

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
MINUTES OF A PUBLIC HEARING**

DATE..... February 21, 2018
 TIME..... 6:00 P.M.
 PLACE..... County Office Bldg.
 20 N. 3rd Street
 Lafayette, IN 47901

MEMBERS PRESENT

Greg Jones
 Diana Luper
 Tom Murtaugh
 Gary Schroeder
 Jackson Bogan
 Michelle Long
 Tracy Brown
 Gerry Keen
 Perry Brown
 Dave Williams
 Tyrone Taylor
 Larry Leverenz
 Vicki Pearl

MEMBERS ABSENT

Carl Griffin
 Roland Winger
 Jerry Reynolds
 Jake Gray

STAFF PRESENT

Sallie Fahey
 Ryan O’Gara
 Rabita Foley
 Linda Underwood
 Zach Williams, Atty.

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 21st day of February, 2018 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Tom Murtaugh called the meeting to order. He then asked everyone present to observe a moment of silence for former Tippecanoe County Commissioner and Area Plan Commission member Nola Gentry, who passed away earlier today. He then welcomed Professor Jon Fricker’s Civil Engineering and Land Use Planning class.

I. BRIEFING SESSION

Sallie Fahey said all cases listed on the agenda have turned in their paperwork and are ready to be heard.

II. APPROVAL OF MINUTES

Tom Murtaugh said informed Secretary Linda Underwood that Jake Gray’s name was misspelled in the attendance section of the minutes and it has been corrected.

Gary Schroeder moved to approve the minutes from the January 17, 2018 meeting. Greg Jones seconded and the minutes were approved by unanimous voice vote.

III. NEW BUSINESS

A. FINAL DETAILED PLANS

1. **RESOLUTION PD 18-02--MIDWEST STUDENT HOUSING PROPERTIES, LLC (202 South Chauncey Avenue PD) (Z-2698)**
 Final Detailed Plans for the 202 S. Chauncey Avenue Planned Development: the approved preliminary plans allow for the construction of a 5-story multi-family apartment building containing 56 units with 104 bedrooms and a 38-space

internal parking garage. The property is located at 202 S. Chauncey, West Lafayette, Wabash 19 (NW) 23-4.

Gary Schroeder moved to hear and approve **RESOLUTION PD 18-02—MIDWEST STUDENT HOUSING PROPERTIES, LLC (202 South Chauncey Avenue PD) (Z-2698)**. Greg Jones seconded.

Ryan O’Gara presented the zoning map, site plan, and a rendering of the completed building. He said right-of-way will be dedicated to widen the alley to make it more useful and safer for first responders. He said this property was rezoned last October to PDRS by the West Lafayette Common Council. These Final Detailed Plans, consisting of the Construction Plans and Final Plat, meet all the conditions required at this stage of development. Petitioner can apply for Improvement Location Permits and begin construction once these FDPs are approved and recorded and bonding has been submitted.

Daniel Teder, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, concurred with the staff report and said he is present to answer any questions.

The Commission voted by ballot 13 yes to 0 no to approve **RESOLUTION PD 18-02—MIDWEST STUDENT HOUSING PROPERTIES, LLC (202 South Chauncey Avenue PD) (Z-2698)**.

2. RESOLUTION PD 18-03--WABASH LANDING APARTMENTS II, LLC AND TAPAWINGO HOTEL, LLC (Wabash Landing Apartments Expansion 2016 PD) (Z-2645):

Final Detailed Plans for the Wabash Landing Apartments Expansion 2016 Planned Development. The approved preliminary plans allow for the construction of a 5-story apartment building containing 115 units with 115 bedrooms and 115 parking spaces provided in the existing Wabash Landing parking garage. The property is located at 305 Brown Street, West Lafayette, Wabash 20 (SW) 23-4.

Gary Schroeder moved to hear and approve **RESOLUTION PD 18-03—WABASH LANDING APARTMENTS II, LLC AND TAPAWINGO HOTEL, LLC (Wabash Landing Apartments Expansion 2016 PD (Z-2645)**. Greg Jones seconded.

Ryan O’Gara presented the zoning map, site plan, and a rendering of the completed project, looking east toward Lafayette. He said this property was unanimously rezoned in August 2016 to PDMX by the West Lafayette Common Council. These Final Detailed Plans, consisting of the Construction Plans and Final Plat, meet all the conditions required at this stage of development. Petitioner can apply for Improvement Location Permits and begin construction once these FDPs are approved and recorded and bonding has been submitted. He added that although the alley will be closed during construction only half of the pedestrian promenade will be closed.

Dave Buck, 10 North 3rd Street, Lafayette, IN 47901, surveyor representing the petitioner, concurred with the staff report and went on to say this project will revamp and rehabilitate Wabash Landing Shopping Center.

The Commission voted by ballot 13 yes to 0 no to approve **RESOLUTION PD 18-03—WABASH LANDING APARTMENTS II, LLC AND TAPAWINGO HOTEL, LLC (Wabash Landing Apartments Expansion 2016 PD (Z-2645)**.

IV. PUBLIC HEARING

Tom Murtaugh read the meeting procedures. He then asked anyone wishing to speak to sign in at the staff table prior to coming to the podium to keep the meeting moving quickly. He explained that petitioners and counsel for **Z-2714—M & C DEVELOPMENT, LLC (AW to R1)** have agreed to be heard last this evening. He said APC counsel has asked the Commission to table that case when we get to it on the agenda and bring the case off the table at the end of the agenda.

Gary Schroeder moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County, and the Unified Subdivision Ordinance of Tippecanoe County, Indiana, are hereby entered by reference into the public record of each agenda item. Greg Jones seconded and the motion carried by voice vote.

A. SUBDIVISIONS

1. S-4738--CITATION HOMES MINOR SUBDIVISION (minor-sketch):

Petitioner is seeking primary approval to replat Lots 1 & 2 of Schultz subdivision into a 4-lot single-family subdivision on 1.99 acres, located at the southwest corner of Old US 231 and CR 250 S, in Lafayette, Wea 6 (SE) 22-4.

Gary Schroeder moved to hear and vote on S-4738—CITATION HOMES MINOR SUBDIVISION (minor-sketch). Greg Jones seconded.

Sallie Fahey presented the zoning map, aerial photos and sketch plan, highlighting the two unimproved, wooded lots that were platted in 1947 that petitioner would like to replat into four lots. She said these lots became R1 in 1965 when *UZO* was adopted: they were rezoned to NB in 2001, and rezoned back to R1 in 2016. She referred to the site plan and explained that Lot #101 is larger because the setback on Old US 231 is larger. City water and sewer can serve these lots and the request conforms with the *UZO* requirements. The City plans to handle drainage during the permitting process. She summarized the remainder of the staff report and concluded with a recommendation of approval, contingent on the following conditions:

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

1. A "No Vehicular Access" statement shall be platted along the Old US 231 right-of-way line and 60' around the corner of CR 250 S.
2. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
3. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
4. All required building setbacks shall be platted.
5. The street addresses and County Auditor's Key Number shall be shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

6. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.

Clem Kuns, 105 North 10th Street, Lafayette, IN 47901, surveyor representing the petitioner, concurred with the staff report, agreed to the conditions and requested approval.

The Committee voted by ballot 13 yes to 0 no to grant conditional primary approval for S-4738—CITATION HOMES MINOR SUBDIVISION (minor-sketch).

i. S-4739--THREE MEADOWS SUBDIVISION, PHASE 1 (major-preliminary):

Petitioner is seeking primary approval of a 64 lot (plus 6 outlots) single-family subdivision on 25.825 acres, located on the east side of Klondike Road, just south of Lindberg Road, in Wabash 14 (NW) 23-5.

Gary Schroeder moved to hear and vote on S-4739—THREE MEADOWS SUBDIVISION, PHASE 1 (major-preliminary). Greg Jones seconded.

Sallie Fahey presented the zoning map, aerial photos and overall preliminary plat, with the land included in this request highlighted. The gray shaded area on the plat is the land included in a rezone case that will be heard later tonight. She said the land in this request and additional land in the northeast were recently rezoned to R1A. The two residential projects to the southeast, Orchard Subdivision and Appleridge at the Orchard PD were developed by the petitioner. Residential uses are adjacent to this site to the north, south, and west. The A zoned land to the east is included in an R1A rezone petition by petitioner and that case will be heard later this evening. She explained that access to the subdivision will be from Klondike Road, directly across Georgton Road in Green Meadows Subdivision. Three Meadows Drive extends to the east boundary to provide connection to the next phase. She summarized the stormwater and utility considerations and said the four other outlots are designed for landscaping and recreation. She concluded with a recommendation of approval, contingent on the following conditions:

CONSTRUCTION PLANS – The following items shall be part of the Construction Plans application and approval:

1. The sanitary sewer plans shall be approved by the West Lafayette City Engineer.
2. Indiana-American Water Company, Inc. shall approve the water plans.
3. The fire hydrants shall be approved by the Wabash Township Fire Department. Plans for

the actual placement of the hydrants shall be approved by the Indiana-American Water Company in cooperation with the Fire Department.

4. An Erosion and Sediment Control Plan and a Stormwater Quality Management Plan meeting the requirements of 327 I.A.C. 15-5 shall be submitted to the Tippecanoe County Soil and Water Conservation District and shall also be approved by the Tippecanoe County Drainage Board as required by Tippecanoe County Ordinance #2011-27-CM.
5. The County Drainage Board shall approve the drainage plans.
6. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. The assigned street addresses for each lot shall be included. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.
7. On the grading plan, the lowest floor elevation for any building pad within 100 ft. of the FP (Flood Plain) district shall meet the flood protection grade.

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

8. The "No Vehicular Access" restriction shall be platted along the Klondike Road right-of-way line, as shown on the preliminary plat.
9. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
10. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
11. Gateway signs, if any, shall be placed in an appropriate easement at the entrance.
12. All required building setbacks shall be platted.
13. The Regulatory Flood Elevation and Boundary shall be shown. It shall also be described and certified as specified in Unified Zoning Ordinance, Section 2-27-17.
14. The street addresses and County Auditor's Key Number shall be shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

15. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.
16. The purpose, ownership and maintenance of all outlot shall be specified.

David Kovich, PO Box 1623, Lafayette, IN 47902, petitioner, concurred with the staff report, agreed to the conditions and requested approval. He then explained that this subdivision will be similar to the Orchard Subdivision. He plans to save as many trees as possible and there are plans for a conservation district through the property.

Joel Ebarb, 1751 Klondike Road, West Lafayette, IN 47906, said he is not here to oppose this project and is here tonight to voice his concerns. He said he carefully reviewed the plans and pointed out the Flood Plain and waterway in the southeast corner that meanders through the entire property and runs into Jordan Creek. There is a drainage ditch/creek that runs along the side of his property where it abuts this site and takes a lot of the water from Green Meadows across his property and into the waterway. His creek/drainage ditch is not mentioned in the plans and he wants to make sure there are no alterations to what is a drainage system that works very well even though it moves thousands of gallons of water across his sloped property. He and his neighbors are also concerned about additional traffic on Klondike because there are no plans to widen Klondike around Drury Road.

Tom Murtaugh explained that Mr. Kovich will have to submit a drainage plan that will be reviewed by the County Surveyor and the Drainage Board.

David Kovich said there is a good chance this subdivision will go to the Drainage Board for approval in May. The Drainage Board meets the first Wednesday in May at 10:00am in this room.

The Committee voted by ballot 13 yes to 0 no to grant conditional primary approval for **S-4739—THREE MEADOWS SUBDIVISION, PHASE 1 (major-preliminary)**.

The Committee voted by ballot 13 yes to 0 no to permit bonding for **S-4739—THREE MEADOWS SUBDIVISION, PHASE 1 (major-preliminary)**.

B. REZONING ACTIVITIES

1. **Z-2708—BLACK WALNUT FARM, INC. (A to R1):**
Petitioner is requesting rezoning of 31.86 ~~38.01~~ acres for a proposed 14-lot single-family subdivision located on the west side of Newcastle Road approximately 1000' north of Wyandotte Road, in Sheffield 17 (S1/2), 20 (N1/2)

and Richardville Reserve (W ½) 22-3. CONTINUED FROM THE JANUARY APC MEETING DUE TO AN INCONCLUSIVE VOTE

Gary Schroeder moved to hear and approve Z-2708—BLACK WALNUT FARM, INC. (A to R1). Greg Jones seconded.

Ryan O’Gara presented the zoning map and aerial photos, and a non-binding development plan. He explained that this case was heard at the January APC meeting, resulting in an inconclusive vote. Staff researched the property after the Commission inquired about parent tracts at the January meeting. He then displayed the zoning map of this site showing the three remaining parent tracts outlined in yellow and said there are eight for sure and possibly nine division rights remaining. A question about the TIF District was also brought up at the January meeting and he explained that the entire farm is in the TIF District. This 14-lot subdivision would not generate any money for this part of the McCarty Lane Southeast Industrial TIF and likely will remove the possibility of a future industrial/commercial use locating here. Staff’s opinion has not changed and staff is concerned that if this request is approved it may encourage other farmers to do the same. Future development should be encouraged in areas that are contiguous to the existing urban area where utilities are available. Compact development prevents unchecked sprawl. and he concluded with a recommendation of denial.

Krista Jessee, 4750 Newcastle Road, Lafayette, IN 47905, thanked the Commissioners who voted in favor of this request last month because their vote shows their true compassion. She said her parents purchased the farm more than 60 years ago as a legacy for their family. Currently there are four generations living on the farm and it is not the family’s desire to sell any of the land however health care costs for her parents has drained their resources to where the farm is the only asset left. The family needs to subdivide some of the farm land to have the money to care for her remaining parent. The family has looked at many options based on the real estate market and learned subdividing the land is the best way to raise the most money to take care of her mother. The subdivision plan has been modified to optimize the return to raise enough money to support her mother for four to five years. The parcelization process suggested by the Commission last month will only generate enough money to take care of her mother for two years and will spread homes all along Newcastle Road. She pointed out that at some point city utilities will be available in this area. She said she is disappointed in the County for the following reasons:

- She was notified by an appraisal firm, not the County, that the County is taking three acres of the best farm ground to improve a road;
- Learned the entire farm is in the TIF district while going through this process; and
- The family is facing so many barriers to do the most logical thing for the use of family land to take care of a remaining parent.

She hopes the Commissioners with aging parents and deep roots to the ground they own can see their way through to approve this proposal to use this one field for the benefit of her family, the county, and the industrial expansion area.

Kathleen Smith, 8796 South US 231, Brookston, IN 47923, said the Commissioners were put on APC because of the people in the audience. The best interests of the citizens should be the primary concern. She said her family has lived, worked, and owned businesses in this county for almost 200 years. The family wants to take care of its aging mother using the only asset they have left. Industry does not want to come to a county where they have cracker barrel subsidized housing but would rather come to a county where there are nice homes to attract people to work in the factories. Industry wants white and blue collar housing in this county. She has lived with well water that comes from the Teays River. People want to live in nice homes on large lots in the country. Tippecanoe County needs to attract high class working people. The family farm should be able to be used to take care of her mother. The family should have been informed long ago that the farm is in the TIF district. She is disappointed in the county and the Commission.

Joseph Bumbleburg, PO Box 1535, Lafayette, IN 47902, attorney representing the petitioner, said this is a zoning case that poses interesting issues. The goal is to use the farm to take care of their elderly mother. He does not think subdividing this land will harm the community. Eight or none lots can be created on the farm without anyone’s permission. Help this family do what they think is the right thing to do.

Gary Schroeder asked if TIF Districts have expiration dates. He thinks something was passed that says TIF Districts run 10 years.

Tom Murtaugh replied that TIF Districts can run 10 years unless there is a bond issued on that. In that case the TIF District is extended for the period of the bond. This TIF is grandfathered so it will not expire. He went on to say he empathizes with the family on this issue but the APC is tasked with making a county-wide decision on the appropriateness of the request. He thinks the parcelization process is the answer and he appreciates Mr. Bumbleburg’s willingness to look into that process. He is concerned that approving this rezone request will open the flood-gates for all sorts of R1 requests in various rural parts of the county and that clearly is not where we want to go.

The Commission voted by ballot 4 yes to 9 no to recommend denial of **Z-2708—BLACK WALNUT FARM, INC. (A to R1)** to the Tippecanoe County Commissioners.

<u>Yes Votes</u>	<u>No Votes</u>
Tyrone Taylor	Gary Schroeder
Gerry Keen	Greg Jones
Diana Luper	Vicki Pearl
Perry Brown	Michelle Long
	Tracy Brown
	Larry Leverenz
	Dave Williams
	Jackson Bogan
	Tom Murtaugh

This case will be heard by the Tippecanoe County Commissioners at their March 5, 2018 meeting. Petitioner or his representative must appear.

2. Z-2714--M & C DEVELOPMENT, LLC (AW to R1):

Petitioner is requesting rezoning of 54.95 acres in a newly annexed part of the incorporated Town of Dayton, for a proposed, as-yet-unnamed subdivision of 110 single-family lots and three outlots, located on the east side of Dayton Road, between CR 375 S and the Dayton United Methodist Church property, in Dayton, Sheffield, fractional section 9 (W1/2) 22-3. *CONTINUED FROM THE JANUARY APC MEETING DUE TO A SIGN POSTING ERROR*

Gary Schroeder moved to table **Z-2714—M & C DEVELOPMENT, LLC (AW to R1)**. Greg Jones seconded and the motion was approved by unanimous voice vote.

3. Z-2716-SAGAMORE COMMONS, LLC (OR to GB):

Petitioner is requesting rezoning of 28.25 acres located on the west side of Sagamore Parkway, north of Cumberland Avenue, in West Lafayette, Wabash 1 (SE) 23-5. *WITH COMMITMENT.*

Gary Schroeder moved to allow the **COMMITMENT FOR Z-2716—SAGAMORE COMMONS, LLC (OR to GB)** and to hear and approve **Z-2716—SAGAMORE COMMONS, LLC (OR to GB)**. Greg Jones seconded.

Ryan O’Gara presented the zoning map and aerial photos, and non-binding site plan. He explained that this request includes a commitment, enforceable by the “developer, other subdivision land owners, and the City of West Lafayette”. The commitment includes a list of primary uses allowed by right in the GB zone that are excluded from locating in this development and an agreement regarding the “second means of ingress/egress” (western street) from the development to Cumberland Avenue. The agreement includes who would build it, pay for it, and have the right to use it. He said the staff report summarized the five attempts to rezone this property in the last few years and referred to the aerial to highlight the area land uses. He said a revised plat from Sagamore Commons Subdivision received preliminary approval in December but no construction plans or final plat have been submitted. He pointed out where Schem Court was going to connect to the Applebee’s property but now ends in a cul-de-sac. Although Sagamore Parkway is no longer a state route, INDOT still has authority over the right-of-way and road improvements. The developer plans to use only the middle one of the three existing openings. There is an existing break in the median of Sagamore Parkway that lines up with the proposed entrance. The entrance appears to be undersized from the heavy traffic along this road but the recorded documents establishing these access openings are by court order and staff believes the dimensions of the openings and the median break may not be changed. He referred to the site plan to show where Schem Court North and Schem Court South will provide access to five proposed lots along Sagamore Parkway and well as Lot 6. The right-of-way labeled “Potential Future West Lafayette Right-of-Way” will line up with a proposed entrance road from Cumberland Avenue between White Horse Christian Center and Four Points hotel and convention center. Staff has long stated that the future of this site is commercial and that GB zoning makes the most sense. The generation of a large volume of traffic near this already busy signalized intersection has been a major safety concern. A traffic study has been reviewed by INDOT and the design of a new driveway with a traffic light on Sagamore Parkway has been approved by INDOT. Plans regarding a new public street accessing Cumberland Avenue have been hammered out between the City of West Lafayette and the developer. Staff’s concern over traffic safety have been addressed and he concluded with a recommendation of approval.

Joseph Bumbleburg, PO Box 1535, Lafayette, IN 47902, attorney representing the petitioner, said last time the Commission heard this request it received a unanimous recommendation of approval. After the APC hearing an issue regarding the extra road popped up but that matter has finally been resolved. There have been extensive conversations with the City of West Lafayette that resulted in the commitment filed with the rezone request. The commitment excludes numerous uses and the site is now designed to allow people to sue the land but prevent uses that would offend the City of West Lafayette and its citizens. The ingress/egress issue has also been resolved. To everyone's satisfaction. Staff has stated that this site is now a truly commercial site. He added that this is the only time he has seen a judge in a condemnation case enter an order that specifies where driveways will be located and how they will be built. The judge's order has hung over this site for many years.

Ryan O'Gara read a letter of opposition from:

Jennifer Kerr, 1 Geddes Way, West Lafayette, IN 47906, President, Cook Research, Inc.,

Ed Garrison, 222 North Chauncey Avenue, West Lafayette, IN 47906, West Lafayette City Engineer, displayed the site plan and said the detention area mentioned in the staff report is on the far west end of petitioner's site and all drainage will be handled on this site. There was a miscommunication where Cook believed the existing detention on the Cook site will be used for drainage from this site. He responded to Ms. Kerr from Cook and explained the situation.

The Commission voted by ballot 13 yes to 0 no to allow the **COMMITMENT FOR Z-2716—SAGAMORE COMMONS, LLC (OR to GB)** to the West Lafayette Common Council.

The Commission voted by ballot 13 yes to 0 no to recommend approval of **Z-2716—SAGAMORE COMMONS, LLC (OR to GB)** to the West Lafayette Common Council.

This case will be heard by the West Lafayette Common Council at its March 5, 2018 meeting. Petitioner or his representative must appear.

4. Z-2717--DAVID C. KOVICH (A & R1B to R1A):

Petitioner is requesting rezoning of 15.65 acres to expand Three Meadows subdivision by adding 15 single-family lots adjacent to the east. The site is located south of Lindberg, east of Klondike, and west of the railroad tracks in Wabash 14 (S1/2) 23-5.

Gary Schroeder moved to hear and approve **Z-2717—DAVID. C. KOVICH (A & R1B to R1A)**. Greg Jones seconded.

Rabita Foley presented the zoning map and aerial photos, non-binding conceptual layout, and the preliminary plat for Phase 1 of Three Meadows Subdivision that was approved earlier tonight. She summarized the zoning history and referred to the aerial to highlight the area land uses. She highlighted the property to the west that was rezoned to R1A last month for Three Meadows Subdivision and said this site will be part of that subdivision. She then explained that petitioner's surveyor has submitted a legal description that removes all FP from this request and the flood plain will be delineated in the subdivision process. She summarized the area land use and zoning pattern. The conceptual layout shows a new street connecting to the west to Phase 1 of Three Meadows Subdivision and a potential trail connection to the Orchard Subdivision south of the pond that may be included in the Subdivision. She said this property has no public road frontage and is landlocked between Three Meadows to the west and the railroad tracks to the east. Staff can support this request because the predominant land use surrounding this site is single-family homes. She concluded with a recommendation of approval.

David Kovich, PO Box 1623, Lafayette, IN 47902, petitioner, said the subdivision portion of the site was rezoned in December and he is embarrassed to say he forgot to include this land in that rezone. He explained that he is asking for R1A zoning to be able to offer different products. It is easier to go up from R1A than down from R1. He concurred with the staff report and requested a positive recommendation.

Ken Mazurek, 212 East Pine Avenue, West Lafayette, IN 47906, said he would like some information about the bufferyards that will be installed between this property and East Pine.

Tom Murtaugh explained that both properties are residentially zoned so no bufferyards are required. He then asked staff what the minimum setback is.

Sallie Fahey said there will be a 25' rear setback.

Ken Mazurek asked the Commission to consider requiring a bufferyard or tree line be installed between the lots and the adjacent lots on East Pine.

Sallie Fahey pointed out that petitioner's property that abuts the properties on East Pine was rezoned in December.

Tom Murtaugh suggested Mr. Mazurek plant some trees at the rear of his property.

Ken Mazurek said there is a storm sewer/manhole on the site and he was told it is on an easement. He asked if petitioner will be using that storm sewer easement or if a new easement will be created.

Tom Murtaugh said Kyle Betz, petitioner's surveyor who is present at tonight's meeting, will answer that question.

The Commission voted by ballot 13 yes to 0 no to recommend approval of Z-2717—DAVID C. KOVICH (A & R1B to R1A) to the Tippecanoe County Commissioners.

This case will be heard by the Tippecanoe County Commissioners at their March 5, 2018 meeting. Petitioner or his representative must appear.

2. Z-2714--M & C DEVELOPMENT, LLC (AW to R1):

Petitioner is requesting rezoning of 54.95 acres in a newly annexed part of the incorporated Town of Dayton, for a proposed, as-yet-unnamed subdivision of 110 single-family lots and three outlots, located on the east side of Dayton Road, between CR 375 S and the Dayton United Methodist Church property, in Dayton, Sheffield, fractional section 9 (W1/2) 22-3. *CONTINUED FROM THE JANUARY APC MEETING DUE TO A SIGN POSTING ERROR*

Gary Schroeder moved to hear and approve Z-2714—M & C DEVELOPMENT, LLC (AW to R1). Greg Jones seconded.

Ryan O'Gara presented the zoning map and aerial photos, and non-binding site plan, pointing out the natural buffering to the north, east, and south with partial buffering to the west. He summarized the zoning history, explaining that the two most recent rezoning attempts for this property failed. In 2004 a rezone petition to R1A was withdrawn and a rezone petition to R1 and R1A was denied by the County Commissioners. The predominant land use character of the vicinity is one of residential transitioning to agricultural as you exit the town's corporate limits. He said the non-binding lot layout shows a single entrance onto Dayton Road but does not include details for acceleration and/or deceleration lanes so the Town of Dayton will determine if they are needed during the subdivision review process. The town annexed this property in July 2017 and its accompanying fiscal plan details the intent to provide the property with public water and sewer once the developer has extended the utilities at his own expense. Most of Dayton's residential growth has been on the northwest side of town. High-density residential zones were either denied or amended to lower-density zoning by petitioner since the adoption of Dayton's Land Use Plan in 1981. With the adoption of a *Second Amendment to the Adopted Land Use Plan for Dayton and Vicinity* in 1996, certain areas surrounding the town's corporate boundaries (including the subject property) were planned for low-density residential expansion once public utilities became available. The *Plan* is specific in that it states low-density housing corresponds to about 3.5 units per acre. Petitioner is proposing 100 lots with a residential density of 2.0 units per acre. The staff recommended denial for the 2004, R1A rezone request but stated that the recommendation would be changed to approval "with a written commitment from the Town of Dayton to serve this subdivision with sanitary sewer and water". Since sanitary sewer and water has been taken care of, staff can recommend approval.

Ryan Munden, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, said the developers are present tonight and they all agree this product will be a great addition to the Town of Dayton. The homes will be \$300,000 to \$400,000 and the subdivision will be called Baker Farms. Everyone has been working on this project for over a year and he informed the Commissioners that they will be hearing from a very small group of very vocal people who are against development in Dayton. Over the last year it has become very apparent to that majority of the residents of Dayton are in favor of development. The remonstrators have a petition opposing this rezone that has been signed by individuals that make up 8% of Dayton residents. He added that only half of the signatures on the petition have Dayton addresses. He noted that 92% of the residents of Dayton did not sign the petition despite how passionate the "Keep Dayton Small" group is. The theme of the remonstrance letters that will be read into the record tonight is that this development is not appropriate for the town but the truth is Dayton has been preparing for this type of development for years. When the church expanded they negotiated a larger water main in order to provide for future growth to the south. Dayton's Land Use Plan provides for this development and this development comes in at 82 lots under what the town's plan can support. He concurred with the staff report but disagreed where it said the cost for the water and sewer extension would be paid for by the developer. That is not entirely correct because who pays for the water and sewer extension will be negotiated as part of the subdivision process.

Zach Williams realizes there are many people who wish to speak tonight and the Commission appreciates the public's comments and thoughtful insight into this petition but the APC rules limit all comments to five minutes. He will

try and remind the speakers when they have one minute left. He asked all those wishing to speak to sign in at the staff desk before getting in line to speak. He asked everyone to focus the comments only on the issue before the Commission. The Commission is tasked with making a recommendation to the Dayton Town Board on the appropriateness of rezoning this property to R1. He asked the speakers not to repeat the point made by others, including the points made in the letters that will be read into the record.

Vicki Pearl said those people submitting a letter will not be able to speak at the meeting tonight.

Zach Williams said that is correct.

Ryan O'Gara read letters of support from:

Mike Harris, 6912 State Road 38 East, Dayton, IN 47941, Tammi Nice, 753 Ohio Street, Dayton, IN 47941, & Ashley Stevenson, 7400 Wesleyan Drive, Dayton, IN 47941 (submitted three identical letters – only one letter read),
Susan Clawson, 295 Conjunction Street, Dayton, IN 47941,
Bryan Steele, 749 Walnut Street, Dayton, IN 47941,
Scott Swick, 216 Dryer Drive, Dayton, IN 47941, and
John D. Swick, 746 Shady Lane Ct., Dayton, IN 47941

Ryan O'Gara circulated a petition in opposition with 272 signatures to the Commissioners.

Ryan O'Gara read letters of opposition from:

Cinde Shockey, 708 Walnut Street, Dayton, IN 47941,
Cathie Hardebeck, 7701 Adams Road, Dayton, IN 47941,
Peggy & Alan Ket, 288 Harrison Street, Dayton, IN 47941,
Jackie Rumler, 691 Walnut Street, Dayton, IN 47941,
Rita & Thomas Neal, 291 Harrison Street, Dayton, IN 47941,
Phyllis Emmons, 5815 SR 38, Dayton, IN 47941,
Mark & Sunny Anderson and Chloe Conner, 251 Prairie Lane, Dayton, IN 47941,
Malinda Kincaid, 728 Walnut Street, Dayton, IN 47941,
Dale & Norma Hayes, 760 Walnut Street, Dayton, IN 47941,
Roger & Marsha Coons, 730 Shady Lane, Dayton, IN 47941,
Narda Justice, 7920 SR 38 East, Lafayette, IN 47905,
Jaime Wheeler, 737 Turkey Run Court, Dayton, IN 47941,
John & Debra Glover, 6903 SR 38 East, Lafayette, IN 47905,
Roma Roberson, 271 Conjunction Street, Dayton, IN 47941,
Ron Koehler, 749 Shady Lane, Dayton, IN 47941,
Al Beavers, 758 Main Street, Dayton, IN 47941,
Sue Kyger, 750 Shady Lane, Dayton, IN 47941,
Anita & Carl Franz, 6805 SR 38 East, Lafayette, IN 47905,
Michael & Renee Siefers, 736 Shady Lane, Dayton, IN 47941,
Paula & Lanny Hahn, 736 Turkey Run Court, Dayton, IN 47941,
Marjorie Richard, 270 Dayton Road, Dayton, IN 47941,
Charlene Luther, 3120 Dayton Road South, Dayton, IN 47941,
Jeffrey Cornell, 7132 East 460 South, Lafayette, IN 47905,
Glenn & Martha Fitzmaurice, 264 Dayton Road, Dayton, IN 47941,
Jason & Wendie Vanette, 7637 Adams Road, Lafayette, IN 47905, and
Brian Cornell & Brett Winger, Dayton Methodist Church, PO Box 40, Dayton, IN 47941,

Support

Suzanne Swick, 746 Shady Lane, Dayton, IN 47941, said when she moved to Dayton in 1970 there was a lumber yard, a bank, a grocery store, a full-service gas station, a funeral home, and an antique store but today they are all gone. The people wanting to keep Dayton small have done a very good job of it. She thinks all the petty stuff going on needs to stop. She is in favor of this subdivision because she does not want Dayton to become a Clarks Hill or a Stockwell.

Dave Leininger, 746 Shady Lane, Lafayette, IN 47941, said he has lived in his home for almost 30 years and he can see this annexed farm field from his living room and also from his kitchen. The proposed subdivision is a welcome addition to Dayton for the following reasons:

1. Financially, Baker Farms will provide more funding to the town. He then explained how utility services are funded and maintained. He knows utility rates will change over time but they will change at a pace that is needed to match the cost of acquiring water and wastewater services that are purchased from Lafayette;

2. The schools have been talked about as a quality of life issue but the schools are not overcrowded. He learned from the Tippecanoe County School Corporation Superintendent that Dayton Elementary and Wainwright Middle School are operating below capacity. TSC serves 13,300 students in a 437 sq.mile area and the Town of Dayton is only 1 sq. mile;
3. The average daily traffic count is published and not trended at a rate that professionals know to be out of the norm for a major road in a rural area. The proposed 110 homes will be built over several years; and
4. This APC meeting is one of several that have been held during the annexation process where residents have had the opportunity to voice their support or opposition.

Ron Merkel, 756 Shady Lane, Dayton, IN 47941, thinks this subdivision will be good for Dayton and it has been in the Dayton plan for years. R1 development is what Dayton wants and needs.

Lena Merkel, 756 Shady Lane, Dayton, IN 47941, Dayton Clerk-Treasurer, said this development will be an asset to the town and agrees that it is revenue neutral as it sets but the development will work its way into the assessment bank as the subdivision develops over a six-year period. The tax levee from this development will provide any future revenue the town needs to maintain services. She is concerned about providing services years down the road if Dayton does not embrace development. Dayton has to maintain the utilities in this subdivision and provide service no matter how many homes are in the development. A lot of residents were led down the wrong path about this development and also lied to. This development will be a great asset to the town and its residents.

Melinda Carson, 6534 SR 38 East, Lafayette, IN 47905, said SIA put Dayton on the map over 30 years ago and she wants to see Dayton grow in a positive way. The local schools are at 80% capacity now and the state will take care of the traffic on SR 38. She thinks people fear change.

Vickie Leininger, 764 Shady Lane, Dayton, IN 47941, said she is in favor of this subdivision. She likes people and she likes to have neighbors and she is looking forward to meeting new neighbors.

Lisa Stevenson, 7400 Wesleyan Drive, Dayton, IN 47941, said she is looking forward to Baker Farms because it is something the community does not have now. The homes will be beautiful and the subdivision will be a nice addition to Dayton.

Kathy Ensanger, 378 Main Street, Dayton, IN 47941, said she has lived in Dayton only for a couple of years but she has visited her sister many times over the years. She thinks new housing in Dayton will be great. A lot of businesses have left Dayton but several new businesses have opened that need customers.

Opposition

William Baugh 624 South Street, Lafayette, IN 47904, founder of the Wabash Valley Trust for Historic Preservation, said he is speaking on behalf of Indiana Landmarks and the National Trust. Dayton and Lafayette are tourist destinations about half way between Indianapolis and Chicago. People visit here, stay overnight, and spend money in the community. Dayton is an attraction and a precious jewel set amongst the crown of state parks, Tippecanoe Battlefield, etc. He asked all those opposed to the request to stand. Several audience members stood. Dayton is faced with its very life and whether it will continue to grow as it has or whether it will be a chain of fast foods and gas stations.

Mike Davis, 758 South Street, Dayton, IN 47941, said he moved to Dayton 20 years ago. He said there were only seven letters and eight speakers who support this request. Twenty-six letters of opposition were read into the record and 272 people, 8% of Dayton residents, signed a petition of opposition. The Dayton Town Board is not listening to the residents. He added that even though 92% of Dayton residents did not sign the opposition petition that does not mean they are in favor of this request. At one time Dayton Elementary needed portable classrooms but that is no longer the case. He would like to see it stay that way. Next week the Town Board is proposing a tax increase and spoke in favor of the increase. Dayton had to cut police staff and that is not a good thing. He believes Dayton has to grow by increasing taxes or the number of residents but now the Town Board is proposing to do both.

Christine Matthys, 270 Washington Street, Dayton, IN 47941, she looked for two years before purchasing her home in Dayton. Her home had to be in a small town, with good schools, and close to where she works. She had to totally remodel her home but that was fine with her because the home satisfied all her important requirements. Shortly after she moved in she noticed the "Keep Dayton Small" signs. She did research on the proposal to be better informed and she is very concerned that the proposal presented tonight is non-binding. The Town Board is not answering questions. She still does not know who will pay for the utility extensions even though the APC staff report states the developer will pay to extend the utilities. She feels disenfranchised by the current Town Council and added that there is a lack of transparency. APC staff estimates that this subdivision will generate ten trips per day per house. She asked the Commission to delay this project until a comprehensive study showing the expected utility costs along with a plan to handle the increased traffic in a responsible manner and a binding agreement with the developer. The

Dayton Council expects the citizens to be happy writing a blank check to the developer. The town has already been let down by its own government. She asked APC to restore the Dayton citizens' faith in government and vote no on this proposal.

Zach Williams reminded everyone to try not to repeat points that have been brought up by others. He then asked that the comments remain focused only to what this Commission is ruling on. The comments regarding the Dayton Council do not apply to what the Commission is addressing tonight.

Jennifer Manago, 625 Harrison Circle, Dayton, IN 47941, said she knows the Commission focuses on the appropriate use of land when considering a rezone petition. The land in this request might be appropriate for R1 zoning but only if commitments are attached guaranteeing one acre or larger lots. An R1 plan suitable for Lafayette is not a suitable R1 plan for this rural land. Approving the rezone without a binding site plan opens the door to anything that fits in the R1 zone. R1 zoning on this site would allow for 192 lots. A majority of the citizens of Dayton feel this request is not appropriate for the community and not appropriate for the town. APC should listen to the citizens of Dayton because they know their town best and believe it is worth fighting for.

Gary Schroeder said the Commission has heard comments on the following issues:

- Traffic,
- Schools,
- Growth of Dayton,
- AW zoning,
- Rural development,
- Cost of utility extension,
- Who is paying for utility extension,
- Small town,
- Growth of population,
- Lack of commitment,
- No benefit to Dayton,
- Property values,
- Number of houses,
- Street parking,
- Small lots,
- Future growth,
- Location of subdivision,
- Railroad crossing,
- Poor planning,
- Inappropriate zoning,
- Town Council,
- Town being sued,
- Dayton fiscal plan,
- Wildlife, and
- Developer.

Tom Murtaugh asked the remaining speakers not to repeat objections previously expressed in the letters that were read into the record and previous speakers.

Gordon Hardebeck, 7701 Adams Road, Lafayette, IN 47905, said he owns the 32 acres of woods adjacent to the east of this site and added that he has worked 5 to 6 years making trails through his woods. He is worried that we will have another Delphi with all the houses going in. He does not know how he will keep people out of his woods and is concerned children will get hurt in the woods.

Linda Bell, 255 Prairie Lane, Dayton, IN 47941, said change is a guarantee but change is scary when you do not have all the information about what is going to happen. Those opposed to this rezone hope the APC Commissioners are the first people to listen to the citizens of Dayton. Dayton residents want more information and Dayton is not dying. There are positives to building a subdivision on the site and not one person she talked to is opposed to a small subdivision but everyone told her they want more information. She hates the fact that the site plan is non-binding. Several citizens asked the town to do a survey or hold a vote to see how many people in Dayton really want this subdivision but neither happened. She asked the Commission to vote no on the proposal until the residents can get their questions answered.

Stan Kyger, 750 Shady Lane, Dayton, IN 47941, said APC staff has been called to Dayton over conceived problems with the "Keep Dayton Small" signs. He thinks there are over 100 signs in town and that means there are a lot of

people that are against this subdivision but they won't speak out because they have been intimidated by the Town Council.

Cindy Marsh, 749 Shady Lane, Dayton, IN 47941, said there are more people present who would like to speak against this request but it would have been redundant. There is wide opposition to this proposal in Dayton and they have asked for a vote but there wasn't one because the Council knows what the results would be. She asked the Commission to table or continue this request. The plan presented tonight is non-binding and there is an issue with the fiscal plan. A lawsuit has been filed against the town that will be withdrawn if the developer states he will pay to have the utilities extended. The Town Council had concerns about maintaining Dayton's small town atmosphere when SIA came to town and the Council, along with agencies conducted a study to gauge and minimize the impact. The citizens want a comprehensive study regarding the impact of this subdivision. She learned the informal estimate to install the infrastructure will be over \$500,000. She concluded by saying respectful development is welcome but the town and citizens need all the information first.

Margaret Saunders, 3703 Dayton Road, Lafayette, IN 47905, said she owns property adjacent to this site but she does not live in Dayton. The decision made tonight will affect life for more people than just those who live in Dayton. She has no vote for the Dayton Town Board and very little say in what the Board decides. APC decisions affect the entire county.

Ryan Munden said several people are asking for a smaller development but 110 lots are being proposed and that is 82 lots under what is allowed on R1 zoned land. The current plan is to build 15 homes per year over the course of seven to ten years. He spoke with TSC and was told 100 homes are not a concern because right now Dayton Elementary is at 75% capacity. He referred to the lawsuit against the town that was mentioned earlier and explained that the lawsuit has been dismissed twice as being meritless and is currently on appeal. He concluded by stating that four of the five Town Council Members support this request.

Dave Williams explained that the APC vote is non-binding and serves a recommendation to the Dayton Town Board who will ultimately have the final vote.

Tyrone Taylor said he is the Dayton Town Board representative serving on the APC. He believes some of the opposition used scare tactics like utility bills, school over-crowding, traffic issues, etc. to turn people against this proposal. He added Cindy Marsh is the wife of the lone Dayton Council Member who is against this request. He has a letter from the property owners saying the one Council Member against this proposal tried to purchase this property even though the land is under a purchase agreement and contacted the property owners several times since his proposal was rejected. He explained that Dayton had 12" instead of 8" water lines put in all the way to the church for further growth. The Town has a contract and the church to only run to the end of their property and not have to run across the open field to the new development. Dayton is having a residual problem with water and cannot get the water moved enough. That means if this request is turned down, Dayton will have to get a looper system that will cost at least \$500,000 and up to \$1,000,000 just to circulate the chlorine through the system and result in a rate increase. The average house lot size in Dayton is under 10,000sq.ft. and this proposal is for 15,000 sq.ft. lots; larger than what the R1 zone allows. He thinks many people are misinformed about the size of their lots because there are very few lots close to 15,000 sq.ft. in Dayton. The average cost of a home in Dayton is \$150,000 and these homes will start at \$300,000. Right now Dayton Elementary is an open school because there are not enough students in Dayton to fill the school meaning that students from anywhere in Tippecanoe County can attend Dayton Elementary.

Tom Murtaugh asked staff or counsel to explain the typical non-binding site plan that was submitted with the rezone request.

Ryan O'Gara said there is not a requirement in the ordinance to submit a site plan with a conventional rezone. The only exception to that is planned developments because in that case the plan is the zone. A developer often includes a conceptual drawing with a rezone to provide more information to make their case.

Tom Murtaugh understands the site plan is non-binding but noted that the subdivision has to meet the ordinance requirements for the R1 zone.

Ryan O'Gara said the developer will submit a subdivision plan if the rezone is approved.

Sallie Fahey clarified by stating that subdivision plans are usually not required with a rezone request. Conceptual concept plans of how the subdivision could look, and to give everyone an idea of the land capacity, must be filed with the rezone request when the zone is going from a non-development zone to a development zone. She further explained that all zoning districts have a set of parameters and there is never a rezoning case where a binding development plan is required unless the request is for a planned development zone. There can be, by law, nothing binding at this stage except the standards of that zoning district.

Michelle Long understands the proposal is for 110 lots but it was mentioned that R1 zoning would allow 192 lots. She asked if there is a calculation that can be used to determine how many lots would be allowed per acre in an R1 zone.

Sallie Fahey said it is not easy to calculate how many lots are possible in an R1 zone because it depends on the shape of the land, drainage, street layouts, etc. R1 zoning has a minimum lot size but we cannot determine the exact number that can fit on the property. She went on to say on average you can get 3.5 lots per acre.

Jackson Bogan pointed out that the non-binding plan shows fewer lots than what is allowed in the R1 zone.

Tracy Brown said the Plan Commission is only determining the appropriateness of the zoning for this area. The cost of extending the utility service to this location has been brought up numerous times tonight but APC does not consider that.

Tom Murtaugh thanked everyone present for their comments. He explained that the APC meeting continues after the vote and he asked those leaving after the vote to please leave quietly.

The Commission voted by ballot 12 yes to 1 no to recommend approval of **Z-2714—M & C DEVELOPMENT, LLC (AW to R1)** to the Dayton Town Council.

<u>Yes Votes</u>	<u>No Vote</u>
Gary Schroeder	Diana Luper
Greg Jones	
Vicki Pearl	
Tyrone Taylor	
Tom Murtaugh	
Jackson Bogan	
Gerry Keen	
Tracy Brown	
Larry Leverenz	
Dave Williams	
Michelle Long	
Perry Brown	

This case will be heard by the Dayton Town Council at its March 5, 2018 meeting. Petitioner or his representative must appear.

V. ADMINISTRATIVE MATTERS

None

VI. APPROVAL OF THE MARCH EXECUTIVE COMMITTEE AGENDA

No Cases Filed

VII. DETERMINATION OF VARIANCES – AREA BOARD OF ZONING APPEALS

Gary Schroeder moved that the following requests for variance from the Unified Zoning Ordinance are not requests for use variance, prohibited from consideration by ordinance and statute:

BZA-1974—IMRAN KAZEM, and
BZA-1975—MICHAEL & KAY SOLOMON

Greg Jones seconded and the motion was approved by unanimous voice vote.

VIII. DIRECTOR'S REPORT

Sallie Fahey said she would like to emphasize the upcoming US 231 Land Use Plan. The public comment period ends at the end of February and Ryan O'Gara will make an advance presentation to the Ordinance Committee at the March 7th meeting. She invited other Commissioners not on the Ordinance Committee to attend. The Plan is on the APC website home page and he will gladly send the link to the Plan to anyone who is interested.

Tom Murtaugh asked when the Plan will be presented to APC for a vote.

Sallie Fahey said hopefully the Plan will go to APC in April and to the West Lafayette Common Council in May.

IX. CITIZEN COMMENT AND GRIEVANCES

None

X. ADJOURNMENT

Gary Schroeder moved to adjourn. Greg Jones seconded and the motion carried by voice vote.

The meeting adjourned at 9:15 p.m.

Respectfully Submitted,



Linda M. Underwood
Recording Secretary

Reviewed By,



Sallie Fahey
Executive Director