

The
AREA PLAN COMMISSION
of Tippecanoe County

Notice of Public Hearing

Date: July 20, 2022

Time: 6:00pm

Place: County Office Building
Tippecanoe Room
20 North Third Street
Lafayette, Indiana 47901

AGENDA

I. BRIEFING SESSION

II. APPROVAL OF MINUTES

Documents:

[APC MINUTES 6.15.2022.PDF](#)

III. NEW BUSINESS

IV. PUBLIC HEARING

A. AMENDMENTS

1. UZO AMENDMENT #105:

This proposed amendment would revise UZO Section 6-3, the zoning enforcement section of the UZO.

Vote Results 15-Yes 0-No

Documents:

[AMEND105 ZONING VIOLATION ENFORCEMENT.PDF](#)

2. UZO AMENDMENT #106:

This proposed amendment would add two entries in Section 3-2 Permitted Use Table of the UZO: towing services and impound lots.

Vote Results 15-Yes 0-No

Documents:

[AMEND106 TOWING SERVICES AND IMPOUND LOTS.PDF](#)

B. REZONING ACTIVITIES

1. Z-2862 IMPERIAL PARKWAY, LLC (I3 TO GB):

Petitioner is requesting rezoning of one lot in the Imperial Industrial Park Subdivision, specifically 3215 Imperial Pkwy, south of Brady Lane, just west of US 52 in Lafayette, Wea 03 (SE) 22-4.

Vote Results 14-Yes 1-No

Documents:

[Z-2862 IMPERIAL PARKWAY, LLC.PDF](#)

V. ADMINISTRATIVE MATTERS

VI. APPROVAL OF THE AUGUST EXECUTIVE COMMITTEE AGENDA

Documents:

[08032022 EXEC AGENDA.PDF](#)

VII. DETERMINATION OF VARIANCES - AREA BOARD OF ZONING APPEALS

Documents:

[2022-07 CDOV.PDF](#)

VIII. DIRECTOR'S REPORT

IX. CITIZENS' COMMENTS AND GRIEVANCES

X. ADJOURNMENT

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the Area Plan Commission of Tippecanoe County will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. For more information visit www.tippecanoe.in.gov/ada

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

DATE..... June 15, 2022
TIME..... 6:00 P.M.
PLACE..... County Office Building
20 North 3rd Street
Lafayette, IN 47901

This meeting was held in-person. Members of the public may watch the video of the meeting at <https://www.facebook.com/TippecanoeCountyIndiana> or <https://www.youtube.com/channel/UCJleeA9ZQo9E11GdZTdjurQ/featured>

MEMBERS PRESENT

Larry Leverenz
Bob Metzger
Carla Snodgrass
Tracy Brown
Perry Brown
Tom Murtaugh
Gary Schroeder
Kathy Parker
Jerry Reynolds
Jackson Bogan
Vicki Pearl
Lisa Dullum
Greg Jones
Jody Hamilton
Jason Dombkowski

MEMBERS ABSENT

Diana Luper
Michelle Dennis

STAFF PRESENT

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

The Area Plan Commission of Tippecanoe County Public Hearing was held in-person on the 15th day of June 2022 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Larry Leverenz called the meeting to order.

Attorney, Eric Burns, called the roll to establish members present.

I. BRIEFING SESSION

David Hittle stated all cases are ready to be heard this evening.

II. APPROVAL OF THE MINUTES

Gary Schroeder moved to approve the minutes from the May 18, 2022 public hearing as submitted. Greg Jones seconded, and the minutes, as submitted, were approved by unanimous voice vote.

III. NEW BUSINESS

None.

IV. PUBLIC HEARING

Larry Leverenz read the meeting procedures.

Gary Schroeder moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the By-laws of the Area Plan Commission, the application and all documents filed therewith, the staff report and recommendation on the applications to be heard this evening and responses from the checkpoint agencies. Greg Jones seconded, and the motion carried by voice vote.

A. Ordinance Amendments

Gary Schroeder moved to hear and vote on **UZO AMENDMENT #103-A**. Greg Jones seconded.

1. UZO AMENDMENT #103-A:

This is the section of UZO Amendment #103 that was previously tabled, related to self-storage warehouse businesses within urbanized areas. It returns to the Area Plan Commission with amendments from the Lafayette City Council and the County Commissioners. CONTINUED FROM THE MAY 18TH APC MEETING.

APC staff David Hittle stated this is the self-storage ordinance amendment that has been in front of the Planning Commission a number of times this year. There were two different versions brought forward at the April Meeting. There was a January 2022 version, and that is what was recommended for approval by APC staff and by the City of Lafayette which initiated this request. The other version was the April 2022 version, and this version just had some language crafted and added at the end when it came before the Ordinance Committee. At the April Plan Commission meeting, the April 2022 version was voted on, and it was denied by a 13 to 2 vote. Following the state appointed path for Ordinance Amendments, it then went to the Town and City Councils, so there are 6 legislative bodies that this Plan Commission serves, and any recommendation on an Ordinance Amendment that is made here then goes to the Town Councils, City Councils, and the County Commissioners as the legislative bodies. They voted to amend the APC vote, so per State Code because the legislative bodies amended the recommendation that came from the Plan Commission, it goes back to the Plan Commission which is where it is tonight. By State Code there are two options, you can approve the amendment as it reached you back from the legislative bodies, and if you do that, it is essentially the end of the process. Otherwise, you can disapproved the amendment as it stands coming back to you from the legislative bodies which then sends it back to the legislative bodies, and they have 45 days to act on it as they will.

Larry Leverenz asked for any questions or comments from the audience members. There were none.

Larry Leverenz asked for any questions or comments from the Commission.

Gary Schroeder stated the language change from the Ordinance Committee was to make the existing self-storage units already in operation or being constructed being conforming byright, but they now have the option of getting a special exception in becoming conforming.

Larry Leverenz called for a vote on a yellow ballot.

David Hittle collected the ballots and noted 14-Yes to 1-No in favor of **UZO Amendment #103-A**.

Yes-Votes

Larry Leverenz
Tom Murtaugh
Gary Schroeder
Kathy Parker
Jerry Reynolds
Jackson Bogan
Lisa Dillum
Greg Jones

No-Votes

Vicki Pearl

Jody Hamilton
Jason Dombkowski
Perry Brown
Tracy Brown
Carla Snodgrass
Bob Metzger

B. Comprehensive Plan Amendments

Gary Schroeder moved to hear and vote on RESOLUTION #2022-03. Greg Jones seconded.

1. RESOLUTION #2022-03:

A resolution to adopt into the *Comprehensive Plan*, the updated draft of the County's Multi-Hazard Mitigation Plan as required by the Federal Disaster Mitigation Act of 2000.

APC staff Larry Aukerman presented. He stated the Multi-Hazard Mitigation Plan is a process that gets updated every 5 years. It is a requirement of the Federal Disaster Act of 2000. The largest change this year is we were able to get the Town of Otterbein included in this amendment. They have been participating in this meeting, and we have added some goals for them also in our plan. The main goals are similar to what they were last time. There is a little bit more focus this time on more man-made disasters, accident and purpose driven. He noted that we are looking to move this on, and if there are any public comments tonight, add them to the plan, and then pass it onto each of the jurisdictions. That will keep us in compliance for some grants that the county is working toward.

Larry Leverenz asked for any questions or comments from the Commission. There were none.

Larry Leverenz asked for any questions or comments from the audience members. There were none.

Larry Leverenz called for a vote on a yellow ballot.

David Hittle collected the ballots and noted 15-Yes to 0-No in favor of **RESOLUTION #2022-03**.

Yes-Votes

Larry Leverenz
Tom Murtaugh
Gary Schroeder
Kathy Parker
Jerry Reynolds
Jackson Bogan
Lisa Dillum
Greg Jones
Jody Hamilton
Jason Dombkowski
Perry Brown
Tracy Brown
Carla Snodgrass
Bob Metzger
Vicki Pearl

No-Votes

C. Subdivisions

Gary Schroeder moved to hear and vote on **S-5071 WIGGINS FARM SUBDIVISION (major-preliminary)**.
Greg Jones seconded.

1. S-5071 WIGGINS FARM SUBDIVISION (major-preliminary):

Petitioner is requesting preliminary approval of a 78-lot, residential subdivision (with two outlots) on 29.61 acres located on the east side of N. Salisbury Street, ¼ mile north of Kalberer Road, in West Lafayette, Wabash 06 (NE) 23-4. CONTINUED FROM THE MAY 18TH APC MEETING BECAUSE PUBLIC NOTICE WAS NOT DONE.

APC staff David Hittle presented the zoning map, plat, and aerial photos. He stated this involves just under a 30-acre site zoned R1B which it was actually rezoned to R1B just about a year ago. There was a commitment included that obligates these individual lots to have a minimum width of 67 feet, whereas the zoning ordinance would typically require a minimum width of 50 feet. That was volunteered by the petitioner. This is located on the east side of Salisbury, and about a quarter of a mile north of Kalberer Road. It is in West Lafayette, and the proposed subdivision will have 78 units, and it would be accessed from Salisbury to the west, and Main Street would continue to the east and connect to the Estates of Arbor Chase. No variances have been requested. It does meet all subdivision standards, so staff is recommending approval.

Larry Leverenz called for the petitioner or the petitioner's representative.

Tim Balensiefer, TBIRD Design, 105 N 10th Street, Lafayette, stated they agree with all of staff's comments, recommendations, and conditions; we are requesting your approval.

Larry Leverenz asked if any member of the audience wished to comment on this petition. There was no response.

Larry Leverenz asked for any questions or comments from the Commission. There were none. He then called for a vote, and he noted they are requesting bonding.

David Hittle collected the ballots and noted 15-Yes to 0-No for conditional primary approval of **S-5071**.

Yes-Votes

Larry Leverenz
Tom Murtaugh
Gary Schroeder
Kathy Parker
Jerry Reynolds
Jackson Bogan
Lisa Dillum
Greg Jones
Jody Hamilton
Jason Dombkowski
Perry Brown
Tracy Brown
Carla Snodgrass
Bob Metzger
Vicki Pearl

No-Votes

David Hittle collected the ballots and noted 15-Yes to 0-No for bonding approval of **S-5071**.

Yes-Votes

No-Votes

Larry Leverenz
Tom Murtaugh
Gary Schroeder
Kathy Parker
Jerry Reynolds
Jackson Bogan
Lisa Dillum
Greg Jones
Jody Hamilton
Jason Dombkowski
Perry Brown
Tracy Brown
Carla Snodgrass
Bob Metzger
Vicki Pearl

Gary Schroeder moved to hear and vote on **S-5075 WABASH RIDGE SUBDIVISION (major-preliminary)**.
Greg Jones seconded.

2. **S-5075 WABASH RIDGE SUBDIVISION (major-preliminary):**

Petitioner is requesting preliminary approval of a multi-family subdivision of one lot of 10.89 acres with one clubhouse and five apartment buildings with 240 total units, located on the northwest side of Paramount Drive at the Genoa Drive intersection in Wabash 2 (NE) 23-5.

APC staff David Hittle presented the zoning map, plat, and aerial photos. He stated this would be for a multi-family proposed development; the subject site is just under 11 acres, and it is zoned R3 for multi-family. The location is west of Paramount Drive, and about a quarter of a mile north of Sagamore Parkway in West Lafayette. The proposal would provide for five multi-family buildings with a total of 240 units maximum, and a clubhouse building at the south end of the development. There was a variance granted in January of this year to allow for 357 parking spaces whereas the ordinance would ordinarily require 480. Notably, the petitioner is working with CityBus to design and find an optimal location for a new bus stop at the site. They would also be providing new sidewalks along the west side of paramount drive. Other than the variance for parking, no other variances have been requested, and it meets all other major subdivision standards.

Larry Leverenz called for the petitioner or the petitioner's representative.

Tim Balensiefer, TBIRD Design, 105 N 10th Street, Lafayette, stated they agree with all of staff's recommendations and comments, and they are requesting approval.

Larry Leverenz asked if any member of the audience wished to comment on this petition. There was no response.

Larry Leverenz asked for any questions or comments from the Commission. There were none. He then called for a vote, and he noted bonding is being requested.

David Hittle collected the ballots and noted 15-Yes to 0-No for conditional primary approval of **S-5075**.

Yes-Votes

Larry Leverenz
Tom Murtaugh
Gary Schroeder
Kathy Parker
Jerry Reynolds

No-Votes

Jackson Bogan
Lisa Dullum
Greg Jones
Jody Hamilton
Jason Dombkowski
Perry Brown
Tracy Brown
Carla Snodgrass
Bob Metzger
Vicki Pearl

David Hittle collected the ballots and noted 15-Yes to 0-No for bonding approval of **S-5075**.

Yes-Votes

Larry Leverenz
Tom Murtaugh
Gary Schroeder
Kathy Parker
Jerry Reynolds
Jackson Bogan
Lisa Dullum
Greg Jones
Jody Hamilton
Jason Dombkowski
Perry Brown
Tracy Brown
Carla Snodgrass
Bob Metzger
Vicki Pearl

No-Votes

D. Rezoning Activities

Gary Schroeder moved to hear and vote on **Z-2856 BET RENTALS, LLC (R1 to GB)**. Greg Jones seconded.

1. Z-2856 BET RENTALS, LLC (R1 to GB):

Petitioner is requesting rezoning of 1.716 acres located on the north side of Brady Lane, east of Concord Road, specifically, 3416 Brady Lane, Lafayette, Wea 3 (NE) 22-4.

CONTINUED FROM THE MAY 18TH APC MEETING AT PETITIONER'S REQUEST TO EXCEPT OUT LAND IN THE FLOOD PLAIN.

APC staff Ryan O'Gara presented the staff report with several exhibits including a zoning map and aerial photos. The main purposed of this is to legitimize an existing non-conforming business the Twin City Electric Group. The current GB zoning that was approved by Council just east of this site sort of set the stage for this to join with that zoning pattern as well as making an existing non-conformity conforming. It is a simple petition. The existing conditions are going to continue, and then the site would have to operate under the new zoning district. City utilities are available. It has been used commercially for many years, so there is no objection from staff and are recommending approval.

Larry Leverenz asked if the petitioner or the petitioner's representative wished to make a presentation.

Brad Neely, Reiling Teder & Schrier, 250 Main Street, Lafayette, stated BET Rentals filed this petition with the consent of the owner. They agree with the staff's report, and they appreciate the time and effort from

the staff on this matter. Also, there are no plans to develop or redevelop this site. They are respectively requesting approval.

Larry Leverenz asked if any persons wished to speak in favor of this petition. There was no response.

Larry Leverenz asked if any persons wished to speak in opposition of this petition. There was no response.

Larry Leverenz asked for any questions or comments from the Commission. There were none.

Larry Leverenz called for a vote on a yellow ballot.

Ryan O’Gara collected the ballots and noted the Area Plan Commission voted 15-Yes to 0-No recommending approval of **Z-2856 BET RENTALS, LLC (R1 to GB)**.

Yes-Votes

Larry Leverenz
Tom Murtaugh
Gary Schroeder
Kathy Parker
Jerry Reynolds
Jackson Bogan
Lisa Dullum
Greg Jones
Jody Hamilton
Jason Dombkowski
Perry Brown
Tracy Brown
Carla Snodgrass
Bob Metzger
Vicki Pearl

No-Votes

Gary Schroeder moved to hear and vote on **Z-2860 RICHARD & GAIL MICHAEL (NB to NBU)**. Greg Jones seconded.

2. Z-2860 RICHARD & GAIL MICHAEL (NB to NBU):

Petitioners are requesting rezoning of 911 N. 18th Street, located on the northeast corner of Salem and N. 18th Streets, in Lafayette, Fairfield 21 (NE) 23-4.

APC staff Ryan O’Gara presented the staff report with several exhibits including a zoning map and aerial photos. In the late seventies, this site was rezoned from R3 to LB, and then the LB zoning district became NB. The objective being that this was a commercial area and even though the site had a house on it, it would likely redevelop, and that did not happen. The site in question does have a single-family dwelling on it built before 1900, and currently, there is a mental health provider leasing space on the first floor, and the second floor has an empty residential unit; these uses have continued for many years. In terms of commercial ground floor and residential above, the NBU zone was made for these sorts of situations. City utilities serve the site, and staff is recommending approval.

Larry Leverenz asked if the petitioner or the petitioner’s representative wished to make a presentation.

Brad Neely, Reiling Teder & Schrier, 250 Main Street, Lafayette, stated they agree with the staff’s report, and they appreciate the time and effort from staff for this rezone. The purpose of this rezone is to allow the portion upstairs to be residential. At this time, there are no plans to divide the property, and they are respectively requesting approval.

Larry Leverenz asked if any persons wished to speak in favor of this petition. There was no response.

Larry Leverenz asked if any persons wished to speak in opposition of this petition. There was no response.

Larry Leverenz asked for any questions or comments from the Commission. There were none.

Larry Leverenz called for a vote on a yellow ballot.

Ryan O’Gara collected the ballots and noted the Area Plan Commission voted 15-Yes to 0-No recommending approval **Z-2860 RICHARD & GAIL MICHAEL (NB to NBU)**.

Yes-Votes

Larry Leverenz
Tom Murtaugh
Gary Schroeder
Kathy Parker
Jerry Reynolds
Jackson Bogan
Lisa Dullum
Greg Jones
Jody Hamilton
Jason Dombkowski
Perry Brown
Tracy Brown
Carla Snodgrass
Bob Metzger
Vicki Pearl

No-Votes

V. ADMINISTRATIVE MATTERS

None.

VI. APPROVAL OF THE JULY EXECUTIVE COMMITTEE AGENDA

No subdivision cases have been filed for this meeting.

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-2080 JAMES ALAN AND TRACI BRATTON;
BZA-2081 PATRICK R AND MELINDA C O’NEIL, TRUSTEES OF THE PATRICK R O’NEIL AND MELINDA C O’NEIL REVOCABLE LIVING TRUST; AND
BZA-2082 RIVERSIDE CONSTRUCTION, LLC.

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

VIII. DIRECTOR’S REPORT

David Hittle stated the director’s report was emailed out earlier today, and he offered to answer any questions. He stated the City of Lafayette has commissioned an external planning firm several times over the past few years to do neighborhood plans. MKSK is the name of the firm, and they have mostly been

economic development plans, but some of them leaned into the land use arena, which is what we do, but because they weren't done in partnership with APC, they were never brought to the APC for adoption, and they don't have the full force of being an adopted component of the plan. This plan that is going to be for the Lincoln Neighborhood we are going to be working with them. We are going to have one of our staff act as a liaison for that process and make sure they meet the benchmarks that we need to be able to be comfortable to bring it to the Planning Commission for adoption.

IX. CITIZEN'S COMMENTS AND GRIEVANCES

None.

X. ADJOURMENT

Gary Schroeder moved to adjourn.

Meeting adjourned at 6:38 PM.

Respectfully Submitted,

Jennifer A. Ewen
Recording Secretary

Reviewed by,

A handwritten signature in black ink, appearing to read "D. Hittle", with a horizontal line extending to the right.

David L. Hittle
Executive Director

Unified Zoning Ordinance Amendment #105 ZONING VIOLATION ENFORCEMENT AMENDMENT

**Staff Report
JULY 14, 2022**

ADDENDUM FOR JULY 20 APC MEETING

At the June 1st Ordinance Committee meeting, committee members asked about the filing fee for someone wishing to formally appeal the issuance of a zoning violation. Staff indicated that the filing fee would be the same as for a variance or special exception petition, \$500. However, looking over our fee ordinance, staff discovered that an explicit exception is made for persons filing formal appeals of an administrative decision, and that there is no fee for such a filing.

Staff regards that zero-filing-fee as reasonable, and we would not suggest at this point any amendment to the fee ordinance to charge a fee. If we find that such appeals become numerous once we've taken on the responsibility for zoning enforcement, we may at that point want to consider instituting a filing fee to appropriately account for staff time.

ORIGINAL STAFF REPORT FOR JUNE 1 ORDINANCE COMMITTEE MEETING

Presently, zoning ordinance enforcement within Tippecanoe County, excepting the municipalities of Lafayette and West Lafayette, is the responsibility of the county Building Commission. The arrangement is cumbersome and inefficient as building inspectors are experts in building code, not zoning code. Additionally, zoning ordinance enforcement procedures are presently very time- and resource-intensive, as the existing enforcement language requires the involvement of external legal counsel in the event a violator does not willingly correct the violation. Zoning violations remain in place for months, even years. Area Plan Commission staff have worked with the Building Commissioner on a plan to transfer zoning ordinance enforcement responsibility to the APC, and we now propose an amendment to the zoning ordinance's enforcement language which would:

- 1) provide staff with the leeway to work in good faith with the property owner and give the owner every reasonable opportunity to remedy the zoning violation without incurring fees or other penalties,
- 2) (where a good faith effort to remedy the violation is lacking) give zoning enforcement tools real teeth, and place the ultimate burden for bringing the property into compliance on the violator, and
- 3) make the process essentially an administrative one, handled almost exclusively by staff, with only the rare need to engage legal counsel.

Upon adoption of the proposed ordinance amendment, Building Commission staff would

remain involved as field agents, visiting sites to visually verify the presence (or lack thereof) of alleged violations. All subsequent enforcement activities, however, including communication with violators and neighbors, would be managed by APC staff.

The proposed amended ordinance is attached in redlined form. Below is a summary of the Standard Operating Procedure which would be put in place should the proposed amendment be adopted.

A. TIMELINE

- 1) A zoning violation complaint is received by staff via phone, email, letter, or walk-in.
- 2) Staff conducts a site visit, confirms presence of violation (or not). Confirmation of violation may be achieved by visual inspection, receipt of compelling evidence, online research, other similar means of investigation, or any combination of the above.
- 3) If the violation is confirmed, staff issues the owner a Violation Letter. Per letter, the property owner is given a specific deadline date (at least 15 days following the issuance of the violation) by which the owner must:
 - a) bring the property into compliance with the zoning ordinance, or
 - b) file a land use petition to legally establish the non-compliance, or
 - c) formally appeal the issuance of the violation to the ABZA, or
 - d) propose, and have accepted by the Administrative Officer, an alternative means of resolution (such as an extended deadline).
- 4) If the owner lets the deadline date pass without initiating one of the above remedying options, staff proceeds with enforcement.

B. ENFORCEMENT

- 1) A minimum \$50 fine is issued each calendar day the violation remains in place, beginning on the deadline date specified in Violation Letter.
- 2) After one month, if the violation remains in place, the daily fine is doubled.
- 3) After two months, if the violation remains in place, the daily fine is again doubled.
- 4) After 90 days, if the violation remains in place, the aggregate fine (capped at \$10,000) is attached as a lien to the property and is collected in the same way property taxes are collected.

C. ONGOING ENFORCEMENT

- 1) Should the violation remain in place even after the imposition of the lien, the APC may begin the process anew with the issuance of a new Violation Letter. Alternatively, APC legal counsel may enjoin the violation by filing suit in Tippecanoe County circuit or superior court.

D. NOTES

- If the owner chooses to attempt to remedy the violation by filing for a variance or other land use petition, all further enforcement is stayed until the variance/petition is heard and decided. If that variance/petition is ultimately denied at public hearing, the ABZA shall provide guidance to staff at that hearing as to the length of any grace period the owner is granted prior to the resumption of enforcement.
- If the violation remains in place even after the lien is imposed, another violation case may be initiated, beginning the process anew, or the enforcement body may choose any other legal means of enforcement available to it.
- For repeat offenders (same owner, same property, same violation), subsequent instances of violation will not include the grace period referenced in A.3. Rather, the Violation Letter will indicate that the fine regimen begins the day the recurring violation is observed.
- At least initially, we do not anticipate needing additional APC to take over enforcement duties. The Building Commission receives about 60 legitimate zoning violation complaints per year, or a little over one per week. With the Building Commission's building inspectors continuing to act as field agents, we feel we can manage the load with existing staff.

STAFF RECOMMENDATION:

Approval

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 3 & 5 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 6-3 ENFORCEMENT, 6-3-1 GENERAL PROVISIONS** to read as follows:

6-3-1 GENERAL PROVISIONS:

- (a) Any person may bring an action to enjoin the violation of this ordinance by suit filed in Tippecanoe County circuit or superior court.
- (b) The Area Board of Zoning Appeals or any **Administrative Officer** may require either:
 - (1) the removal of a **structure** erected in violation of this ordinance; or
 - (2) the removal of any **use** or condition created in violation of this ordinance.
- (c) A **structure** erected, raised, or connected, or real estate or premises used in violation of this ordinance, or any regulation adopted thereunder, is hereby declared to be a common nuisance. The owner and/or possessor is then liable for maintaining a common nuisance.
- (d) Any owner and/or possessor of real estate who:
 - (1) violates, or who permits a violation of any provision of this ordinance; or
 - (2) who fails to comply with any requirements of this ordinance; or
 - (3) who builds, reconstructs, or structurally alters a **building** or **structure** in violation of a detailed statement or plan for which an approval or grant is given under this ordinance shall be fined between \$50 and \$1500 for each determination of violation or failure to comply. Each day that the violation or failure to comply is permitted to exist will constitute a separate violation. In addition to the penalties provided herein, the Area Board of Zoning Appeals or the Administrative Officer bringing this action may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate suit at law against the owner and/or possessor of real estate found to have violated this ordinance or any orders or permits issued hereunder.

- (e) Any action permitted to be commenced under this section against any owner and/or possessor of real estate, may also be brought against the owner of any personal property who has furnished that property or permitted it to be placed on real estate in a manner which results in any violation of this ordinance.
- (f) No permit application or land use petition, other than one intended as a Corrective Action under Section 6-3-3 of this Ordinance, may be submitted relative to any property which is the subject of an unresolved zoning violation.

Section 2: Eliminate **UZO Section 6-3-2 INDUSTRIAL PERFORMANCE STANDARDS**, and insert **UZO Section 6-3-2 PROCEDURE** and the following sections to read as follows:

6-3-2 PROCEDURE: NOTICE OF ZONING VIOLATION:

- (a) Upon determination of a zoning violation, a written Notice of Zoning Violation shall be delivered via certified mail to the Subject Property's legal owner(s) of record, as determined from the records of the County Auditor.
- (b) The Notice of Zoning Violation shall:
 - (1) identify the location of the zoning violation;
 - (2) detail the specific nature of the violation;
 - (3) cite the section(s) of the Ordinance violated;
 - (4) provide options for remedying the violation;
 - (5) establish a date, not less than fifteen calendar days following the mailing of the violation notice, by which resolution of the violation must occur, and;
 - (6) indicate the fines and penalties that may accrue if the violation remains unresolved.
- (c) If the certified letter containing the Notice of Zoning Violation is returned undelivered, additional written notice shall be posted in a conspicuous location at the Subject Property. No further notification shall be required.

6-3-3 CORRECTIVE ACTION:

Upon receipt of a Notice of Zoning Violation, the owner of the Subject Property must, not later than the deadline date established in the Notice of Zoning Violation:

- (a) bring the property into compliance with the Ordinance; or
- (b) file for a **variance, special exception**, rezoning, or other land use petition as necessary to resolve the violation; or
- (c) file a formal appeal of the Notice of Zoning Violation with the **ABZA**, which shall be docketed for the next available regularly scheduled hearing of the **ABZA**; or
- (d) propose, and have accepted by the **Administrative Officer**, an extended timeline or other alternative means of achieving compliance.

6-3-4 FAILURE TO REMEDY, AND ONGOING ENFORCEMENT:

- (a) If at least ninety (90) days have elapsed from the mailing of the Notice of Zoning Violation and the violation remains unresolved, the **Administrative Officer** may record with the County Auditor a statement enumerating all outstanding fees and fines related to the Notice of Ordinance Violation, as provided by IC § 36- 1-6-2. Said list shall include the name of the owner(s) of the parcel(s) of real property on which fees are delinquent; the legal description of the subject property as shown on the records of the County Auditor; and the amount of the delinquent fees.
- (b) The list shall then be certified by the County Auditor and recorded with the County Recorder.
- (c) A lien shall then be placed on the property owner's tax duplicate. The total amount shall be collected in the same manner as delinquent taxes are collected and shall be distributed to the general fund.
- (d) If the violation is not corrected within thirty (30) days following the imposition of a lien as noted above, a lawsuit may be commenced by the designated enforcement entity in a court of general jurisdiction in Tippecanoe County, Indiana, as prescribed in this Ordinance, in IC § 36-1-6, and by other applicable laws and ordinances.

6-3-5 REPEAT VIOLATIONS:

If a zoning violation is substantially similar to a zoning violation that occurred on the same property, and under the same ownership, as a violation that occurred not more than five years prior, the 15-day grace period described in Section 6-3-2(b) of this Ordinance will be removed, and fines will begin the day the Notice of Zoning Violation is mailed.

6-3-6 ZONING ORDINANCE CITATION NOTIFICATION PROCESS:

- (a) For violations listed below in 6-3-6(b) and (c), the **Administrative Officer** may choose to issue a citation notification as outlined in this Section, before taking further action under 6-3-1. The purpose of this Section is to help protect the public health, safety, and general welfare of the community by allowing an alternative process to correct violations of this ordinance.
- (b) Land use violations that are subject to the citation notification process include:

Junk yards

Child Care Home

Child Care Center

Home Businesses (not legal ***Home Occupations***) such as but not limited to:

Lawn care

Vehicle repair

Building contractor

Small engine repair

Billboard/***outdoor advertising sign***

Transient guest house
Agricultural rental hall
Boarding **kennel**
Breeding kennel
Construction/demolition disposal site
Buildings in FP zones
Amusement and recreation (outdoor) SIC 7999

- (c) Development standard violations that are subject to the citation notification process include:

Electronic signs/**changeable copy signs** changing more frequently than once per minute
On-premise **signage**
Fill in the **Flood Plain**
Signs in public **right-of-way**
Home occupation limitations
Clear **vision setback**
Fences
Setbacks for porches, decks and **accessory buildings**
Event oriented signs

- (d) In the event of a violation under 6-3-6(b) or (c), the **Administrative Officer** may issue a citation notification, either in person or by certified letter, to the owner and/or possessor who violates, or who permits a violation of any provision of this ordinance. The person shall then have 15 days from the date of notice to contact the **Administrative Officer** and remedy the violation. If the violation is not corrected, or if no response is made within 15 days, the **Administrative Officer** may issue notice of a fine in an amount not to exceed \$250. If the violation is not corrected and no response is made to the **Administrative Officer** after 30 days, a second notice of fine may be issued in double the amount of the first fine. If the violation is not corrected and no response is made to the **Administrative Officer** after 45 days, a fine in triple the amount of the first fine may be issued, and the **Administrative Officer** may take further action under 6-3-1.
- (e) Nothing in this Section shall preclude or limit the Area Board of Zoning Appeals or any **Administrative Officer** from seeking any remedy under 6-3-1.

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

Unified Zoning Ordinance Amendment #106 TOWING SERVICES AND IMPOUND LOTS AMENDMENT

Staff Report
JULY 14, 2022

BACKGROUND:

In April of this year staff was contacted by a realtor who was inquiring about an I3 zoned property and whether or not it could support a towing business and impound lot. Currently the UZO classifies this use as SIC 754 “Automotive Services except repair” which also includes similar uses such as car washes, auto detailing, rust proofing and window tinting. However, these uses (including towing services and impound lots) are only allowed in the GB, HB, I1 and I2 zones. Both towing businesses and impound lots are not permitted in the I3 zone.

Our industrial zones, I1, I2, and I3 differ by the intensity of the use and amount of outdoor activity. I1 is low in impact because they are operated entirely indoors and have attached loading facilities. I2 is moderate in impact because they are operated entirely indoors except for outdoor loading facilities. I3 is heavy in impact because more than just loading activities are conducted outside. It alone allows outside storage of goods and materials.

Because impound lots are storage areas for heavily damaged vehicles and are usually outdoors, the one industrial zone that allows outdoor storage should be the one zone that allows this use. But currently, it does not.

After meeting with the Administrative Officer’s on May 5, 2022, Staff is proposing to pull both towing services and impound lots from SIC 754 and add them as two new line items in the permitted use table under that heading: Towing services and Impound lots. Towing services where there is no impound lot present are less intensive and should be permitted by right in the GB, HB, I1, I2 and I3 zones. However, impound lots are typically operated with large outdoor areas for storage of vehicles and staff originally believed that I3 zoning alone would best fit this use.

After the Ordinance Committee approved this amendment at its June 1, 2022 meeting, staff looked further into existing operations in Tippecanoe County and discovered that at least two businesses, possibly more, operating towing services and impound lots were located in the General Business zone. (The General Business zones allows the outdoor storage of materials like the I3 zone allows.) In an effort to not make these businesses nonconforming, staff is recommending that Impound Lots be permitted by right in the GB zone as well as the I3 zone.

STAFF RECOMMENDATION:

Approval

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTERS 3 & 5
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 3-2 PERMITTED USE TABLE** by adding the following two line items below “SIC 754 Automotive services except repair):

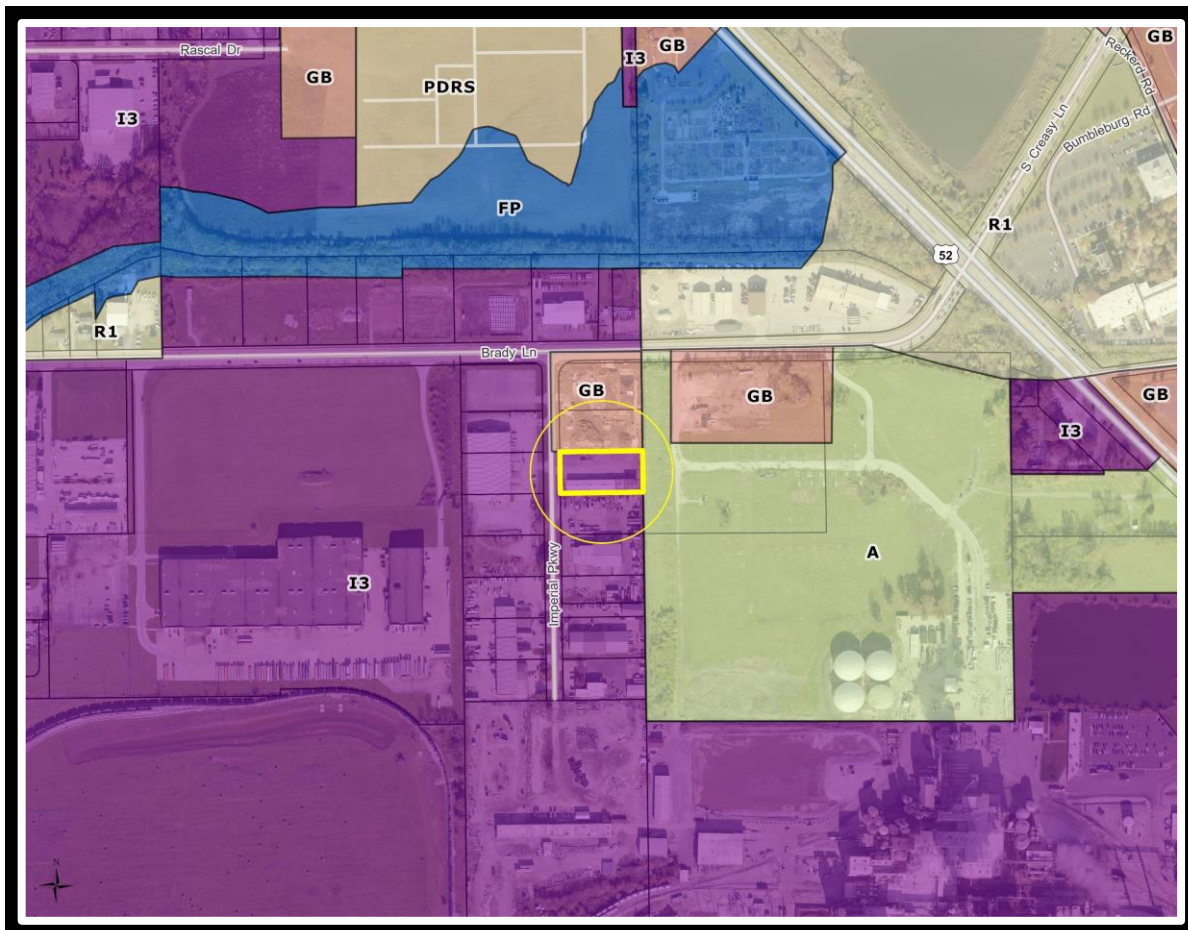
Towing Service: This use would be permitted by right in the GB, HB, I1, I2 and I3 zones.

Impound Lots: This use would be permitted in the GB and I3 zones by right.

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

Z-2862
IMPERIAL PARKWAY, LLC
(I3 to GB)

STAFF REPORT
July 14, 2022



Z-2862
IMPERIAL PARKWAY, LLC
I3 to GB

Staff Report
July 14, 2022

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner and owner, represented by law firm Reiling, Teder and Schreier, is requesting rezoning of Lot 3 of the Imperial Industrial Park Subdivision from I3 to GB, to construct an automotive repair shop. The property is commonly known as 1523 Imperial Parkway, in Lafayette, Wea 3 (SW) 22-4.

ZONING HISTORY AND AREA ZONING PATTERNS:

This lot is zoned I3 which permits heavy industrial uses. Land to the south and west are also zoned I3. Land to the north is zoned GB, General Business. Land to the east is zoned A, Agriculture and GB. At one time, a mobile home park was in the A-zoned portion and its sales office and club house were located on the GB-zoned part. The county highway garage, northeast of the site, across Brady Lane is zoned residentially. Flood Plain zoning is north across Brady Lane, but the most recent DNR floodplain data puts the western edge of this lot into that flood area. Any new construction on this site will need to have approval from the City of Lafayette.

The two lots to the north of this site underwent a rezone in 2011, from I3 to GB, to build a gas station, only recently under construction.

AREA LAND USE PATTERNS:

The lot currently houses a pole barn and according to petitioner's attorney, they plan to build a new automotive repair shop. It is unknown what will be done with the existing building, which appears to still be in use.

The land to the east is part of the Tate & Lyle South plant. The lot adjacent to the north will be a new Marathon gas station, currently under construction. The uses that line Imperial Parkway are heavy industrial in nature and generate a significant amount of truck traffic.

There have not been any recent BZA cases in this area.

TRAFFIC AND TRANSPORTATION:

Imperial Parkway is classified as a local road, which requires a 25' setback. If the rezone is approved the setback will remain the same. An entrance from Imperial Parkway currently exists on site.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

A type 'A' bufferyard is required along GB and I3 zoning boundaries.

City utilities serve the site; all drainage and building plans will need to be approved by the City of Lafayette Engineer's office.

STAFF COMMENTS:

Petitioner is requesting the rezoning of this site for a proposed automotive repair shop. This use is not permitted in the current zone of I3 but would be in I1 or I2, so long as all activity is held indoors. As we stated in the previous rezone case Z-2466 directly to the north, introducing commercial zoning in the area could set a precedent of commercial zones replacing industrial zones that would conflict with the current industrial character of this corridor as planned by the **Amendment to the Adopted Land Use Plan Regarding the Expanded Fuji-Isuzu Development Area**, passed in April 1987 by the Area Plan Commission. This current request is proof of further commercial "seep" into this industrial sector, after the previous property was rezoned to GB. Petitioners felt that with the GB in the area, this rezone request would fit better than any industrial zones.

According to this **Comprehensive Plan** amendment, an industrial future is shown for the subject property. To help ensure that the various land uses shown in the **Plan** function properly as guides to development, certain policies were adopted by APC and the County Commissioners. First among them recommends that:

Requests to rezone land within the study area will be carefully measured against this land use plan amendment, with regard to both its development sectors and the goals that underlie them.

The **Plan** shows this site within the "Industrial" land use area. Commercial expansion is shown east of the Tippecanoe Mall, east of I-65 in Dayton, and south of SR 26 around the I-65 interchange with SR 26. While GB zoning is present to the east of the site, the property adjacent is owned by Tate & Lyle and no commercial development has occurred on this site since the mobile home park sales office and club house were removed in the mid 1980's.

Staff remains opposed to any expansion of GB zoning in the industrial expansion area specified in the **Comprehensive Plan**. The commercial sectors delineated in the **Adopted Land Use Plan** continue to meet the need for additional business zoning in this part of the community. Allowing commercial spot-zoning in a planned industrial area only serves to weaken the goals of the **Comprehensive Plan** while sending mixed-signals to potential industrial developers.

According to the City of Lafayette's Economic Development office, there are no objections to this property being rezoned commercially. However, staff would prefer changing the request to I1 or I2, which would meet the goals of the **Comprehensive Plan** and still allow petitioner's stated use of the property. Big industrial users are not likely to need a lot of this size; but I1 or I2 would allow smaller industrial uses, as well as auto repair if all indoors, and staff could support such a request.

STAFF RECOMMENDATION:

Denial

THE
AREA PLAN COMMISSION
OF TIPPECANOE COUNTY

EXECUTIVE COMMITTEE
NOTICE OF PUBLIC HEARING

DATE..... AUGUST 3, 2022
TIME..... 4:30 P.M.
PLACE COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

(tentative)
A G E N D A

- I. APPROVAL OF MINUTES
- II. NEW BUSINESS
- III. PUBLIC HEARING
 - A. SUBDIVISIONS

S-5085 WOOCALF MINOR SUBDIVISION (minor-sketch):

Petitioner is seeking preliminary approval of a four-lot single-family subdivision on 11.433 acres, subject to the approval of V-52, the vacation of George M. Neher Minor Subdivision. The site is located at the northeast corner of CR 100 E and 750 S, in Wea 33 (NW) 22-4.

- IV. APPROVAL OF THE AUGUST APC PUBLIC HEARING AGENDA
- V. APPROVAL OF THE AUGUST ABZA PUBLIC HEARING AGENDA
- VI. DETERMINATION OF VARIANCES – Lafayette Division of the ABZA
- VII. REVIEW AND APPROVAL OF THE JULY BUDGET REPORT
- VIII. OTHER BUSINESS
- IX. ADJOURNMENT

July 14, 2022

1. BZA-2083 LOVE'S TRAVEL STOP – BETTY TORSTENSON

Petitioner is requesting a variance to increase the total signage of the sign-lot from the allowed 300 sq.ft. to 368.04 sq.ft. for a new Love's Travel Stop near the Schuyler Ave/I-65 interchange. The property is zoned I3 (Industrial) and is specifically located at 2400 E 200 N Lafayette, Fairfield, 10 (SE) 23-4 (UZO 4-8-5).

2. BZA-2084 WEST LAFAYETTE GREENHOUSE PHASE 2, LLC

Petitioner is requesting the following variances to expand the Inari Greenhouse facility in an OR (Office Research) zone:

1. To reduce the required maximum lot coverage from 25% to 28.7% (UZO 2-14-6) and
2. To reduce the required rear setback from 25 ft to 0 ft (UZO 2-14-8);

on property located at 1436 Win Hentschel Blvd, West Lafayette, Wabash 01 (SE) 23-5. The expansion will include constructing a physical connection between the building on the subject site to the building on the adjacent property to the north.

3. BZA-2085 WEST LAFAYETTE GREENHOUSE FACILITY, LLC

Petitioner is requesting a variance to reduce the minimum required side setback from 20 ft to 0 ft to expand the Inari Greenhouse facility in an OR (Office Research) zone (UZO 2-14-9). The expansion will include constructing a physical connection between the building on the subject site to the building on the adjacent property to the south. The property located at 3315 Kent Ave, West Lafayette, Wabash 01(SE) 23-5.

4. BZA-2086 CUMBERLAND PARTNERS STORAGE

Petitioner is requesting the following variances to expand an existing self-storage warehouse in an NB zone:

1. To eliminate the required Type B bufferyard (20') that was previously granted (BZA-2009 allowed a reduction in the required Type C bufferyard of 30' to a Type B bufferyard of 20'.) (UZO 4-9-3) and
2. To increase the total signage on the sign-lot from the allowed 180 sq. ft. to 280 sq. ft. (UZO 4-8-5)

on property located at 2575 Cumberland Avenue, West Lafayette, Wabash 11 (NW) 24-5.

RECOMMENDATION:

Staff advises that the above requests do not constitute use variances.