

The
AREA PLAN COMMISSION
of Tippecanoe County

APC Ordinance Committee Meeting

Date: July 7, 2021

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

Documents:

[ORD 06.02.2021 MINUTES.PDF](#)

II. SHIPPING CONTAINERS, PART II:

Discussion on changing the recently APC-approved UZO Amendment #100 as requested by the County Commissioners. (The report below has been updated to include decisions reached by the Administrative Officers on July 1st.) – Kathy Lind

Documents:

[SHIPPING CONTAINERS PART II.PDF](#)

III. A PROPOSED CHANGE TO THE BUFFERYARD STANDARDS:

Discussion on amending the requirement for a “registered landscape architect” to prepare bufferyard plans as requested by the Lafayette Administrative Officer – Kathy Lind

Documents:

[BUFFERYARD PLANS PREPARER.PDF](#)

IV. REVISING THE DEFINITION OF "LOT":

This change would allow property owners of old, platted lots in our small towns to build over lot lines without having to replat or vacate those lots –
Kathy Lind

Documents:

[LOT DEFINITION.PDF](#)

V. CITIZEN COMMENTS:

VI. ADJOURNMENT:

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

DATE..... June 2, 2021
TIME.....4:50 P.M.
PLACE..... COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

This meeting was held virtually. 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

Vicki Pearl
Jerry Reynolds
Greg Jones
Kathy Parker
Larry Leverenz
Gary Schroeder
Tom Murtaugh
Jackson Bogan

MEMBERS ABSENT

STAFF PRESENT

David Hittle
Ryan O’Gara
Kathy Lind

Eric Burns, Atty.

Larry Leverenz called the meeting to order at 4:51 PM.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the April 7, 2021 meeting. (There was no May meeting; it was canceled for lack of business.) Greg Jones seconded and the minutes, as submitted, were approved by unanimous voice vote.

II. PROPOSED ZONING ORDINANCE AMENDMENTS

A. Highland Park Neighborhood Form-Based Overlay

Ryan O’Gara presented the proposed zoning ordinance amendment, noting that the effort has been in place for over two years. He stated that the project came about because neighborhood residents wanted certain architectural controls, but did not want anything as comprehensive as formal local historic district designation.

Mr. O’Gara mentioned that the regulations would pertain only to new construction, and would primarily provide limited controls on building materials, garage placement and disposition, and porch configuration and orientation.

Ken Jones, 922 Highland, spoke representing the neighborhood. He stated that the proposed document represents a great deal of conversation among neighbors, and serves to safeguard those neighbors’ primary concerns.

Larry Leverenz asked Mr. O’Gara how this proposed form-based overlay compares with the jurisdiction’s other adopted form-based codes. Mr. O’Gara responded by noting that the other form-based codes, which serve the Centennial Neighborhood and the Discovery Park District (in West Lafayette), are more complex and thorough, whereas the proposed Highland Park overlay code targets only a few specific building form

components.

Mr. Murtaugh asked if there is a likely Phase II for the form-based code, which might deal with renovations, rather than solely with new construction as the presently-proposed code would do. Mr. Jones responded, saying that the neighborhood intends to deal with that matter if it arises and becomes a genuine issue.

Larry Leverenz moved to send to the Area Plan Commission a positive recommendation to adopt the proposed amendment as submitted. Greg Jones seconded, and the motion was approved by unanimous voice vote.

III. OTHER BUSINESS

Larry Leverenz asked Eric Burns to discuss the resolution he has drafted, which would allow for ongoing virtual attendance, given certain circumstances, at future Ordinance Committee meetings.

Mr. Burns introduced the resolution, stating that it mostly reiterates existing state policy. Section 7, though, additionally would require that the presiding officer be physically present at the meeting, and that advance notice must be given by any member intending to participate virtually. He stated that the Area Plan Commission, at its last meeting, moved the issue to the Ordinance Committee for discussion and a recommendation.

Tom Murtaugh suggested he thought it best to return to the original standard, having all parties on hand, in person, at the meeting. He suggested that the policy could be re-thought in the future if it became clear that there was need or demand for virtual participation.

Mr. Murtaugh also confirmed that the meetings would still be streamed live on youtube and facebook so that interested parties could continue to observe the proceedings remotely without participating.

Larry Leverenz suggested moving forward with the “basic” and simplest option, meaning, doing what the state mandates.

Gary Schroeder asked for confirmation that the state does not mandate that we allow for virtual participation. Mr. Burns noted that the state does not mandate any virtual allowance at all.

Mr. Schroeder then asserted that the best option would be to return to normal, requiring physical attendance by any party wishing to participate in a meeting. He also noted that live meetings allow for informal communication between petitioners and remonstrators and other participants, which is often helpful to those parties.

Mr. Schroeder moved to table the resolution drafted by Mr. Burns to a time uncertain, and the motion carried unanimously by voice vote.

IV. CITIZEN COMMENTS

Larry Leverenz called for a 30-second pause for citizen comments. There were none.

V. ADJOURNMENT

Gary Schroeder moved to adjourn.

The meeting adjourned at 5:20 p.m.

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Respectfully Submitted,

David Hittle

UPDATED MEMORANDUM

TO: APC Ordinance Committee
FROM: Kathy Lind, Senior Planner
SUBJECT: Shipping Containers, part II
DATE: July 2, 2021

Amendment #100, was an omnibus amendment that included four different minor updates to the UZO including standards for using shipping containers for storage purposes. This amendment was approved by Lafayette and West Lafayette City Councils at their June meetings but was tabled by the County Commissioners. The Commissioners' concern was placing shipping container limitations on farmers; they would rather there be no limit to the number of shipping containers allowed to be used by the farming community. The amendment as presented would limit the use of these containers to four per farming operation.

This topic will be discussed later today (after the deadline for this packet) at the Administrative Officer's (A.O.s) meeting. Any decisions reached at that meeting will be brought forward and discussed at the July 7th Ordinance Committee meeting. *(See the proposed changes to the amendment added to this report in the box below.)*

For informational purposes only, staff has included excerpts from the Amendment #100 staff report and those portions of the proposed ordinance regarding shipping containers:

Currently there are no standards regarding shipping containers used as storage in the UZO except on commercially zoned property (UZO Section 4-6-18-j). This amendment would address the number permitted at residential properties. (This amendment does not address the use of shipping containers as residences; it only addresses their use as an accessory storage building. The A.O.s decided to not prohibit their use as a residence, but to let the Indiana Building Code requirements guide their residential use.)

This amendment would create a definition for "shipping containers" and would limit their number to four per farming operation. For a residence that is not part of a farm, no more than one shipping container may be used for storage as an accessory use but only if the house is on at least two acres of land and also the property cannot be located in a residential zone. This will prevent shipping containers from being used on most lots in subdivisions in the unincorporated county.

Lastly, this amendment allows shipping containers used for residential storage on a temporary basis in any zone for no more than a period of 90 days or at the A.O.'s discretion. This amendment passed Ordinance Committee at its April 7, 2021 meeting.

Section 1: Add the following to **UZO Section 1-10-2 WORDS AND TERMS DEFINED:**

SHIPPING CONTAINER. A unit originally or specifically designed or used to store goods or merchandise during shipping or hauling by container ships, rail, or other types of transportation. Railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies and similar items originally built for purposes other than the storage of goods and materials, are not shipping containers and shall not be used as accessory storage at a farm or residence.

Section 5: Add the following new **Section 4-11-14 SHIPPING CONTAINERS** to Chapter 4-11 MISCELLANEOUS RESTRICTIONS:

4-11-14 SHIPPING CONTAINERS:

- (a) A maximum of four metal **shipping containers** used for permanent on-site storage shall be allowed at a farming operation (SIC 01 or 02) in any zone and no more than one **shipping container** shall be allowed as an accessory use to a residence located on a minimum of two acres of non-residentially zoned property. These **shipping containers**:
 - (1) may not be stacked on top of each other;
 - (2) shall meet all building setbacks for an accessory building, and
 - (3) are only allowed with an approved **Improvement Location Permit**.
- (b) Metal **shipping containers** that are used for residential storage on a temporary basis in any zone shall be allowed on site for no more than a period of 90 days or such longer period at the **Administrative Officer's** discretion.

Added to this report on Friday, July 2, 2021: In the box below is the wording decided on at the July 1st Administrative Officer's meeting.

Section 5: Add the following new **Section 4-11-14 SHIPPING CONTAINERS** to Chapter 4-11 MISCELLANEOUS RESTRICTIONS:

4-11-14 SHIPPING CONTAINERS:

- (a) **Shipping containers** used for permanent on-site storage shall be allowed at farming operations (SIC 01 or 02) in any zone as an accessory use. These **shipping containers**:
 - (1) may not be stacked on top of each other;
 - (2) shall meet all building setbacks for an accessory building, and
 - (3) are only allowed with an approved **Improvement Location Permit**.
- (b) No more than one **shipping container** shall be allowed as an accessory use to a residence that is not part of a farming operation. These **shipping containers**:
 - (1) shall be located on a lot of at least two acres of non-residentially zoned property;
 - (2) shall meet all building setbacks for an accessory building;
 - (3) are only allowed with an approved **Improvement Location Permit**;
 - (4) shall not be located between the **primary use building** and the **front lot line**.
- (c) Metal **shipping containers** that are used for residential storage on a temporary basis in any zone shall be allowed on site for no more than a period of 90 days or such longer period at the **Administrative Officer's** discretion.

STAFF RECOMMENDATION:

Approval of the A.O.'s proposed amendment

MEMORANDUM

TO: APC Ordinance Committee
FROM: Kathy Lind, Senior Planner
SUBJECT: Who is permitted to prepare bufferyard plans?
DATE: July 1, 2021

Currently, the UZO states that, "The property owner or developer shall provide **bufferyard** plans prepared by a registered landscape architect to the **Administrative Officer** for approval." Staff has heard some grumbling about the cost of our bufferyard requirements and, particularly, the difficulty in finding "registered landscape architects" to prepare the required plans.

The City of Lafayette has been allowing bufferyard plans, prepared by a landscape professional but not necessarily a registered landscape architect, to file plans with them, that are then reviewed and approved by the city's urban forester. The Administrative Officer for Lafayette requested the ordinance be changed to allow the type of bufferyard plan review they have already been doing and find agreeable.

The proposed change would read: "The property owner or developer shall provide **bufferyard** plans prepared by a registered landscape architect to the **Administrative Officer** for approval, or **bufferyard** plans prepared by a landscape professional, shall be reviewed and approved by the jurisdiction's urban forester or landscape administrator and then approved by the **Administrative Officer.**"

This language was discussed and approved by the Administrative Officers at their May 6, 2021 meeting.

STAFF RECOMMENDATION:
approval

MEMORANDUM

TO: APC Ordinance Committee
FROM: Kathy Lind, Senior Planner
SUBJECT: Allowing old platted lots to be “used as one”
DATE: July 1, 2021

For a simple, easy to understand concept in a three-letter word, our ordinance sure has a lengthy and complicated definition for the word “lot.” This proposed change to the UZO would actually make that definition longer, but for a good purpose; it would eliminate a recurring problem that effects some property owners in Tippecanoe County.

The county has several “towns” that were platted in the 1800’s that never fully developed as originally planned. These unincorporated towns can be a grouping of houses along a highway, such as Monroe, Petit, Monitor and Odell. There are also bigger unincorporated towns that are more established such as West Point, Montmorenci and Americus. The towns of Romney, Stockwell, Buck Creek and Colburn, while unincorporated, now have (or are planned to have) sewer systems which will no doubt encourage new residential and commercial growth.

Once these towns were platted, land was sold and buildings were constructed...often without surveyor’s stakes marking lot corners. Houses were laid out in a haphazard fashion in relation to the old platted lot lines. Houses and other buildings built several decades ago were not sited as accurately as buildings constructed today. When a current property owner of these platted lots decides to get a permit to build an addition, a new porch, or tear down an existing garage and build a new one, that’s when it is typically discovered his house or garage crosses a platted lot line. The remedy for this is either to file a vacation of the platted lots or to hire a land surveyor to replat the lots (essentially, a minor subdivision). In certain cases, an “Exemption E” deed can be recorded to eliminate the lot line problem; but this remedy requires hiring a lawyer and sometimes a surveyor to fix. Vacations vary in cost depending on the number of people who own lots within the plat (each lot owner in the plat gets a notice by certified mail which costs \$4.05 each). The last vacation heard by APC, V-51 by Ralph & Shirley Linder of Concord, cost petitioners, *who represented themselves*, \$607 and took a month of their time. (The Linders also filed for a setback variance - BZA-2018.) Replats generally cost thousands of dollars and take a minimum of two months to complete.

The City of Lafayette has long had its own, simpler definition of “lot” in the UZO, separate from every other jurisdiction. It reads:

LOT (LAFAYETTE). An area of land exclusive of *street* areas but including adjacent areas that are used as one, having an access from a *public street* approved by the *Administrative Officer*.

This definition is why so few replats are filed in Lafayette, unless they are dividing a larger lot into two or more smaller lots. Because a “lot” can include several adjacent areas “that are used as one,” buildings are permitted to cross platted lot lines.

What is proposed for our towns would be similar. The existing definition of “lot” is shown below; the new language is shown in gray.

LOT (WEST LAFAYETTE, TIPPECANOE COUNTY, DAYTON, BATTLE GROUND, CLARKS HILL). Either:

- (1) (a) a piece of land, the location, shape and size of which have been established by a recorded plat, **subdivision** or planned development; or
- (b) any part of that piece of land where a division has been made by a document recorded prior to July 1, 1978, and in Clarks Hill, April 1, 1996; or
- (c) an area of land exclusive of platted **streets** that includes platted lots, or parts of platted lots that are used as one, in single ownership, that is in a plat recorded prior to February 1, 1962, having access from a **public street** approved by the **Administrative Officer** in one of the unincorporated towns including, but not limited to: Concord, Romney, Stockwell, West Point, Petit, Montmorenci, Buck Creek and Colburn, or the incorporated towns of Battle Ground, Clarks Hill or Dayton.

and which shall include any adjacent area of land added to that piece of land by either the vacation of a public way, or an exempt division as permitted by the Unified Subdivision Ordinance, or a document recorded prior to July 1, 1978, and in Clarks Hill, April 1, 1996; or

- (2) a piece of land, not in a recorded plat, **subdivision** or planned development, the location, shape and size of which are determined by:
 - (a) the legal description in the last recorded document prior to July 1, 1978, and in Clarks Hill, April 1, 1996; or thereafter by
 - (b) the legal description in the last recorded document made as an exempt division or **parcelization** under the then applicable Subdivision Ordinance;

and which shall include any adjacent area of land added to that piece of land by either vacation of public way or an exempt division as permitted by the Unified Subdivision Ordinance. (This does not include the term **mobile home park/manufactured home community lot** which is defined separately.)

The only platted lots that would not be effected would be any lots within Otterbein or Shadeland (Union Township) which are not part of the APC and platted lots in the City of West Lafayette. This amendment would also require a Unified Subdivision Ordinance amendment so that the definitions of "lot" remain the same in both ordinances. This change was discussed at the Administrative Officer's meeting in May and was approved.

Staff Recommendation:

Approval