

April 7, 2016

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, April 7, 2016, in the Fire Department Training and Conference Room located at 5080 West State Road 46. Terry Baker called the meeting to order at 6:00 p.m. Kevin Farris led the Pledge of Allegiance.

Roll Call: Members present were: Terry Baker, President; Brian Mobley, Vice President; Don Calvert, Pat Wesolowski, Kevin Farris, David Drake and Sandra Hash. Kevin Tolloty, Planning Director, Darla Brown, Town Attorney, and Rick Coppock, Bynum Fanyo and Associates, Town Engineer, were also present.

Approval of the Minutes

Terry Baker entertained a motion for approval of the minutes for the regular meeting on March 3, 2016. Pat Wesolowski so moved. David Drake seconded. Motion carried.

Old Business

Proposed Changes to Legislative Procedures

Kevin Tolloty, Planning Director, reviewed changes to the Legislative Procedures presented at the March 3, 2016, meeting. The changes were made to §4.2 which discussed expanding the notification area for hearings. He proposed sending notices for two properties deep and only to those within 500'. Mr. Baker thinks the change is very reasonable. They will not vote on the changes at this time.

New Business

Final Plat Approval for 4620 – 4622 W. David Alan Court, Union Valley Homestead; Petitioner: Bynum Fanyo and Associates, on behalf of Chester Martin; Case No. PC 2016-11

Kevin Tolloty, Planning Director, explained this is final plat approval for a two family home to be split into two parcels for the purposes of selling one-half of a two family home. Being there is no history of this project could be located they are requesting Plan Commission approval.

Terry Baker entertained a motion to accept final plat approval for 4620 – 4622 W. David Alan Court, Union Valley Homestead. Kevin Farris made a motion to accept final plat approval for 4620 – 4622 W. David Alan Court, Union Valley Homestead. David Drake seconded. Roll Call Vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Kevin Farris – yes; Brian Mobley – yes; Pat Wesolowski – yes; and Sandra Hash - yes. Motion carried 7-0.

Final Plat Approval for Autumn Ridge Subdivision, Phase VI, W. Harvest Lane and W. September Drive; Petitioner: Thomas and Karen Langley; Case No. PC 2016-10

Kevin Tolloty, Planning Director, explained Petitioner is requesting final plat approval of Autumn Ridge, Phase VI. The final plat consists of one two family unit, one single family unit and right-of-way dedication with improvements. Concerns expressed are more related to the subdivision owners' association board and not with Town Code. The Town Attorney has advised this is not enforced by the Town. Therefore, staff recommends approval of the plat as it does meet Town requirements. Buildings 1 and 2 will become a single unit and Buildings 7 and 8 will remain two units.

Phil Tapp, Philip O. Tapp & Company, Inc., represents the Petitioners. There will be one single and two double buildings. Future areas between Units 1, 7 and 8 will be platted with the remaining five units. There will be two double and single units and there are two other areas that have not been built on. There will be several more plats to come with this project. Mr. Wesolowski asked if there are more single family homes. Mr. Tapp answered yes on Lot 35. There will be no more than 47 units as in accordance with the original plan. Mr. Wesolowski asked if the single family home was built at the same time as the other units. Mr. Tapp replied yes.

Ray Nelson, Chairman of the Autumn Ridge Subdivision Owner's Association, Inc. ("Association"), informed the Plan Commission that pursuant to their bylaws changes to the plat requires their approval. He is requesting the Plan Commission withhold their approval until the Association has had a chance to review the plan and give their approval or disapproval. Changes from the original plat may negatively affect the community.

Bill Schneider, Autumn Ridge resident, didn't realize a vote would be taken at this meeting and just learned of this two days prior because he is not within 500' of the 44 lots. The existing single family home served as a model of what a double unit home would look like. Their Covenants and Restrictions ("Covenants") are very explicit and he suggests a committee from the Plan Commission meet with the Association and their attorney to address their concerns.

Bill Holdeman, Autumn Ridge resident, is concerned about the procedural aspect after learning the vote will be taken at this meeting. If zoning and planning can come in and overrule the Covenants it would make no sense to have them. He thinks they need to give consideration to what this does to Covenants of all subdivisions. The procedural aspect would have been to get permission of the Association before coming to zoning and planning.

Kevin Tolloty advised a Public Hearing sign was posted in the subdivision at least 10 days before the hearing and notices went out as early as possible before the meeting. Their guidelines do not overrule homeowners associations. Homeowner associations are allowed to have rules above what the Town has and they have no issue with this. The Plan Commission does not enforce the Association's rules. The Plan Commission is approving a plat that meets the Town's guidelines. There is nothing preventing the Association from having more stringent regulations than the Town. They would have to be enforced by the Association because the Plan Commission doesn't have the mechanism to enforce them. They're approving a plat that meets the requirements of the Town code. Just because the Town agrees to a plat doesn't mean the Association can't have further restrictions and enforce the same. Mr. Nelson asked if the Plan Commission approves the plat does that give them the legal right to proceed with construction. Mr. Tolloty answered no, it does not. It becomes a civil matter between the Association and the developer. It does not override any of their regulations.

Bill Schneider stated there are multiple things within their Covenants that restrict a contractor from doing what they want to do. It's rather irrational that the Plan Commission would approve a plat without considering the residents of Autumn Ridge and their Covenants. Mr. Tolloty understands they have Covenants and that's why they put out the Public Hearing sign and are working on expanding who gets notified. Mr. Schneider remarked the sign works for six residents and the others don't enter or go by the sign.

David Drake asked if all they're doing is changing is a double building to a single. Mr. Tolloty replied yes, and setting the lots up to do that. This is not an approval of the Building Permit. Mr. Drake asked if the other issues have nothing to do with the Plan Commission changing that. Mr. Tolloty answered that's correct. Ms. Brown advised the homeowners' association's remedy is to get an injunction if they feel the developer or some other homeowner is violating their restrictions and covenants. Mr. Wesolowski wasn't on the Plan Commission when this was platted. People have to understand that the Town agreed to plat it as is, the homes were built and then the Association was formed. Ms. Hash proposed waiving the three minute rule on speaking to allow Mr. Tapp to speak. There were no objections.

Phil Tapp knows his client, who is building the house, will be glad to meet with them. The intention of the single family home is to save the same architecture as the existing buildings. It will be a little larger unit on a basement with a garage totaling 4,400 square feet. It will be a very nice expensive unit. This potential buyer has a sister and brother-in-law who live in their community which is why she wants to live there. The Covenants are more about numbers than houses. It is very compatible or a little bigger than what is there now. There will probably be another single. They are not losing units or increasing units. Materially, it will not change what they have.

Ray Nelson thinks it will make a difference because it has been platted for a certain number of units. Any reduction in the number of units will reduce the income of the Association. Mr. Tapp stated there is no intent to reduce the number of units. Mr. Nelson retorted building the single unit reduces the number. Mr. Tapp explained they'll split it up and explained there are eight units which will continue to be the same. It is not their intent to reduce the number of units.

Bill Schneider retorted they're reducing it to six units. Their property manager told them the Petitioner is taking more land for the individual unit. They would have preferred this was discussed with them before changing the plat. He reviewed the Covenants and according to the property manager they would double the dues on this lot and now there will be another single unit. So, they will pay twice the monthly dues because they will have more land. They're taking income away from the Association by going from a double to a single unit. He reiterated he is surprised they want to vote tonight when there are three residents bringing up these issues. He doesn't think the Director of Planning or the Plan Commission are aware of these things. He recommended notifying the whole association. He wants to show the situation to the Plan Commission before they vote on something they really don't know much about.

Phil Tapp explained the area that was in fill had eight units showing and when all of the platting is done there will still be eight units on it. They're not reducing a unit. They're splitting a double into two singles. Mr. Wesolowski directed the audience to Ms. Brown's earlier statement that the Plan Commission doesn't do anything with the Covenants or the Association. He reiterated the development was platted prior to the homes being built. He lives in an area with an association and covenants but that doesn't mean the Town can be involved in it. They are not going to reduce the homes so the Association won't lose money.

Terry Baker entertained a motion of final plat approval for Autumn Ridge Subdivision, Phase VI, West Harvest Lane and West September Drive. Kevin Farris made a motion to accept the final plat approval for Autumn Ridge Subdivision, Phase VI, West Harvest Lane and West September Drive. Pat Wesolowski seconded. Roll Call Vote: Terry Baker--yes; Don Calvert--yes; David Drake--yes; Kevin Farris--yes; Brian Mobley--no; Pat Wesolowski--yes; and Sandra Hash--no. Motion carried 5-2.

Development Plan Approval for Litten Apartments, 7477 W. Raymond Run; Petitioner: Quality Realty & Development, LLC; Case No. PC 2016-09

Kevin Tolloty, Planning Director, explained the Petitioner is seeking approval of a development plan for a 72 unit apartment complex. The development plan has been reviewed by Town supervisors and most, if not all, of the technical issues have been met. From a technical aspect it is up to code. The plans were recently revised in response to the technical review comments. The parcel is zoned Commercial 3, General Commercial ("C-3"), and the apartments are a permitted use. Litten Estates was annexed in 2004 as a mixed use development of single family, multi-family and commercial. In 2006, the multi-family portion was amended to single family housing by the Plan Commission and is known as Phase II of Litten Estates. In 2008, the parcel for the proposed apartments was annexed into Town as a C-3 and went through hearings with the Plan Commission and Town Council. There are 11 criteria the Plan Commission considers in order to grant or deny approval as follows:

1. Compatibility of the development plan with surrounding land uses. It will be up to the Plan Commission to determine whether they think a multi-family housing development is compatible. There are single family homes to the east and a gas station across the street.
2. Compatibility of the development plan with the recommendations of the comprehensive plan. The Comprehensive Plan was last updated in 2007 and is in the process of being updated. The property was annexed in 2008 so there isn't much guidance in that regard.
3. Adequate provisions for internal management of traffic. This was looked at during the technical review and they meet the minimum number of parking spaces required. The only internal traffic is proposed to be a parking lot. Streets will not be added.

4. Analysis of the capacity of adjacent streets to ensure that adjacent streets can safely and efficiently accommodate the additional traffic generated by the development. This has been the largest area for concern. Using IT Trip Generation it estimated an apartment complex of this size will generate 479 daily trips. During the peak hour in the evening it will generate about 45 trips, coming and going, during that hour.
5. Adequate provisions for public facilities and infrastructure, and provisions for extension of infrastructure to adjacent developable properties.
6. Provisions for the allocation of land for streets, parks, schools, public and semi-public buildings, homes, businesses and industry, as appropriate. The site doesn't leave much room for most of this. There was a small park indicated on the State Road 46 side of the development.
7. Adequate on-site management of stormwater and erosion control. These were reviewed as part of the technical review and they are found to be in compliance with Town code.
8. Adequate provision for green space and/or landscaping. There is a landscaping plan. There aren't many provisions in the Town code for landscaping. A fair amount of trees and other plantings have been included on three out of four sides.
9. Adequate provisions for buffering to significantly reduce the visual impact of dissimilar developments. Landscaping is on the north, east and west sides which does provide a buffer. There isn't a buffer on the south side. How dissimilar would they consider it to be to single family or multi-family residential? In planning, we tend to look at residential to residential but is fairly similar. If any buffering is recommended for the south side it will have to take the detention area into consideration. They don't want to put in a lot of vegetation which would cause the water to runoff in unintended directions.
10. Adequate protection of existing limestone structures. This is not relevant in this case.
11. Provision of pathways, trails and or sidewalks for all non-industrial developments. There are sidewalks provided on the outer parameter connecting to the other sidewalks in Litten Estates and around the front and back of the apartment buildings.

Phil Tapp, Philip O. Tapp & Company, Inc., represents the Petitioners, Jill Smith and Phil Young of Quality Realty, the owners and contractors for the project. This five acre parcel was not originally part of Litten Estates. Technically, it is not part of Litten Estates today but part of the neighborhood. Litten Estates was originally platted in 2004 with 49 single family lots, 31 duplex units, 54 three bedroom apartments and five acres of commercial space. There was a total of 134 units approved as a mixed use. Over time, the prior developer decided he did not want to build the apartments and re-platted it into 73 single family lots. At the same time, he purchased the project area and annexed it into the Town with C-3 zoning which allows apartments. The apartments were always intended to be there. When it was annexed, Mr. Hearne was looking at 55 three bedroom apartments or 165 bedrooms. They are proposing 42 two bedroom units and 30 one bedroom units with a total of 114 bedrooms. The bedroom count has decreased considerably from the original concept. They're following through with the development plan for the original intent and meeting Town criteria. Traffic it is less than originally proposed. This was always planned but the look has changed from the original plan 12 years ago. Now, they're bringing in five more acres.

Sandra Hash served on the Plan Commission when Litten Estates was first proposed, platted and annexed. She doesn't recall seeing the drawing at the time of zoning. Mr. Tapp advised it was the only exhibit he prepared for the annexation. Ms. Hash stated originally, where the apartments will go was for a single family home. Commercial zoning seemed appropriate since it was on the highway and in front of single family homes. At the time, she remembers Mr. Hearne, saying he would like a restaurant in that area for convenience of the people who lived there. Mr. Tapp explained when they took the apartments out of Litten Estates and Mr. Hearne purchased it this was the drawing he had him prepare. Ms. Hash asked if the drawing was presented to the Plan Commission at the time of the annexation. Mr. Tapp answered Mr. Hearne did the presentation for the annexation so he does not know if he used the drawing. Mr. Drake was on the Town Council at the time and doesn't remember seeing the drawing as a proposal. Mr. Baker wasn't on the Plan Commission and remembers they reduced the numbers but doesn't remember apartments being planned for C-3 zoning. Mr. Drake remembers the original proposal with the internal apartment complex in the middle but doesn't remember apartments being considered for that particular area. Mr. Tapp stated maybe he didn't relay that. Mr. Hearne pursued that property when he got rid of

the other apartments and this was the exhibit he prepared for him at that time. Mr. Farris asked the square footage of the units. Mr. Tapp replied the one bedrooms are 640 s/f and 648 s/f and two bedrooms are 1,280 s/f to 1,300 s/f. Mr. Calvert read all of the letters and doesn't remember anything being said about apartments going in there. Ms. Hash added not at the time of annexation and not until now.

David Drake noticed the three story buildings seem to have the back side of the building facing single family residential to the west and south. Mr. Tapp replied it is based strictly on the terrain. Mr. Drake asked if there are any plans to lower the area as part of the development. A three story apartment on a mountain top is going to be tall. Mr. Tapp stated that is the issue. There is a hill coming down to Raymond Run so the units will look like three stories because the single family units would be in the basement. From the parking lot side they are two story buildings. Mr. Drake asked the reasoning for putting the entrance/exit on the residential street as opposed to State Road 46. Mr. Tapp answered site distance is better at the existing intersection and lines up with the cross street and Indiana Department of Transportation ("INDOT") prefers to not have another commercial entrance along that stretch of State Road 46 because of the curve and the site distance isn't as safe for it. Mr. Wesolowski noted State Road 46 is single lane going east and west with a turn lane in the middle. Coming from the west he doesn't see a big problem, however, coming from the east will be a big problem. It took him approximately seven minutes to turn into Litten Estates at a non-peak time of day. Traffic comes down the hill hitting 45 mph coming out of the 35 mph zone while 20 cars are trying to turn left into Litten Estates. Ms. Hash visited the development prior to the meeting and there were three cars waiting to turn left in front of her and it went quickly.

Brian Mobley goes to Spencer three days a week and trying to turn out of the development is almost impossible. He and Mr. Drake live in the development and they see it after and before school. It doesn't make sense to put apartments in an addition that big. Being a retired police officer he knows traffic runs from dog complaints to anything else will increase. For it to empty into a nice addition would be the wrong move. Mr. Mobley left the meeting early.

Pat Wesolowski asked the type of buffer that will be between the apartments and State Road 46. Mr. Tapp replied it is a mix of trees and shrubs. Mr. Wesolowski said there is a convenience store across State Road 46 which will be dangerous for children. He isn't happy with one entrance/exit onto the property. If it gets blocked from a fire department run how will people get in and out? Going east is a concern to him because it decreases from 45 mph to 35 mph. It isn't compatible for the neighborhood. According to the trip count single families in dwellings of 20 make 191 trips and with 72 units there will be 479. He can't see apartments being observed at the same time as the "Welcome to Ellettsville" sign. No doubt they would be nice apartments but the Plan Commission is looking at 20 years down the road.

David Drake always envisioned there would be commercial development in that location, and, obviously, apartments are allowed in a commercial zone. He did not expect an apartment complex with this extreme level of density and nor did he expect a commercial development would enter/exit off of a residential street. He envisioned a commercial development entering/exiting off of State Road 46 with adequate buffering between the houses. With three story apartment units facing single family residential he doesn't know if there could be an adequate buffer. Mr. Wesolowski asked if there are two pipes going into the retention pond from the duplexes. Mr. Tapp answered the pipes are going out and drains downstream to the southeast. Mr. Wesolowski stated if the size of the retention pond is increased the single family won't have anything. He commended the people who bought homes in that area knowing there could possibly be businesses along State Road 46. He remembered when it was platted with a strip mall proposed along State Road 46 and the people whom purchased their home near this knew it was going to happen. Apartments were never suggested when they voted on the annexation. A lot of dirt would have to be removed to make it compatible. He reiterated safety along State Road 46 is a concern. Mr. Tapp doesn't disagree. When they did Litten Estates with the mixed use that was the trip generation they had and they didn't develop it with that density. Right or wrong, they looked at figures of the original trip

impact. Mr. Drake noted the neighborhood has changed considerably since the original plan has approved. Mr. Tapp said the density has gone way down. Mr. Wesolowski asked when there is a traffic cut on a state highway are there criteria that have to be met for 100 versus 1,000 vehicles a day. Mr. Tapp replied yes, there are improvements that have to be made. Mr. Wesolowski asked what improvements would be made in this situation. Mr. Tapp responded using the existing entry with the same trip generations done 12 years prior and then reducing the density in Litten Estates they put those right turn lanes in to accommodate the full development for the apartments, single family homes and duplexes in Litten Estates. It didn't develop to that density so the improvements today, looking at 73 lots, would be less than what was built at that time for the turn lanes. The turn lanes were put in based on the original approved densities with the apartments, duplexes and single family homes. But, they didn't build that. This is why he is saying the apartments are within ten units of what was originally proposed twelve years ago. He knows the complexion has changed in the development. This is why he is going back to the trip generations being the same numbers.

Terry Baker asked what it would take to get a traffic count going in and out of the development. Mr. Tapp answered they would have to contract with somebody to do a study. Mr. Baker thinks it would alleviate concerns if they had actual counts instead of estimates. Ms. Hash asked if a market analysis had been done to determine the need for this many apartments. Ms. Smith answered it is based on word of mouth and expressed interest. Ms. Hash noted when Capitol Hill Apartments came in there was concern. The density is 50% less and there are eight units per building with space between the buildings. There isn't a playground area but she thinks the proposed apartments would need this. If there are going to be 72 families there needs to be a recreational area for the children who live there. There are so many people in such a small area in contrast with the upper scale homes. Mr. Hearne built a beautiful community, they are state-of-the-art and they are beautiful. She doesn't feel this is compatible. The duplexes on the other side of the proposed apartments have garages, space between them, are well maintained and they look like homes. The apartments will be out of place. She strongly felt when it was zoned commercial, they did not think it would be 72 apartments. It doesn't match up with the beauty of the surrounding area. She commends Mr. Hearne for the job he did in Litten Estates. If it is passed the children need a place to go, an entrance onto the highway, a thick border of landscaping and not at all connected with Litten Estates.

Don Calvert thanked everyone for their approach. He is wondering what kind of feedback they're going to get when they create shortcuts through Ridge Springs, Richland Manor and over to the high school. If there is a problem turning onto Raymond Run then people will find shortcuts. He drove on Impatiens to Birch, to Beechwood and then to Ridge Springs. Those streets are narrow with no sidewalks and with the traffic that could potentially come out of this development, he doesn't see it and doesn't find it acceptable. He is opposed to destroying a neighborhood. They won't be able to sell their property. He understands buffering is proposed for the northeast and west sides but the south side looks into Litten Estates. Mr. Baker remarked they have problems with buffering because of the detention pond. Mr. Drake noted part of the long range plans, as he recalls, are to have Sycamore Street extend to State Road 46 and hook-up with the end of Birch Street. If that were to happen it would be much more likely to cause people to want to come south and go through there. Mr. Calvert has been on the Plan Commission for several years and they have talked about Sycamore Street extending to State Road 46 and it has not happened. Ms. Hash commented the additional phase of Litten Estates got in the path of Sycamore Street. She doesn't see Sycamore Street ever connecting with State Road 46. Mr. Baker agrees with Mr. Calvert regarding traffic. The traffic on State Road 46 is horrendous. Coming into Town where the speed is supposed to reduce drivers are not slowing down. It isn't feasible to have a police car setting there running radar all of the time. They have to look at some other way of getting the traffic out to State Road 46. He doesn't see where they can do something with this high density and not cause a problem on State Road 46. You have to go through INDOT to get a stoplight and that is not going to happen. Mr. Wesolowski agrees. Mr. Drake assumes there will be several people whom want to speak. He proposed a five minute break before the public speaks on this topic.

Terry Baker adjourned the meeting for a five minute break.

Terry Baker called the meeting to order.

Kevin Farris, being a developer, opined the only time you don't want to see a development happen is if it lowers the property values or alters the lifestyle of the neighbors. For example, if someone was going to put a slaughterhouse on that corner it would definitely alter the complexity then they would have a hard argument. If it's not effecting property values; altering the complexity of the neighborhood or infringing on the lifestyle of residents then they don't have an argument.

Public Comments:

Kathy Chandler lives next to the detention pond. It will be terrible to look at the apartments with car lights and traffic all hours of the night and she is concerned about children walking across the road. It is not safe to go in and out and sometimes it takes five to six minutes. It will destroy their beautiful neighborhood because it is for single family homes. When they built they were told there could be something commercial built on the hill and they were okay with that but not 200 people living in an apartment

Vicki Zore lives in the house across from the entrance of the proposed apartments. She was told the intent was for it to be commercial with a restaurant and businesses such as a doctor's office and she was fine with this. Apartments were not mentioned. When she backs out of her driveway she backs onto a pile of gravel. All she thinks about are the number of cars coming in and out of the complex that will impact her as well as property values. They all built and bought nice homes with the intention of having a certain level and style of living. The apartment complex really diminishes this. She doesn't want to be looking at a towering apartment complex hovering over her home. This isn't a needed use of this property. Who is going to be responsible for the integrity of the apartment complex and keeping it up to the standards of the rest of the neighborhood? For the most part they think they built their dream homes and she feels it is being blown away. With property values, integrity of the neighborhood, safety and traffic – she doesn't see it.

Kayla Scherschel and her husband purchased their home in Litten Estates one year ago. One of the reasons they chose Litten Estates was to get away from apartments. Her husband is a disabled combat veteran and they wanted to move away from high volumes of people and not be around apartment complexes. When they moved in they were aware the commercial lot could be a restaurant. They did not realize it could be apartments. If they had known it could be apartments they wouldn't have bought their home there.

Tammy Milah is a resident of Phase II. She presented a petition and letter containing their concerns written by her and her husband and thanked the Plan Commission for bringing up their concerns. They have lived in Ellettsville for 15 years and decided to stay here because they like the surroundings. When they built their house four years ago she specifically asked what multi-family homes means. Mr. Hearne explained there would never be apartments, only luxury townhomes. She was told about the possibility of restaurants, maybe a strip mall and convenience shops which they agreed to. They are not okay with raising the density of what they were told would be four units per acre. There is one house between her and the apartment complex. In order to turn into her subdivision, heading west, she has to keep her speed at 45 mph until the last second, swerve into the lane and stomp on the brake. The cars behind her are speeding up to get out of town. The cars coming into town are going so fast and most of the time they pull into the "suicide" lane to go to the gas station. There is no light so when it is dark people coming into town have no idea there are side streets so they don't slow down. It is already dangerous. As for shortcuts through the neighborhood, she is guilty of it because it is safer.

Nate Myers, resident of Litten Estates, has found several scholarly articles that discuss the effect of multi-family and affordable housing units on adjacent neighborhoods. The articles cite concentration as an item that correlates to lack of property value. The articles discuss the way the property is maintained is a large driver of the decline in property values. Without a thorough market analysis he doesn't know how the builders could determine the revenue generation required to maintain a property of this scope and scale. The report for the Plan Commission describes 40% to 50% of the property value based off of other zoning requirements would be considered substantial. *DeKalb County v. Wapensky*, 315 S.E.2d 873 (Ga. 1984), provides that substantial could be considered as a 15% to 20% adverse effect on property value. This is an important point when discussing what the potential property value ramifications are for this particular subdivision. They're concerned about property values, safety and uniformness of the neighborhood. The Commission has a huge influence on the vibrancy of this community and the attractiveness of it. If they want to continue to grow this mismatch of uniformness, potential decline in value and a lack of competence that this decision may create in future residents of the Town of Ellettsville it could have a major impact and the implications could be far reaching.

Mike Stanley and his wife moved here one and a half years ago after retiring from teaching at Owen Valley High School for 38 years. They were told there might be a Walgreens but apartments were not mentioned. In Spencer, they've seen four or five apartment complexes built but not at this proposed scale. The crime element has not been discussed. He doesn't know what the criteria is for the apartments or what the income level is but in Spencer some of these apartments are riddled with crime. He and his family try to stay away from this element.

Rob Ramsey has been a resident of Litten Estates for five years and worked at Smithville Telephone ("Smithville") for ten years. The neighborhood they live in is quiet but it is great to see more houses being built and Ellettsville growing. This part of Ellettsville is an established family environment. Children play in the streets, many people walk around the neighborhood, they know each other and there is a sense of family. They are not opposed to growth but apartments don't belong in this area. He has spoken with various business owners in the area and they also oppose the apartment complex. He looks forward to seeing new houses being built in Litten Estates, Phase III, and to meeting the families who will become part of the Ellettsville community. Build large apartment complexes in their own areas and expand the great residential areas Ellettsville was founded on the same family homes and neighborhoods that are working so well. Ellettsville has a potential for growth and great business. An apartment complex in this area is not the right move.

Steve Milah, resident of Litten Estates, thinks they have done a great job of pointing out their same concerns. In 2014, the Ellettsville Plan Commission indicated that by having this subdivision it added to the values of the surrounding subdivisions and is one of the nicest in Town limits. They would expect to be significantly impacted by the apartments. At the November 2, 2006, meeting the actual density decrease was approved. Mr. Hearne basically had several neighborhood meetings where he went over the concerns with people in the neighborhood. Those concerns were lower property values and an increase in vandalism and crime. Surveys from Monroe County Fall Festival showed no interest in apartments or multi-family. This is more substantial than word of mouth in terms of a market survey. The motion passed 7-0 and Mr. Hearne was commended by Frank Nierzwicki for his thoughtfulness of the community and trying to build something worth building. They're vested in Ellettsville. He doesn't know if the people proposing this are as vested in the community which is illustrated by the lack of looking at the safety aspects.

Andy Zelfhof lives in Litten Estates and they have all come to like the area they live in and they love Ellettsville. He works in Bloomington and does not want to live there. What makes this community better are the neighbors. Everybody knows each other and he has no problem with letting his children go play and everyone knows who they are. They can ride their bicycles on the street because traffic is low enough for it not to be a problem. The apartment complex will change this dramatically and it is not going to be the same community. It has been 12 years since the density study and things have changed including the community. The apartment complex no longer represents what was proposed in 2004. It goes back to the criteria the Plan Commission has to consider. Is this compatible with the surrounding area? The plan is not compatible. Is it compatible with the Comprehensive Plan? What is the future of Ellettsville? What do you want Ellettsville to look like? The last Comprehensive Plan was prepared in 2007 and nothing is mentioned about this area. They need to think about what they want Ellettsville to look like and does this fit in Ellettsville. Is there a real need for these apartments? If this goes through he will probably leave and take a loss on his property value because it will no longer be the neighborhood for his kids. They can clearly get an example of what the community really wants and what Ellettsville should be.

Evelyn Fargo is getting to the age she will have to sell her home which she won't be able to do with these changes. She is very concerned with the possibility of an apartment complex. For people who live in Litten Estates it doesn't make any sense to come in on that entrance. It is a back door to the apartment complex.

Tom Gardiner has lived on Beechwood Drive since 2006. The traffic going through the neighborhood is bad. When people decide they can't get on State Road 46 from the other entrance it is going to be nonstop traffic. He lives on the other end of the neighborhood that has very busy traffic. The other concern is value of the homes. This is the worst possible thing to put in the worst possible place for the people who have their lives vested in these homes and neighborhood. If he bought a house from someone and found out this was going to happen he would be upset and he's not happy with it now. The retention pond is uphill from every backyard along Beechwood Drive and surrounding courtyards. He can only imagine what will happen when that land gets developed and where the water will flow. It is an important consideration. Every yard along Beechwood Drive floods.

Jeyona Leano Flores and her husband just moved into Litten Estates. If they would have known about the apartments they would not have chosen Litten Estates. They just left an apartment in Bloomington. Ellettsville feels more family oriented. They chose Litten Estates because of the children playing in the

street, friendliness and low crime. She hopes they take into consideration how family oriented Litten Estates is.

Jay Sims lives in Litten Estates and is against this. It is plainly obvious that there are a whole host of concerns. These are the problems they can think of now but they will really present themselves when it is actually completed. There are things that will happen they don't even know about.

Rick Ellison owns the home the detention pond would back in to if it filled. He would look at the back of the apartment building. He is a retired Army Warrant Officer. His wife looked long and hard for a place in the Bloomington/Ellettsville area and found Litten Estates to be a great family community so they purchased a home. He would really hate to see this happen along with the traffic and safety problems and property values going down. They've invested their lives to spending it in Ellettsville and Litten Estates.

Barb Seemeyer has lived in Litten Estates for six years. Crime is a concern. They can make promises to keep it looking good and putting in buffers but they may not keep their promise. As for traffic she will turn in front of a car thinking she has better chances of making it rather than staying in the "suicide" lane. Traffic is horrendous. Who would ever think on State Road 46 that there is that much traffic in the mornings? Sometimes you can easily wait 10 to 12 minutes and she thinks this is a big concern.

Jaime Pruett moved here two years ago and fell in love with the area for its proximity to the schools, location, how pretty it is and nice families in the area. They specifically asked what the commercial is zoned for. Mr. Payne told them it would be a restaurant or small business. To put an apartment complex of such size causes concern about crime. What are the criteria going to be? Is it going to be a Section 8 moving lower income into this area? This is a concern. They really like Ellettsville and are happy to be a part of it.

Reed Nelson moved to Ellettsville in 1997 and found Birch Street to be "the place" and they're really thankful for that. He doesn't want to deal with the stereotypes already mentioned because it may not be fair to the 72 families who would move in. A buzz word over the last few years has been "exponentially" and if he has a neighbor who messes with his engine a couple of nights in a row it is probably going to end in a couple of weeks. How many bad cars are going to be out there exponentially? They were broke into once over the last couple of years. Exponentially what are they looking at? He doesn't like stereotypes but thinks it is factual. He feels this meeting is a great setting and thanked everybody who participated with no name calling or outbursts, the people bleeding from their heart for what they hold near and dear and for his chance to do that as well.

David Bertrum purchased his home in Litten Estates one week ago. He has worked at Smithville since 2008. Every morning driving to Smithville from Bloomington while making the right hand turn he almost gets clipped by someone passing in the middle lane. In the evenings trying to leave at 5:00 p.m., he sometimes sets for 15 minutes trying to make a left hand turn. It is ridiculous.

Carey Marks lives in Litten Estates and has seen four vehicle accidents where it separates by the gas station. Depending on the time of day he will drive through the neighborhood by All Safe Storage. It is difficult to turn left into Ellettsville coming off of Red Hill Road. As more people cut through All Safe Storage the people in that neighborhood will start to complain and they do not have sidewalks. He appreciates everyone's comments and hope they will consider all of them.

Paula Anderson used to live on Ridge Springs before moving to Litten Estates. During the school year Ridge Springs gets a lot of traffic. Adding people in an apartment complex is going to add to traffic driving faster than 25 mph down Ridge Springs. It will make that area more of a safety issue.

Pat Wesolowski asked if the Petitioner contacted the neighbors to let them know what is going to transpire. The audience answered no. He received a letter from somebody who lived in an apartment in Bloomington. The person wrote when they moved in it was great and the apartments were nice. They moved out because they were deteriorating.

Lori Ramsey wrote the letter. They lived in Acadia Court in Bloomington. When they moved in it was for young couples saving for their first house, young professionals just starting out and grad students. It was a very nice, quiet and they felt safe living there. They lived there for five years while saving for their home. In five years three different management companies bought them. Toward the end, as they were preparing to buy their house the apartment brought in Section 8. She felt unsafe walking to her car and mailbox in daylight. This is a close-knit community. In Litten Estates she can call her neighbors and they will come help her. She doesn't want to see he apartments happen.

Pat Wesolowski asked what the rent will be on the apartments. Ms. Smith answered it hasn't been determined but it may be \$650 for a one bedroom and \$725 for a two bedroom. This is based on other apartment rentals. Mr. Wesolowski asked if it will be Section 8. Ms. Smith replied they're not planning for Section 8. Mr. Wesolowski asked the direction of the retention pond. Mr. Tapp answered it flows southeast towards State Road 46. Mr. Wesolowski said advised there is a committee in the process of updating the Comprehensive Plan. Mr. Gardiner asked what will prevent them from applying for Section 8 after the apartments are built. Ms. Hash answered nothing.

Vicky Zore asked the names of the apartment complexes they based the proposed rents on for the one and two bedroom apartments. Is it higher end or lower grade apartments? Ms. Smith answered Canterbury House Apartments has a one bedroom for \$558 to \$682, Hadley Bend Apartments rent for \$675 to \$750 and Choice Realty manages some Ellettsville Apartments rent for \$500 for one bedroom and \$650 to \$750 for two bedrooms. Mr. Wesolowski asked if they checked on Capitol Avenue Apartments. Ms. Smith replied two bedroom apartments rent for \$735. Mr. Farris commented if you look online for the two square miles and 1,700 houses that make up Ellettsville the average rent is \$700.

Phil Tapp asked if it is possible to do a continuance instead of an approval or denial to do a re-evaluation. Mr. Baker answered yes, they can. Mr. Tolloty added they can approve it, approve it with conditions, deny it or continue it to the next meeting. Mr. Tapp stated it would take longer than the next meeting for them to do a re-evaluation. Can they continue it for 60 days? Mr. Baker replied they can continue it for two meetings. Mr. Drake added if someone presents a proposal for a first hearing the Plan Commission has to express their concerns and objections about their proposal and give them a chance to respond with something different. Mr. Zelhof asked if it is continued can signs be posted on all neighborhoods along State Road 46 including Beechwood and Birch. Mr. Baker answered they don't have enough signs to do all of that. Mr. Wesolowski asked what the code is on signage. Mr. Tolloty replied it is a Town requirement for one to be placed on the property which is not a requirement under state code. Someone in the audience asked if the purpose of the continuance is to give them a chance to revamp the project. Mr. Wesolowski answered yes or they may come back and say they don't want to do it. Mr. Baker explained a continuance gives them a chance to re-evaluate after hearing the comments. He complimented the audience on their civility. They should consider a continuance to re-evaluate and maybe it would be better for everybody. Mr. Drake added they're probably going to come back with something else at some point. They either continue it like they always do, give them a chance to listen to everyone's concerns and come back with a different proposal or all they file a new petition which means they have to again file the fees. It is only fair to do as they typically do, wherein they have a chance to respond to the concerns.

Terry Baker entertained a motion to continue this until the next meeting and if they're not ready they will address it then. Pat Wesolowski made a motion that PC 2016-09, the Litten Apartment Development, be continued until the meeting on June 2, 2016.

Andy Zelhof asked how they will be notified if there is something new or modified. According to the bylaws when it is continued a new sign does not have to be put up and they don't have to be notified. He wants a condition put on this the motion that the neighborhood is notified if there is a significant change in what they're doing. Mr. Tapp explained they are wanting 60 days to have a neighborhood meeting outside of the Plan Commission and present any changes before returning to the Plan Commission. They would like to get information to them and it may not develop. If they can meet with everybody outside of the Plan Commission they will have the information prior to the Plan Commission meeting. Someone in the audience asked how they will arrange to meet with them. Mr. Tapp replied they will send them notifications and will pick a spot for a meeting. Mr. Baker would like for he and Mr. Tolloty to be present at the meeting.

Tom Gardiner summarized the people who spoke did not say anything against commercial use for the land. Everyone is against the apartments. There is nothing that cannot negatively impact

property values and all of these problems with that property if it includes apartments. This is why he is against a continuance. If they come up with another plan they're all for it but it is the apartments they're against. A new plan is a different subject and topic for another day. Mr. Farris remarked the petitioners have been friendly throughout the meeting, they need an opportunity to absorb all of this and they're going to meet with the homeowners.

Darla Brown, Town Attorney, does not think it's appropriate to put conditions on the continuance. The petitioner's representative has given his word he is going to talk to the neighbors. If he does, he does and if he doesn't it will tell them where they're at on June 2, 2016. Mr. Drake agreed. If he hasn't met with them and the Plan Commission isn't happy with that they'll vote no. Everyone needs to understand they operate under the law and the rules as they are set out. This property is zoned for a commercial use and apartments are allowed. They can't completely deny that use of this property under the law and they do not have the legal authority to do so. They can do their best to make sure anything that is developed is considered to be compatible. If they want to come in and build duplexes similar to those next door that's a much more difficult decision for them to make under the law. They have certain rules they have to follow and they can't say there can be no apartments on that piece of property because they don't have the legal authority to do that. They have certain things they can consider such as the density, ingress and egress, height and traffic which were brought up in this meeting but they can't control everything. They can't tell them they can't develop that piece of property under the rules set out by the State of Indiana. Commercial zoning allows multi-family dwellings so they can't completely prohibit it. They can't effect some things but they can't make a ban of not ever having apartments on a piece of property. Someone from the audience said then they're never going to say no. Mr. Brown explained that is not what he said. Her concern is if the Plan Commission is going to deny the development plan under the case law they have to give the developer concrete reasons why it is being denied so he can revise the plan in an attempt to meet the code.

Evelyn Fargo asked if it is possible to deny access to the property from Litten Estates and make it be accessible from only State Road 46. Mr. Drake answered yes and restated there are certain things they can and cannot control.

Pat Wesolowski asked if they have to show just cause to have them return on June 2, 2016. Ms. Brown recapped if at the June 2nd meeting they were to deny the development plan they would have to give the developer concrete reasons, do a set of findings and explain to the developer why the development plan was denied. At this meeting, everybody gave the developer things to think about between now and the next meeting. If it still doesn't meet the Plan Commission standards or address their concerns on June 2nd then they can make their findings accordingly.

David Drake seconded the aforementioned motion. Roll Call Vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Kevin Farris – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried 6-0.

Terry Baker reminded everyone this matter is continued until June 2, 2016, meeting at 6:00 p.m.

Planning Department Updates

Darla Brown, Town Attorney, had previously tendered the Motion for Summary Judgment filed by Richland Convenience Store Partners ("Richland") in *Despirito vs. Richland, et al.* to the Plan Commission. She is seeking Plan Commission authority to file the Town of Ellettsville's motion to join in the summary judgment motion. Richland is arguing the Plan Commission made the right decision and they're asking the court to affirm the decision. She wants to file a short motion saying they agree with it, they're correct and request the court ratify the decision. Plan Commission members concurred.

Kevin Tolloty, Planning Director, advised Hidden Meadows, Phase III, will come before the Plan Commission in May. He will also begin discussions on revising the sign code at the May meeting.

Adjournment

Plan Commission, April 7, 2016

Terry Baker entertained a motion to adjourn. Pat Wesolowski so moved. Kevin Farris seconded. Terry Baker adjourned the meeting at 8:26 p.m.

Terry Baker, President

Brian Mobley, Vice President

Sandra C. Hash, Secretary

Don Calvert

Pat Wesolowski

Kevin Farris

David Drake