to PDMX)** to the West Lafayette Common Council.

This case will be heard by the West Lafayette Common Council at its May 7, 2018 meeting. Petitioner or his representative must appear.

2. Z-2720--TIPPECANOE DEVELOPMENT II, LLC (R1 to R1B):

Petitioner is requesting rezoning of 32.4 acres located on the east side of CR 250 E (Concord Road) 1600' south of its intersection with Veterans Memorial Parkway and adjacent to Benjamin Crossing PD, in Wea 10 (SE) 22-4.

Gary Schroeder moved to hear and approve **Z-2720—TIPPECANOE DEVELOPMENT II, LLC (R1 to R1B)**. Greg Jones seconded.

Ryan O'Gara presented the zoning map and aerial photos, and non-binding site plan. He said the area has been zoned residentially for a long time and referred to the aerial to highlight the area land uses. The R1B request is in keeping with the denser developments found in Benjamin Crossing to the south and Stones Crossing to the west. The proximity of the subject property to the commercial centers to the north supports some of the basic policies of the *Comprehensive Plan* which recommends denser residential development near commercial activity centers. He concluded with a recommendation of approval.

Daniel Teder, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, said the site is surrounded by R1B and the plans are to develop 121 lots with one drainage outlot. The typical lot will be 52'x125' (6500 sq. ft.) and that is much larger than the ordinance required 6000 sq. ft. He agrees with staff that this area is suited for residential development and requested a positive recommendation.

The Commission voted by ballot 15 yes to 0 no to recommend approval of **Z-2720—TIPPECANOE DEVELOPMENT II, LLC (R1 to R1B)** to the Tippecanoe County Commissioners.

This case will be heard by the Tippecanoe County Commissioners at their May 7, 2018 meeting. Petitioner or his representative must appear.

3. Z-2723--McCOY GROUP (R1 & HB to I3):

Petitioner is requesting rezoning of 26.44 acres located north of Hine Drive and west of Yost Drive extended (east of the I-65/SR 38 ramps) in Dayton, Sheffield 5 (SE) 22-3.

Gary Schroeder moved to hear and approve Z-2723—McCOY GROUP (R1 & HB to I3). Greg Jones seconded.

Due to a conflict of interest, Zach Williams recused himself and left the room. Jay Seeger assumed the position of APC counsel.

Sallie Fahey presented the zoning map and aerial photos, and *Second Amendment to the Dayton Land Use Plan* map. She referred to the aerial to highlight the area land uses. She said there was a lot of discussion about the *Second Amendment to the Dayton Land Use Plan* in the staff reports for this case and the next one. The 20-year Plan shows a highway business future for this property with residential development farther to the north with a town park to help bring together the old and new residents of Dayton as well as provide a buffer from some of the heavier commercial activity. That never happened and what started out as a small machinery sales building has now expanded into 30+ acres of a major industrial site. The Plan also planned for the extension of Yost Drive to the north, intersecting with Haggerty Lane at CR 650 East and the westward extension of residential streets Favorite Drive and Clifty Falls Lane. The expansion of MacAllister made it impossible to implement the two street extensions and negotiations with MacAllister resulted in Favorite Drive ending in a hammerhead at the property line and the dedication of right-of-way for the extension of Clifty Falls to the north between MacAllister and Deerfield Farms and then 90 degrees west along MacAllister's northern property line. The *Dayton Land Use Plan* is outmoded at this point and we have major industrial development to the east of this site. Staff believes that without a modern plan to guide us it makes sense to continue the industrial zoning. This site is far enough from Dayton's residential neighborhoods that potential industrial uses would not be a nuisance to residents and will be an asset to the town. She concluded with a recommendation of approval. She added that staff has had to wing-it when coming up with alternatives to the Plan and she recommends to the Dayton Town Council that this west end of the town near the interstate should undergo a study and another amendment to the Plan so everyone has guidance when making rezone recommendations.

Daniel Teder, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, displayed three photos of what the planned Daimler Truck Dealership for this site might look like. The McCoy Group was formed in 1958 and is a diversified national transportation company with over 2600 employees. The plans are to build a 40,000 to 50,000 freightliner dealership that will be similar to a new car dealership. The dealership will have sales, service, and repairs and 30 to 40 employees. The facility will cost about \$8,000,000 and be open for business early winter of 2020. He thinks this project is a big win for Dayton, will generate tax dollars and have minimum impact on police and fire.

The Commission voted by ballot 15 yes to 0 no to recommend approval of Z-2723—McCOY GROUP (R1 & HB to I3) to the Dayton Town Council.

This case will be heard by the Dayton Town Council at its May 7, 2018 meeting. Petitioner or his representative must appear.

Zach Williams rejoined the meeting and assumes his place as APC counsel.

4. Z-2724--CARR FAMILY FARM, LLC (A & HB to I3):

Petitioner is requesting rezoning of 33.749 acres adjacent to the east of the I-65 right-of-way and north of the I-65/SR 38 ramps in Dayton, Sheffield 5 (SE) 22-3.

Gary Schroeder moved to hear and approve Z-2724—CARR FAMILY FARM, LLC (A & HB to I3). Greg Jones seconded.

Sallie Fahey presented the zoning map and aerial photos, and said petitioner has no specific plans for this property at this time. She summarized the zoning history and referred to the aerial to highlight the area land uses. She referred to the aerial to highlight the long property line this site shares with I-65 and the only access at the westernmost stub end of Hine Drive. There are sewer and water mains nearby and must be extended to serve any industrial user because the County Health Department said the soils on site are not good for individual septic systems. She explained that MacAllister's expansion, along with four industrial rezones in direct conflict with *Dayton's Land Use Plan* changed the future for this area by placing the most intense zoning district next to the existing residences of Deerfield Farms subdivision. This site makes sense for industrial zoning because there are no residences nearby and no residential future is likely between Deerfield Farms and the I-65/SR 38 ramps. The SR 38 interchange is fast becoming the county's industrial interchange. Staff hopes that the town's adopted Plan begins to be realized for the areas north of the north property line of this site. Staff will not recommend any more industrial zoning north of that line extended and

hopefully the extension of Clifty Falls across Yost Drive will help provide a separation between industrial users to the south and potentially something lighter to the north. She concluded with a recommendation of approval for this request.

Daniel Teder, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, said his client is trying to make this site shovel-ready and this is one of the steps to do that. It took 15 years to develop the MacAllister site. He added that water and sewer are nearby but the economy will determine how fast the site develops.

Cindy Marsh, 749 Shady Lane, Dayton, IN 47941, said in theory, she and many other Dayton residents are not opposed to industrial zoning for this site but she feels some of the I3 uses permitted by right are not appropriate for this area even if that might seem unlikely. She mentioned confined feeding operations, correctional institutions, junkyards, and scrap & waste materials as examples. She would like to see a specified use before this site is rezoned and she asked the Commission to deny this request.

Daniel Teder said the inappropriate uses Ms. Marsh mentioned would devalue this land and the land to the north the Carr family also owns.

The Commission voted by ballot 15 yes to 0 no to recommend approval of Z-2724—CARR FAMILY FARM, LLC (A & HB to I3) to the Dayton Town Council.

This case will be heard by the Dayton Town Council at its May 7, 2018 meeting. Petitioner or his representative must appear.

5. Z-2725--TWO BEARS PROPERTIES, LLC (R2U to NBU):

Petitioner is requesting rezoning of a lot located on Grant Street just west of the former Parkside Deli (located on Scott Street), specifically 215 Grant Street in Lafayette, Fairfield 28 (NE) 23-4.

Gary Schroeder moved to hear and approve Z-2725—TWO BEARS PROPERTIES, LLC (R2U to NBU). Greg Jones seconded.

John Burns presented the zoning map and aerial photos, and the proposed site plan. He said petitioner plans to raze the run-down house on site to expand the Parkside Deli adjacent to the east. The site will house the brewing equipment, provide additional parking for the restaurant, and petitioner plans to landscape the site. He said in 2002 a Land Use Plan was developed for the Columbian Park Neighborhood and the site was rezoned to NBU during the neighborhood rezone to make the Parkside Deli a conforming use. He referred to the aerial to point out the residential zoning that surrounds this site and Columbian Park and across Park Avenue. The Lafayette BZA granted a variance for zero parking spaces for this site but petitioners plan to add parking. Staff is usually concerned about rezone requests that convert small residential lots to accommodate new commercial uses because such conversions usually require many variances from the zoning ordinance and disrupt the fabric of a solidly residential neighborhood. This request is different because it is for the expansion of an existing restaurant building and the proposed plan will create on-site parking bringing the establishment closer to the standards of the ordinance. Staff can support this request because the proposed restaurant expansion would be an asset rather than an intrusion into the residential area consistent with some of the goals and objectives established by the *Columbian Park Neighborhood Land Use Plan*. He concluded with a recommendation of approval.

Christopher Shelmon, 250 Main Street, Suite 590, Lafayette, IN 47901, attorney representing the petitioner, said the petitioners originally planned to open their restaurant in Indianapolis but decided to bring their culinary and brewing talents to this site in Lafayette. The Parkside Deli lot and this lot have the same owner. Lafayette has big plans for the Park and his clients want to be a part of that.

Hubert Grater, 1906 Park Avenue, Lafayette, IN 47904, said he has owned the property adjacent to both these lots since 1986. The Parkside Deli got a new owner a couple of years ago and he started offering outside dining. That means people are eating and smoking outside in front of his porch and outside his bathroom and bedroom. This use has devalued his property. He added that he only received notice of this request nine days ago and has not had enough time to do research. He just found out yesterday that the property Parkside is on is zoned NBU. He knows the petitioners do not own the site as the staff report indicates. He knows the petitioners have the owner's consent to file this petition. He was not aware of the 2002 rezone when it occurred. He said four businesses have failed on this site already. He does not doubt that the petitioners are nice people but in all his travels he has never seen a brewery in a residential neighborhood. Visitors to the brewery and the park are all strangers. The baseball stadium will serve alcohol and he is concerned what impact that will have on the neighborhood. He has parking in the alley in the back but he does not use it because the alley is trashed. There is a chain-link and wood fence bordering the lot but they are on his property according to the survey and a portion of the structure on the site encroaches 4' on his property.

He has concerns about the outside dining and the possibility the fence will be removed. He wants the fence to stay because he wants privacy and wants to be able to enjoy his porch and back yard.

Alanna Stonebreaker, 1509 Central Street, Lafayette, IN 47904 and Laura Kendall, 601 South 19th Street, Lafayette, IN 47904 support this request and believe the brewery and restaurant will be a good addition to the neighborhood. They said they would like to see more walkable dining places in the area.

Christopher Shelmon said the restaurant has been at this location for decades and the site is zoned for the use. The petitioners have plans for family dining with vegetarian/vegan fare.

Carl Griffin asked what the petitioners are willing to do to help with visual buffering between the restaurant/brewery and Mr. Grater's property.

Christopher Shelmon said buffering is required and his clients plan to install evergreens and/or bushes. They also want to maintain the fencing. To date there has been no discussion about expanding the wooden portion of the fence. His clients live in the neighborhood and want to maintain a relationship with all the neighbors by keeping communication open.

Tom Murtaugh said right now the outside dining is on the northeast side of the Parkside lot and asked if it will be moved to the new site if this rezone is approved.

Christopher Shelmon said the outside seating will be moved a little farther in so it will be easier to maintain. He referred to the site plan to show where the addition will create a U-shaped courtyard once the garage is torn down. The outside dining will be in a 15' section off the south side of the lot and expand back. This plan will allow for additional fencing.

Roland Winger said staff's recommendation leans heavily on the Neighborhood Plan. It appears that there are about five or six NBU zoned parcels in the triangle between South Street and Scott Street. He said he was not around when the Neighborhood Plan was put together and asked staff why nearly the heart of the entire area is R2U and R3U with a few spots of NBU zoning.

Sallie Fahey said that the neighborhood is called President's Triangle and there was a sense in that plan and in the planning meetings that this close-knit neighborhood with definite boundaries had businesses in the neighborhood that helped define the neighborhood that should be preserved. The Neighborhood Plan has a strong emphasis on not only preserving the housing stock but also serious considerations given for maintaining and preserving the existing businesses. Staff would not recommend stripping out the whole front of the block just because there is an existing restaurant on the corner. The Plan gave the businesses a leg-up because they do contribute to the neighborhood. She added that Mr. Grater is correct that the petitioners do not own the property. The staff report is incorrect because this site is owned by MAV Property LLC.

Roland Winger asked if that is not considered "spot zoning" because it is preserving a piece of business that was already in the neighborhood.

Sallie Fahey said technically it is a "spot zone" however it is recognizing the existence of a long-standing food service operation on that corner. It was better to make the use conforming rather than have it fall into complete disrepair someday. The business should be allowed to be preserved with conforming zoning.

Gerry Keen asked what type of bufferyard will be required between the two abutting zones.

Sallie Fahey said NBU and R1U are both urban zones and no buffering is required when they abut.

Gerry Keen said counsel for the petitioners indicated there would be some type of bufferyard. He asked who will make that final determination.

Sallie Fahey said no buffering is required.

Gerry Keen said that means there will not have to be a bufferyard unless the brewery/restaurant agrees to install one.

Dave Williams asked how the issue of the restaurant being built 4" over the property line gets resolved.

Hubert Grater said the building on 215 Grant Street extends over the property line and not the restaurant.

Dave Williams said he knows Mark Vaughn owned both of the properties when he put in the seafood restaurant.

Sallie Fahey said Mark Vaughn is probably MAV LLC. She thinks the properties were purchased together and pointed out that the properties are still considered one lot. She does not think there was a land division to separate the house from the restaurant.

John Burns thinks the properties were divided over 50 years ago.

Christopher Shelmon said the property is under contract pending approval of this rezone request. Petitioners plan to demolish the house so there will be no encroachment in the future.

Zach Williams said the possible encroachment is a private issue and is something the two entities will need to settle.

Hubert Grater said there is a chain-link fence but he put up a wood fence so his dog cannot see what is going on. His dog liked to go to the chain-link fence and bark at everything he saw. He needs both fences to remain to divide the lots so he can enjoy his back yard.

Sallie Fahey commented that she thinks we all would like these two parties to have a private conversation and she urged Mr. Shelmon and his clients to reach out to the next door neighbors and have conversations to talk about the issues before this request is heard by the Lafayette City Council.

The Commission voted by ballot 15 yes to 0 no to recommend approval of **Z-2725—TWO BEARS PROPERTIES, LLC (R2U to NBU)** to the Lafayette Common Council.

This case will be heard by the Lafayette Common Council at its May 7, 2018 meeting. Petitioner or his representative must appear.

Tom Murtaugh asked if the Bufferyard Amendment is ready to be heard.

Sallie Fahey replied that BZA President Steve Clevenger thinks the description of the Type B bufferyard page 5 of the staff report where it requires “three evergreen trees and five shrubs” the word “evergreen” is missing between “five” and “shrubs”. The Type A, the lesser bufferyard, requires “three trees and six shrubs” but those shrubs do not have to be evergreen. She went on to say it is clear in the illustrations that the six are a deciduous illustration and the five are an evergreen illustration. APC and West Lafayette staffs will need to discuss the wording because both were instrumental in designing the amendment. She asked that the amendment be continued to the May APC meeting so we can get the wording straight.

V. ADMINISTRATIVE MATTERS

VI. APPROVAL OF THE MAY EXECUTIVE COMMITTEE AGENDA

No New Cases Filed

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 variance, prohibited from consideration by ordinance and statute:

**BZA-1974—IMRAN KAZEM, and
BZA-1981—SECOND CIRCLE ACQUISITIONS, LLC.**

Greg Jones seconded and the motion was approved by unanimous voice vote.

VIII. DIRECTOR'S REPORT

Sallie Fahey said most of the Commissioners did not see the report because it was sent out very late this afternoon. On May 2nd there will be a joint meeting of the Ordinance and By-law Committees. She included a roster of By-law Committee members in the report because there are three members of that Committee that are not on the Ordinance and Executive Committees.

IX. CITIZEN COMMENT AND GRIEVANCES

Sallie Fahey said Gary Steinhardt's Agronomy 585 – Soils and Land Use class is attending tonight's APC meeting and asked any Commissioners who are able, to stay a while after the meeting to talk with the students. Professor Steinhardt says students get a lot out of the one-on-one opportunity.

X. ADJOURNMENT

Gary Schroeder moved to adjourn. Greg Jones seconded and the motion carried by voice vote.

The meeting adjourned at 7:35p.m.

Respectfully Submitted,



Linda M. Underwood
Recording Secretary

Reviewed By,



Sallie Fahey
Executive Director