Failed at the September 8, 2015 Council Meeting

Submitted by the Area Plan Commission

ORDINANCE NO. 30-15

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: Ordinance No. 32-97 of the City of West Lafayette, Indiana, is hereby amended to rezone the following described real estate, to wit:

(See legal description attached hereto)

Section 2: Said real estate is hereby rezoned as follows:

FROM: NB
TO: R3W

Section 3: This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

The jurat for this document was not printed on discussion copies, in order to save paper and copying resources.
If you have questions about this, please contact the Office of the Clerk-Treasurer at clerk@westlafayette.in.gov.
Thank you.

Ordinance No. 30-15 Legal Description:

Part of the real estate in the estate of Elizabeth C. Swanson (deceased) recorded in Deed Record 9502387 in the Office of the Tippecanoe County Recorder and being part of Section 11, Township 23 North, Range 5 West, Wabash Township, Tippecanoe County, Indiana, more particularly described as follows:

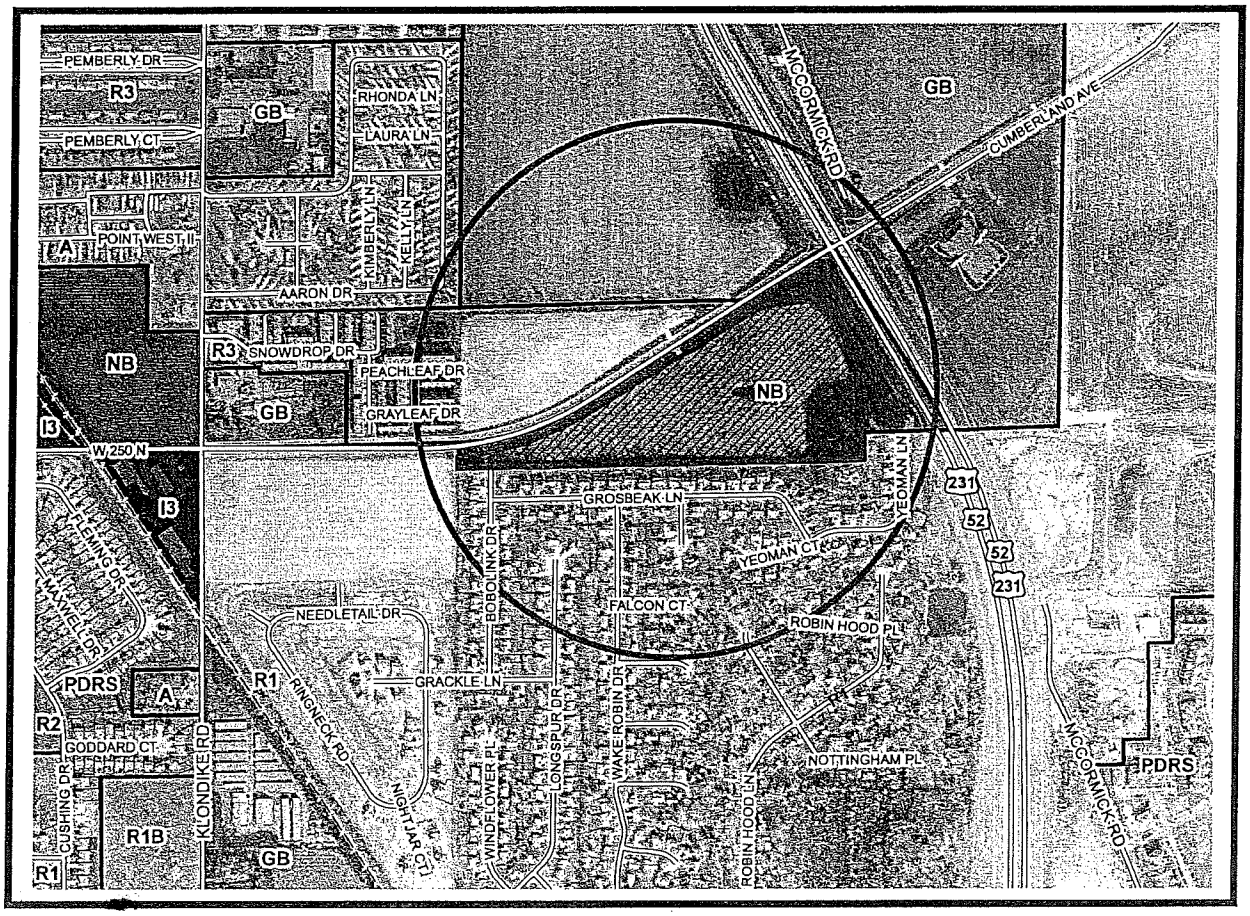
Commencing at the Southwest Corner of the Northwest Quarter of Section 11, being marked by a Berntsen Monument; thence North 88°43'04" East along the South Line of said Northwest Quarter 1308.05 feet to a 15" square concrete fence post, being the Southwest Corner of the Southeast Quarter of the Northwest Quarter; thence South 00°24'27" East along the West Line of the Southeast Quarter of the Northwest Quarter 70.66 feet to the south line of the real estate conveyed to Tippecanoe County, Indiana, as per Warranty Deed recorded as Document Number 201111003214 in said Recorder's Office, and the Point of Beginning of this description; thence along said south line the following five (5) courses:

(1) easterly on a non-tangent curve to the left, having a radius of 1570.00 feet and a central angle of 26°20'41", an arc distance of 721.89 feet (said arc being subtended by a chord having a bearing of North 71°48'21" East and a length of 715.55 feet);
(2) North 58°38'00" East 459.06 feet;
(3) North 61°29'45" East 100.12 feet;
(4) North 58°38'00" East 400.00 feet;
(5) North 69°56'36" East 147.43 feet to the north line of said Swanson real estate;
thence North 88° 39' 17" East along said north line 192.08 feet; thence South 29°52'46" East 361.67 feet; thence South 05°54'31" East 345.60 feet; thence South 01°23'05" East 136.22 feet to a fence post; thence South 88°52'43" West, along the north lines of Randolph and Marilyn Leigh (D.R. 9508440), Wakerobin Estates II Subdivision, Phase 3 (D.R. 04026631), Wakerobin Estates II Subdivision, Phase 2 (D.R. 0207763) and Wakerobin Estates II Subdivision, Phase 1 (D.R 9826792), a distance of 2050.80 feet to a rebar at the northwest corner of Lot 53 in Wakerobin Estates II Subdivision, Phase 1, being on the West Line of the Northeast Quarter of said Southwest Quarter; thence North 00°24'27" West along said West Line 60.25 feet to the Point of Beginning, containing 20.623 Acres, more or less.

Subject to all easements, rights-of-way, restrictions, and covenants of record.

Z-2620
ZAC, LLC
(NB to R3W with Commitment)

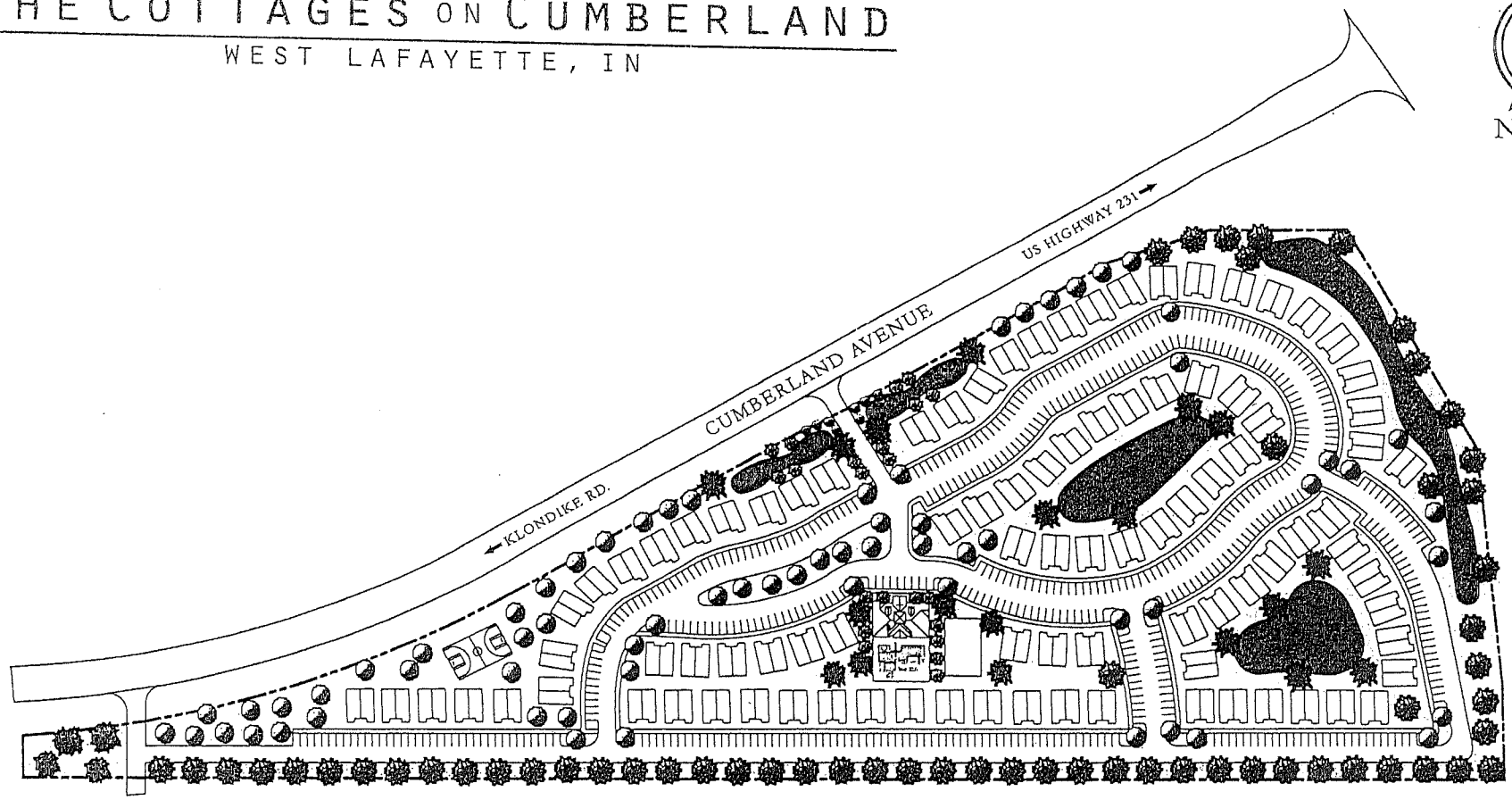
REVISED STAFF REPORT
August 13, 2015



ILLUSTRATIVE PLAN FOR

THE COTTAGES ON CUMBERLAND

WEST LAFAYETTE, IN



ZIMMER
DEVELOPMENT COMPANY

Z-2620
ZAC, LLC
NB TO R3W (with commitment)

Revised Staff Report
August 13, 2015

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, with consent of the property owner Citation Homes, Inc., and represented by attorney Daniel Teder, is requesting rezoning of 20.6 acres for a proposed student apartment development of 93 duplexes on a single lot, located on the southwest corner of Cumberland Avenue and US 231 in West Lafayette, Wabash 11 (N 1/2) 23-5.

The commitment, which petitioner filed after the July APC meeting, would do the following:

1. Increase the minimum amount of vegetative cover from 30% to 31%;
2. Reduce the maximum coverage of all buildings from 40% to 35%;
3. Reduce the maximum building height from 14' at the finished floor of the upper story to 29' measured from ground floor to the top of the roof of all structures; and
4. Increase the minimum bufferyard plant units from no buffer along the southern portion of the property to a 20' wide type C bufferyard utilizing, where appropriate, the existing tree line.

ZONING HISTORY AND AREA ZONING PATTERNS:

This site was originally zoned R1, Single-family Residential. It was rezoned to NB in 2012 after the filing was amended from the original GB request (Z-2480). R3-zoned land to the north of this site on the north side of Cumberland is also on this agenda (Z-2621, R3 to GB); beyond that property, land is zoned GB to the north and east. R1 zoning exists adjacent to the south.

AREA LAND USE PATTERNS:

These 20 acres are currently unimproved. Wake Robin and Sherwood Forest Subdivisions are adjacent to the south. A church occupies the southeast corner of the US 231/Cumberland Avenue intersection; the north quadrants are currently unimproved.

TRAFFIC AND TRANSPORTATION:

Cumberland Avenue is a recently completed, urban secondary arterial. The submitted site plan shows two entrances into the development: one in the middle of the Cumberland frontage and one from the recently constructed Bobolink Drive connection to Cumberland. There is no access from this site to US 231.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
Indiana American Water and American Suburban Utilities serve the area. If the rezoning is approved, no bufferyard would be required because there is no requirement where R3W abuts R1 zoning. The 4th item of the commitment would create the requirement of a type C bufferyard along the southern property line.

STAFF COMMENTS:
Over the years, this area of Wabash Township has seen many rezones with subsequent development in the form of single-family homes, mobile home parks, student apartments, senior living, and some commercial and light industry. In particular, the trend for student housing developments in this area peaked eight to ten years ago, shifting students farther away from campus. Staff has repeatedly said that much of this type of development is better suited closer to Purdue where necessary services were readily available. In several requests for multi-family zoning in the vicinity, staff has written in reports that there is a saturation of student housing, the infrastructure here is incomplete and the route of Cumberland and US 231 is unknown, making these requests premature. Now that Cumberland and US 231 are finished, what has not changed is staff's preference for student housing to be located closer to campus. Staff would prefer to see additional student housing develop where urban amenities are located; recent national trends and APC's student housing study show that college-aged people also share this preference for living within walking distance of coffee shops, services, restaurants and campus.

In staff's opinion, the submitted commitment promises changes so minor, it's hardly worth the discussion: Increasing vegetative coverage by 1 percentage point? Changing the height restriction from 14' at the finished floor of the upper level to a flat 29' at the top of the roof? That is simply providing a different way of measuring what amounts to about the same height limitation. Promising to provide a type C bufferyard along the south property line is another way of saying the developer will not tear down the existing tree line. And reducing the maximum coverage of buildings by 5% is easy when all of the proposed buildings, open spaces, parking and roads are on a single large lot.

The proposal submitted with the rezone request shows 93 duplex units of student housing, similar in nature to the Cottages at Lindberg planned development. Generally, staff favors locating multi-family residences back to back with single-family residences as shown here. R3 zoning adjacent to R1 zoning is usually more compatible than commercial zoning next to R1 uses. However, the US 231/Cumberland commercial node has been planned since the US 52 Corridor Study was completed. NB zoning was approved here (instead of GB) to offer more protection to the neighboring residences. Staff feels a neighborhood commercial center will serve the existing single-family neighborhood and is preferable to more student-housing located so far off-campus.

STAFF RECOMMENDATION:
Denial

Key Number: 134-06800-0869
State Identification Number: 79-06-11-200-008.000-029

COMMITMENT

Commitment made on July 16, 2015 by ZAC, LLC (the "Petitioner") pursuant to Indiana Code Section 36-7-4-1015.

1. Petitioner makes this commitment with the knowledge and consent of Citation Homes, Inc. who is the owner (the "Owner") of certain real estate (the "Real Estate") located in Tippecanoe County, Indiana, commonly known as 20.623 acre tract of land situated on the south side of Cumberland Ave., west of new U.S. 231, City Of West Lafayette, and more particularly described on Exhibit A which is attached hereto and incorporated by reference herein.

1. Petitioner has filed a request (with the consent of the Owner) with the Area Plan Commission of Tippecanoe County, Indiana (the "APC"), to rezone the Real Estate from NB to R3W which request is pending before the APC as case no. Z-2620.

2. Petitioner hereby agrees and makes the following commitment in connection with the rezoning request in case no. Z-2620:

a. Increase in minimum vegetative cover from 30% to 31% (UZO 2-10-7);
b. Reduce maximum coverage of all buildings from 40% to 35% (UZO 2-10-7);
c. Reduce maximum building height from 14' at the finished floor of the upper story to 29' measured from ground floor to the top of the roof of all structures (UZO 2-10-7); and
d. Increase minimum bufferyard plant units from no bufferyard along the southern portion of the Real Estate to a 20'-wide Class C bufferyard utilizing, where appropriate, existing vegetative cover (i.e. trees, etc.).

3. Petitioner understands and agrees that this commitment is given to the APC and the City of West Lafayette (the "Legislative Body") as an inducement for the recommendation for and approval of the rezoning request in case no. Z-2620. Petitioner further understands and agrees that the approval of the rezoning request in case no. Z-2620 by the Legislative Body constitutes good and valuable consideration for the giving of this commitment.

4. 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.

EXHIBIT A

Part of the real estate in the estate of Elizabeth C. Swanson (deceased) recorded in Deed Record 9502387 in the Office of the Tippecanoe County Recorder and being part of Section 11, Township 23 North, Range 5 West, Wabash Township, Tippecanoe County, Indiana, more particularly described as follows:

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Subject to all easements, rights-of-way, restrictions, and covenants of record.

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 20, 2015
Ref. No.: 15-178

West Lafayette Common Council
609 West Navajo
West Lafayette, IN 47906

CERTIFICATION

RE: **Z-2620--ZAC, LLC (NB to R3):**
Petitioner is requesting rezoning of 20.6 acres for a proposed student apartment development located on the southwest corner of Cumberland Avenue and US 231 in West Lafayette, Wabash 11 (N 1/2) 23-5. WITH COMMITMENT *CONTINUED FROM THE JULY APC MEETING AT PETITIONER'S REQUEST.*

Dear Council:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on August 19, 2015 the Area Plan Commission of Tippecanoe County voted 8 yes - 0 no to accept the proposed commitment and 8 yes – 3 no on the motion to rezone the subject real estate from NB to R3. Therefore, the Area Plan Commission of Tippecanoe County recommends to the West Lafayette Common Council 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 West Lafayette Common Council at its September 8, 2015 regular meeting. Petitioners or their representatives must appear to present their case.

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

Sincerely,

Sallie Dell Fahey
Executive Director

SDF/lmu

Enclosures: Staff Report, Commitment & Ordinances

cc: Jeffrey Zimmer, ZAC, LLC
Citation Homes
Daniel Teder
Dave Buck, West Lafayette City Engineer