

ORDINANCE NO. 2013-28-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 Fairfield Township, Tippecanoe County, Indiana, to wit:

A part of the real estate conveyed to James A. and Anita Wood in Deed Record 9505976, being part of Lots 1 & 2 in J & A Wood Subdivision, recorded April 29, 2008 in Plat Cabinet 8, Slide 157 as Document Number 08-007954, being part of the Southwest Quarter of Section 2, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of Lot 3 in J & A Wood Subdivision, being marked by a 5/8 inch diameter rebar with a plastic cap stamped "RWG 880043" and hereafter referred to as a standard monument; Thence South 00°41'57" East, along the East line of Lot 3, a distance of 179.80 feet to the Northwesterly right of way of State Road 25 North being marked by a standard monument; Thence South 33°57'16" West, along said right of way, a distance of 70.34 feet to the Point of Beginning of this description; Thence continuing South 33°57'16" West, along said right of way of State Road 25 North, a distance of 73.89 feet to the Southeast corner of J & A Wood Subdivision being marked by a standard monument; Thence North 77°17'18" West, along the South line of J & A Wood Subdivision, a distance of 182.32 feet to the Southwest corner of Lot 1 in J & A Wood Subdivision revised; Thence North 12°42'42" East, along the revised West line of Lot 1, a distance of 98.69 feet to the jog in the West line of Lot 1 marked by a standard monument; Thence South 77°17'18" East, along the jog in the West line of Lot 1, a distance of 33.00 feet to a standard monument; Thence North 12°42'42" East, along the West line of Lot 1, a distance of 66.00 feet; Thence South 76°18'43" East, parallel with the South line of Lot 3 in J & A Wood Subdivision, a distance of 153.89 feet; Thence South 00°41'57" East, parallel with the East line of J & A Wood Subdivision, a distance of 95.82 feet to the Point of Beginning, containing 30,041 square feet, 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 September, 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

August 22, 2013
Ref. No.: 13-245

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

CERTIFICATION

RE: **Z-2543--JAMES A. & ANITA WOOD (A to GB):**

Petitioners are requesting rezoning of property located on the west side of Old SR 25 N, north of its intersection with Gushwa Drive, more specifically 3128 Old SR 25, Fairfield 2 (SW) 23-4. CONTINUED FROM THE JULY APC MEETING AT PETITIONERS' REQUEST.

Dear Commissioners:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on August 21, 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 September 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: James & Anita Wood
Daniel Teder
Ken Brown, Tippecanoe County Building Commissioner

Z-2543
JAMES A. & ANITA WOOD
A to GB

Staff Report
August 15, 2013

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioners, who are also the property owners, represented by attorney Daniel Teder, are requesting rezoning in order to allow the future expansion of their existing "miscellaneous repair shop" (SIC 76) called Trustworthy Appliance, located on the west side of Old SR 25 N, north of its intersection with Gushwa Drive, more specifically 3128 Old SR 25, Fairfield 2 (SW) 23-4.

ZONING HISTORY AND AREA ZONING PATTERNS:

Originally the site in question was part of a larger R1, Single-family residential zone. Over 30 years ago, the Tippecanoe County Shrine Club rezoned the property adjacent to the south from R1 to A and then obtained a special exception to operate its lodge (Z-942, May 1979, BZA-386, July 1979). Petitioners filed and were granted a special exception for a home occupation in the R1 zone under the old zoning ordinance (BZA-1283, April 1995). Petitioners then rezoned their two lots from R1 to A in order to expand their appliance repair "home occupation" into a "rural home occupation" (Z-1789, July 1998); once zoned A, this did not require a special exception. The following year next door, "Top Sixty Club" rezoned the lodge from A to GB in order to expand their business to include non-members (Z-1843, May 1999). In 2007, petitioners filed and were granted a special exception to allow a miscellaneous repair shop in the A zone (BZA-1744, August 2007) and also rezoned a strip of land between their lots and the Shrine Club property from GB to A (Z-2340, September 2007). At this point the business was no longer a rural home occupation, but a stand-alone business. Petitioners removed the house on the lot so that two principal use buildings were not on the same lot in violation of the UZO.

Flood Plain zoning associated with Dry Run Creek is just to the northwest. Properties at the northeast corner of CR 300 N and Old SR 25 have been successfully rezoned to HB and GB over the years (Z-231, Z-697, and Z-1449). Most recently APC and the County Commissioners heard multiple rezone requests for the old Aretz Airport site for GB and I3 zoning (Z-2522, 2523, 2524). Z-2534 – Aretz, LLC, a request for GB zoning was just approved by the County Commissioners in July.

AREA LAND USE PATTERNS:

The rezone site is a portion of Lot 1, J.A. Wood Minor Subdivision; it has a garage, petitioners' appliance repair business and a partially paved parking lot. Petitioners' house is now located on Lot 3; a duplex is located on Lot 2.

Except for the aforementioned Shrine Club and petitioners' small appliance repair business, residential uses surround the site in question. A gas station is located ¼ mile to the south at the CR 300 N intersection.

TRAFFIC AND TRANSPORTATION:

Old SR 25 is still classified as a primary arterial by the adopted county *Thoroughfare Plan*. Required parking for a "miscellaneous repair shop" (SIC 76) is one per 200 square feet of gross floor area. Petitioners' building is approximately 3000 square feet in area which would mean 15 parking spaces are currently required. A building addition would, of course, increase that number. In the GB zone, unlike the A zone, all required parking spaces must be paved.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

The site is served by individual water well and septic system. In a conversation with the County Health Department, staff learned that the soils on site "are good" and there is no history of complaints regarding the current septic system. The department's main concern would be meeting well and septic separation requirements depending on the location and size of a future building expansion.

STAFF COMMENTS:

Petitioners' business has been located on site since their first special exception in 1995. It employs seven people in addition to petitioners and is clearly successful as it has expanded several times over the years; at each stage petitioners have done a commendable job of following the dictates of the UZO. They are currently operating the business at the level of the most recently ABZA-approved special exception. To expand the business by adding building space, longer hours, or more employees would require another special exception. Rezoning to GB would mean the business would be permitted by right and no further special exceptions would be necessary.

According to petitioners' representative, petitioners would like to have the ability to add-on to their building in the future, but claim they are unable to obtain financing from banks for this business use in an Agricultural zone. Staff is unconvinced that a bank would not agree to financing for a legitimate commercial business in an appropriate zoning district.

This request for GB zoning has two pluses: its location and its longevity. The site is next door to a commercial use in a GB zone and this shop has been present on-site without complaint for 17 years. Unfortunately for petitioners, the one negative is that staff cannot recommend approval of a GB rezone without available or even potential on site sewer or water service. Petitioners' business use is not at issue. It can continue to operate on site as is and petitioners' business use could even expand if desired in the A zone with another special exception. However, until there is sanitary sewer available to the site, it would be premature to recommend approval of GB zoning.

STAFF RECOMMENDATION:

Denial