

The
AREA PLAN COMMISSION
of Tippecanoe County

APC
Ordinance Committee

Date: January 5, 2022

Time: 4:35 PM

Location: Tippecanoe County Office Building

Tippecanoe Room

20 North Third Street

Lafayette, IN

This will be an in-person meeting. Members of the public may watch the livestream of the meeting on Facebook or YouTube. Links can be found on the county website at www.tippecanoe.in.gov/apc

AGENDA

I. APPROVAL OF MINUTES FROM THE DECEMBER 1, 2021 MEETING

Documents:

[OC MINS 12.01.21.PDF](#)

II. TWO MINOR CHANGES FROM OUR ADMINISTRATIVE OFFICERS:

Continued discussion from the December meeting on the following two items:

1. Loosening the restrictions on medical-related home occupations; and
2. Limiting the locations of self-storage warehouse businesses –
Kathy Lind

Documents:

[TWO CHANGES FROM A.O.S DECEMBER 2021.PDF](#)

III. CITIZEN COMMENTS:

IV. ADJOURNMENT:

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

DATE..... December 1, 2021
TIME..... 4:40 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/channel/UCJleeA9ZQo9E11GdZTdjurQ/featured>

MEMBERS PRESENT

Larry Leverenz
Vicki Pearl
Greg Jones
Kathy Parker
Gary Schroeder

MEMBERS ABSENT

Tom Murtaugh
Jackson Bogan
Jerry Reynolds

STAFF PRESENT

David Hittle
Ryan O’Gara
Kathy Lind
Larry Aukerman
Eric Burns, Atty.
Jennifer Ewen

Larry Leverenz called the meeting to order at 4:40 PM.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the August 4, 2021 meeting. Greg Jones seconded and the minutes, as submitted, were approved by unanimous voice vote.

II. TWO MINOR CHANGES FROM OUR ADMINISTRATIVE OFFICERS

Licensed Medical Professionals

Kathy Lind stated the first minor change we have tonight is regarding home occupations. Home occupations used to require a special exception from the Board of Zoning Appeals, but nowadays they’re permitted wherever a single-family home is permitted. It’s a small business any sort of office business would qualify a piano teacher would qualify. If I wanted to share a beauty shop in someone’s basement that is a home occupation. One thing that is not permitted as a home occupation is medical related uses or medical related businesses. Currently, a physician, dentist, optometrist, chiropractor, and other medical fields are prohibited under our home occupation category. We sometimes receive calls from massage therapists who are licensed and want to do this out of their home, and I have to tell them they can’t do that; we don’t allow it, because it falls under that medical umbrella.

This proposal would change the Prohibited Home Occupations to: “unlicensed massage therapists, or any medical or dental clinic, or hospital.” To meet the home occupation definition, only people living in the house can take part in that business, so you can’t have an employee coming every day; that would not qualify as a home occupation, so it made sense to not allow clinics, because clinic seems to mean more than one person.

Then, we would change the Permitted Home Occupations to: “an office of a licensed medical professional with no more than one treatment room.” We talked about this at the Administrative Officer’s meeting back

in August, and since it wasn't urgent it was temporarily placed to the side. I did talk to the administrative officers in West Lafayette, Lafayette, and the county regarding this, because I wanted to see how they did home occupations if they required a permit or not. They don't require a permit; it's just allowed. If someone files a complaint, then that will be investigated to make sure they're following the law, but other than that, they are permitted. I did speak with the Health Department to see what they had to say about this, and they said, "we don't inspect massage therapy studios, salons. I believe they are regulated through the state, and we would want them licensed by the state. I am not against allowing them to operate out of their home; as long as there are no other cosmetic procedures offered such as microblading or semi-permanent make-up application. There is no rush on this; if you wanted to amend this and add that restriction, we can do that, or we can table this to another month.

Eric Burns asked Kathy Lind why in the proposal statement for Prohibited Home Occupations does it state just "unlicensed massage therapists", as opposed to any unlicensed medical profession.

Kathy Lind stated that is why it states "an office of a licensed medical professional.

Eric Burns stated understood, but under the Prohibited Home Occupations we are talking about only unlicensed massage therapists.

Kathy Lind agreed, and stated I see what you are saying, you want to make the list more expansive.

Eric Burns stated correct, and maybe there is a way of making a generic statement stating, "anyone who is unlicensed", and refer to the state law to see what is considered a healthcare occupation.

Kathy Lind agreed, and stated she just received this information from the Health Department today, so if you want to table this to next month, I would be fine with that. Then, I could get the wording correct.

Eric Burns asked Kathy Lind your push is licensing because then we know the state is in charge of that.

Kathy Lind stated yes. Currently, we don't allow anything medical related at all, and I am not sure why, but pretty much we only hear from massage therapists time-to-time.

Vicki Pearl asked regarding the email about microblading, is microblading normally allowed. If I run a salon out of my house and it is only me, then is it permitted.

Kathy Lind stated this email is from Whitney Hobbs an environmentalist with the Health Department. She is the one that does inspections for this sort of use. To answer your question, we have long allowed a single chair beauty salon to cut hair in their basement; that's okay. The microblading and semi-permanent make-up application, I think she is saying they would be inspecting those types of businesses, so she did not want those included.

Vicki Pearl stated that is what I am trying to clarify. If I am going to do that in my home salon then I could not have a home office, is that what we are saying.

Kathy Lind stated it would depend on what we decide here. If we prohibit it, then the answer would be no, you can't do that. If we go ahead and allow it, I would say this would have to be inspected by the Health Department. If we permit it here, then it would be permitted. I don't know if we want to create home occupations that also require the Health Department to get involved.

Vicki Pearl asked if I run a salon out of my house, the Health Department never has to check my salon. I don't know the answer; I am just asking.

Kathy Lind stated she is not sure how they do that.

Gary Schroeder stated the difference is you are licensed.

Larry Leverenz asked the committee for their decision.

Gary Schroder stated I think, you should work on it and bring it back. Maybe we will have more members here next time, and we can think about it, and come-up with a better permanent proposal.

Kathy Lind stated okay, we will do that.

Self-storage Warehousing

Kathy Lind stated the second part of this is limiting the locations of self-storage warehouse businesses. We dealt with these a couple of years ago. They used to be permitted in the agricultural zone by special exception, and I believe we took them out of the agricultural zone. This came to our attention because the old Coca-Cola Bottling Plant downtown on Union Street and Salem Street; Coca-Cola moved-out and a self-storage warehouse business moved-in, and the city was concerned about this, because it is such a prime location, and in their eyes, a self-storage warehouse was not the greatest use to move into that building. They brought it to the Administrative Officer's meeting, and we talked about this at our last meeting; what we came up with was just to keep self-storage warehouses out of the urbanized sewer areas of our cities and towns. We already have maps in our zoning ordinance in Appendix A for all of these jurisdictions. While presenting a map of Lafayette's urbanized sewer area, she stated all that we would be doing eliminating the possibility that self-storage warehouses would locate within this boundary in the future. It would keep the location around the edges of our cities, and that is traditionally where they have been located. She then presented a map of West Lafayette, Dayton, Battleground, Clarks Hill, and Stockwell's urbanized sewer area showing the boundary for each city and town where self-storage warehouses would not be permitted.

Vicki Pearl asked regarding Lafayette's map, the gray area is where self-storage warehouses won't be allowed.

Kathy Lind responded correct.

Ryan O'Gara stated the way Dennis Carson described it is they want to preserve the urban core area for other uses that are a little more lively than self-storage. They cited the conversion of the old Toys"R"Us on Sagamore Parkway is a self-storage they were okay with. They said that was a great adaptive re-use of a big, old, steel building, but in the older parts of the city, they would like to see something else besides that; they don't want to see old buildings flip to that use and end the street life. That's the direction they are going in. They glommed onto this idea, since we already have a map that outlines the traditional historic urban grid pre-WW II development pattern for Lafayette and the other communities, how about just create a general prohibition of the use within that established boundary.

Kathy Lind stated this use is innocuous. It is quiet, and doesn't smell, but it is maybe not the best use in the downtown area.

Ryan O'Gara asked Kathy if a variance could be sought against this.

Kathy Lind stated no, because I think they want it in the Use Table.

Ryan O'Gara stated it would be a footnote in the Use Table.

Kathy Lind stated a footnote in the Use Table could not be varied.

Vicki Pearl asked are there any storage units outside of the one that we talked about, because I think there is one on 9th Street. I am just wondering how many are already in these zones that would become noncompliant if something happens.

Kathy Lind stated right.

Ryan O’Gara stated self-storage is a defined term in Chapter 1.

Kathy Lind stated yes, it is.

Ryan O’Gara stated self-storage is different from warehousing.

Kathy Lind stated yes, self-storage is different than a warehouse structure. Those are two different uses.

Vicki Pearl asked what is the difference between self-storage and a warehouse.

Ryan O’Gara stated self-storage is multiple garages that customers rent a space as opposed to a warehousing facility. For example, a candle maker business then they have a warehouse where they store their products; that would be allowed here. That is not self-storage; that is their storage.

Kathy Lind stated self-storage would be renting a room to store my furniture or something like that.

Larry Leverenz asked currently, self-storage warehouses are not addressed at all.

Kathy Lind stated no, they are addressed. They are defined in Chapter 1, and they are in the Use Table. We are not changing where they are located, except we would limit them to not locate within these urbanized areas.

Gary Schroeder stated I would agree that the highest and best uses always is what we are trying to get to, and sometimes there is a debate on what that is, and I don’t disagree with that. I drive by the Toys”R”Us, and that was a great re-use, and they took up that entire parking lot and re-used that. Ryan brought this up about leaving that where you could vary that; in case you had some unique situation then at least there would be a public hearing in the cities. The city’s own Board of Zoning Appeals could review that. It seems like when we put things in a box where there’s no way to get out it doesn’t work.

Kathy Lind stated yes, we could put that in a part of the ordinance that you could vary.

Gary Schroeder asked would it be a variance or special exception.

Kathy Lind stated it depends on how we do it.

Gary Schroeder stated I think the variance would be heard by the city, and the special exception would be heard by the County Board. I think a variance would be appropriate, so they could hear their own case.

Kathy Lind stated okay.

Ryan O’Gara stated he found the ordinance if the committee would like to hear it.

Larry Leverenz stated please.

Ryan O’Gara stated the definition of a self-storage business is “a building or buildings which are designed and used for renting or leasing individual storage spaces accessed by customers from individual inside or outside doors or garage bays to which customers thereof have access for storing or removing their personal property. Individual self-storage spaces shall not be used as a residence or for illegal purposes all storage shall be indoors.”

Kathy Lind asked Ryan in the Use Table, where is it permitted.

Ryan O’Gara stated a self-storage warehouse business is permitted by special exception in the NB. It is permitted in GB and all Industrial zones.

Larry Leverenz asked if this would change that Use Table.

Kathy Lind stated yes. What is being proposed would add a footnote to that Use Table prohibiting that use in these areas, but Gary is suggesting not doing it that way, but putting it somewhere else in the ordinance instead.

Ryan O’Gara stated to allow a variance option.

Larry Leverenz stated right. I would agree with Gary, because it seems to get confusing if you say it is allowed in GB areas, and then there are GB areas in the urbanized sewer area that the use would then be prohibited.

Gary Schroeder stated to Kathy to work on this and bring it back next month.

Kathy Lind stated she would work on this and bring it back in January.

III. A PROPOSED CHANGE TO THE FLOOD PLAIN REQUIREMENTS

Larry Aukerman stated we have a proposed higher standard for development in and surrounding the current flood plain zoning. We are here because as part of West Lafayette’s Downtown Plan, which was approved about a year ago, we had a statement that said, the Federal Emergency Management Agency is already contemplating additional regulations in these areas, and to be proactive, this plan recommends all new structures east of River Road be built to the 500-year flood plain elevation or flood protection grade (whichever is higher) to increase protection from flooding. What is currently in place in the zoning ordinances the standards outside of the flood plain zoning, which do not allow new structures, is we currently have a 100-foot distance from the flood plain zone where all new structures are required to have the lowest floor elevation of the structure at flood protection grade which is the flood plain elevation plus 2-feet, and because of the plan, West Lafayette’s Downtown Plan, we have had a few recent developments that have been proposed in this area east of River Road where this policy has been part of negotiations, and through a few of those negotiations staff felt that it was best to potentially make this regulation an amendment to take the negotiations part of this development process out, and it would be a baseline for where negotiations would start at least as far as how a structure is built in relationship to the flood plain. Through those discussions we have talked to the City of Lafayette and the county about also extending this policy into their jurisdictions, so we’ve come-up with a few potential options which we have listed here for discussion. We could make it a simple no development which would be no new structures in the 500-year. We could allow new structures but require an elevation to the 500-year which is what the plan proposes for that area in West Lafayette. We could end up with the county and the cities having different policies over this development. The other consideration is storage/fill and drainage in the 500-year and how that will be affected. Larry presented a map showing the West Lafayette area which has been the primary area of discussion. The policy currently states everything east of the river needs to be built to the 500-year elevation. For an example, Larry presented a map of the Lafayette area, an undeveloped area east of Ivy Tech Community College, and pointed out the orange color is where we are currently discussing having a higher standard. We would not completely take away development in this area, but we are proposing to require our new structures to be elevated to the 500-year similar to West Lafayette’s policy. That is currently where we are at, and we have decided to bring this discussion to the Ordinance Committee to get some guidance on this topic. The County Commissioners were in favor of this, so they have worked with Christopher Burke to help us coordinate not just the land use and zoning, but also other things that are outside of our reach which would be drainage. The county surveyor has also been in this discussion, Zach Beasley, and then Christopher Burke is also working with us to look at other communities in the state and nationally to see what kind of policies are currently in place there and align us with practices that are already in place.

Sheila McKinley, Christopher Burke Engineering LLC, stated there is an increase interest in the 500-year. We have been experiencing more intense frequent rainfall events causing a lot of flooding; places flooding that didn’t used to flood. We are expecting this flooding to increase. It is probably going to be more intense in the winter and spring when there’s no tree cover to intercept the rainfall, so we are expecting more flooding as a result of that. The 500-year flood plain provides critical storage that is needed for these

extreme flood events. It is more common that this area will get flooded probably in the future. The rule of thumb in the flood plain community is, the 500 is the new 100, so we are taking that stance with a lot of communities that we are working with just having them protect this area or keep this area open or have higher standards in place, so we don't lose that flood storage, and the capacity of that area. There are certainly consequences to losing that flood storage to infrastructure and development and increased flooding. There is a study we are working on with the county surveyor and the commissioners and some other area plan commissions as well, so we are mapping inundation zones. She presented a map showing an example of some inundation zones and stated this is showing areas that we expect to be flooded during a 500-year event. This is along the Wabash, and it is giving you a feel for the development that is there currently, and the impact that an extreme flood event could have in the area, and the importance of having higher standards in these areas. As Larry mentioned, they are doing some preliminary research, and it is becoming more common to have regulations for the 500-year, so similar to what the county has in place now. Campton, New Hampshire has a 500-foot edge, so where you have 100-feet outside the special flood hazard area that you regulate, theirs is 500-feet, so very similar to what you are doing now. There are a lot of variations on the language. Columbus, Indiana has flood standards that apply to the special flood hazard area, so the 100-year area, and they extend that to the 500 and any known flood prone areas. We can go above and beyond what the National Flood Insurance Program has in place, and we can go above federal requirements and state requirements. Goshen, Indiana is in the process; they have a recommendation in their Flood Resilience Plan. All of Region 5 and especially in Colorado are implementing higher regulatory standards. Again, extending the requirements of the 100-year out to the 500-year, so very common and lots of precedents there to put that in place. She offered to answer any questions.

Gary Schroeder stated you mentioned the Federal Emergency Management Agencies are contemplating additional regulations, do you know what those are.

Sheila McKinley stated she doesn't know the specifics, but there is talk about extending the regulations into the 500-year, because it is a known flood hazard area that has been mapped, so since we know there is a hazard, we really should do our best to try to mitigate and not put people in harm's way.

Gary Schroeder stated sure, I agree with that.

Sheila McKinley stated that process may move very slowly.

Gary Schroeder stated you talked about more flooding does that mean that the 100-year may need to be adjusted. Are you saying you are anticipating flooding outside the 100-year flood plain.

Sheila McKinley stated I think we will probably have to update all of our maps with what we are seeing with climate change. The boundaries will probably change. That will be a long process as well.

Gary Schroeder stated it seems like going from 100 to 500 is a drastic step.

Sheila McKinley stated the 500 is not that much larger in some areas. She pointed out on the map the two areas in the community that would be the largest. Otherwise, it is just an extension, and your current regulations probably pick it up with your 100 feet. It is probably good to have some regulations in place for the 500-year, and we are not stopping development, but we are just being a lot smarter about it and more resilient as a community.

Gary Schroeder stated it seems to me you would stop development if you extended to 500, you are saying no development in those areas.

Sheila McKinley stated no, we are just saying higher standards. Buildings will have to be built to higher standards.

Gary Schroeder stated raise the elevation.

Sheila McKinley stated yes, absolutely. Larry Aukerman presented four options. The first option was to not

allow development, and that is an option. The second option was that all new structures would be required to elevate to the 500-year elevation. That is pretty much on par with where the 100-year is now. You have the river elevation and right now in Indiana, you are required to have your first floor elevation 2 feet above the river elevation, so we are saying you have it either at that base flood protection grade or at the 500-year whichever is greater. You are just providing some protection for those structures, so you don't have flooding, loss of infrastructure, or loss of property. They are trying to mitigate that.

Larry Leverenz stated for example, correct me if I am wrong Chad, we had a developer who was looking to put a building in the Levee area and the discussion really took a turn when they wanted to put an underground parking garage there, so that really started the discussion.

Chad Spitznagle stated correct.

Ryan O'Gara stated the downtown plans development policy kind of speak the same thing. Encouraging the use of surface covered parking, structured parking, basically above grade parking like the Wabash Landing garage.

Larry Leverenz stated this is a significant area of land area, but at the same time looking around the county there are some other areas too, so do we want a situation where each municipality or each governing body has their own standards, or are we looking at something that can be countywide.

Gary Schroeder stated the underground parking would make sense.

Larry Leverenz stated we want to encourage the development, but at the same time be safe to do it.

Ryan O'Gara stated we understand that there is engineering solutions to pump water out of spaces, and this jurisdiction could contemplate an ordinance to allow development in the 100-year flood plain like other localities, but we want to avoid that damage to property and possibly lives in the event that the engineering solution might fail, so that is what was underlying that policy as we developed it during the downtown plan development phase was to allow for development, but try to do it so that it is in a more safe literal environment, and the land has been raised up for future development.

Eric Burns asked are there insurability issues here that could be looming. You think about waterfront, oceanfront property that at one point you could get private insurance; that morphed into you can't get private insurance anymore you have to get it under the federal program. I am not sure how that is moving whether-or-not it is becoming more difficult or more expensive, but we are interior; it is not saltwater. However, is it an insurability issue. I don't know the answer to that, but it certainly would be a smart question to know the answer to.

Ryan O'Gara stated certainly if FEMA extended the requirement for insurance at that physical area now included the 500-year flood plain. If we get areas that are elevated out of it in advance of that, one could say that you may not need an insurance, correct.

Sheila McKinley stated the National Flood Insurance Program is moving to a new program called Risk Rating 2.0 which is based on your flood risk, so regardless of where you live and how close you live to water, that is what your insurance policy would be. The closer you are to a body of water or in a flood plain you are going to pay a higher insurance premium than if you are outside, but it is based on your risk; it is no longer based on the mapped boundaries, or it won't be. It is in the process of moving in that direction.

Eric Burns stated presumably if you build yourself out of the 500-year flood plain, then your risk is back to what it would be if you weren't in the flood plain. Is that correct; or is there a missing piece there.

Sheila McKinley stated I think it is physical proximity to bodies of water. It is a very new program.

Eric Burns stated it doesn't see to make much sense if it is risk based.

Sheila McKinley stated the whole idea is they are trying to get people out of the flood plain.

Ryan O’Gara asked so even if you have elevated and mitigated it upstream.

Sheila McKinley stated she is not sure of the answer to that. It just came out in October.

Pat Jarboe, TBird Design, stated I am a professional engineer, and I have started my career off in flood plain management. I have also incorporated new federal documents in the State of Indiana when they come through with new rules, and I caution anybody to speculate on what the federal government is going to do; due to the fact as an engineer, I would speculate that you won’t get it right. Not to say that the flood plain is not extremely important to manage, because it is, but we have seen a lot of mistakes that have happened, and we can see the mistakes currently. Agriculture bills back in the fifties promoted and paid for millions and millions of dollars of levees which we now realize as an engineering issue is a mistake. Building to the 500-year right now and without understanding how that affects the entire flood plain, I think, would be a mistake to build a 500-year flood plain in the 500-year flood plain without knowing what the federal government is going to come back with would be a mistake to try to incorporate something right now. My suggestion is that we would not speculate on what the federal government is going to do. I completely agree that things are changing; it is going to a risk-based assessment, and it is entirely appropriate to do that. As we talk about below ground parking lots and parking areas, something the federal government has in language today talks about the use of elevated buildings, not in Tippecanoe County of course, and the uses for those would include parking, storage, building access, non-habitable areas, and those are things that aren’t bad for the flood plain; it is an open area. My encouragement would we base it on specifically what the federal government comes out with. Being proactive in this case is not appropriate, and you are already protected 2 feet above the 100-year anyway, so in Tippecanoe County you are already above and beyond. You are already preparing what could come from the 500-year. As a professional engineer, I would recommend that we do what makes sense from the federal government that will align with insurance purposes, so when we do try to run with the National Flood Insurance Program (NFIP), this county is doing exactly what the NFIP is designed to manage. I am all for flood plain management, but let’s make sure we are doing it right, and let the engineers make decisions based on engineering management. He offered to answer any questions.

Larry Leverenz asked what you are saying is our 2 feet above the 100-year is good for now.

Pat Jarboe stated yes, it is a very good start. As the 100 does increase, you’ve got a cushion already in there. We can end up with this event next week, or it may not happen for a long time. It is all risk management. The more you can do the better. I am saying the 2 feet above the 100 year is a good start. I would highly encourage that we do not make proactive non-engineering based decisions prior to things coming out from the federal government that we can make sense with.

Larry Leverenz asked when can we expect something.

Pat Jarboe stated I don’t know that answer. Risk based maps have been in development for many years, and that data is analyzed on a way that they haven’t done it before. It is impossible to say. What you don’t want to do is you don’t want to end up in a circumstance that you missed the mark with what the federal government comes back with to comply, so it would make it harder for people to understand how their insurance will work. How they do manage the 500-year right now in the community rating system is based on risk usage. For example, I will read a quote from a federal document: critical facilities to be protected to the 500-year flood level; critical facilities include sites and structures that are vital to the community (e.g. hospitals, fire stations, water treatment plants) or could cause significant problems if flooded (e.g. hazmat site, waste-water treatment site). Currently, the risk management is based on risky sites and not just elevation. That is the only documentation the federal government has right now that we can reference.

Gary Schroeder stated when we talk about the comment 2 feet above, I was thinking we changed that in the ordinance; that it was not the finished floor, but it was the substructure of the floor. The bottom of the floor joist is where 2 feet above the elevation needed to be.

Larry Aukerman stated the ordinance talks about the lowest floor elevation of the structure, so it is the bottom of a crawl space. Correct, it is the lowest flat space of a structure.

Gary Schroeder stated yes, I remember addressing that. If you are on a slab or 2 feet above you are okay, but I remember increasing that a few years back. I think we have some good protection there, and in some cases, it is more than 2 feet.

Larry Aukerman stated what we are looking for at this point is either more discussion or guidance moving forward. We can come with a proposal next month or ordinance amendment or we can have further discussion.

Gary Schroeder stated he would agree with Pat if you are looking for direction. I am certainly not qualified to make flood decisions, but I would think we should wait on the federal management. I would move we table this until we get more direction from the federal government.

Gary Schroeder moved to table this until the Federal Emergency Management comes out with more direction. Vicki Pearl seconded, and the motion carried by unanimous voice vote.

David Hittle stated just for clarification does this mean that the effort is to be placed on hold for the time being. The thing is the federal government could take years, and in the meantime, we have a massive redevelopment area in the levee that we should be giving some consideration to. Probably erring on the side of caution, it is worth looking at now rather than just saying let's not even consider it. Right-now at this moment, it is just a matter of introduction; we are not going to be bringing an ordinance next month. We are just letting you all know that this is something that we are looking at, and we will be reporting back to you periodically on. We just need some clarification on the motion.

Gary Schroeder stated my thought would be if you have a situation in West Lafayette where they can currently build a parking garage in the 100-year flood plain I think that should be addressed. If someone is developing and they propose, maybe that is something we should visit.

Larry Leverenz stated personally I would like to see us continue to study what is going on in the county; where the county stands with flood plain, where this might be an issue. I think it is important whatever we come up with is countywide instead of local for each municipality or each entity. How that continues at this point, I am not sure.

Gary Schroeder stated he is not sure either, because it seems like we might spend a lot of time money, and then when the federal government comes out with the regulations, we are off base. We did something that's not in sync with what they are doing. Even though it may take some time, I am not sure that we are under imminent danger with our current regulations of building something that's inappropriate. Jumping straight into the 500-year which is what is being proposed I think is premature. I don't want to see an ordinance that we go to 500-year.

Ryan O'Gara stated remember it is not a prohibition of development in the 500-year, they are trying to elevate to essentially safeguard those areas. Certainly, if the federal government comes out with something, our ordinances would have to be adjusted to fit with them, and that is all part of the ordinance amendment process. We would come to this body with clear evidence that the federal government made a direct change, and we need to adjust our ordinances to do that. Ordinances can be amended. It seems what the issue is the whole proactive part that came from this West Lafayette Downtown Plan Policy. I think it deserves to be vetted to a certain extent by these professionals that are being brought in to really ascertain what we could do. Particularly, the Bartholomew County's Ordinance is one that we have leaned on, something that is already on the books, and something a locality has already accomplished. Like I said, we don't have an ordinance that you are either promoting or not. We are just informing you that we are exploring this and vetting this West Lafayette Downtown Plan Policy for its feasibility. It was very aspirational; we are trying to protect property and life in these areas that are adjacent to these low-lying places. West Lafayette's Downtown Plan was very much a pro-development plan; I remember the street grid and everything else. It is all in that orange area; we want it to develop, but we want it to develop safely, and we just couldn't ignore

this 500-year flood plain. This is giving us some space to vet this policy and see what can be accomplished, and what is possible and consider alternatives along the way with people that know what they are doing.

Eric Burns stated I think the question of what does that motion that we just passed do to what is happening, and I believe the answer is nothing. If the county commissioners decide to move forward with studying if either city started to move forward, that is all good and fine. This body doesn't have the jurisdiction to stop them even if they wanted to.

Ryan O'Gara stated as it impacts zoning, then it would have to come back to this body. Then you would have the liberty to vote yes or no on it.

Eric Burns stated the specific question is what is the impact, and I don't think there is an impact. At least how I would interrupt this body's role, the question is what is the impact of it. The answer is it is on hold for now until you have more information to bring to this body. We are not going to take any action as a body on anything, and I am not sure that anybody is ready for that action to be taken anyway. There is a difference between preparation to be proactive and jumping way out there and nailing down all sorts of parameters that are specific, and perhaps we will be counter-productive, but we are still in the investigation stage, and I don't think this body is trying to slow that down. Again, I am trying to respond as I understand structurally what just happened; it has nothing to do with what is moving forward in three different jurisdictions.

Larry Leverenz agreed, and stated it is preparation for what might come from the federal government. He asked Mr. Hittle if that answered his question.

David Hittle stated yes, I just wanted clarification. He asked Gary Schroeder if that was his understanding.

Gary Schroeder stated I thought I made a motion that we tabled this, and it is not something, I thought, we should spend time on when we are waiting on the Federal Emergency Management Agency to come-out with some direction as Mr. Jarboe suggested. The chances of us missing the mark are high, and we are not going to get it right, and we are going to spend a lot of time and maybe just go in the wrong direction. When you do that, you setup development that may not be appropriate. With that being said, there are some issues that may need to be addressed that we shouldn't ignore, and I think that is outside of this. He asked can you currently build a parking garage in a flood plain.

Ryan O'Gara stated not in the 100-year flood plain.

Gary Schroeder stated okay. Then it sounds like that has been answered; that is not an issue. Then the other part of this is Ryan said we are not saying you can't develop, but I think we are saying you can't develop in the 100-year flood plain; we prevent people from raising their houses in the flood plain locally that other areas allow them to raise their houses. My point is the federal government will come-out with some regulations, and then we may be off the mark. That is why I made my motion; if we get specific issues, we should look at those specific issues.

David Hittle asked so you are suggesting that we discontinue; that is your motion.

Gary Schroeder stated yes, until we get some direction, and I think it is going to take some time, because it is a complicated issue.

David Hittle stated that is why we are bringing in a professional; we want to do it rather than wait well over 16 years.

Ryan O'Gara stated in the interim, do we just build in the levee; then ignore the West Lafayette Downtown Plan Policy.

Gary Schroeder stated my thought is you build to the regulations we have. To make the jump from 100 to 500 years is a big step, and I think that is what has been proposed.

Ryan O’Gara stated we have a locality that voted for that, so we have a jurisdiction within our orbit that is interested in pursuing this via that policy, and I think they at least deserve a hearing, and I don’t think you are squelching that. They want us to explore that, and whether that is just West Lafayette’s issue and it doesn’t go to any of the localities, that is up to those localities, but we do have a comprehensive plan policy that is interested in exploring this. Really this effort is to explore and see what is practical.

David Hittle stated we are not coming out of the gate advocating; we are just saying we want to study it.

Ryan O’Gara stated that policy does say it is not prohibiting development; it wants it to happen safely and prep it for the future. The policy deserves essentially a vetting. To a certain extent for example, the street grid, the Redevelopment Commission for West Lafayette has already authorized money to begin an engineering analysis to study that grid, so that it is not just a list of streets, but actually what can we practically construct on the levee to create a street grid. It is subject to further study and engineering, and that is essentially what we are trying to do with this policy is subject it to further engineering and study. It is premature to squelch the study effort.

Larry Leverenz stated part of that is going to be how does the flood plain play into all of that.

Ryan O’Gara stated perhaps we mischaracterized this effort; this really was meant to be an informational item as opposed to an action item; I apologize for that miscommunication. We are anticipating returning with updates where we are heading, and it could be many months, but the process was just initiated. In terms of action, I agree with Mr. Burns; there is not much to do at this point. We can revisit this again when we actually have something to do, or we have something to relay to you either information from the federal government or just our own analysis.

Gary Schroeder stated My motion was to wait until the Federal Emergency Management Agency gave us some direction. We are waiting on their study; they are doing a study we should wait on that.

Eric Burns stated I understand, but this body has the right to change that at any time. The mere fact that it passed once doesn’t mean it can’t be changed again is my only point. If something was brought, they could certainly hear it, but that would be a question for the majority to decide at that time. I understand your point, but I don’t think procedurally it works that way.

Gary Schroeder stated I think direction was asked; I made a motion; we gave direction.

Eric Burns stated understood, and this body voted for it.

Gary Schroeder stated we also heard from other professional engineers that deal with this, and I tend to agree with them for the time being until new information comes forward. I think we should wait and not spend time or money on it.

Larry Leverenz stated alright, we passed a motion. Essentially as those individual entities have questions, they can work with the APC staff as well on alternatives.

David Hittle stated this is all very confusing. Gary has made his motion, and it is clear he intended for it to mean don’t do this, and you voted, so is that in fact the case.

Eric Burns stated you have to look at what the authority of this body is, and does this authority extend to telling the commissioners you can’t spend money on studying, and I think, the answer to that is of course not. The same answer for the City of West Lafayette or Lafayette, does the authority of this body no matter what you pass extend to them saying they can’t study it, and my answer is of course not. It can’t work that way. Then you get into the APC there are procedures that the APC uses with its Ordinance Committee that moves things forward towards the APC; that is a different answer if it is an APC issue. I think the APC could direct the staff not to look into it; I don’t think this body can do that, but the APC as a whole could. Your motion and the action of this binds this organization, and the motion was that it should not come back until there’s more news from the federal government, and it is very clear that is what was passed.

Gary Schroeder asked did I hear you say that the whole commission can do that.

Eric Burns stated I believe they could.

Gary Schroeder stated are you proposing we put this on the agenda for the APC meeting.

Eric Burns stated I am making no such proposal.

Gary Schroeder stated I think we should.

Eric Burns stated you as a member would be your prerogative, not mine.

Gary Schroeder stated I propose we put it on the APC agenda; we would have more people, and we should get more input.

Larry Leverenz stated I think we are looking at what is the action item here too. Typically, we are moving ordinances forward once the ordinance is completed.

Gary Schroeder stated they wanted direction, so my expectation would be that they are going to work on this, and they are going to come with a proposal, and I think a proposal is premature as we have heard from other testimony.

Larry Leverenz stated we will add this to the APC meeting on December 15th.

Vicki Pearl asked since this is going to the APC you referenced Bartholomew County and some others, I would be curious to know did they even have our rules in place, or where was their baseline to start.

Ryan O'Gara stated we are in the process of starting this process, so we don't have all this information for you, but that is part of it. We are just beginning.

IV. CITIZEN COMMENT

None.

V. ADJOURNMENT

Gary Schroeder moved to adjourn.

The meeting adjourned at 5:47 p.m.

Respectfully Submitted,

Jennifer Ewen
Recording Secretary

Reviewed By,



David Hittle
Executive Director

MEMORANDUM

TO: APC Ordinance Committee
FROM: Kathy Lind, Senior Planner
SUBJECT: licensed medical professionals & self-storage warehousing
DATE: December 23, 2021

This memorandum is a follow-up to the memo dated November 24th. Some changes to the originally proposed ordinance amendments have been included below; these changes are based on discussions held at the December 1st Ordinance Committee meeting.

Licensed Medical Professionals:

Currently, our ordinance allows many types of small businesses as “home occupations.” As long as these businesses located in a residence meet the UZO standards, and are not listed under “prohibited home occupations,” there is no special exception or rezone required; they are permitted wherever a residence is permitted. One of the prohibited home occupations listed is:

“(e) physician, dentist, optometrist, chiropractor, naturopathic doctor, hypnotherapist, acupuncturist, or any medical or dental clinic, office or hospital.”

Recently staff fielded a question from a licensed massage therapist who was interested in running a home occupation. Because of the prohibition, he was told the ordinance did not allow it. But...why does the UZO prohibit it?

This was discussed at the August Administrative Officer’s meeting and it was agreed that as long as the person was licensed (and therefore not a danger to the public), it would not effect a neighborhood any more than a one-chair beauty shop or someone teaching piano would. A clinic, which would house more than one medical professional, would still be prohibited as a home occupation.

In this iteration of the amendment, the home occupation prohibition (e) shown above (which prohibits a physician, dentist, optometrist, chiropractor, naturopathic doctor, hypnotherapist, acupuncturist, or any medical or dental clinic, office or hospital) would be eliminated and 5-5-3 Permitted Home Occupations, would have the following addition:

(15) office of a licensed medical professional with no more than one treatment room.

Self-storage Warehousing:

Most self-storage warehouse businesses are located on the outskirts of our cities. There are a few in the unincorporated county. But one that has come to the attention of the Lafayette Redevelopment office, is a new self-storage warehouse located in the former Coca-Cola Bottling Plant, an art deco building between Union and Salem on 5th Street. It’s an unfortunate use in a highly visible location with most of the historic features of this building now gone forever.

This was discussed at the Administrative Officer's meeting in November. It was decided that this is not the highest and best adaptive re-use for this site so close to downtown Lafayette and the best way to prevent this from happening in historic areas of our cities in the future, is to restrict these warehouses from locating within the urbanized, sewerred areas of our cities and towns. A.O.'s agreed to a footnote in the Use Table of the UZO that states, "This use is prohibited within all urbanized, sewerred areas as shown in Appendix A."

At the December 1st Ordinance Committee meeting, it was decided that this proposed change went too far. The amendment proposed would not allow any variance or special exception; it would simply prohibit self-storage warehouses from these areas. The committee wanted there to be a way to have the BZA decide if a location was a good spot for this use or not.

Currently, the UZO allows self-storage warehouse businesses by special exception in NB and by right in GB and all Industrial zones. Staff is now proposing a new footnote that would state "Proposed self-storage warehouse businesses located in a zone where they are permitted by right, but on property within an urbanized, sewerred area as shown in Appendix A, shall be required to obtain a special exception." This proposed footnote would not prohibit the use, but would instead allow the Board of Zoning Appeals to decide whether or not the use is appropriate within our urban areas. It would also mean requiring a special exception for this use, within the urbanized area for both GB and the Industrial zones.

STAFF RECOMMENDATION:

Approval of both amendments

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER ____
OF ORDINANCE NO. _____
BEING THE UNIFIED ZONING ORDINANCE
OF TIPPECANOE COUNTY.**

Be it ordained by the (County Commissioners of Tippecanoe County, Indiana; the Common Council of the City of Lafayette, Indiana; the Common Council of the City of West Lafayette, Indiana; the Town Council of the Town of Battle Ground, Indiana; the Town Council of the Town of Dayton, Indiana; and the Town Council of Clarks Hill, Indiana), that Ordinance No. _____, being the Unified Zoning Ordinance of Tippecanoe County is hereby amended as follows:

Section 1: Change **UZO Section 5-5-4 PROHIBITED HOME OCCUPATIONS** by eliminating the following and renumbering the rest of the list in this section:

- (e) Physician, dentist, optometrist, podiatrist, chiropractor, naturopathic doctor, hypnotherapist, acupuncturist, or any medical or dental clinic, office, or hospital;

Section 2: Change **UZO Section 5-5-3 PERMITTED HOME OCCUPATIONS** by adding the following:

- (15) Office of a licensed medical professional with no more than one treatment room.

Section 3: Change **UZO Section 3-2 PERMITTED USE TABLE** by adding the following footnote to SIC 4225 "Self-storage warehouse business":

72. Proposed self-storage warehouse businesses located in a zone where they are permitted by right, but on property within an urbanized, sewerred area as shown in Appendix A, shall be required to obtain a special exception.

This ordinance shall be in full force and effect from and after its passage.