

2019 JUN 21 A 11:40

ORDINANCE NO. 2019-19

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF TIPPECANOE COUNTY,
INDIANA, TO REZONE CERTAIN REAL ESTATE FROM R1 TO I3

CINDY MURRAY

**BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE,
INDIANA:**

Section I: The Unified Zoning Ordinance Tippecanoe County, Indiana being a separate ordinance and part of the Municipal Code of Lafayette, Indiana, is hereby amended to rezone the following described real estate situated in Fairfield Township, Tippecanoe County, Indiana, to-wit:

See attached Exhibit A

Section II: The above described real estate should be and the same is hereby rezoned from R1 to I3.

Section III: This Ordinance shall be in full force and effect from and after its adoption.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA, THIS ___ DAY OF _____, 2019.

Ronald Campbell, Presiding Officer

ATTEST:

Cindy Murray, City Clerk

Presented by me to the Mayor of the City of Lafayette, Indiana, on the _____ day of _____, 2019.

Cindy Murray City Clerk

This Ordinance approved and signed by me on the _____ day of _____, 2019.

Tony Roswarski, Mayor

ATTEST:

Cindy Murray, City Clerk

LEGAL DESCRIPTION – PROPOSED REZONE

Existing Zone = R1

Proposed Zone = I3

A part of the East Half of the Northeast Quarter, Section 31, Township 23 North, Range 4 West, Fairfield Township, Tippecanoe County, Indiana, being a part of Outlot No. 7 in W.K. Rochester's Addition of Outlots as depicted on the plat thereof, recorded in Deed Book Y, Page 412 in the Office of the Tippecanoe County Recorder, and also being a part of the proposed Westbaker Industrial Subdivision, and being more completely described as follows:

COMMENCING at the southwest corner of Outlot No. 8 in said W.K. Rochester's Addition; thence along the west line of said Outlot, North 2°30'02" West, 349.06 feet to the POINT OF BEGINNING, located at the southwest corner of said Outlot No. 7; thence along the west line of said Outlot, North 2°30'02" West, 350.14 feet to the north line of said Outlot; thence along said north line, North 89°53'22" East, 628.43 feet to the east line of said Outlot; thence along said east line, South 2°23'26" East, 156.90 feet; thence South 89°24'50" West, 234.15 feet; thence South 2°23'26" East, 188.00 feet; thence South 89°24'50" West, 393.42 feet to the POINT OF BEGINNING, containing 4.00 acres, more or less.

EXCEPT the tower site easement area as described in Instrument Number 200909003261 in said recorder's office, containing after said exception 3.94 acres, more or less.

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

June 20, 2019
Ref. No.: 2019-160

Lafayette Common Council
20 North Sixth Street
Lafayette, Indiana 47901

CERTIFICATION

RE: **Z-2768 TECSPAN CONCRETE STRUCTURES, LLC (R1 to I3):**
Petitioner is requesting rezoning a portion of 2149 Wabash Avenue, more specifically, 3.94 acres located between Powder House Lane and South Beck Lane, north of Walker Lane in Lafayette, Fairfield 31 (NE) 23-4.
With commitment.

Dear City Council Members:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on June 19, 2019 the Area Plan Commission of Tippecanoe County voted 11 yes to 0 no to accept the proposed commitment and 11 yes to 0 no, on the motion to rezone the subject real estate from R1 to I3. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Lafayette City Council that the proposed rezoning ordinance be approved with commitment for the property described in the attachment.

Public Notice has been given that this petition will be heard before the Lafayette City Council at its July 1, 2019 regular meeting. Petitioners or their representatives must appear to present their case.

If the City Council approves the rezoning with commitment, APC staff will ensure that the approved commitment is recorded and an original recorded commitment sent to the City of Lafayette.

Sincerely,


Sallie Dell Fahey
Executive Director

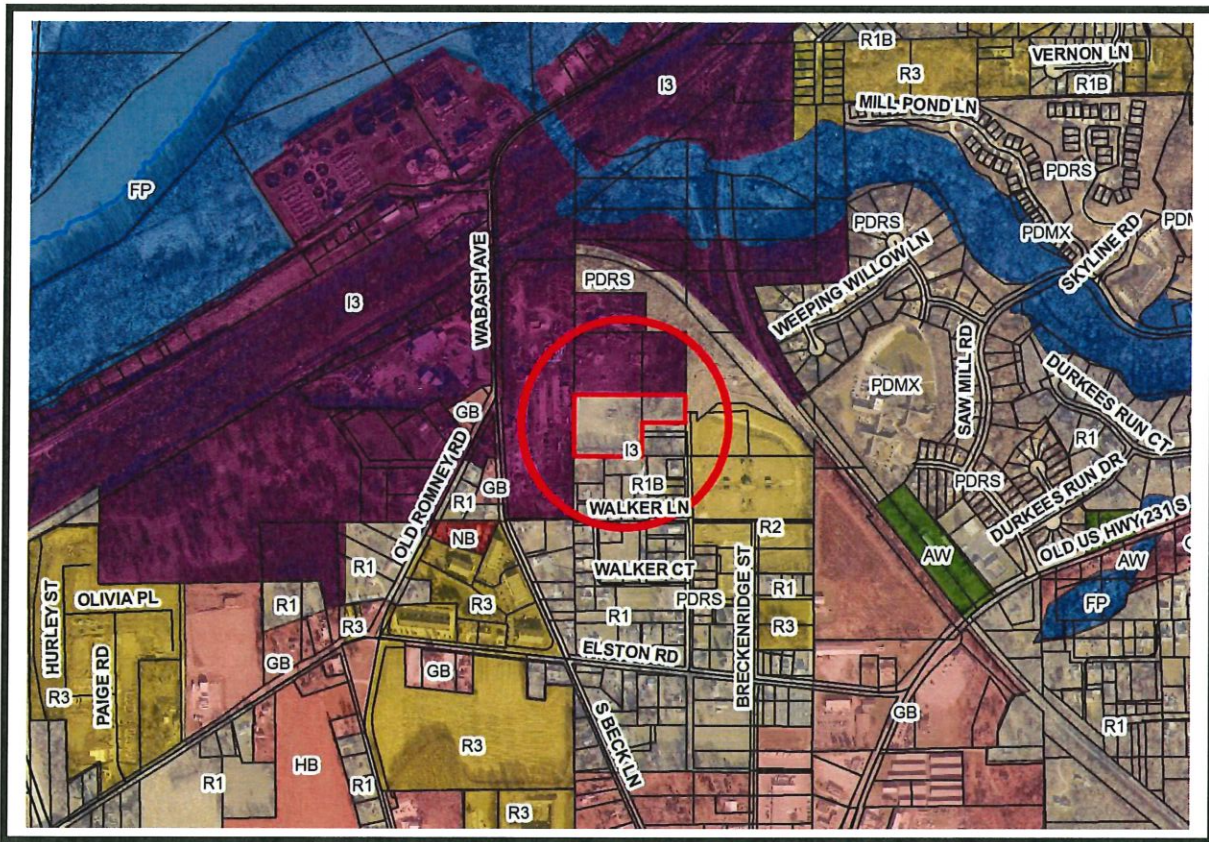
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Enclosures: Staff Report, Commitment & Ordinances

cc: C. Jeffrey Mahan, Tecspan Concrete Structures, LLC
Daniel Teder, Attorney

Z-2768
TECSPAN CONCRETE STRUCTURES, LLC
(R1 to I3)

STAFF REPORT
June 13, 2019



Z-2768
TECSPAN CONCRETE STRUCTURES, LLC
R1 to I3 with commitment

Staff Report
June 13, 2019

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, who is the owner and represented by attorney Daniel Teder, is requesting a rezone from R1 to I3 for 3.94 acres to legitimize a long-standing nonconforming use. The property is located at the stub end of Powder House Lane and is part of the larger 23.41-acre site for petitioner's business. The entire property, including these 3.94 acres, is commonly known as 2149 Wabash Avenue, Lafayette, Fairfield 31 (NE) 23-4.

ZONING HISTORY AND AREA ZONING PATTERNS:

The site in question and surrounding land is a combination of residential and industrial zoning. Zoning patterns in this area have changed little since the earliest zoning maps, with the exception of a small 50' x 50' area, part of the subject site, rezoned from R1 to I3 in 2012 to accommodate an existing communications tower (Z-2498).

AREA LAND USE PATTERNS:

Based on aerial photography from 1963, this site has been used industrially for many decades. Single-family homes are located to the east and south along Powder House and Walker Lanes.

TRAFFIC AND TRANSPORTATION:

Petitioner's entire site (including these 3.94 acres) access Wabash Avenue in two locations. Wabash Avenue is classified as an urban secondary arterial.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

City utilities serve the site. A "Type C" bufferyard 30 feet in width would be required where I3 abuts R1 zoning on the tract's south and east sides.

STAFF COMMENTS:

These 3.94 acres and the additional 19.47 acres that make up petitioner's land have been used industrially for several decades based on aerial photos from 1963. The oldest zoning map for this portion of Fairfield Township shows this business's zoning pattern the same as it exists today. Rezoning this land to I3 will make this nonconforming use of these 3.94 acres conforming.

Variance requests on petitioner's property to the north have been filed (Case # 2019-18) to be heard by the Lafayette Division of the Board of Zoning Appeals. This filing indicates

a 5-lot major industrial subdivision, including the land within the rezone site, is forthcoming.

Additionally, petitioner has filed a commitment with this rezone restricting the allowed land uses. Some of these potentially incompatible land uses include refuse systems, trash transfer stations, junk yards, crematories, billboards and auto repair shops. Limiting these uses helps to ensure the neighboring residences will not be adversely affected by this Industrial zoning.

STAFF RECOMMENDATION:

Commitment: Approval

Rezone: Approval

2-2768

Key Number 158-10601-0216
State Identification Number 79-07-31-276-001-000-005

COMMITMENT

Commitment made on April 26, 2019, by Tecspan Concrete Structures, LLC (the "Petitioner") pursuant to Indiana Code Section 36-7-4-1015.

1. Petitioner makes this commitment as the owner (the "Owner") of certain real estate (the "Real Estate") located in Tippecanoe County, Indiana, commonly known as 2149 Wabash Avenue, Lafayette IN 47909 and more particularly described on Exhibit A which is attached hereto and incorporated by reference herein.
2. Petitioner has filed a request with the Area Plan Commission of Tippecanoe County, Indiana (the "APC"), to rezone the Real Estate from R1 to I3 which request is pending before the APC as case no. 2-2768.
3. Petitioner hereby agrees and makes the following commitment in connection with the rezoning request in case no. 2-2768:

We will exclude the following uses for the property:

- SIC 4953 Refuse systems
- SIC 4212 Trash transfer stations, recycling collection and processing facilities
- SIC 5093 Junk yards
- SIC 5191 Fertilizer and fertilizer materials
- SIC 5541 Gasoline service stations (includes truck stops)
- SIC 5983, 5984, 5989 Fuel dealers
- SIC 7261 Crematories
- SIC 7312 Outdoor advertising signs
- SIC 753 Auto repair shops

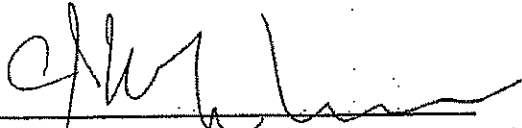
4. Petitioner understands and agrees that this commitment is given to the APC and the Lafayette City Council (the "Legislative Body") as an inducement for the recommendation for and approval of the rezoning request in case no. 2-2768. Petitioner further understands and agrees that the approval of the rezoning request in case no. 2-2768 by the Legislative Body constitutes good and valuable consideration for the giving of this commitment.
5. This commitment shall be a covenant running with the Real Estate and binding and enforceable against Petitioner, any subsequent owner, or any other person who acquires any interest in the Real Estate. Any change or modification of this commitment shall only be made with the approval of the APC at a public hearing in accordance with all rules and regulations of the APC.

Z- 2768

6. Petitioner agrees that each of the following shall each be a "specially affected person" under Indiana Code Section 36-7-4-1015(d)(3) who shall each independently be entitled to bring an action to enforce the terms and conditions of this commitment in the Circuit or Superior Courts of Tippecanoe County, Indiana:

- a. the APC,
- b. the Area Board of Zoning Appeals of Tippecanoe County, Indiana,
- c. the appropriate Administrative Officer designated in the Unified Zoning Ordinance for Tippecanoe County, Indiana,
- d. Lafayette City Council

TECSPAN CONCRETE STRUCTURES, LLC

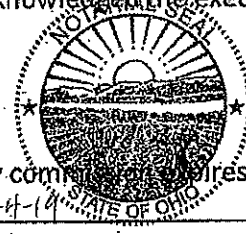


 C. Jeffrey Mahan, Member

STATE OF OHIO)
)
 COUNTY OF FRANKLIN)

SS:

Before me, the undersigned, a notary public, personally appeared C. Jeffrey Mahan, and acknowledged the execution of the foregoing commitment on April 26, 2019.



Rhonda G. Van Arsdale
 Notary Public
 In and for the State of Ohio
 My Commission Expires July 04, 2019
Rhonda G. Van Arsdale, notary public
 Resident of Fairfield County

My commission expires: 7-4-19

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Daniel A. Teder

This instrument prepared by: Daniel A. Teder of the law firm Reiling Teder & Schrier, LLC, 250 Main Street, P O Box 280, Lafayette IN 47902. Phone: (765) 423-5333, Email: dat@rtslawfirm.com