THE
AREA BOARD OF ZONING APPEALS
OF
TIPPECANOE COUNTY

NOTICE OF PUBLIC HEARING

DATE : FEBRUARY 26, 2020
TIME: 6:00 P.M.
PLACE: COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

AGENDA

I. APPROVAL OF PREVIOUS MEETING MINUTES

Documents:

BZA 01.22.2020.PDF

II. NEW BUSINESS

III. PUBLIC HEARING

1. BZA-2030 VITA INVESTMENT HOLDINGS, LLC:
   Petitioner is requesting the following variance to construct a senior living facility, offering nursing care, memory care, and independent living options, with 177 units (a mix of studio, one and two bedrooms) in 7 buildings on R3W-zoned land:

   1. To increase the building height to 32.5' at the finished floor of the upper story from the maximum allowed 14'; and (UZO 2-10-11)
   ~~2. To reduce the off-street parking to 136 from the minimum requirement of 181 spaces; (UZO 4-6-3)~~ *Withdrawn.*

   on property located north of Cumberland Avenue, just west of US 231, in West Lafayette, Wabash 11 (NW) 23-5. *Continued from the January meeting to post the sign.*

   Documents:

   BZA-2030.PDF

2. BZA-2031 THETA NU HOUSING, LLC:

Petitioner is requesting the following variances to raze the existing structure and construct a new sorority building on R3W-zoned land:

1. To increase the building height to 28' at the finished floor of the upper story from the maximum allowed 14'; (UZO 2-10-11)
2. To decrease the parking requirement to 24 spaces from the minimum requirement of 45; (UZO 4-6-3)
3. To eliminate the maneuvering aisle required for parking spaces along the alley; (UZO 4-6-15)
4. To eliminate the no parking setback requirement; (UZO 4-4-6)
~~5. To reduce the required building setback from Northwestern Avenue to 20' from the minimum requirement of 60'; (UZO 2-10-8)~~ *Not needed per staff review.*
~~6. To reduce the street setback from Fowler Avenue to 30' from the minimum requirement of 60'; and (UZO 2-10-8)~~ *Not needed per staff review.*
7. To reduce the required bicycle parking to 25 spaces from the minimum requirement of 45; (UZO 4-6-7)

on property located at the southeast corner of Northwestern and Fowler Avenues, in West Lafayette, Wabash 19 (NE) 23-4.

Documents:

BZA-2031.PDF

3. BZA-2032 JAMES L. AND SHEILA A. COCHRAN:
****Continued****
Petitioners are requesting the following variances to add a residential unit in an existing apartment building on R3W-zoned land:

1. To decrease the required parking to 6 spaces from the minimum requirement of 11 spaces; and (UZO 4-6-3)
2. To reduce the building setback from Vine Street to 7.2' from the minimum requirement of 25'; (UZO 2-10-8)

on property located at the southeast corner of Vine Street and Fowler, more specifically, 229 W. Fowler Avenue in West Lafayette, Wabash 19 (NE) 23-4. *Continued to the March ABZA meeting to add variances.*

IV. ADMINISTRATIVE MATTERS

V. ADJOURNMENT

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the Area Plan Commission of Tippecanoe County will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. For more information visit www.tippecanoe.in.gov/ada

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE.....January 22, 2020
TIME.....6:00 P.M.
PLACE.....COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT
Steve Clevenger		Ryan O'Gara
Tom Andrew		Kathy Lind
Gary Schroeder		Chyna Lynch
Frank Donaldson		Zach Williams, Atty.
Carl Griffin		
Ed Butz		
Jen Dekker		

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 22nd day of January 2020 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

Attorney Zach Williams called the meeting to order.

I. ELECTION OF OFFICERS

Zach Williams opened the floor for nominations for president.

Tom Andrew nominated Steve Clevenger for President.
Carl Griffin seconded.

Carl Griffin moved that nominations for President be closed.
Gary Schroeder seconded, and the motion carried by unanimous voice vote.

Carl Griffin moved that a unanimous ballot be cast for Steve Clevenger for President.
Gary Schroeder seconded, and the motion carried by unanimous voice vote.

Steve Clevenger was seated as President.

Carl Griffin nominated Gary Schroeder for Vice President.
Gary Schroeder seconded.

Carl Griffin moved that nominations for Vice President be closed.
Gary Schroeder seconded, and the motion carried by unanimous voice vote.

Carl Griffin moved that a unanimous ballot be cast for Gary Schroeder for Vice President.
Gary Schroeder seconded, and the motion carried by unanimous voice vote.

Steve Clevenger requested nominations for Secretary.

Carl Griffin moved that Zach Williams be nominated for Secretary.
Gary Schroeder seconded.

Carl Griffin moved that nominations for Secretary be closed.

Gary Schroeder seconded, and the motion carried by unanimous voice vote.

Carl Griffin moved that a unanimous ballot be cast for Zach Williams for Secretary.
Gary Schroeder seconded, and the motion carried by unanimous voice vote.

II. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the December 4, 2019 Board of Zoning Appeals public hearing. Carl Griffin seconded and the minutes were approved by unanimous voice vote.

III. NEW BUSINESS

Ryan O'Gara said **BZA-2030 VITA INVESTMENT HOLDINGS, LLC**. would be continued to the February 26, 2020 meeting due to an error in sign posting. The other two cases are ready to be heard.

Jen Dekker joined the meeting at 6:03 p.m.

IV. PUBLIC HEARING

Gary Schroeder moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the By-laws of the Area Board of Zoning Appeals, the application and all documents filed therewith, the staff report and recommendation on the applications to be heard this evening and responses from the checkpoint agencies. Carl Griffin seconded, and the motion carried by voice vote.

Steve Clevenger read the meeting procedures.

BZA-2027 SCOTT JONES:
Petitioner is requesting a special exception to use an existing single-family house as a Transient Guest House (as defined in the ordinance). The proposed hours of operation are 24 hours a day, seven days per week. The R2-zoned property is located at 107 Digby Drive, Lafayette, Fairfield 28 (NW) 23-4. (UZO 3-2) WITH CONDITION.

Gary Schroeder moved to hear and vote on **BZA-2027 SCOTT JONES.** Carl Griffin seconded.

Ryan O'Gara presented the zoning map, site plan, and aerial photos. He said the site is a single-family residence with a single car attached garage. There is a variety of single and two-family residential uses in the vicinity as well as the Fowler House and the Haan Museum. The driveway can easily accommodate the two-car parking requirement. The definition of family applies with the use of the units. Staff acknowledged recent similar petitions in this area which were approved for transient guest rental use. This use meets the required tests. Staff is recommending approval with condition:

Condition

1. An operational permit must be obtained from the City of Lafayette for the Transient Rental House.

Ken Jones, 922 Highland Avenue, Lafayette, IN 47905, representative for petitioner, said he understands why neighbors may have concerns about a transient guest house in the neighborhood. He has lived next to a transient guest home for two years and initially shared the same concerns. During his forty years living in his home, the neighboring home has been owner occupied or rented. There have been more issues with owners than with renters. The fact that the home is rented through Airbnb has not affected the character of the home, neighborhood or his home. Reviews of the home on Airbnb mention how great the neighborhood is. The house in this proposal is a 3-bedroom, 2-bathroom home that sits on a generous lot with a wooded ravine. This is not meant to be a home where 20 people come to stay. The rules of the

house do not allow parties and calls for quiet at 9 p.m. Guests of the home are expected to be aware of the pleasant nature of the neighborhood and to honor it. There is a term within Airbnb to cancel a guest's stay if there is a noise complaint. There is adequate on-site parking. There may be concerns with the Fowler House being a venue that would make this a party house. He has spoken with representatives of the Fowler House and believe that will not be the case. There is a concern of the transient guest house reducing the value of the surrounding properties. This is a rental home; rental homes do not decrease the value of properties.

Steve Clevenger asked if anyone wanted to speak in favor of the petition and no one did. He asked that staff read the letter of opposition.

Ryan O'Gara read a letter of opposition from the following:

David Adam Downey, 1100 Digby Drive, Lafayette, IN 47905

Steve Clevenger said the board would now hear from those in opposition to the case.

David Ponce, 1001 Digby Drive, Lafayette, IN 47905, said he is a partner in a multi-state sports bar franchise company. There are three things wrong with this idea and they speak to the construct of a civilized community. First, if the petitioner wants to be in the hospitality business, there are zones for that. Petitioner can compete with others that pay for real estate in those zones. His company chooses locations in communities like this one. This special exception takes the opportunity and dollars away from those that are operating in the zones for lodging. The idea of a special exception where someone can get into the lodging business without having the resources and funding to compete with other companies is a subversion. Second, anyone can stand up and given anecdotal evidence of their experience with Airbnb. He has stayed in Airbnbs where the owner has complained about other guests. When a transient guest house goes into a neighborhood, all the occupants around it are vested in it with their livelihood. The point of zoning is to keep different uses separate. While a transient guest house may not affect the property value, it will affect the quality of life. The guests staying in the home will not invest in being neighborly like the rest of the neighborhood. Third, in the case that the house rules are not abided by the guest, it will not be the commercial interest that owns the home making sure the guests are compliant; it will be the neighbors. This will take away police officers that need to be doing other things to make sure that cars parked in violation to the ordinance are dealt with. The purpose of zoning is to segregate uses that are supposed to be incompatible. There needs to be commercial lodging, but not like this. It is not fair. Everyone that is on this Board is a keeper of these transactions. They need tell people that want to get into the lodging business to go where it is zoned and not allow people to take advantage of the investment and the value of privately-owned property.

Jessica Holsinger, 1010 Digby Drive, Lafayette, IN 47905, said she is concerned with the safety in this special exception. Her home is positioned where she would experience most of the issues if they were to happen. If people are not careful while driving on Valley Drive, they drive into her yard. There are no sidewalks in this neighborhood so adding people that do not know the area is asking for trouble. Two years ago, a person that was intoxicated after drinking downtown, mistook her home for their short-term rental and broke in. This is not something she wants to happen again. She knows her neighbors well and does not have interest in introducing strangers to the neighborhood. Airbnb has a mutual rating system and it would the owner's responsibility to vet possible guests. The neighbors would not know who would be staying in this house. Once the request has been granted, there is no going back. It is up to the neighbors to take time out of their day to police this. This is not a risk worth taking.

Dennis Leas, 1103 Digby Drive, Lafayette, IN 47905, thanked the board for opening time for public comment. He introduced himself to Ken Jones. He said he has spoken with all his neighbors and not one has been in favor of this special exception. The special exception is for the property, not for the owner.

The best intentions of the petitioner to maintain the property properly gives no assurance that the next owner would follow the same guidelines. How is a short-term rental for a day or two any different from a hotel? There will be people coming and going frequently and the neighborhood is not interested in having something that operates like a hotel. The staff report mentions the museums and Fowler House as reasons to grant the special exception as they are existing non-residential uses. However, these do not permit overnight visitors and have adequate parking. The visitors of these places are considered assets of the community rather than liabilities like visitors of the transient guest house. The neighborhood is located in an urban forest that is one of a kind in this city. Transient visitors will not give the same respect to the wild life and native plants in the area. The staff report notes that the site can have 3 parked cars; one in the garage and two in the driveway. Yet, when the petitioner and their contractors have been at the property, they have had vehicles parked on the street. If the petitioner does not abide by the parking rules, who is to say the transient guests will? If the special exception is granted, the property could remain vacant for days or weeks at a time. Vacant homes can be problematic. There is a large area in the back with a firepit and seating. With the home being vacant, it could act as a magnet for unauthorized visitors. He gave the Board a signed petition from the neighbors and pictures of the area.

Michael Martin, 1207 Digby Drive, Lafayette, IN 47905, said his home was built in 1950 and he moved there in 1991. He has gotten to know all the neighbors over the years. It is a wonderful place for kids to grow up. He agrees with those have spoken before.

Jennifer Higginbottom, 1001 Digby Drive, Lafayette, IN 47905, said she has lived in the neighborhood for a few months and is very familiar with the home in question as she almost purchased it. The screened in porch could easily have a dozen people in it. The property also includes the two lots behind the home. She is concerned that the firepit cannot be seen from the road. If the home remains vacant, people will be enticed to use the firepit. The neighbors will be forced to police that area when the home is unoccupied. The Fowler House is a beautiful addition to the neighborhood but the parties tend to get out of hand. People almost get hit by cars because there are no sidewalks.

Ken Jones, 922 Highland Avenue, Lafayette, IN 47905, representative for petitioner, said he does not believe an Airbnb will bring down the quality of the neighborhood. He understands the concerns of the neighbors. As far as who will be renting the home, two renters have already been turned down. Guests will be vetted. He has been considering getting rid of the firepit because open fires are not allowed in the city. Regarding parking, guests will be expected to have only one or two cars. Guests are expected to be parents coming to visit students at Purdue, visiting professors, and other professionals. The road is not particularly narrow but is winding further north. Cars were parked on the street during the $80,000 remodel of the home because the garage was full of debris which has since been removed. The conditioned Transient Guest House permit will also have parking regulations to abide by. If the city deems that the home will create a traffic hazard, the permit will not be issued. He has spoken with the Fowler House regarding weddings and parties. The manager thought that the transient guest home would be useful for visiting families. The manager assured him that drunk and disorderly conduct has not been an issue for the venue in the last few years because of increased security. Most guests take an Uber, Lyft or a cab from the venue which will mitigate foot traffic to the transient guest home. The special exception is for the property, not the owner. The future owner may choose to continue the use, or they may not. The city has ordinances that any owner must adhere to. Asking for a special exception means agreeing to more regulations than a regular long-term rental. The neighborhoods in Lafayette are important and it is encouraging that Lafayette protects the rights of everyone to peacefully enjoy them. This special exception will attract good people that want to spend time in our community.

Tom Andrew asked if on-street parking was not allowed on Digby Drive.

Ryan O'Gara said parking is not at all regulated. There is no yellow curb, so parking would be allowed.

Carl Griffin said the reason for a special exception is to allow public input into something that has been determined to not be automatically allowed. He asked Zach Williams and Steve Clevenger if there is any additional rational for the special exception that relates to remonstration that has been heard this evening.

Zach Williams said this topic is something that is seen at the state and local level. There are many opinions on the appropriateness of these transient guest homes. At the state statute level, there have been suggestions to not allow local input unlike Tippecanoe County where people can argue on behalf or against cases. The function of this Board is to determine if the special exception is appropriate in accordance to the ballot items. Will the requirements and development standards be met under the Unified Zoning Ordinance? Board members are trained on making this decision. Will it subvert the general purposes served by the ordinance because the property will be used in a certain way? There are uses in our ordinance that are automatically permitted or prohibited and there are uses that are allowed under special exception cases. The fact that public input is allowed from both sides is very important and our community is lucky to have it.

Steve Clevenger said a special exception commits the petitioner to a specific site plan and conditions. Like conditioning that the petitioner gets the Transient Rental home permit from the City of Lafayette. It is an opportunity agree to a site plan and conditions that cannot be modified without coming before this Board.

Carl Griffin thanked Zach and Steve for their input because the public is not always aware of this background information.

Steven Clevenger said there are different types of transient housing; if it is owner occupied it is a by-right use. If it is not owner occupied, a special exception must be sought.

Frank Donaldson recused himself due to a conflict of interest.

The board voted by ballot 5-Yes and 1-No to approve **BZA-2027 SCOTT JONES:**

Yes Votes	**No Votes**
Tom Andrew	Carl Griffin
Jen Dekker	
Gary Schroeder	
Ed Butz	
Steve Clevenger	

Frank Donaldson returned to the meeting.

BZA-2029 MARK SHISLER:
Petitioner is requesting a special exception to use an existing single-family house as a Transient Guest House (as defined in the ordinance). The proposed hours of operation are 24 hours a day, seven days per week. The R2U-zoned property is located at 607 S. 24th Street, Lafayette, Fairfield 28 (NE) 23-4. (UZO 3-2) WITH CONDITION.

Gary Schroeder moved to hear and vote on **BZA-2029 MARK SHISLER.** Carl Griffin seconded.

Ryan O'Gara presented the zoning map, site plan, and aerial photos. He said the site is located in the Columbian Park Neighborhood. This neighborhood has a traditional street design with rear alleys. The site is zoned R2U and surrounded by other residential zonings as well. This is a single-family home with three bedrooms, a detached garage and two parking spaces available. There was a special request to

add string lighting during Christmas time. Staff has reviewed all the tests and the request meets each of these requirements. Staff recommends approval with condition:

Condition

1. An operational permit must be obtained from the City of Lafayette for the Transient Rental House.

Wendy Shisler, 3907 Olive Lane, Lafayette, IN 47909, petitioner, said this is a quiet neighborhood and most of the neighbors approve of the special exception. Columbian Park, Arni's and Igloo are only a block away; the neighborhood is used to people in the area. The house will be maintained higher than that of a normal long-term rental to attract positive reviews. She thanked the Board.

The board voted by ballot 7-Yes and 0-No to approve **BZA-2029 MARK SHISLER.**

V. ADMINISTRATIVE MATTERS

None.

VI. CITIZEN COMMENTS AND GRIEVANCES

Jessica Holsinger, 1010 Digby Drive, Lafayette, IN 47905, said she was concerned that there is no recourse if the neighborhood comes across major issues with the transient guest rental. This is a permanent exception. There is no course of action if there are any violations by the petitioner. There is room for temporary exceptions to allow for people that have not made any effort to integrate themselves with the neighborhood. They should have to show their goodwill and intentions without the exception being made permanent.

Jen Dekker said the purview of this Board is to determine allowable uses; whereas many of the concerns that were raised by the neighborhood regarded operational components which would fall under the City of Lafayette issuance of the permit. Taking some of the issues raised to the City of Lafayette would be the recourse.

Jessica Holsinger, 1010 Digby Drive, Lafayette, IN 47905, said the neighborhood understands that to a degree but, they were told the permit was a rubber stamp situation.

Steve Clevenger asked counsel if there is recourse for numerous complaints and zoning violations.

Zach Williams said it is difficult to hypothetically think of the worst-case scenario. From a violation standpoint, most of the time, this will be under the city's ordinance. If there is concern about noise or safety, that will start with the police and maybe go to Ordinance Violation Bureau. If there is a zoning issue, there is a process for that as well. Once a special exception is granted, people are not free to do whatever they please. There are still rules and laws to abided by like anyone else in the neighborhood. Educating the neighborhood on what the options are, if the need would arise, would be a good course of action. There is an avenue of people to reach out to if there is a problem.

Carl Griffin said the concept of transient housing was brought to the county by the City of Lafayette because there were some transient guest houses causing problems for the city. The city wanted to get its arms around better guidelines and protection for residents. After public hearings, guidelines were passed by the Ordinance Committee and the City of Lafayette. The city does not want your neighborhood to be unhappy and will not tolerate abusers of this special exception. He said he dissented in this particular case because the reason for public hearing is to hear how neighbors feel about cases. One or two neighbors frequently come to disagree. He was swayed because the whole neighborhood said they did not want the special exception. A long-term rental is likely not going to be any better than an Airbnb. In

fact, there is a chance that a temporary rental will be better. Long-term rentals stay vacant for longer periods of time.

Steve Clevenger said if the use ceases for a year, the special exception cannot be granted again. If it becomes owner occupied for a year, the use will no longer be granted. Simply because a special exception is granted, does not mean the next owner can have it as an Airbnb. State law does not set up anything to grant a temporary special exception.

Jessica Holsinger, 1010 Digby Drive, Lafayette, IN 47905, said the neighborhood feels like the decision is weighing one person's business interest against the interest of the rest of the neighborhood. She thanked the Board for considering the points raised.

Mark Shisler, 3907 Olive Lane, Lafayette, IN 47909, said he has owned the rental property for a short time and knows more of the neighbors in that neighborhood than in the neighborhood where he has owned his property for 18 years. He said he understands that they want everyone to be neighborly but, they are very lucky to have the neighborhood that they have. It is not like that in most places.

Steve Clevenger stated that unless any member has an objection the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

VII. ADJOURNMENT

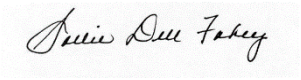
Gary Schroeder moved for adjournment.

The meeting adjourned at 7:12 p.m.

Respectfully submitted,

Chyna Lynch
Recording Secretary

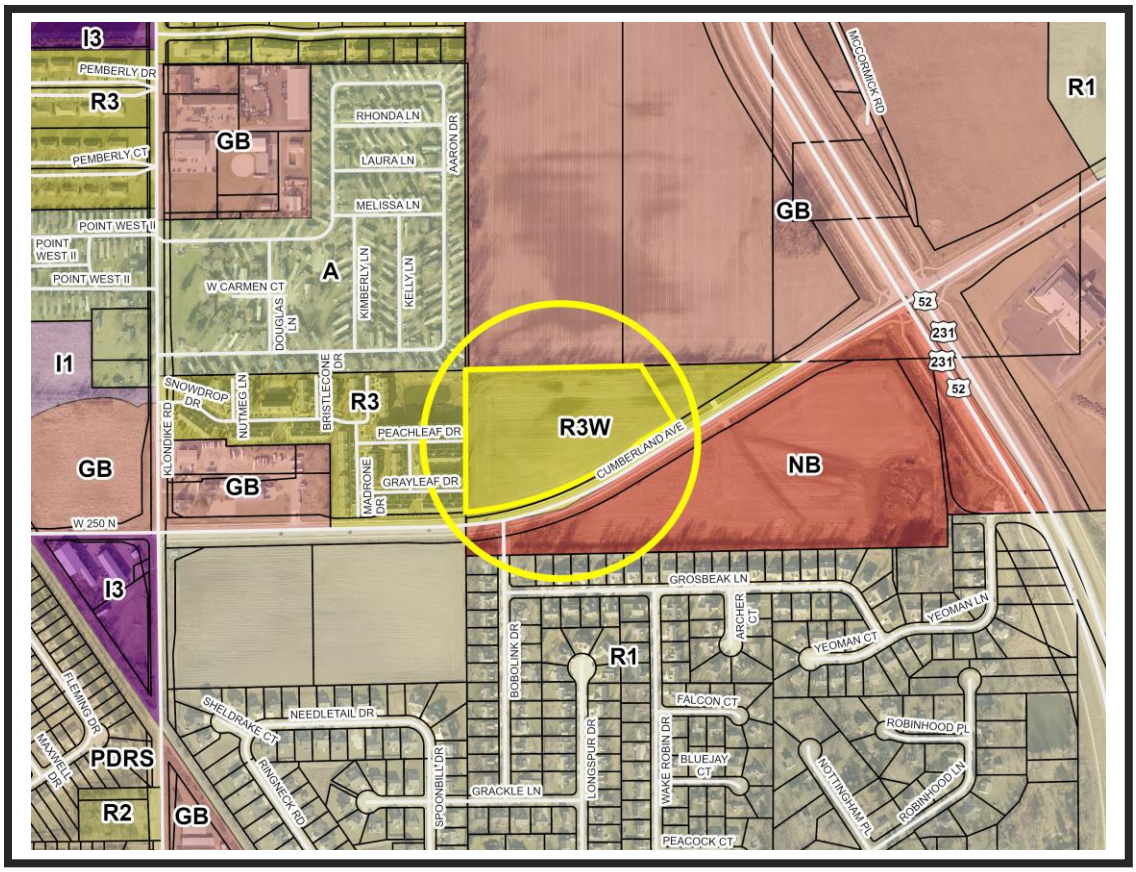
Reviewed by,



Sallie Dell Fahey
Executive Director

BZA-2030
VITA INVESTMENT HOLDINGS, LLC
(variance)

STAFF REPORT
February 20, 2020



BZA-2030
VITA INVESTMENT HOLDINGS, LLC
Variance

Staff Report
February 20, 2020

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, represented by attorney Daniel Teder, is requesting a height variance of 32.5' at the finished floor of the upper story instead of the maximum allowed 14' in the R3W zone. The 9.2-acre property is located on the north side of Cumberland Avenue west of its intersection with US 231 and immediately east of Copper Beech Townhomes. This land is part of a 2-lot subdivision called Vita West Lafayette minor subdivision. A senior living facility, offering nursing care, memory care, and independent living options with 177 units (a mix of studio, one and two bedrooms) is proposed.

AREA ZONING PATTERNS:

The property was rezoned from R1 to R3 by the County Commissioners in February 2012 (Z-2479). Later in 2015 after annexation, the City of West Lafayette sponsored a rezone that changed all R3 zoned land within the city to R3W (Z-2627).

Land to the west is zoned R3; Agricultural zoning is to the northwest and GB zoning is immediately north. South across Cumberland is NB zoning. East across US 231 is more GB zoning.

AREA LAND USE PATTERNS:

The land in question was most recently farmed, as is the land to the north and south across Cumberland Avenue. Adjoining to the west is Copper Beech Townhomes and a mobile home park is located to the northwest.

TRAFFIC AND TRANSPORTATION:

The site plan shows two entrances onto Cumberland Avenue: one opposite Bobolink Drive and a second farther east. The County Highway Department will need to review these access points.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Indiana American Water and American Suburban Utilities will serve the site. A 30' wide bufferyard for evergreen plantings is shown along the northern boundary of the site where it abuts GB zoning.

STAFF COMMENTS:

Petitioner's request for a height variance in the R3W zone comes with little surprise to staff. For many years the height standard in the R3W zone has only allowed a building of 2 ½ stories, creating many by-right projects in West Lafayette with a sunken first floor with two stories above. This historic standard comes from a time when the city had insufficient fire

trucks to reach taller buildings. Almost all other multi-family developments in West Lafayette that are taller have gone through the planned development process where the standards are negotiable, or they obtained height variances. Attempts to amend the height standards for the R3W (and other West Lafayette zones with similar height requirements) have been unsuccessful in the past.

The proposal to develop these 9.2 acres with a highest finished floor elevation of 32.5' (and an overall height of 45' 8") will not be out of place. The closest neighborhood is adjacent to the west and contains an apartment community. Because this property is outside of West Lafayette and zoned R3, the maximum overall building height for these buildings is 35'. With greater building setbacks, the permitted height could be even taller.

Regarding the ballot items:

1. The Area Plan Commission at its January 15, 2020 meeting determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. An increased building height of 32.5' (based on how height is measured in the R3W zone) on these 9.2 acres will have no negative impact on public health or safety.

3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. Properties to the north (in the GB zone) and west (in the unincorporated county) have a maximum building height of 35', with an option of being even taller with additional setbacks.

4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district. Holding this property to a 14' height standard that is today rarely utilized would be unusual and uncommon.

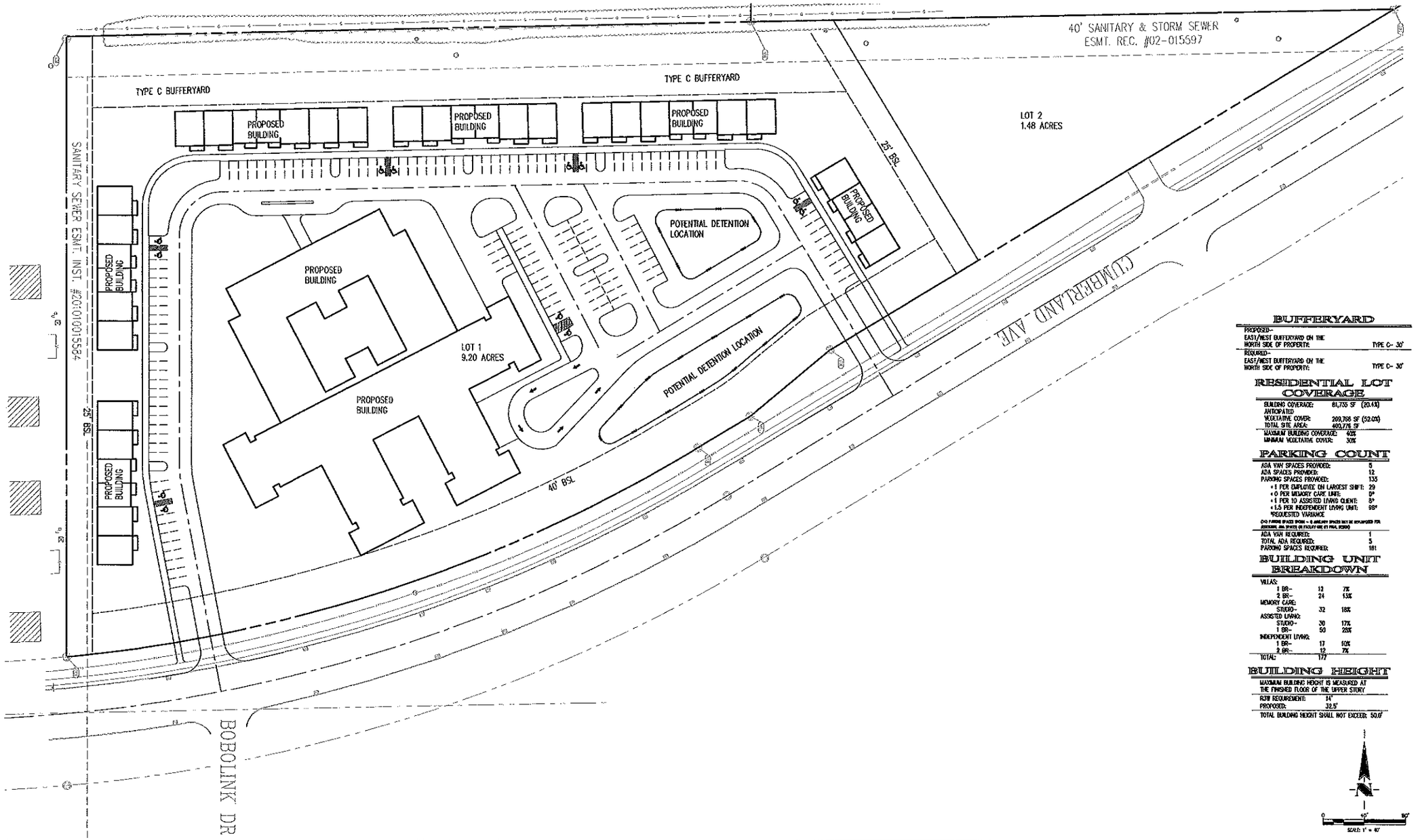
5. Strict application of the terms of the zoning ordinance **WILL** result in an unusual or unnecessary hardship as defined in the zoning ordinance. Because of a height standard that is overdue for amending, the ordinance itself creates a hardship in this case.

   Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

   5a. The hardship involved **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain. In this situation, the zoning ordinance is presenting a hardship with outdated development standards regarding building height.

   5b. The variance sought **DOES** provide only the minimum relief needed to alleviate the hardship. A height of 32.5' at the finished floor is reasonable.

STAFF RECOMMENDATION:
Approval



BUFFERYARD

PROPOSED–
EAST/WEST BUFFERYARD ON THE NORTH SIDE OF PROPERTY: TYPE C– 30'

REQUIRED–
EAST/WEST BUFFERYARD ON THE NORTH SIDE OF PROPERTY: TYPE C– 30'

RESIDENTIAL LOT COVERAGE

BUILDING COVERAGE:	81,755 SF	(20.4%)
IMPERVIOUS ANTICIPATED		
VEGETATIVE COVER:	209,768 SF	(52.0%)
TOTAL SITE AREA:	403,776 SF	
MAXIMUM BUILDING COVERAGE:	40%	
MINIMUM VEGETATIVE COVER:	30%	

PARKING COUNT

ADA VAN SPACES PROVIDED:	5
ADA SPACES PROVIDED:	12
PARKING SPACES PROVIDED:	133
• 1 PER EMPLOYEE ON LARGEST SHIFT:	29
• 0 PER MEMORY CARE UNIT:	0*
• 1 PER 10 ASSISTED LIVING CLIENT:	8*
• 1.5 PER INDEPENDENT LIVING UNIT:	98*
*REQUESTED VARIANCE	
ADA VAN REQUIRED:	1
TOTAL ADA REQUIRED:	5
PARKING SPACES REQUIRED:	181

BUILDING UNIT BREAKDOWN

VILLAS:		
1 BR–	13	7%
2 BR–	24	13%
MEMORY CARE:		
STUDIO–	32	18%
ASSISTED LIVING:		
STUDIO–	30	17%
1 BR–	50	28%
INDEPENDENT LIVING:		
1 BR–	17	10%
2 BR–	12	7%
TOTAL:	177	

BUILDING HEIGHT

MAXIMUM BUILDING HEIGHT IS MEASURED AT THE FINISHED FLOOR OF THE UPPER STORY

R3H REQUIREMENT:	84'
PROPOSED:	39.5'

TOTAL BUILDING HEIGHT SHALL NOT EXCEED: 50.0'

N

0 40' 80'

SCALE: 1" = 40'

Schneider

WEST LAFAYETTE, RCF

CUMBERLAND AVENUE, WEST LAFAYETTE, INDIANA - 12/23/19

A MAIN BUILDING SOUTH ELEVATION

SCALE: 1" = 30'

0 30' 60'

B MEMORY CARE NORTH ELEVATION

SCALE: 1" = 30'

0 30' 60'

C TOWNHOME TYPICAL ELEVATION

SCALE: 1" = 30'

0 30' 60'

DRAFT–NOT FOR CONSTRUCTION

VITA INVESTMENT HOLDINGS, LLC
109 W. Jackson St.
Cicero, IN 46034

WEST LAFAYETTE, RCF

Cumberland Avenue,
West Lafayette, Indiana 47906
02/20/20

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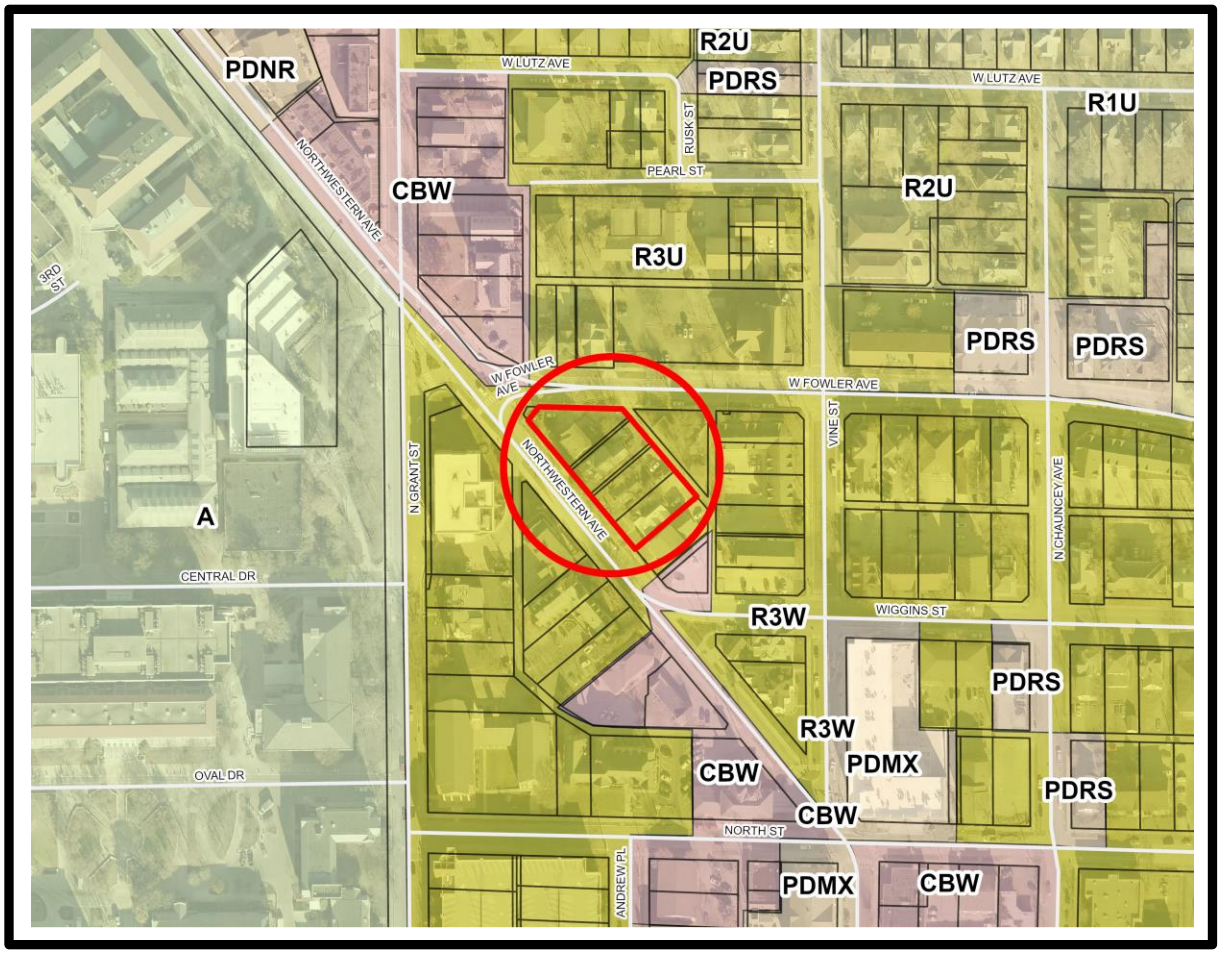
BZA-2031
THETA NU HOUSING, LLC
(variance)

STAFF REPORT
February 20, 2020



BZA-2031
THETA NU HOUSING, LLC
Variance

Staff Report
February 20, 2020

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner with consent from the four property owners and represented by attorney Daniel Teder is requesting the following variances:

1. To increase the building height to 28' at the finished floor of the upper story from the maximum allowed 14'; (UZO 2-10-11)
2. To decrease the parking requirement to 24 spaces from the minimum requirement of 45; (UZO 4-6-3)
3. To eliminate the maneuvering aisle required for parking spaces along the alley; (UZO 4-6-15)
4. To eliminate the requirement for a 5' no parking setback and allow parking within the front setback; (UZO 4-4-6)
5. ~~To reduce the required building setback from Northwestern Avenue to 20' from the minimum requirement of 60'; (UZO 2-10-8)~~
6. ~~To reduce the street setback from Fowler Avenue to 30' from the minimum requirement of 60'; and (UZO 2-10-8)~~
7. To reduce the required bicycle parking to 25 spaces from the minimum requirement of 45; (UZO 4-6-7)

on property located at the southeast corner of Northwestern and Fowler Avenues, in West Lafayette, Wabash 19 (NE) 23-4. Petitioner plans to raze the four existing residential buildings and construct a new sorority building on R3W-zoned land.

After a detailed review of the site plan staff determined that variance requests 5 and 6 are not required because the setbacks along both frontages can be reduced by averaging. (UZO 4-4-1)

AREA ZONING PATTERNS:

Petitioner has received preliminary approval to combine four lots into a single lot (S-4898 Kappa Delta Theta Nu Minor Subdivision). This single replatted lot is zoned R3W as is l surrounding properties to east southwest and adjacent to the south. Across Fowler Avenue to the north/northeast is R3U zoning and to the northwest is CBW zoning. Farther to the southeast along both sides of Northwestern, zoning is a mix of CBW and various Planned Development. The urban zoning to the north was established as part of the rezone following the adoption of the New Chauncey Neighborhood Plan.

This site is the northwestern corner of the area encompassed by the West Lafayette

Downtown Plan. The plan has been approved by the Area Plan Commission and is still being considered by the West Lafayette City Council. The plan makes these recommendations for this site:

> *"This block is at an important crossroads, a place where the downtown meets the university and the New Chauncey neighborhood. The future land uses planned for this block are designed to provide appropriate and harmonious transitions between the university, New Chauncey neighborhood, and the more intense downtown blocks to the south. Downtown Village is planned for the entire block…. The prominent corner at Fowler Avenue and Northwestern Avenue should incorporate an urban open space (privately-owned with dedicated public access easement) amenity. Any redevelopment on this block should make use of existing alleys to provide rear-loaded vehicle access, minimize street curb cuts and protect the pedestrian orientation of the streetscape."*

This plan is unique because it incorporates design recommendations for redevelopments within the boundaries.

AREA LAND USE PATTERNS:
Currently on site are a duplex and three apartment buildings. Student apartments are the primary land use in this neighborhood so close to the Purdue campus with Bailey Hall across Northwestern to the west. Our Savior Lutheran Church is across Fowler to the northeast and the Delta Tau Delta fraternity is across the street to the north. In 2005 a sorority at the corner of Northwestern and Grant requested 4 variances to expand their structure, two were withdrawn and two were denied, (BZA-1697). Those requests were similar in nature to the requests associated with this site. East of this request in 2002, a new multi-family structure was built after the granting of a setback variance from Fowler to 14' from the required 60' (BZA-1606).

TRAFFIC AND TRANSPORTATION:
Both roads have a setback of 60' because they are classified as urban primary arterials; however, based on setback averaging, Fowler Street's setback is 11' and Northwestern's is 19'. West Lafayette is requiring a "no vehicular access" statement be platted along both the Fowler and Northwestern frontages; the sole access to the site will be from the existing alley off Fowler.

The parking requirement for this use is 0.75 spaces per each occupant at capacity. This structure will have a capacity of 60 beds which would require 45 spaces. Petitioner is requesting a reduction to 24 spaces, with 8 spaces having no maneuvering aisle other than the 10' public alley. On both the east side and the west side, parts of the paved parking spaces would encroach into the 5' no parking setback. Additionally, a couple of spaces are within the front setback from Fowler Avenue which the UZO prohibits.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
Drainage on site will be reviewed at the time of building permit issuance. Sewer and water are both available to the site; although an upgrade to the sewer system may be

needed prior to construction.

STAFF COMMENTS:
Petitioner plans to demolish four existing residential structures and build a new three-story sorority house. The proposed building's design fits with some of the historical structures in the area but the parking layout does not match the urban style seen by recent new buildings around campus. The Downtown Plan identifies this site as a unique crossroad between campus, New Chauncey Neighborhood, and the Chauncey Village. This site is classified as Downtown Village which states parking should be located within structured environments. The proposed 3-story building does meet the Plan's recommendation of having building heights with a 2-story minimum.

The petitioner is requesting a three-story building that has a height of 28' measured at the third story floor. Most new structures in the near campus area are a minimum of 3 floors. Recent discussion has focused less on the height and more on the usable floors of the structures. Staff has been able to support variances associated with three story developments; the proposed overall height of the building in this request is 56'.

The existing height standard in the UZO (14' measured at the uppermost floor) only exists in West Lafayette and is obsolete. Staff is working on an ordinance amendment to address this but until that amendment is completed, staff supports reasonable height variances for apartment buildings and residential structures. Likewise, based on staff's experience, the bicycle parking standard is too high. This will likely be addressed in an upcoming ordinance amendment. Previously approved bicycle parking variances have provided 50% of the required parking; this request would provide 56% and is supportable.

The parking reduction seems excessive; staff does not have enough data to validate this reduction in the parking standard. Most similar variances have been to reduce the parking by a few spaces. This request reduces the parking by 20 spaces. This building would presumably be used for social activities of occupants and nonoccupants which would require additional spaces.

The two parking requests (3 and 4) are the biggest concerns for staff based on the proposed layout of the of the lot. The WL Downtown Plan identifies this site as an important crossroad in the near campus area. The land should be maximized, parking lots/spaces in the front of the structures and along road frontages minimizes the potential use of the land. Staff cannot support the layout of a design that promotes development that is not in line with the plan.

Regarding the ballot items:

1. The Area Plan Commission on February 19, 2020 determined that the variances requested **ARE NOT** use variances.

And it is staff's opinion regarding the following requested variances:

1. To increase the building height to 28' at the finished floor of the upper story from the maximum allowed 14'; (UZO 2-10-11)

2. To decrease the parking requirement to 24 spaces from the minimum requirement of 45; (UZO 4-6-3)
3. To eliminate the maneuvering aisle required for parking spaces along the alley; (UZO 4-6-15)
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7. To reduce the required bicycle parking to 25 spaces from the minimum requirement of 45; (UZO 4-6-7)

2. Granting variances 3 and 4 **WILL** be injurious to the public health, safety, and general welfare of the community. Allowing a new structure to be built that does not conform with the Downtown Plan recommendations of structured parking behind or in a structure is not in the general welfare of the community. In addition, it would be a safety issue for vehicles to not have a maneuvering aisle. Granting variances 1, 2, and 7 **WILL NOT** be a public issue because they are similar in design standards approved with sites close to campus.

3. Use and value of the area adjacent to the property included in variance request 3 **WILL** be affected in a substantially adverse manner. The proposed parking layout for eight spaces that only have access directly on the narrow 10' wide alley will create a traffic flow obstruction for motorists trying to access properties to the south and east of this site. Use and value of the area adjacent to the property included in requests 1, 2, 4 and 7 **WILL NOT** be affected in a substantially adverse manner. The proposed new building will meet fire safety and ADA requirements with additional site improvements.

4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district. Various fraternities, sororities and apartments in this near campus area have only been able to developed with multiple variances or through the planned development process. While there is nothing unusual regarding this lot's size, shape or topography that necessitates any of the variances, the obsolete R3W standards do not address the density of development of the near campus area.

5. Strict application of the terms of the zoning ordinance for requests 1 and 7 **WILL** result in an unusual or unnecessary hardship as defined in the zoning ordinance. Again, requiring the developer to abide by the existing height requirement and bicycle space standard would create a hardship as both these standards have been proven by staff to be no longer necessary. However, regarding requests 2, 3, and 4, continued use of the property will not end if these variances are not granted. A different design could alleviate the need for the parking requests.

   Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question

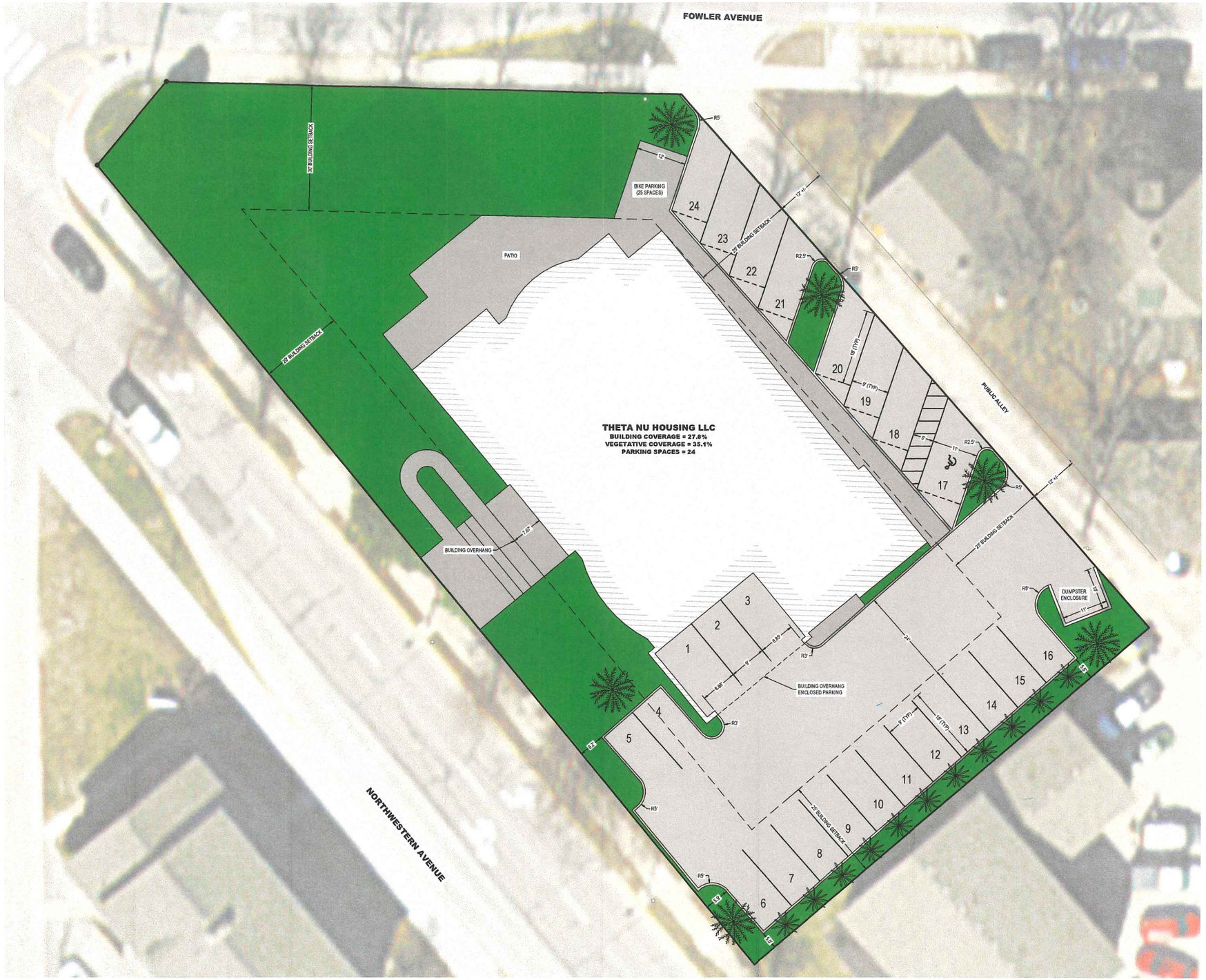
5 above.

5a. The hardship involved **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain for requests 1 and 7. The hardship is not self-imposed but ordinance-imposed. However, for requests 2, 3, and 4, the hardship involved **IS** self-imposed. Because the site will be a greenfield after razing of the existing structures these variances are self-imposed and not based on existing conditions.

5b. Regarding requests 1 and 7, the variances sought **DO** provide only the minimum relief needed to alleviate the hardship. Providing half the amount of bicycle parking the ordinance currently requires is sufficient; a building height of three stories is in-line with other R3W zones in the community. However, regarding requests 2, 3, and 4, the variances sought **DO NOT** provide only the minimum relief needed to alleviate the hardship because there is no hardship.

STAFF RECOMMENDATION:

Variance 1. Building Height: Approval
Variance 2. Parking reduction: Denial
Variance 3. Maneuvering aisle removal: Denial
Variance 4. No Parking Setback: Denial
~~Variance 5. Northwestern Setback: not needed~~
~~Variance 6. Fowler Setback: not needed~~
Variance 7: Bicycle Parking: Approval



SITE ZONING STATISTICS

CURRENT ZONE	R3W
OVERALL SITE AREA	26485.1 SQFT / 0.61 +/- ACRES
LOT COVERAGE	
BUILDING	7306.7 SQFT / 27.60% — MEETS MAXIMUM ZONING CRITERIA (40%)
VEGETATIVE	9302.0 SQFT / 35.10% — MEETS MINIMUM ZONING CRITERIA (30%)
NUMBER OF BEDS	60
AUTO PARKING	24 — VARIANCE REQUEST - MINIMUM CRITERIA 78% (45 SPACES)
BIKE PARKING	25 — (24 SPACES = 40% PARKING) (25 SPACES = 42% BIKE)
BUILDING HEIGHT	53 FT 8 IN — VARIANCE REQUEST - MAXIMUM CRITERIA (14 FT)
SETBACKS	
FOWLER AVE	30 FT — VARIANCE REQUEST - MINIMUM PRIMARY (60 FT)
NORTHWESTERN AVE	20 FT — VARIANCE REQUEST - MINIMUM PRIMARY (60 FT)

N

0' 10' 20'

HORIZONTAL SCALE: 1" = 10'

- VARIANCE EXHIBIT -
THETA NU HOUSING LLC

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Engineering • • Surveying
Environmental • • Construction Management
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FILE: P:\2019\19001\Design\Data Sheets\Site Plan\PARKING ARCHITECTS EXHIBIT\VARIANCE EXHIBIT.dwg USER: MATT HILLAS DATE: Tuesday, January 28, 2020 3:54:47 PM

ROOF RIDGE
56’ -0”
TRUSS BEARING
40’ -0”
3RD F.F.E.
28’ -0”
2ND F.F.E.
14’ -0”
1ST F.F.E.
0’ -0”