

ORDINANCE NO. 2013-32-CM

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF TIPPECANOE COUNTY, INDIANA, TO REZONE CERTAIN REAL ESTATE FROM RI TO GB

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF TIPPECANOE COUNTY, INDIANA:

Section 1: The Unified Zoning Ordinance of Tippecanoe County, Indiana, being a separate ordinance and not part of a unified county code is hereby amended to rezone the following described real estate situated in FAIRFIELD Township, Tippecanoe County, Indiana

INSERT OR ATTACH LEGAL DESCRIPTION

Section 2: The above-described real estate should be and the same is hereby rezoned from RI to GB

Section 3: This ordinance shall be in full force and effect from and after its adoption.

(Adopted And Passed) (~~Denied~~) by the Board of Commissioners of Tippecanoe County, Indiana, this 7th day of OCTOBER, 2013.

VOTE:

<u>Yes</u>	<u>David S. Byers</u> DAVID S. BYERS President
<u>Yes</u>	<u>John L. Knochel</u> JOHN L. KNOCHEL Vice President
<u>Yes</u>	<u>Tom P. Murtough, II</u> TOM P. MURTAUGH, II Member

ATTEST:

Jennifer Weston
Jennifer Weston, Auditor

DESCRIPTION OF 2.453 ACRES TO BE REZONED FROM R1 TO GB

A part of a tract of land owned by Legado Development Group, LLC as recorded in Document Number 201313000305 in the Office of the Recorder of Tippecanoe County, Indiana (ORTCI), and being a part of the Longlois Reserve in Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, described as follows:
Beginning on the West line of Lot 1 of said Longlois Reserve at the Northwesternly right-of-way line of Schuyler Avenue; thence South $51^{\circ} 38' 33''$ West (Bearings are based on NAD 83) 55.68 feet along the Northwesternly right-of-way line of Schuyler Avenue to the East line of Springvale Cemetery; thence North $38^{\circ} 17' 01''$ West 535.83 feet along the East line of Springvale Cemetery; thence North $70^{\circ} 11' 12''$ East 233.59 feet; thence North $89^{\circ} 03' 19''$ East 148.18 feet to the West line of Lot 1 of said Longlois Reserve; thence South $00^{\circ} 56' 41''$ East 467.73 feet along the West line of Lot 1 of said Longlois Reserve to the Point of Beginning and containing 2.453 Acres.

THE

Area Plan Commission

of TIPPECANOE COUNTY

20 NORTH 3RD STREET
LAFAYETTE, INDIANA 47901-1209

(765) 423-9242
(765) 423-9154 [FAX]
www.tippecanoe.in.gov/apc

SALLIE DELL FAHEY
EXECUTIVE DIRECTOR

September 19, 2013
Ref. No.: 13-301

Tippecanoe County Commissioners
20 North 3rd Street
Lafayette, IN 47901

CERTIFICATION

RE: **Z-2540—LEGADO DEVELOPMENT GROUP (R1 to GB):**
Petitioners are requesting rezoning of 2.453 acres located on the north side of Schuyler Avenue (formerly SR 25 N), west of Conservation Club Road, more specifically 2660 Schuyler Avenue, Fairfield, Longlois Réserve (E1/2) 23-4. CONTINUED FROM THE AUGUST APC MEETING AT PETITIONER'S REQUEST.

Dear Commissioners:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on September 18, 2013 the Area Plan Commission of Tippecanoe County voted 10 yes - 0 no on the motion to rezone the subject real estate from R1 to GB. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Tippecanoe County Commissioners that the proposed rezoning ordinance be APPROVED for the property described in the attachment.

Public Notice has been given that this petition will be heard before the Tippecanoe County Commissioners at their October 7, 2013 regular meeting. Petitioner or his representatives must appear to present the case.

Sincerely,



Sallie Dell Fahey
Executive Director

SDF/lmu

Enclosures: Staff Report & Ordinances

cc: Legado Development Group, LLC
Ken Brown, Tippecanoe County Building Commissioner

Z-2540
LEGADO DEVELOPMENT GROUP, LLC
R1 to GB

REVISED STAFF REPORT
September 12, 2013

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, who is also the property owner, is requesting rezoning of 2.453 acres located on the north side of Schuyler Avenue (formerly SR 25 N) between Springvale Cemetery and Conservation Club Road, more specifically 2660 Schuyler Avenue, Fairfield, Longlois Reserve (E1/2) 23-4.

The 2.453 acres to be rezoned is not a separate lot and is currently part of a 10.505 acre tract. The legal description submitted with this case draws the zoning boundary through a single-family house located on site. Originally, petitioner planned on reducing the 2.453 acre legal description to keep the house entirely within the remaining R1 zoned portion; however petitioner told staff in an email that the plan now is to leave the area to be rezoned the same and simply raze the house within the next 3-6 months. Another rezone request, from R1 to A, is planned for the rest of the R1-zoned area for some time in the future. Petitioner would like to combine the current rezone area with the adjacent GB lot, raze a second existing house located on the GB-zoned lot and redevelop this area into a commercial strip center with a driveway connecting the strip center with the sports complex to the north.

Because this 10.505 acre tract was created through Exemption A in the definition of "subdivision" in the Unified Subdivision Ordinance in 2001, it cannot be further reduced through Exemption E below ten acres in area. Petitioner would need to either record two Exemption E deeds (after the house is demolished, since there cannot be two primary use buildings on one lot) or file a minor subdivision. A meeting with staff regarding the possible solutions to this confusing land division issue is highly advised.

ZONING HISTORY AND AREA ZONING PATTERNS:

This property, as well as land to the northeast, has been zoned R1 since the inception of zoning in the county. The adjacent 1.75 acre tract to the east was rezoned from R1 to GB in 2009 as part of an estate settlement (Z-2408). The GB zoning, located farther to the east and north, date back to a 1972 rezone (Z-566). A mix of R1 and GB line the south side of Schuyler. Flood Plain zoning associated with the Wildcat Creek exists further to the east between Conservation Club Road and the interstate. Land to the west is zoned Agricultural.

A 1996 attempt to rezone 6.5 acres of the adjacent land to the north and east from GB and R1 to Industrial (Z-1679) was denied by the APC and by the County Commissioners, over the recommendation of approval made by staff.

AREA LAND USE PATTERNS:

As mentioned, this legal description includes a portion of a single-family home which will be razed, as well as a large wooded front lawn. This area of the county is a mix of various land uses. Springvale Cemetery abuts the property to the southwest. Heavy commercial/industrial businesses have long existed adjacent to the east. Seven single-family homes lie farther east of this property. Across Schuyler between the Wildcat and St. Boniface cemetery, there is a mix of warehousing, heavy commercial uses and single-family residences. An indoor/outdoor sports facility is located north of this request and was given approval by the BZA for a second expansion in June 2013 (special exception, Rolling Maul, BZA-1883).

TRAFFIC AND TRANSPORTATION:

Schuyler Avenue is classified as a divided primary arterial by the adopted *Thoroughfare Plan*. A single driveway serves the home on site; a second driveway serves a GB-zoned residence next door. Staff believes petitioner's plans are to remove the two existing residential drives in favor of a single commercial driveway placed in the center of the property. This would require a commercial driveway permit from the County Highway Department. Petitioner plans to construct a driveway connecting the proposed commercial parking lot with the sports facility to the north. In the GB zone, parking is required to be paved.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

An existing septic system and well serve the single-family home. Public utilities are currently unavailable.

A 100' separation radius between commercial wells and septic systems is required by the State Health Department. The County Drainage Board would need to review and approve the drainage plan; the State Health Department would likely need to review the commercial septic system.

A 20' type C bufferyard is required where GB land abuts R1 (along the rear of this lot) and a 20' type B bufferyard is required where GB land abuts A (along the cemetery).

STAFF COMMENTS:

The *Comprehensive Plan for Tippecanoe County* makes no recommendation for more intense development west of I-65 along the former SR 25 corridor. Instead the plan indicates an "open space" future, a designation that generally reflects the wooded nature of the Wildcat Creek banks, the open space provided by the two cemeteries, and the lack of sewer in the area. While staff recognizes this area does not have a residential future, and the trend along this stretch of Schuyler is commercial redevelopment, staff cannot, based on the *Comprehensive Plan*, recommend approval of commercial rezones without the availability of public utilities.

Staff believes petitioner's plan to "square up" the existing triangular-shaped GB zoned lot adjacent to the east would make the development of this land much easier. Petitioner has submitted a non-binding development plan that includes the requested rezone area combined with the 1.75 acre GB lot immediately to the east creating a 4.15 acre GB area. The plan also shows a 7500 square foot commercial strip center that includes 77 parking spaces, a drainage pond, and a septic field. In 2009 when the adjacent property was rezoned to GB, staff stated that this property's future is more likely commercial in nature than residential and that is true for this site as well. However, staff's recommendation of denial of that adjacent rezone site also holds true for this site. Staff's policy has long been, and continues to be, that GB zoning should only happen where sewer and water are available. When utilities are present, and all of the site's land division concerns are addressed, this area should redevelop commercially. Until that time, this request is premature.

STAFF RECOMMENDATION:

Denial