

ORDINANCE NO. 2013-22-CM

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF
TIPPECANOE COUNTY, INDIANA, TO REZONE REAL ESTATE,
FROM A TO GB.**

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

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

A part of the southwest quarter of the northwest quarter of Section Eleven (11), Township Twenty-three (23) North, Range Five (5) West, Wabash Township, Tippecanoe County, Indiana, within the bounds of the Jeffrey C. Florian property, as described in Document No. 01-016867, recorded July 02, 2001, in the office of the Tippecanoe County Recorder, more completely described as follows, to wit:

Commencing at the west quarter corner of Section 11-23-5, said point being marked by a Berntsen A1NB monument; thence along the west line of the Northwest quarter of said section, North 00°13'44" West, 238.04 feet to the Point of Beginning of the herein described tract; thence continuing along said west quarter section line, North 00°13'44" West, 150.04 feet; thence North 88°43'40" East, 290.07 feet; thence South 00°13'44" East, 30.01 feet; thence North 88°43'40" East, 442.15 feet; thence South 00°13'44" East, 120.03 feet to the north line of the Jeffrey C. & Rhonda D. Florian property, as described in Document No. 9716892, recorded August 20, 1997 in said Recorder's office; thence along said line South 88°43'40" West, 732.22 feet to the point of beginning, containing 2.22 acres.

ALSO

A part of the southwest quarter of the northwest quarter of Section 11, Township 23 North, Range 5 West, Wabash Township, Tippecanoe County, Indiana, more particularly described as follows:

Beginning at a County Surveyor's monument found at the Southwest corner of the Northwest Quarter of said Section 11 and located on the approximate centerline of County Road 300 West (Klondike Road) and 250 North; thence North 88°49'28" East, a distance of 40.00 feet; thence North 00°13'44" West, a distance of 56.01 feet; thence North 88°49'28" East, a distance of 661.56 feet; thence South 67°25'56" East, a distance of 33.23 feet; thence North 00°13'44" West, a distance of 195.41 feet; thence South 88°49'28" West, a distance of 732.22 feet to the West line of said Section 11 and the approximate centerline of County Road 300 West (Klondike

Road); thence South 00°13'44" East, a distance of 238.04 feet to the Point of Beginning containing 3.115 acres more or less.

Section 2. The real estate described above should be and the same is hereby rezoned from A to GB.

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

(Adopted and passed) (Denied) by the Board of Commissioners of Tippecanoe County, Indiana, this 3rd day of June, 2013.

VOTE:

Yes
Yes
Yes

David S. Byers
David S. Byers, President
John L. Knochel
John L. Knochel, Vice President
Thomas P. Murtaugh
Thomas P. Murtaugh, Member

Attest: Jennifer Weston
Jennifer Weston, Auditor

THE

Area Plan Commission

of TIPPECANOE COUNTY

20 NORTH 3RD STREET
LAFAYETTE, INDIANA 47901-1209

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

SALLIE DELL FAHEY
EXECUTIVE DIRECTOR

May 16, 2013
Ref. No.: 13-147

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

CERTIFICATION

RE: **Z-2531--JEFFREY C. FLORIAN (A to GB):**

Petitioner is requesting rezoning of the two lots in Florian Minor Subdivision totaling 5.335 acres, located on the east side of Klondike Road, north of the future Cumberland Road extension at CR 250 N, Wabash 11 (NW) 23-5.

Dear Commissioners:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on May 15, 2013 the Area Plan Commission of Tippecanoe County voted 9 yes - 0 no on the motion to rezone the subject real estate from A to GB. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Tippecanoe County Commissioners that the proposed rezoning ordinance be APPROVED for the property described in the attachment.

Public Notice has been given that this petition will be heard before the Tippecanoe County Commissioners at their June 3, 2013 regular meeting. Petitioners or their representatives must appear to present their case.

Sincerely,


Sallie Dell Fahey
Executive Director

SDF/lmu

Enclosures: Staff Report & Ordinances

cc: Jeffrey & Rhonda Florian
Kevin Riley
Ken Brown, Tippecanoe County Building Commissioner

Z-2531
JEFFREY FLORIAN
A to GB

Staff Report
May 9, 2013

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, who is also the property owner, represented by attorney Kevin Riley, is requesting rezoning of the two lots in Lafayette Limo Minor Subdivision totaling 5.01 acres, located on the east side of Klondike Road, north of the future Cumberland Road extension at CR 250 N, Wabash 11 (NW) 23-5. A little over a year ago a zoning complaint was filed against petitioner because of the expansion of the bus storage area of his nonconforming business onto his neighboring residential lot. The complaint also mentioned storage of used cars and junk cars on the property. It was determined that GB zoning was needed in order to be in compliance with the zoning ordinance and the Building Commissioner's Office.

ZONING HISTORY AND AREA ZONING PATTERNS:

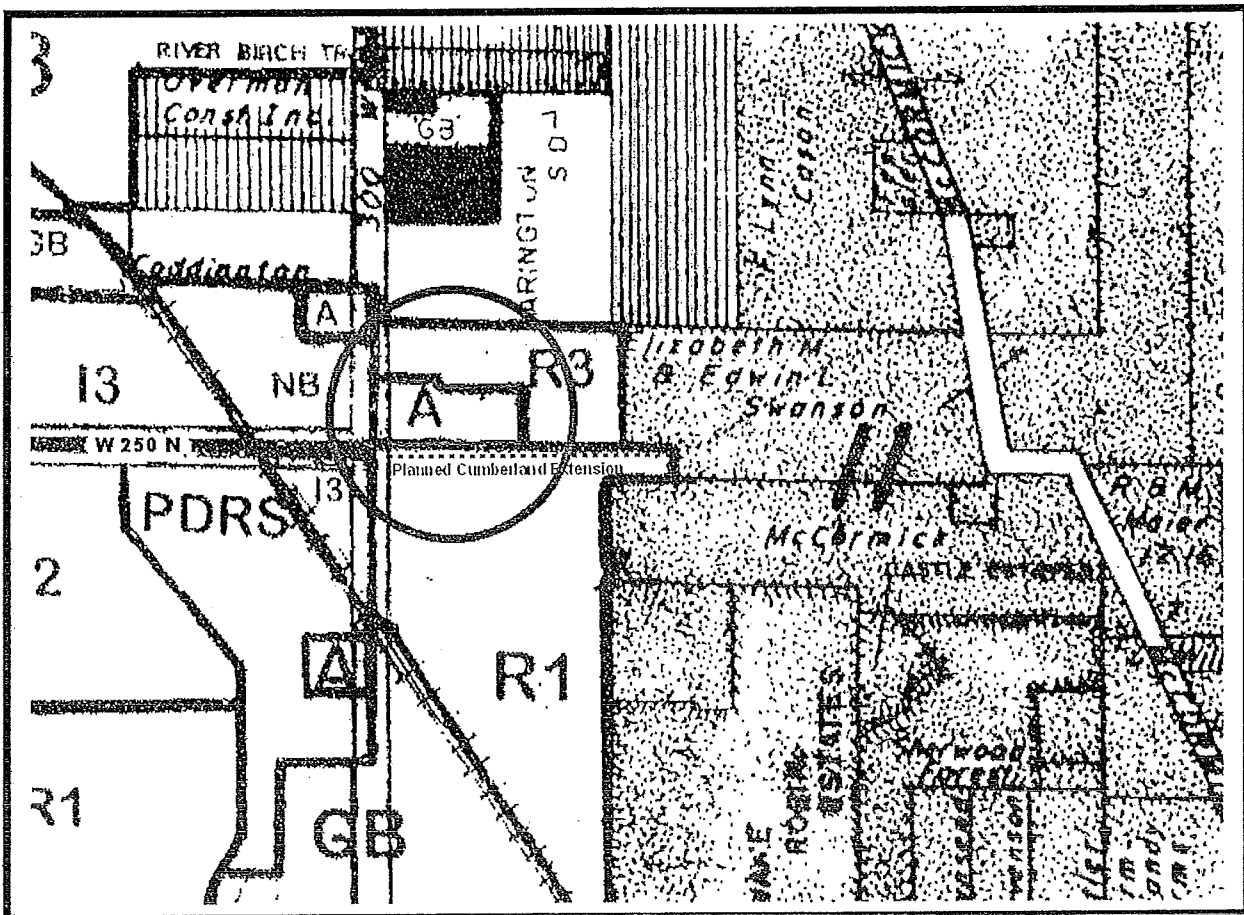
The site in question is currently zoned Agricultural. Originally zoned R1 and R3, the 20 acre parent tract saw a rezone request for Industrial zoning in 1992 (Z-1507-Charles & Jacquelin Florian) that was amended to Agricultural prior to its hearing. (Either A or I zoning would have legitimized the existing limo service under the old ordinance.) In 2001, the 15 acres of land that wraps around the site in question to the north and east was rezoned from A to R3 (Z-2037-Jeffrey Florian). NB zoning exists to the west; R1 zoning is adjacent to the south.

Zoning districts located within a ¼ mile radius from the rezone site are a potpourri of zones including A, R1, R3, NB, I3, GB and PDRS. The closest GB zoned properties on the east side of Klondike Road are a ¼ mile to the north (Z-362 Weicord, Inc. R1 to GB, 1970) and to the south (Z-416 Lehman, IR to GB 1971 and Z-896 Garrison, I to GB 1978). An NB to GB rezone was approved in 2003 against staff's recommendation on the west side of Klondike, just north of Lindberg (Z-2132 Abbington Development).

Two requests for GB zoning along the CR 250N/Cumberland extension closest to the vicinity of this request, resulted in rezones to NB when both cases were amended prior to the APC vote. They were for the 13 acre tract immediately across Klondike Road to the west (Z-2034 Henry Poor, I1 to GB, amended to NB, 2001) and more recently, 20 acres to the east (Z-2480 Citation Homes, R1 to GB, amended to NB, 2012). The Connection Point Church, located farther east on what will be the southeast corner of Cumberland and new US 231, was successfully rezoned to GB from R1 in 2011 (Z-2461 Bethel Christian Life Center).

Z-2531
JEFFREY C. FLORIAN
(A to GB)

STAFF REPORT
May 9, 2013



AREA LAND USE PATTERNS:

Lot 1 of the rezone site contains the office, buses both in service and out of service, and an outdoor storage area for Lafayette Limo. Under the previous zoning ordinance, "railway or motorbus stations" were permitted by right in the Agricultural zone; NUZO places "Local and suburban transit and interurban highway passenger transportation" (SIC 41) by right in GB and the industrial zones only. There is also an additional requirement that in the GB zone, these uses are only permitted on lots of up to 2 acres in area. Lot 1 is exactly two acres in size.

Lot 2 of the rezone site has petitioner's house and a couple of storage buildings. While this GB request would legitimize the existing limo service, it would make petitioner's residence nonconforming. Petitioner has not informed staff of his potential future plans for this lot.

Uses in the vicinity include: Copper Beech Townhomes, Pointe West Mobile Home Park, Wake Robin Subdivision, a mini storage warehouse business and the single-family homes and duplexes of Lindberg Village. Most of the NB and I3 zoned properties in the area are currently vacant or unimproved.

TRAFFIC AND TRANSPORTATION:

The county is in the process of designing improvements to Klondike Road which would include four travel lanes plus a trail on the east side. The right-of-way for the Cumberland Road extension has been purchased along the site's southern boundary and has already been let. Construction is due to begin this spring. A "no vehicular access" statement will be platted along the Klondike Road frontage south of the existing shared drive as well as along the proposed Cumberland Road frontage from its intersection with Klondike, east a distance of 240'.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Both lots are served by Indiana American Water; Lot 1 is also served by American Suburban Sewer. According to the County Health Department, "Lot 2 contains an existing single-family dwelling served by an existing septic tank and absorption system... If the system should fail to function the owner must connect to the available sanitary sewer." If the residence becomes a business, the new use of the property would also require hooking on to the existing sewer.

STAFF COMMENTS:

The zoning pattern along Klondike Road can be traced (in part) to the old Industrial Reserve zone which existed in this area under the old zoning ordinance. The IR zone permitted both residential and industrial uses by right which occasionally resulted in an incompatible assortment of land uses. The fact that this area is largely on the shifting boundary between rural and urban, and has seen many new developments recently (both in housing and new roads) adds to this unlikely mix of land uses. Indeed, when the City of West Lafayette completes its annexation process, this property will not be in the city, but will be adjacent to the city boundary to the south and west.

In the vicinity of this site, staff has only recommended in favor of one GB rezone since 1978. That recommendation (for the southeast corner of Cumberland and new US 231) was based on the US 52 Corridor Study and the fact that surrounding properties were unimproved. In three other cases, staff highly recommended NB zoning in place of the requested GB. Staff would like to make a similar recommendation here, but unfortunately, petitioner's existing business is not permitted in the NB zone; therefore rezoning to NB would not legitimize the illegal expansion of the limo business which is the stated purpose of this request.

Introducing another Industrial zone into the mix of districts may not seem optimal, but it would solve several problems. Remnants of heavy I3 zoning exists in the vicinity: on the southwest corner of 250 N and Klondike, and on the north side of 250 N across the railroad tracks. Light Industrial zoning (I1) would actually allow petitioner's business use by right and would protect neighboring residents of the apartments by requiring all of petitioner's storage to be located indoors. (GB allows outdoor storage of materials.) Staff has no problem with Lafayette Limo being located at this site, but feels the condition of the property would be greatly improved if materials and out-of-service buses were kept indoors. I1 in this instance, would actually offer more protection to surrounding land uses than the requested GB which staff cannot support.

STAFF RECOMMENDATION:

Denial