

STATE OF INDIANA)
)
COUNTY OF MONROE)

**TOWN OF ELLETTSVILLE PLAN COMMISSION’S WRITTEN FINDINGS OF FACT,
CONCLUSIONS, AND DECISION REGARDING IN RE PETITION NO. 2016-09**

Plan Commission Docket Number PC 2016-09
Proposed Development Plan for Litten Apartments, 7477 West Raymond Run
Petitioner: Quality Realty & Development, LLC

This matter came before the Ellettsville Plan Commission (“Board” or “Plan Commission”) on the application (“Application”) of Petitioner Quality Realty & Development, LLC (collectively “Applicant,” “Petitioner,” or “Quality Realty”) for development plan approval for apartments to be located at 7477 West Raymond Run, next to the Litten Estates subdivision (“Litten Apartments” or “Litten Apartments property”).

The Board, having conducted public hearings on the Application on April 7, 2016, and July 7, 2016; having accepted testimony during said hearing from the Applicant’s representative, Philip O. Tapp, Professional Land Surveyor (“Tapp”) and Applicant’s attorney, Bill Beggs and from opponents of the Application; having received and reviewed a variety of materials relating to the Application, including the staff report dated March 24, 2016 and the amended staff report dated June 29, 2016; all documents submitted by the Petitioner, and all documents submitted by those in opposition to the development plan, the Town of Ellettsville’s Ordinances and Chapter 153, “Subdivision Regulations”; having reviewed the Indiana Code and reported judicial opinions; having been duly advised in the premises; and, having denied the Application by a vote of 6-0 upon motion by David Drake and a second by Brian Mobley, the Plan Commission hereby makes the following written findings of fact and conclusions in support of its decision as required by the Ellettsville Town Code and Indiana Code 36-7-4-1406.

Application and hearing—Findings

1. Section 152.129 of the Ellettsville Town Code sets forth the factors which the Plan Commission shall consider when considering a development plan, which are as follows:

**§ 152.129 COMPLIANCE WITH COMPREHENSIVE PLAN,
SUBDIVISION AND ZONING ORDINANCES.**

(A) Before plan approval shall be granted, the Plan Commission and/or Director of Planning Services shall determine if the development plan complies with the provisions of the comprehensive plan and the subdivision and zoning ordinances. The proposed development plan shall be submitted to the Town Supervisors for their technical review prior to plan approval being granted.

(B) In making its determination, the Plan Commission and Director of Planning Services shall review the development plan for but not limited to the following:

(1) Compatibility of the development plan with surrounding land uses;

- (2) Compatibility of the development plan with the recommendations of the comprehensive plan;
 - (3) Adequate provisions for internal management of traffic;
 - (4) Analysis of the capacity of adjacent streets to ensure that adjacent streets can safely and efficiently accommodate the additional traffic generated by the development;
 - (5) Adequate provisions for public facilities and infrastructure, and provisions for extension of infrastructure to adjacent developable properties;
 - (6) Provisions for the allocation of land for streets, parks, schools, public and semi-public buildings, homes, businesses and industry, as appropriate;
 - (7) Adequate on-site management of stormwater, and erosion control;
 - (8) Adequate provision for green space and or landscaping;
 - (9) Adequate provision for buffering to significantly reduce the visual impact of dissimilar developments;
 - (10) Adequate protection of existing limestone structures; and
 - (11) Provision of pathways, trails and our sidewalks for all non industrial developments.
- (C) However, compliance with these provisions shall not exclude other provisions of the comprehensive plan or other conditions favorable to health, safety and convenience, and the harmonious development of the territorial jurisdiction.

A true and authentic copy of Section 152.129 is attached hereto and incorporated herein as "Exhibit A."

2. On or about February 22, 2016, Tapp filed on behalf of Applicant an Application seeking the Board's approval for a development plan for 72 apartments to be built at the northeast corner of Raymond Run and State Road 46 in Ellettsville, Monroe County, Indiana. Joe Smith and Jill Smith are the owners of Quality Realty and the contractors for the proposed apartment complex. A copy of the Application is attached hereto and incorporated herein as "Exhibit B."

3. The property on which the apartments are to be built was annexed into Ellettsville in 2008 as C-3, or General Commercial, which allows for multi-family residential dwellings. The Litten Estates subdivision, which consists of single family homes and is located adjacent to the Quality Realty property, was annexed into Ellettsville in 2004.

4. The Application incorporated a site plan, landscape plan, utility plan, and deeds.

5. The Application originally requested approval for a 72 unit apartment project. The apartments were to be built on 4.36 acres.

6. The application was assigned docket number PC 2016-09 and was scheduled for public hearing on April 7, 2016.

7. Public notice of the date, time, place, subject matter, and subject property of the hearing, as set forth in the Application, was published in *The Ellettsville Journal* on March 23, 2106. A tcopy of the newspaper notice is attached hereto and incorporated herein as "Exhibit C."

8. The notice of the hearing was published at least ten days prior to April 7, 2016.

9. *The Ellettsville Journal* is a newspaper of general circulation published in Monroe County, Indiana.

10. On March 17, 2016, 2016, the Applicant caused notices of the April 7, 2016 hearing to be mailed to property owners by certified mail, return receipt requested. A copy of the notice is attached hereto and incorporated herein as "Exhibit D." The names and addresses of the homeowners to whom the notices were sent is attached hereto and incorporated herein as "Exhibit E."

11. The following Board members attended and participated in the April 7, 2016 Plan Commission meeting: Terry Baker, Brian Mobley, Don Calvert, Pat Wesolowski, Kevin Farris, David Drake and Sandra Hash.

12. At the April 7, 2016 meeting, Ellettsville Planning Director Kevin Tolloty presented his staff report, a true and accurate copy of which is attached hereto and incorporated herein as "Exhibit F." Tolloty noted that an apartment complex of the size contemplated would generate an additional 479 daily trips in and out of the complex, according to the Institute of Transportation Engineers Trip Generation Manual. During the peak traveling time in the evening, an additional 45 trips in and out Raymond Run would be expected. A true and accurate copy of Tolloty's Trip Generation Report is attached hereto and incorporated herein as "Exhibit G."

13. A number of individuals opposed to the project expressed their concerns about the project during the April 7, 2016 meeting. No one spoke in favor of the Application other than Petitioner's representative. No letters of support were presented for the Application.

14. Generally, those in opposition to the development plan had concerns about the additional traffic that would be generated, lack of adequate buffering, safety hazards, and the need for an apartment complex of such a size and scale in Ellettsville.

15. The following individuals spoke against the Application at the April 7, 2016 meeting and expressed their concerns about the project:

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

Vicki Zore lives in the house across from the entrance of the proposed apartments. She was told the intent was for it to be commercial with a restaurant and businesses such as a doctor's office and she was fine with this.

Apartments were not mentioned. When she backs out of her driveway she backs onto a pile of gravel. All she thinks about are the number of cars coming in and out of the complex that will impact her as well as property values. They all built and bought nice homes with the intention of having a certain level and style of living. The apartment complex really

diminishes this. She doesn't want to be looking at a towering apartment complex hovering over her home. This isn't a needed use of this property. Who is going to be responsible for the integrity of the apartment complex and keeping it up to the standards of the rest of the neighborhood? For the most part they think they built their dream homes and she feels it is being blown away. With property values, integrity of the neighborhood, safety and traffic – she doesn't see it.

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

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

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

Mike Stanley and his wife moved here one and a half years ago after retiring from teaching at Owen Valley High School for 38 years. They were told there might be a Walgreens but

apartments were not mentioned. In Spencer, they've seen four or five apartment complexes built but not at this proposed scale. The crime element has not been discussed. He doesn't know what the criteria is for the apartments or what the income level is but in Spencer some of these apartments are riddled with crime. He and his family try to stay away from this element.

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

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

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

his kids. They can clearly get an example of what the community really wants and what Ellettsville should be.

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

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

Jeyona Leano Flores and her husband just moved into Litten Estates. If they would have known about the apartments they would not have chosen Litten Estates. They just left an apartment in Bloomington. Ellettsville feels more family oriented. They chose Litten Estates because of the children playing in the street, friendliness and low crime. She hopes they take into consideration how family oriented Litten Estates is.

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

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

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

Jaime Pruett moved here two years ago and fell in love with the area for its proximity to the schools, location, how pretty it is and nice families in the area. They specifically asked what the commercial is zoned for. Mr. Payne told them it would be a restaurant or small business. To put an apartment complex of such size causes concern about crime. What are

the criteria going to be? Is it going to be a Section 8 moving lower income into this area? This is a concern. They really like Ellettsville and are happy to be a part of it.

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

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

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

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

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

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

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

Tom Gardiner summarized the people who spoke did not say anything against commercial use for the land. Everyone is against the apartments. There is nothing that cannot negatively impact property values and all of these problems with that property if it includes apartments. This is why he is against a continuance. If they come up with another plan they're all for it but it is the apartments they're against. A new plan is a different subject and topic for another day. Mr. Farris remarked the petitioners have been friendly throughout the meeting, they need an opportunity to absorb all of this and they're going to meet with the homeowners.

16. During the meeting, Plan Commission members expressed their concerns about the additional vehicles which would use Raymond Run for ingress to and egress from along State Road 46. Tapp explained that the Indiana Department of Transportation prefers not to have another commercial entrance along that particular stretch of State Road 46 because of the curve and site distance. Residents of the apartment complex would have to use the entry on Raymond Run to turn onto or off of State Road 46.

17. Plan Commission member Pat Wesolowski noted that State Road 46 is single lane going east and west with a turn lane in the middle. He expressed concern about the west bound traffic on 46. From his own personal experience, it took him an additional seven minutes to turn into Litten Estates at a non-peak time of day. He has observed traffic coming down the hill at 45 miles per hour in a 34 mile per hour zone while 20 cars were waiting to turn left into Litten Estates.

18. Plan Commission member Brian Mobley stated that he travels to Spencer three days a week and has difficulty trying to turn out of the development onto State Road 46 from Raymond Run.

19. Plan Commission President Terry Baker commented that the traffic on State Road 46 is "horrendous."

20. Plan Commission member Don Calvert expressed concerns about the amount of additional traffic that would come out of the neighborhood if the apartments were built.

21. Plan Commission members David Drake and Pat Wesolowski expressed concerns about the compatibility of the proposed apartment complex with the surrounding land uses and neighborhoods.

22. Plan Commission member David Drake commented that the back of the two story apartment buildings would face the single family residential homes to the west and south. Tapp agreed that because of the hill coming down to Raymond Run, the apartment units appear to be three story units.

23. Toward the end of the April 7, 2016 meeting, Tapp, the Applicant's representative, asked the Board to continue the matter to its June meeting. Upon motion by Pat Wesolowski with a second by David Drake, the Plan Commission continued the matter to its June meeting.

24. A copy of the Minutes of the April 7, 2016 Plan Commission meeting are attached hereto and incorporated herein as "Exhibit H."

25. Upon request by the Applicant's attorney prior to the June meeting, the matter was continued again to the July 7, 2016 Plan Commission meeting.

26. Public notice of the date, time, place, subject matter, and subject property of the hearing was published in *The Ellettsville Journal*, on June 22, 2016, which was at least ten days prior to the July 7, 2016 Plan Commission meeting. A copy of the newspaper notice is attached hereto and incorporated herein as "Exhibit I."

27. On June 16, 2016, the Applicant caused notices of the July 7, 2016 hearing to be mailed to property owners by certified mail, return receipt requested. A copy of the notice is attached hereto and incorporated herein as "Exhibit J." A list of the homeowners to whom the notice was sent is attached hereto and incorporated herein as "Exhibit K."

28. Prior to the July 7, 2016 meeting, the Applicant revised the Application. The project was amended to reduce the number of apartments to 68, which would include 41 two bedroom apartments and 27 one bedroom apartments for a total of 109 bedrooms. Buffering was added to the south boundary line of the Quality Realty property. "Pocket parks" were added to the project. An on-site maintenance office was added. In addition, an emergency drive was configured along the existing driveway that runs onto State Road 46. The Applicant also submitted a revised landscape plan, which is attached hereto and incorporated herein as "Exhibit L." The Applicant also submitted elevation plans, which are attached hereto and incorporated herein as "Exhibit M."

29. Tolloty thereafter amended his staff report on or about June 29, 2016. A copy of the amended staff report is attached hereto and incorporated herein as "Exhibit N."

30. A copy of the Minutes of the July 7, 2016 Plan Commission meeting are attached hereto and incorporated herein as "Exhibit O."

31. The following Board members attended and participated in the July 7, 2016 Plan Commission meeting: Terry Baker, Brian Mobley, Pat Wesolowski, David Drake, Kevin Farris, and Sandra Hash.

32. At the July 7, 2016 meeting, Tolloty presented his amended staff report on the Application.

33. At both meetings, Tolloty presented the Board with the following information and statements, which the Board accepts as fact:

The Litten Apartments property is zoned C-3, General Commercial, which permits multi-family residential by right.

Petitioner initially proposed a 72 unit apartment complex, which was later amended to 70 units and amended again to 68 units.

Petitioner initially proposed 30 one bedroom and 42 two bedroom apartments, which was later amended to 28 one bedroom units and 42 two bedroom apartments, and amended again to 41 two bedroom apartments and 27 one bedroom apartments.

The Technical Advisory Committee met on March 17th, 2016 and reviewed the plans as submitted.

Comments from the Technical Advisory Committee are included as part of both staff reports.

34. Tolloty further advised the Plan Commission that all of the criteria listed under § 152.129 except for the following three provisions of § 152.129 appear to be adequately addressed by the development plan or are not applicable:

Compatibility of the development plan with surrounding land uses;

Analysis of the capacity of adjacent streets to ensure that adjacent streets can safely and efficiently accommodate the additional traffic generated by the development; and

Adequate provision for buffering to significantly reduce the visual impact of dissimilar developments.

35. Tolloty also advised the Plan Commission of the following:

When necessary to accommodate the particular needs of the development plan under review or the particular needs of the community outside of the proposed development which will be impacted by the development, higher standards and greater requirements shall be included as required by the Plan Commission.

See amended staff report dated June 29, 2016, page 2 of 4.

36. Tolloty also advised the Board that he questioned the necessity for the scale of the apartment complex, particularly in the area of Town in which the apartments are to be located. See amended staff report dated June 29, 2016, page 3 of 4.

37. Bill Beggs, the Applicant's attorney, presented the Board with the following arguments in favor of the Application at the July 7, 2016 meeting:

- The staff report recommends approval of the Application

- Apartments are homes for a number of people
- Speculation about whether there are other available apartments for rent in Ellettsville is not discussed in the Town Code
- Speculation about whether children will live in the apartment complex is not discussed in the Town Code
- The proposed Application “meets the rules” of the Town Code and the project is a fair project
- The Town ordinance specifically allows for apartments to be built in C-3

38. No one spoke in favor of the Application at the July 7, 2016 meeting. No one presented any letters of support in favor of the Application.

39. Several individuals provided letters or email correspondence in opposition to the Application at, before, or during both meetings. Copies of those letters and correspondence are attached hereto and incorporated herein as “Exhibit P.”

40. Prior to the July 7, 2016 meeting, Bill Beggs presented a letter to the Board with regard to the Application. A copy of the letter is attached hereto and incorporated herein by reference as “Exhibit Q.”

41. At the July 7, 2016 meeting, the Petitioner produced its own traffic count, conducted informally by the Petitioner’s representative, Tapp. Although the numbers varied from those provided by Tolloty, the numbers did show an increase in the number of vehicles that would turn in and out of Raymond’s Run during the day if the apartments were built. A copy of Petitioner’s Trip Generation Report is attached hereto and incorporated herein as “Exhibit R.”

42. The following individuals spoke against the development plan at the July 7, 2016 meeting and expressed their concerns:

Amanda Henry, resident of Litten Estates

- Doesn’t want apartments of this size whether or not they’re upscale.
- Not a part of their family.
- Upkeep of the apartments.
- Not a good idea

Mike Stanley, resident of Litten Estates

- Devaluation of property.

Ben Scherscheulz, resident of Litten Estates

- Tenants and rent.
- Location of parks.

Shelly Nelson, resident of Ridge Springs

- Traffic.
- Landscaping.
- Apartment exteriors.

Tammy Milah, resident of Litten Estates

- Using neighborhood entrance.
- Compatibility.

Debbie Gessinger, resident of Litten Estates

- Traffic.
- People cleaning up after their pets.

- Doesn't want to live in an area with apartments.

Teresa Allison, resident of Litten Estates

- Doesn't want apartments.

Debbie Reviter

- Doesn't want apartments.

- Noise.

Steve Milah, resident of Litten Estates

- Compatibility with high-end homes.
- Type of residents.

- Density.
- Crime.

Reed Nelson, resident of Litten Estates

- Minimal changes.

- Property values.

Stacie Myers, resident of Litten Estates

- Traffic.

- Trash.

Kathy Chandler, resident of Litten Estates

- Safety of children living at the apartment complex.

Don Woods

- Traffic.

Jeyanu Leanoflorez, resident of Litten Estates

- Safety.
- Compatibility.

- Property values.
- Location of the driveway.

Andy Zelhof, resident of Litten Estates

- Compatibility.
- Density.

- Built in phases.

Ron Eller, resident of Litten Estates

- Entrance.

- Traffic.

Carey Marks, resident of Litten Estates

- Traffic.
- Aesthetics.

- Apartment rent.

Paula Anderson, former resident of Ridge Springs

- Drainage on Ridge Springs.
- Density.

- Traffic.

Gene Hopkins

- Quality of the neighborhood.

Bo Henry, resident of Litten Estates

- Rent.
- Compatibility and cohesiveness.
- Traffic.
- Safety.
- Sufficient playground space

43. Those in opposition to the Application expressed generally the same concerns as were expressed at the April 7, 2016 meeting, which is to say, concerns about increased traffic, safety, and the compatibility of the project with surrounding land uses.

44. Plan Commission member David Drake stated at the July 7, 2016 meeting that the density of the proposal concerned him. In addition, he commented that the topography of the site is not favorable to two and three story buildings next to single family residential, with ingress and egress from a high density complex onto a street that was normally used by those in single family housing.

45. Plan Commission member Pat Wesolowski stated again at the July 7, 2016 meeting that he had concerns about the compatibility of the project.

Findings and Conclusion

46. At the July 7, 2016 meeting, David Drake proposed the following findings of fact, which the Board accepted upon a motion by Pat Wesolowski with a second by Brian Mobley:

- a. The density (70 units/112 bedrooms on 3.58 acres) is not compatible with the surrounding single-family residential housing.
- b. The topography of the land for the proposed development is much higher than the surrounding single-family residential housing and is not compatible with having the back sides of three-story apartment buildings along Raymond Run facing single-family residential housing to the west, or the back sides of two-story apartment buildings facing single-family residential housing to the south.
- c. The development plan submitted does not provide safe and adequate ingress and egress to the development because traffic from such a high density use should not use a single-family residential street for its access. The proposed development site faces State Road 46 and any development on it other than the single-family residential should use State Road 46 for its access.
- d. The development plan submitted does not provide for adequate provision for buffering for the visual impact of the dissimilar developments between the proposed two- to three-story buildings on high ground and the adjacent lower situated single-family residential housing.

A copy of David Drake's proposed findings is attached hereto and incorporated herein as "Exhibit S."

47. Findings and Conclusions re: Compatibility.

- a. The density (70 units/112 bedrooms on 3.58 {sic} acres) is not compatible with the surrounding single-family residential housing.**
- b. The topography of the land for the proposed development is much higher than the surrounding single-family residential housing and is not compatible with having the back sides of three-story apartment buildings along Raymond Run**

facing single-family residential housing to the west, or the back sides of two-story apartment buildings facing single-family residential housing to the south.

The first consideration under Ellettsville Town Code Section 152.129(B) that the Plan Commission may consider is the “compatibility of the development plan with surrounding land uses.” Furthermore, under 152.129 (C), the Plan Commission may also consider the harmonious development of the territorial jurisdiction when considering a development plan. A Plan Commission is permitted to consider the “balance of housing types” in the Community when it reviews a development plan. *Brookview Properties, LLC v. Plainfield Plan Commission*, 15 N.E.2d 48, 63 (Ind. Ct. App. 2014); *see also* Indiana Code Section 36-7-4-1403. Both the Board and the opponents to the Application expressed concern about the large number of apartments that were to be built on such a relatively small area. Tolloty expressed his opinion in the amended staff report his opinion that, “While apartments are permitted and could easily be a compatible use, the property in question would be more suited to a small scale complex.” Both the remonstrators and Board members expressed concern about the scale of the apartment complex project and how it fit in with the surrounding property use.

The Board is not persuaded that a 68 unit apartment complex, located on a parcel slightly larger than 4 acres, is compatible with the single family units adjacent to the proposed complex.

48. Findings and Conclusions re: Traffic.

The fourth consideration under Ellettsville Town Code Section 152.129(B) that the Plan Commission may consider when reviewing a development plan is the analysis of the capacity of adjacent streets to ensure that adjacent streets can safely and efficiently accommodate the additional traffic generated by the development.

- c. The development plan submitted does not provide safe and adequate ingress and egress to the development because traffic from such a high density use should not use a single-family residential street for its access. The proposed development site faces State Road 46 and any development on it other than the single-family residential should use State Road 46 for its access.**

The Board and the remonstrators expressed concerns that the additional traffic generated by the apartment complex would further add to traffic problems and congestion already occurring on State Road 46, as observed, testified to, or commented upon by the remonstrators and Board members alike. The remonstrators and Board members were familiar with the area where the Petitioner proposed to build the apartments, and the general consensus was that the increased amount of traffic that would be generated as a result of the apartments would interfere with the traffic flow along State Road 46 and increase the likelihood of accidents. The Board is persuaded that the best evidence of the amount of increased traffic to be generated by the apartment complex is the figure presented by Tolloty of an additional 479 daily trips in and out of the complex, as opposed to Petitioner’s informal traffic count. The Board is further persuaded that estimated increase in the amount of traffic that will be generated by the apartment complex will, at best, cause congestion for individuals entering or exiting Litten Estates and Litten Apartments onto State Road 46, and, at worst, will greatly increase the probability of

traffic accidents. The ingress and egress to and from State Road 46 will be limited to a single access point from Raymond Run, which is not adequate to serve the apartment complex.

The Board hereby denies approval of the development plan because it does not provide safe and adequate ingress and egress to the proposed development.

49. Findings and Conclusions re: Buffering.

- d. The development plan submitted does not provide for adequate provision for buffering for the visual impact of the dissimilar developments between the proposed two- to three-story buildings on high ground and the adjacent lower situated single-family residential housing.**

The ninth consideration under Ellettsville Town Code Section 152.129(B) is whether adequate provision has been made for buffering to significantly reduce the visual impact of dissimilar developments in the proposed complex and the single family dwellings in Litten Estates. The Board is not persuaded that the buffering proposed by the Applicant will sufficiently reduce the impact of the proposed apartment complex on the single family homes in Litten Estates, particularly given that two story apartments will actually appear to be three story apartments.

Conclusion and Decision

In making the foregoing findings and conclusions, the Board accepted and weighed evidence regarding whether Applicant's request for approval of a development plan complied with the Ellettsville Zoning Ordinance.

Based on the foregoing findings and conclusions, the Board ultimately concludes and finds that the Applicant's request for approval of a development plan does not comply with the Ellettsville Zoning Ordinance.

Based on the above findings, the Plan Commission concludes and finds that the proposed development plan does not meet all of the requirements as set forth by the Town of Ellettsville Zoning Ordinance, and the proposed development plan is hereby denied for the reasons set forth in the July 7, 2016 Plan Commission meeting, as set forth in these written findings of fact, and supported by the Board's record on Petition 2016-09, which is incorporated in its entirety into these written findings as Exhibits A through S.

SO FOUND AND CONCLUDED by the Ellettsville Plan Commission this 4th day of August, 2016, as a supplement to its July 7, 2016 Decision to deny Petition 2016-09.

ELLETTSVILLE PLAN COMMISSION

“AYE” VOTES

Terry Baker, President

Brian Mobley, Vice President

Sandra Hash, Secretary

David Drake, Member

Kevin Farris, Member

Don Calvert, Member

Pat Wesolowski, Member

“NAY” VOTES

Terry Baker, President

Brian Mobley, Vice President

Sandra Hash, Secretary

David Drake, Member

Kevin Farris, Member

Don Calvert, Member

Pat Wesolowski, Member

ATTEST: _____
Sandra Hash, Secretary

So found and concluded by the Ellettsville Plan Commission this 4th day of August, 2016.

ELLETTSVILLE PLAN COMMISSION

Terry Baker, Plan Commission President

Attest:

Sandra C. Hash, Secretary of the
Plan Commission