

ORDINANCE NO. 07-11

TO AMEND CERTAIN PORTIONS OF THE
UNIFIED ZONING ORDINANCE OF TIPPECANOE COUNTY, INDIANA,
DESIGNATING THE TIME WHEN THE SAME SHALL TAKE EFFECT.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST
LAFAYETTE, INDIANA, THAT ORDINANCE NO. 32-97 IS HEREBY
AMENDED AS FOLLOWS:

Section 1: Change **UZO Section 3-2 Permitted Use Table**, footnote 27 by
adding "Permitted in NB and NBU zones with live entertainment by special
exception only" so that the footnote reads as follows:

27 Permitted in MR *zones* only without live entertainment. Permitted in NB and
NBU *zones* with live entertainment by *special exception* only. Permitted in MR
zones only under SIC 5812: Eating Places, and not SIC 5813: Drinking Places
(Alcoholic Beverages).

THE

Area Plan Commission

of TIPPECANOE COUNTY

20 NORTH 3RD STREET
LAFAYETTE, INDIANA 47901-1209

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SALLIE DELL FAHEY
EXECUTIVE DIRECTOR

January 20, 2011
Ref. No.: 11-008

West Lafayette Common Council
609 W. Navajo Street
West Lafayette IN 47906

RECEIVED

JAN 24 2011

CLERK - TREASURER

CERTIFICATION

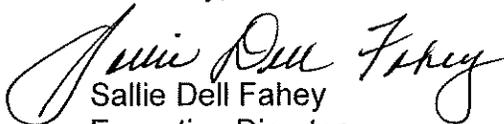
RE: UZO AMENDMENT #72

An amendment that would allow live music entertainment in the NB and NBU zones, but only by special exception.

Dear Council Members:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on January 19, 2011, the Area Plan Commission of Tippecanoe County voted 12 yes - 0 no on the motion to approve the enclosed amendment to the Unified Zoning Ordinance. Therefore, the Area Plan Commission of Tippecanoe County recommends to the West Lafayette Common Council that the proposed zoning ordinance amendment be approved.

Sincerely,


Sallie Dell Fahey
Executive Director

SDF/lmu

Enclosure: Staff Report and Ordinance

**UNIFIED ZONING ORDINANCE AMENDMENT #72
LIVE ENTERTAINMENT IN NB AND NBU**

**STAFF REPORT
January 13, 2011**

**Unified Zoning Ordinance Amendment #72
Live Entertainment in NB and NBU**

**Staff Report
January 13, 2011**

Staff was contacted by a business owner who wants to operate an eating and drinking establishment in Lafayette in the NBU zone. Eating and drinking establishments (SIC 58) are permitted by right in the NBU zone according to the Primary Use Table of the UZO. This entry in the Use Table also includes footnote 27:

27 Permitted in NB, NBU and MR and MRU zones only without live entertainment. Permitted in MR and MRU zones only under SIC 5812: Eating Places, and not SIC 5813: Drinking Places (Alcoholic Beverages)

The business owner was interested in having live entertainment at the establishment and questioned the prohibition. On November 3rd, Staff and the A.O.s met and discussed this question. The group decided this was not a single property issue, but rather it had community-wide applications. It was decided that live entertainment was not allowed because these commercial nodes are often surrounded by residences in a relatively dense manner and live entertainment could potentially be a detriment to the neighborhood peace and quiet. Staff and the A.O.s agreed that a special exception from the Area Board of Zoning Appeals (ABZA) for live entertainment would be appropriate because permission could be granted based on the impacts to surrounding uses with regard to noise, hours of operation, lighting and traffic generation. The ABZA could approve such a request with conditions regarding hours and/or sound proofing possibilities. Additionally, special exceptions are heard at public meetings with notice given to adjoining property owners with ample opportunity for input from the public.

Staff proposes to change the footnote to read:

27 Permitted in NB, ~~NBU~~ and MR and MRU zones only without live entertainment. ~~Permitted in NB and NBU zones with live entertainment by special exception only.~~ Permitted in MR and MRU zones only under SIC 5812: Eating Places, and not SIC 5813: Drinking Places (Alcoholic Beverages)

After some discussion, staff believed changing footnote 27 was preferable to adding another category to the use table. Currently there are three "eating and drinking establishments" listed in the table: eating and drinking- West Lafayette, eating and drinking with drive-thru, and eating and drinking *without* drive-thru. Staff felt adding another variable, namely live entertainment, would make the table too confusing.

This proposal received a positive recommendation on December 1, 2010 from the Ordinance Committee and has staff's support.

STAFF RECOMMENDATION:

Approval