

ORDINANCE NO. 31-15

**TO AMEND CERTAIN PORTIONS OF THE UNIFIED
ZONING ORDINANCE OF TIPPECANOE COUNTY, INDIANA,
DESIGNATING THE TIME WHEN THE SAME SHALL TAKE EFFECT.**

**BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE,
INDIANA, THAT ORDINANCE NO. 32-97 IS HEREBY AMENDED AS FOLLOWS:**

Section 1: Ordinance No. 32-97 of the City of West Lafayette, Indiana, is hereby amended to rezone the following described real estate, to wit:

(See legal description attached hereto)

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

FROM: R3
TO: GB

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

Ordinance No. 31-15 Legal Description:

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

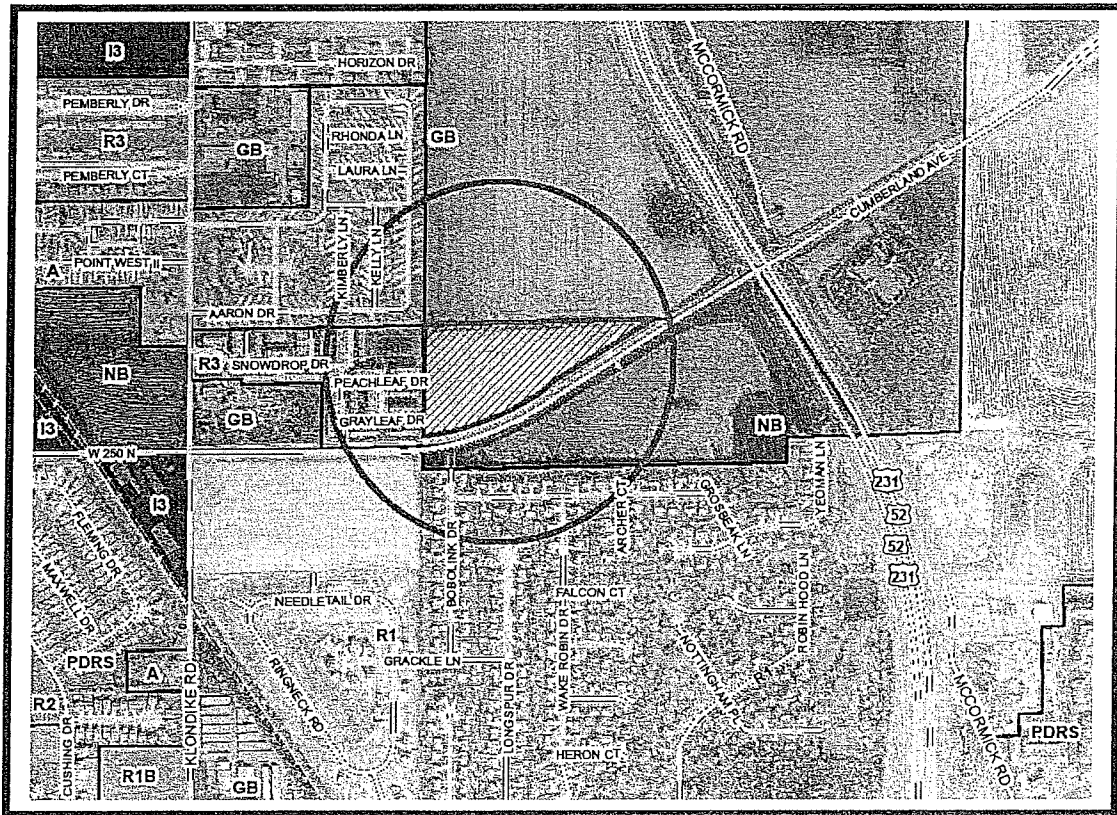
Commencing at the Southwest Corner of the Northwest Quarter of Section 11, being marked by a Berntsen Monument; thence North $88^{\circ}43'04''$ East along the South Line of said Northwest Quarter 1308.05 feet to a 15" square concrete fence post, being the Southwest Corner of the Southeast Quarter of said Northwest Quarter; thence North $00^{\circ}09'40''$ West along the West Line of the Southeast Quarter of said Northwest Quarter 54.80 feet to the Point of Beginning of this description; thence continuing North $00^{\circ}09'40''$ West along said West Line 604.90 feet to a 5/8 inch diameter rebar with a plastic cap stamped "RWG 880043"; thence North $88^{\circ}39'17''$ East a distance of 1294.97 feet to the north line of the real estate conveyed to Tippecanoe County, Indiana, as per Warranty Deed recorded as Document Number 201111003214 in said Recorder's Office; thence along said real estate the following four (4) courses:

- (1) South $58^{\circ}38'00''$ West 643.60 feet;
- (2) South $50^{\circ}06'09''$ West 101.12 feet;
- (3) South $58^{\circ}38'00''$ West 59.06 feet to a tangent curve to the right, having a radius of 1445.00 feet and a central angle of $25^{\circ}56'07''$;
- (4) southwesterly an arc distance of 654.09 feet to the Point of Beginning, containing 10.701 acres, more or less.

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

Z-2621
CITATION HOMES, INC
(R3 to GB with Commitment)

STAFF REPORT
July 9, 2015



Z-2621
CITATION HOMES, INC.
R3 TO GB (with commitment)

Staff Report
July 9, 2015

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, who is also the property owner, represented by attorney Daniel Teder, is requesting rezoning of 10.7 acres located on the north side of Cumberland Avenue, just west of US 231, in West Lafayette, Wabash 11 (NW) 23-5. With Commitment.

ZONING HISTORY AND AREA ZONING PATTERNS:

The earliest zoning maps indicate this property had always been zoned R1. There were two failed attempts to rezone this land (or portions of it) to R3, but in February 2012, an R3 rezone of this wedge-shaped property was successful. (Z-2479)

The land adjacent to the north was rezoned R3 in 1971 for a proposed expansion of an existing mobile home park, but the proposed expansion never happened (Z-440). Then in 2013 and in January of this year, two GB rezones (Z-2557 and Z-2592) were approved (the first by the County Commissioners, the second by West Lafayette Common Council following annexation) to create roughly 58 acres of GB zoning within the northwest quadrant of the US 231/Cumberland intersection. A commitment was filed with Z-2557 limiting the commercial uses that could locate there. A similar commitment has been filed with this GB request.

Land to the west of the site in question was rezoned from A to R3 in 2001 (Z-2037); land to the south across Cumberland Avenue was rezoned from R1 to NB, amended at the meeting from the proposed GB, in 2012 (Z-2480). (This acreage is also the site of a rezone petition, Z-2620, NB to R3W, on this same agenda.) The other two corners of the intersection are zoned GB.

AREA LAND USE PATTERNS:

The site in question is currently unimproved as is land to the north and east. To the northwest are mobile homes within Pointe West. Adjacent to the west are Copper Beech Townhome student apartments with a private drive that stubs into this rezone site. Wake Robin and Sherwood Forest are single-family subdivisions located to the south beyond the Cumberland Avenue extension. A church occupies the southeast corner.

TRAFFIC AND TRANSPORTATION:

The site has 1600' of frontage along Cumberland Avenue, a recently completed urban secondary arterial. Access to the GB-zoned property to the north is questionable along

the limited access frontage of US 231; if rezoned, this property will likely serve as access via Cumberland for a future commercial development for not only these ten acres, but for the larger acreage to the north.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

American Suburban Utilities and Indiana American Water serve the surrounding area. If this rezone is approved, a Type C bufferyard 20' in width will be required where it abuts R3 zoning to the west.

STAFF COMMENTS:

For several years prior to the completion of US 231 and the Cumberland Avenue extension, staff has contemplated the future land uses of the area. Now that West Lafayette has annexed the area and the infrastructure is in place, four successful commercial rezones clustered around the US 231/Cumberland intersection have been approved setting the development pattern for the area.

The R3 rezone of this site approved three years ago, received a mild recommendation of approval from staff, because of its small size and because it is adjacent to existing multi-family to the west with two stub streets leading to this site. Now there is a proposal for GB zoning. If approved, it would eliminate this narrow wedge of R3 zoning that could have led to potential student apartments sandwiched between a secondary arterial and a potentially huge commercial development.

The commitment filed with this request (see attached) is identical to the commitment recorded with the GB rezone request to the north. It would exclude some of the uses that are normally permitted in GB in an effort to eliminate any potential incompatibilities between this commercial development and adjacent residences to the west. Some of the excluded uses are livestock production, boarding kennels, warehousing, automobile dealers and adult entertainment venues. Some types of uses, such as manufacturing and equipment rental are limited to a maximum first floor area of 5,000 square feet with no outdoor operation or storage of materials by footnote 10 in the Permitted Use Table (UZO 3-2). Wholesale trade operations would be subject to footnote 12 which states "permitted in...GB zones only on lots up to 2 acres in area."

Hopefully, all future development in this gateway area will give consideration to surrounding uses, recognize potential land use incompatibility, and capitalize on opportunities to serve the nearby neighborhoods, visitors, travelers and the community alike. As stated in previous rezone reports for this commercial node, staff believes that commercial zoning is appropriate for this area and with the submitted commitment restricting incompatible land uses, staff can support this request.

STAFF RECOMMENDATION:

Approval

THE

Area Plan Commission

of TIPPECANOE COUNTY

20 NORTH 3RD STREET
LAFAYETTE, INDIANA 47901-1209

(765) 423-9242
(765) 423-9154 [FAX]
www.tippecanoe.in.gov/apc

SALLIE DELL FAHEY
EXECUTIVE DIRECTOR

August 20, 2015
Ref. No.: 15-179

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

CERTIFICATION

RE: **Z-2621-- CITATION HOMES, INC. (R3 to GB):**

Petitioner is requesting rezoning of 10.7 acres located on the north side of Cumberland Avenue, just west of US 231, in West Lafayette, Wabash 11 (NW) 23-5. WITH COMMITMENT. CONTINUED FROM THE JULY APC MEETING AT PETITIONER'S REQUEST.

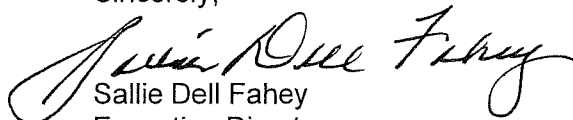
Dear Council:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on August 19, 2015 the Area Plan Commission of Tippecanoe County voted 11 yes - 0 no to accept the proposed commitment and 11 yes - 0 no on the motion to rezone the subject real estate from R3 to GB. Therefore, the Area Plan Commission of Tippecanoe County recommends to the West Lafayette Common Council that the proposed rezoning ordinance be APPROVED for the property described in the attachment.

Public Notice has been given that this petition will be heard before the West Lafayette Common Council at its September 8, 2015 regular meeting. Petitioners or their representatives must appear to present their case.

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

Sincerely,



Sallie Dell Fahey
Executive Director

SDF/lmu

Enclosures: Staff Report & Ordinances

cc: Citation Homes
Daniel Teder
Mike Wolf, Tippecanoe County Building Commissioner
Gary Bowser, INDOT

Key Number: 134-06800-0859
State Identification Number: 79-06-11-200-008.000-029

COMMITMENT

Commitment made on the 15th day of June, 2015, by Citation Homes, Inc. (the "Petitioner"), pursuant to Indiana Code Section 36-7-4-1015.

1. Petitioner makes this commitment as owner of certain real estate (the "Real Estate") located in Tippecanoe County, Indiana, commonly known as a 10.701 acre tract of land situated on the north side of Cumberland Avenue west of new U.S. 231, in the City of West Lafayette, and more particularly described on Exhibit A which is attached hereto and incorporated by reference herein.
2. Petitioner has filed a request with the Area Plan Commission of Tippecanoe County, Indiana (the "APC"), to rezone the Real Estate from R3 to GB which request is pending before the APC as case no. Z-2621.
3. Petitioner hereby agrees and makes the following commitment in connection with the rezoning request in case no. Z-2621:

The following list of uses shall be excluded from the uses otherwise allowed by the Permitted Use Table of the Unified Zoning Ordinance of Tippecanoe County, Indiana for a GB classification:

<u>SIC GROUP</u>	<u>EXCLUDED PRIMARY USES</u>
02	Agriculture production – livestock
0752	Boarding kennels, animal shelters, and Boarding, and/or training horses
42	Motor freight transportation and warehousing
4953	Refuse systems, recycling collection facilities, processing facilities
55	Auto dealers, but allow SIC 553/554 auto supply/gas station
5942	"Adult bookstores," but allow 5942 Bookstores
7832	Adult motion picture theatres only
7833	Drive-in motion picture theatres, adult drive-in motion picture theatres
7993	Adult arcade

7999	Adult live entertainment arcade/adult cabaret
0741	Veterinary services for livestock
15	Building construction – general contractors etc... (subject to footnote 8)
All 20s, 200s, 2000s	Manufacturing, except “Winery” as defined in the UZO (subject to footnote 10)
31, 326, 387, 39	Manufacturing (various types & products) (subject to footnote 10)
4952	Sewerage systems
4953	Refuse systems
5083	Farm machinery and equipment (sales & service)
51	Wholesale trade (subject to footnote 12)
512	Drugs etc... (wholesale only)
521	Lumber & other building materials dealers
7299	“Massage establishments (parlors)”
Below 7312	“Outdoor Advertising Signs” (billboards)
735	Miscellaneous equipment renting & leasing (subject to footnote 10)
7699	Farm machinery and equipment service & repair
8744	Adult correctional facilities...privately operated
9223	Correctional institutions (public)

4. Petitioner understands and agrees that this commitment is given to the APC and the City of West Lafayette, Indiana (the “Legislative Body”) as an inducement for the recommendation for and approval of the rezoning request in case no. Z- 2621 . Petitioner further understands and agrees that the approval of the rezoning request in case no. Z- 2621 by the Legislative Body constitutes good and valuable consideration for the giving of this commitment.

5. This commitment shall be a covenant running with the Real Estate and binding and enforceable against Petitioner, any subsequent owner, or any other person who acquires any interest in the Real Estate. Any change or modification of this commitment shall only be made with the approval of the APC at a public hearing in accordance with all rules and regulations of the APC.

6. Petitioner agrees that each of the following shall each be a “specially affected person” under Indiana Code Section 36-7-4-1015(d)(3) who shall each independently be entitled to bring an action to enforce the terms and conditions of this commitment in the Circuit or Superior Courts of Tippecanoe County, Indiana:

- a. the APC,
- b. the Area Board of Zoning Appeals of Tippecanoe County, Indiana,
- c. the appropriate Administrative Officer designated in the Unified Zoning Ordinance for Tippecanoe County, Indiana,
- d. the City of West Lafayette, Indiana

