

Zoning Board of Appeals
 Wednesday, November 1, 2017
 6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met on Wednesday, November 1, 2017, 6:00 p.m.,
 Edinburgh Town Hall to hear **Case #ZB2017-02-UV Commonwealth Development Corporation - Investment Property on Brown Street – Use Variance and Case #ZB2017-03-UV Commonwealth Development Corporation – Municipally Owned Property on Shelby Street – Use Variance.**

Members Present: Ron Hoffman
 Ron Hamm
 Richard Pile
 Lloyd Flory

Others Present: Nick Valenzuela, Building Commissioner
 Wade Watson, Town Manager
 Dustin Huddleston, Town Attorney

Ron Hoffman opened the meeting at 6:00 p.m. and introduced himself as the acting Vice-Chairman, replacing Rebecca Wilhelm. Mr. Hoffman advised the board that due to an emergency, Mr. Keith Sells could not make it to the meeting. Mr. Hoffman then proceeded with roll call. Richard Pile, here, Lloyd Flory, here, Ron Hamm, here, Ron Hoffman, here.

Mr. Hoffman presented the minutes from the February 1, 2017 meeting, explaining that they would need to be tabled until the next meeting due to the fact that only two members were present that had been present at the February 1, 2017 meeting.

Mr. Hoffman advised the audience that there is a sign in sheet to give their contact information if they wish to receive further notification of the decision reached at tonight's meeting. Mr. Hoffman further advised the audience that anyone wishing to speak tonight would need to be sworn in by Town Attorney Dustin Huddleston.

Mr. Huddleston advised the audience that when they stood up to speak to please identify their self and to give their address for the minutes which are being recorded. Mr. Huddleston then asked for anyone wishing to speak tonight to please raise their right hand to be sworn in to speak concerning tonight's petition.

Mr. Hoffman then asked Nick Valenzuela to present his staff report for tonight's petitions.

Mr. Valenzuela introduced himself to the audience as representative of the Town of Edinburgh Building and Zoning Department. Mr. Valenzuela advised the audience that he would be presenting a Power-Point presentation of his staff report (see attached staff report) for the two cases being heard tonight.

Mr. Valenzuela stated that the two (2) cases are from the same applicant, Commonwealth Development Corporation of America, Fond Du Lac, Wisconsin. Mr. Valenzuela stated that the requests being petitioned pertain to four (4) different addresses within the Town of Edinburgh Municipal Limits, 804 Toner Street, 13 Bachelor Street, Harrell Drive (unaddressed), and East Main Cross Street (unaddressed). Mr. Valenzuela stated that the property owners are Fletcher Investments, Fletcher Investments Inc., James S. Fletcher, and the Town of Edinburgh Redevelopment Commission. Mr. Valenzuela stated that the total acreage of all four (4) properties is just over 5.6 acres. Mr. Valenzuela stated that the zoning for all four (4) parcels is R-4, Medium Density residential. Mr. Valenzuela stated that the current land use is all vacant land with one (1) of the parcels at 13 Bachelor Street having three (3) unfinished and unoccupied two-family residential units already in place. Mr. Valenzuela stated that none of the subject properties are located within a FEMA identified flood plain. Mr. Valenzuela stated that all surrounding zoning for the four (4) parcels is R-4, which is the same as the subject parcels. Mr. Valenzuela stated that the surrounding land use is medium density surrounding all four (4) parcels, with all single family residential with the exception of a public school next to the Town associated parcel. Mr. Valenzuela stated that the petitioner is requesting a Use Variance from

the Zoning Ordinance of the Town of Edinburgh, to permit new construction of Multi-Family dwellings. Mr. Valenzuela stated that R-4 zoning does not currently allow for multi-family dwellings, only single family and two family dwellings. Mr. Valenzuela stated that the petitioner has submitted a preliminary site plan for the development of twenty-six (26) town house style rental units, included the six (6) existing town house style units already existing on one of the parcels, and twenty-six (26) apartment style rental units. Mr. Valenzuela included in his Power-Point presentation the preliminary site plan for the development stating that it runs along the west side of the three (3) adjacent parcels owned by Fletcher, and just south of that property, on the Town owned parcel, running horizontally, would be the apartment style units. Mr. Valenzuela also included in his presentation, additional submitted preliminary design plans for the town house style units, appearing to be two stories. Mr. Valenzuela said that the petitioner stated they would be applying for a grant for the development to make it a Low Income Housing Tax Credit (LIHTC) property including plans for renovation of existing substandard housing elsewhere in the town and with a potential lease purchase option for some of the Town House units.

Mr. Valenzuela advised the audience of the purpose of standards of the Zoning Ordinance for Residential Districts (see attached staff report for residential purposes of standards). Mr. Valenzuela stated that in the R-4 zoning, only single family and two family dwellings are allowed, however, up until 2000, when a change was made to the Zoning Ordinance, multi-family was allowed in R-4 zoning without a use variance requirement.

Mr. Valenzuela stated that according to the Town's Comprehensive Plan, adopted in 2011 and amended in 2016 by the Town Council, specifically for affordable housing development, additional middle class housing was cited as a top community issue. Mr. Valenzuela further stated goals and objectives for residential areas contained in the Comprehensive Plan. (see attached staff report for Comprehensive Plan information)

Mr. Valenzuela discussed the case history and stated that the petitioner has submitted Affidavit & Consent of Property Owner verifications to use all four (4) subject property parcels as part of the Board of Zoning Appeals Application. (see attached staff report for case history)

Mr. Valenzuela presented the considerations for the case. (see attached staff report for the considerations) Mr. Valenzuela stated that the LIHTC is an indirect federal subsidy that finances low income housing. Mr. Valenzuela stated that it allows investors to claim tax credits on their federal income tax return. Mr. Valenzuela stated that federal housing subsidy and public housing, commonly referred to as Section 8 or HUD housing, involve different federal programs from the LIHTC Program.

Mr. Valenzuela stated that if a Use Variance is approved by the Board of Zoning Appeals, then the Town Redevelopment Commission, the Town Building and Zoning Department, the Town Planning Commission and the Johnson County Drainage Board will all be required to review Technical Site Development plans afterwards. Mr. Valenzuela stated that the Zoning Board of Appeals proceeding tonight is to look at a Use Variance to allow multi-family dwellings to be developed. Mr. Valenzuela stated that if everything falls into line, there will be a few public meetings to address the site development and design standards infrastructure before the development as it proceeds.

Mr. Valenzuela stated that the last multi-family dwelling development within the Town was Newbury Pointe. Mr. Valenzuela stated that a Use Variance was granted by the Zoning Board of Appeals for that development, but that development was for senior citizen housing only and the subject development being petitioned tonight is for multi-family housing.

Mr. Valenzuela stated that prior to this current Board of Zoning Appeals hearing, the Town's Building and Zoning Department received one (1) written public comment in support of a LIHTC and/or low-income housing development for the Johnson County portion of the Town in general and not specific to tonight's petition. Mr. Valenzuela stated that ten (10) separate parties made telephonic/in-person inquiries to the Building and Zoning Department about the nature of the Use Variance request. Mr. Valenzuela stated that flyers and posters presumably presented by Town Citizens have referenced tonight's Board of Zoning Appeals hearing and the petitioners request, suggesting there are concerned residents.

Mr. Valenzuela stated that the Building and Zoning Department researched online photographs of other Petitioner properties to try to determine the maintenance, building, and structural status of some of the older communities currently or formerly within Commonwealth's portfolio. Mr. Valenzuela stated that all of the properties reviewed via online mapping systems appeared to be maintained sufficiently. Mr. Valenzuela stated that there is no evidence to the Building and Zoning Department that the petitioner has any significant development or property management troubles with any of its similar communities.

Mr. Valenzuela stated that LIHTC communities are audited by local state and federal regulators to insure compliance with programmatic regulations, not just for determining tenant rent and subsidies, but also physical inspections of the premises to insure safe and stable housing. Mr. Valenzuela stated that there are major studies that indicate neighboring property values are not negatively impacted by new construction, multi-family dwelling, or LIHTC communities. Mr. Valenzuela further stated that some studies also indicated that development can enhance neighboring property values, if professionally done, with a reduction of taxes for local residents through an increased tax base, for more residents in the area, more minor children entering the school system and things like that.

Mr. Valenzuela stated that the petitioner proposed development would use the unfinished multi-family dwelling site at Bachelor Street and Brown Street which was left incomplete for approximately 10 years to date. Mr. Valenzuela stated that there has been no large scale, non-senior citizen housing development within the Town in decades.

Mr. Valenzuela stated that based on the petitioners request staff recommendation is for approval of the petition ZB-2017-02-UV and approval of ZB-2017-03-UV with the following conditions:

1. That this decision is only granted to the Petitioner and its affiliates, and the Use Variance not transferable to any other property owner, association, or company not directly associated with the Petitioner;
2. That this decision is null and void should the Petitioner fail to acquire ownership of the subject parcels within two (2) years of the date of the BZA Findings of Fact; and,
3. That this decision is null and void should the Petitioner fail to receive applicable approvals from all appropriate local, county, and state authorities related to site development for the subject project.

Mr. Valenzuela discussed some pros and cons for the development. Mr. Valenzuela stated that some of the pros could be viewed as increased tax levy, lower tax rate for town residents, more minor children for the Edinburgh Community Schools, rehabilitation of dilapidated and existing housing at other sites, and if you are not going to build multi-housing now, then when, and if not here then where? Mr. Valenzuela stated that some of the cons could be that property valuation is always going to be a debate, will it increase or decrease, who pays for infrastructure upgrades in tandem with the development, the petitioner or the Town, is the prospective site development too dense for what currently exists there, and the Zoning is the Zoning for a reason so why should there be a variance? Mr. Valenzuela stated that these are some of the things that the Building and Zoning Department wrestles with.

Mr. Hoffman asked the board if they had any questions for Mr. Valenzuela.

Lloyd Flory stated that he had a question, he asked about the property addresses of Toner Street, Bachelor Street, Harrell Drive, and East Main Cross Street (unaddressed). Mr. Flory asked Mr. Valenzuela if he could be point out the locations on a map, particularly the East Main Cross Street (unaddressed).

Mr. Valenzuela presented the Power-Point slide of the map and stated that the four (4) parcels run in sort of an "L" shape where the preliminary site plan is. Mr. Valenzuela stated that the Town of Edinburgh Redevelopment Authority parcel is #4 and is south of Shelby Street. Mr. Valenzuela stated that parcels #1, #2, and #3 are the Fletcher properties that are addressed in different ways according to the Johnson County GIS Mapping, but they all run along Brown Street.

Wade Watson, Town Manager, asked if he could address that specific question. Mr. Watson stated to Mr. Flory that the reason the parcel is being referred to as East Main Cross Street in the presentation is due to the Johnson County GIS system having East Main Cross Street attached to that parcel incorrectly. Mr. Watson stated that the East Main Cross Street address was included in the presentation in case someone looked up the property by the parcel number on the Johnson County GIS system. Mr. Watson stated that if you look up parcel #4 in the Johnson County GIS system, it references East Main Cross Street. Mr. Watson further stated that none of the parcels under consideration have been assigned addresses.

Mr. Flory asked the location of the Redevelopment Commission site.

Mr. Valenzuela stated that the Redevelopment Commission parcel is #4 located south of Shelby Street, is in the "L" shape heading east to west, as opposed to the other parcels which are vertical heading north to south.

Ron Hamm asked about the #4 area, from what he understood that Brown Street would be extended?

Mr. Valenzuela stated that was an option but the exact site plans are not available to determine how that connectivity would exactly happen. Mr. Valenzuela stated that he anticipates some sort of modification to the streets and thoroughfares in that area in order to accommodate all of the proposed units. Mr. Valenzuela stated that how it is done and the site practicability remains to be seen and would be looked at in Planning Commission proceedings, Technical Review Committee with the Town of Edinburgh to look at site development and access for emergency vehicles, the Johnson County Drainage Board would need to look at that also in order to see that sufficient draining would not be impacted by the installation of any streets or thoroughfares.

Mr. Hamm asked who would keep up the maintenance on the apartments.

Mr. Valenzuela stated that it should be the Commonwealth Companies, unless they contract the maintenance out. Mr. Valenzuela stated that ultimately the property owners would be responsible for the maintenance. Mr. Valenzuela stated that this is not a Town developed housing with any kind of management control. Mr. Valenzuela stated that this would be the responsibility of the private parcel owners and the developers to maintain the property in tandem with periodic audits by appropriate governing agency's such as the IHCD as terms of the LIHTC grant designation.

Mr. Hamm asked if there would be any home owners association or anything to be sure that the apartments are being kept up.

Mr. Watson stated that would be a good question for the petitioner who is here this evening to represent the Commonwealth Companies.

Mr. Valenzuela stated that it would not be a Planned Unit Development with any kind of superseding rights over the Town of Edinburgh's code enforcement process, state and/or federal authority's processes for the premises; it would be the responsibility of the property owner.

Mr. Hamm asked about adequate parking for the apartments.

Mr. Valenzuela stated that it would be a requirement for the site development. Mr. Valenzuela stated that these are preliminary concept plans. Mr. Valenzuela stated that sorting out consistency with Town of Edinburgh Zoning Ordinance for parking regulations and the natural geography of the site would need to be gone through by the Building and Zoning Department and the Planning Commission. Mr. Valenzuela stated that he is unsure of what design reviews would be done by the IHCD or other authorities. Mr. Valenzuela stated that there would be a process to ensure that everything is consistent and accurate for what is needed.

Mr. Watson stated that the current Zoning Ordinance requires two (2) off-street parking sites per every dwelling unit, so that would be required to be part of the design plans, before they could be approved.

Mr. Flory referred to the proposed site plan only showing ten (10) outside parking spots for the twenty-six (26) unit apartment building, if that could be explained.

Mr. Watson stated that each of the parcels along Brown Street will have garages or two (2) spots off street for parking.

Mr. Flory stated that he was referring to the building west of the swimming pool.

Mr. Watson stated that west of the swimming pool would have underground parking in the conceptual drawing there would be at least 52 parking spaces underground.

Mr. Flory stated that he thought that would be high density and not medium density.

Mr. Hamm asked if all buildings had to be built or could they just do parcels #1, #2, and #3.

Mr. Valenzuela stated that it was his understanding that since they are relying on the LIHTC grant, that they would need the Town associated parcel for the grant. Mr. Valenzuela stated that he assumes that if it were to fall through with the Town associated parcel that there could be some other kinds of grants or types of housing that could be developed. Mr. Valenzuela stated that from his understanding with the submitted preliminary site plan that it is contingent upon the Town associated parcel.

Mr. Huddleston stated that these are two (2) independent applications, so one (1) could be approved and one (1) could be denied. Mr. Huddleston stated that independent of any other requirements under the power of the Zoning Board they could approve one, deny one, or approve or deny both.

Mr. Hoffman asked Mr. Valenzuela for clarification that tonight the board's only duty is to pass or not pass a variance.

Mr. Valenzuela stated that was correct.

Mr. Hoffman asked if the variance was only good for a certain length of time and further asked for clarification that tonight this board would not be making any decisions that okay's any buildings, okay's any designs, or okay's anything other than changing what the zoning is.

Mr. Valenzuela stated that it is a very narrow scope for the purposes of this proceeding; it is fundamentally to look at allowing multi-family dwellings to be built.

Mr. Hoffman asked who has the final decision when everything is in place to be reviewed within the Town.

Mr. Valenzuela stated that for site development and other items it would be several municipal agencies. Mr. Valenzuela stated that minimally it would be Town of Edinburgh Building and Zoning Department, Technical Review Committee prior to a full Planning Commission hearing, and the Johnson County Drainage Board would need to review site development.

Mr. Hoffman asked if there is a deadline or requirement as to when the petitioners need to have everything in place to be presented.

Mr. Valenzuela stated that there is nothing except if the Zoning Board of Appeals wants to go with the Staff Recommendation of allowing two (2) years for obtaining ownership of the parcels, then there would be a two (2) year window. Mr. Valenzuela stated that when it comes to working with the various municipal bodies, and the site development, it is apparently contingent upon the grant, so there is a finite period for grant application, hearing back whether there is approval or not. Any number of those things can go to cease the project from being developed.

Mr. Hoffman asked if there was a deadline on the grant.

Mr. Valenzuela stated that from what he understands the next grant deadline is July 2018 for filing the application, with a projected time frame for the end of 2018 and maybe the beginning of 2019, to hear whether or not the grant has been awarded. Mr. Valenzuela stated that if

awarded, then the Planning Commission and other proceedings would continue on. Mr. Valenzuela stated that this is a multi-year process before ground breaking or completion of the development.

Mr. Hoffman asked Mr. Huddleston if he had a comment.

Mr. Huddleston stated for clarification that if the board passes the variance requests without any contingencies or stipulations to it the petitioner would have forever to develop the property as long as they have an interest in it. Mr. Huddleston stated that is why Mr. Valenzuela has put in some contingencies and extra points to say this is only good for a certain amount of time. Mr. Huddleston stated that if the board does not adopt the variance with contingencies they have an unlimited time for development.

Mr. Hoffman asked if they are built within the next two years or so would it increase the tax levy for the town.

Mr. Valenzuela stated that in all likelihood it would increase the levy.

Mr. Hoffman asked if an increase in the tax levy would lower the tax rate.

Mr. Valenzuela stated that from his basic understanding of tax rates, the fact of getting more residents in a community, more families of minor children into the school system, there would be an increase in the levy and possibly a lowering of the tax rate.

Mr. Hoffman asked if there is any other availability within the Town to increase the tax levy and lower the tax rate as far as new construction or are we landlocked.

Mr. Watson stated that the only way to lower the percentage of taxes on residential property is to increase the assessed value of the community. Mr. Watson stated that yearly the counties assess the property values and establish the levy, which determines how much tax each property owner is responsible for.

Mr. Watson stated that the Town of Edinburgh is unique due to the fact that we are unable to go outside to incorporate or annex property to add to our assessed value. Mr. Watson stated that the Bartholomew County Joint District prevents us from growing to the South, Camp Atterbury prevents us from growing to the West, the river prevents us from growing to the North, and the interstate prevents us from growing to the East. Mr. Watson stated that the only way to increase the assessed value is to build or improve from within the footprint that we currently have. Mr. Watson stated that there are very few parcels that are buildable, or sites that already have something on it without doing demolition or destroying property to build on it. Mr. Watson stated that this is one of the few properties that is buildable as well as a couple of narrow lots available, but nothing of this size outside of the floodplain. Mr. Watson stated that we are landlocked, without being able to build on this site; there is not much ways to increase the assessed value substantially.

Mr. Huddleston stated that now the staff has given their recommendation, anyone who is for the petition has twenty (20) minutes total to speak. Mr. Huddleston asked that anyone speaking to identify themselves for record keeping. Mr. Huddleston further explained that the twenty (20) minutes is total time for example if one (1) person spoke for nineteen (19) minutes then there would only be one (1) minute left for anyone else to speak, encouraging them to use their time wisely.

Anne McKinley, 9 Sheboygan Street, Fond du Lac, Wisconsin, Assistant Vice-President of Development for the Commonwealth Companies addressed those in attendance. Ms. McKinley gave an overview of the company business. Ms. McKinley stated that Commonwealth was founded in 2001, they have a construction, property management, development, and landscaping company. Ms. McKinley stated that all of the companies are certified as service-disabled, veteran-owned small businesses.

Ms. McKinley stated that they are a nationwide developer, having developed over 2000 units nationwide. Ms. McKinley stated that they are a community developer, coming into communities and developing something that will be an asset for the community, and a structure

that will help increase the tax base and surrounding property values. Ms. McKinley stated that all the studies show that the rental housing tax credit actually does increase the surrounding property values by building the asset.

Ms. McKinley stated that the proposal would bring \$10.5 million of investment to the community, utilizing rental housing tax credits to build 26 town home units and 26 units in the two-story multi-family building.

Ms. McKinley stated that they have a general contracting company, as general contractors they self perform very little, they do have a few painters, and carpenters on staff but generally they try to bid everything out and hire local, to bring and keep resources in Indiana.

Ms. McKinley stated that they always have an on-site property manager for all of their properties, to be sure that maintenance is up to par, that tenants are keeping their units up, and make sure that the property does not become an eyesore for the community.

Ms. McKinley stated that they have specific guidelines for who can live in the units; they do criminal background checks, credit checks and do their due diligence to ensure that they have quality tenants. Ms. McKinley stated that part of the rental housing tax credit program is you are required to make less than 60% of area median income to live in one of the units and the demographics for Edinburgh indicated that over 50% of the community qualifies to live in one of the units.

Ms. McKinley stated that the 26 town home style units will be lease purchase, so at the end of the fifteen (15) year compliance period, they will be for sale potentially to the tenants who live in the units if they wish to purchase it, which would bring some property tax revenue to the community and increase the home ownership opportunities. Ms. McKinley stated that there is not a lot of room to expand, so the town home units when sold would bring new residents to town.

Ms. McKinley stated that a requirement for the tenants is to make 2.5 times the rent to live in one of the units, unlike Section 8 housing where you have to show that you have the income to support the rent that is charged on the unit. Ms. McKinley stated that the maximum they could charge for a three (3) bedroom unit is \$1090, but they are projecting the rent to be \$775 and for the two (2) bedroom unit they are projecting the rent to be around \$700.

Ms. McKinley stated that all units built will be high quality energy efficient units, helping to decrease utility bills for the tenants. Ms. McKinley stated that there would be two (2) parking spots for every unit. Ms. McKinley stated that first initial site plan had 110 parking spots on the site, so depending on the final design, they will meet the Town's requirements, and if there is a need for additional parking there is lots of room on the site.

Ms. McKinley stated that in the fifteen (15) years that Commonwealth has been in business, they have never sold a property. Ms. McKinley stated that Commonwealth is in it for the long haul which ensures top notch construction, they keep up on the maintenance and they don't come in and build then sell to someone else and leave, they are in business for long term.

Ms. McKinley stated that the program they are applying for requires substantial operating reserves, replacement reserves and they don't defer maintenance on the building, if there is an issue, such as damaged siding, it is repaired immediately.

Ms. McKinley stated that some benefits of the development include finishing the development of the Fletcher property which has been under construction for the last ten (10) years, increasing the tax base, and providing work force housing and helping support surrounding businesses. Ms. McKinley stated that she understood there are more jobs available in town than there is availability for housing, so this would create more workforce housing for those community members. Ms. McKinley stated that all design standards would be approved by the Town, they desire to build something attractive that would fit in with the community.

Ms. McKinley stated that the Tax Credit Program requires them to apply for the tax credits in July 2018; they would find out in November 2018 if they were successful, construction would begin in April 2019 and it would be approximately a one (1) year construction period.

Ms. McKinley stated that the program allows work force housing to be built into the community; it is a great tool to develop something like this to bring in more community members and to provide more housing for community members.

Mr. Hoffman asked if in her experience that development also increases the number of students within the community.

Ms. McKinley stated that they purposefully design it as two (2) and three (3) bedroom units for that purpose; they estimate that 50 units with two (2) or three (3) bedrooms could easily bring 100 new students, depending on who rents the units.

Mr. Huddleston advised the board that they could ask any questions of Ms. McKinley at this time. There being no questions from the board at this time, Mr. Huddleston advised those in attendance wishing to speak not in favor of the petition they would have twenty (20) minutes total to speak just like the petitioner had.

Mr. Hoffman advised that there was still a person in favor of the petition who would like to speak.

Kami Ervin, 202 North Walnut Street, Edinburgh, IN, current president of the Town Council, stated that when the development was first presented, she had a lot of questions and didn't like the idea of bringing in any kind of development that could be possibly run down in ten (10) or twenty (20) years. Ms. Ervin stated that there are a couple of very well managed affordable housing properties currently in Town. Ms. Ervin stated that having lived in Rainbow Apartments while growing up, she understands the need for affordable housing for middle to lower income families.

Ms. Ervin stated that after researching Commonwealth and their properties, she found they produce very high quality housing. Ms. Ervin stated with constant loss of enrollment in the school system and how that affects the money that the school receives, and after meeting with some of the school board members learning more about how this could positively impact the community, and seeing the tentative site plans, she felt more comfortable with the development. Ms. Ervin stated that when she was married and first moved back to town she would have loved to have had something like this as an option for a rental unit. Ms. Ervin stated that with lots of workers looking for decent housing and single and married working parents in the area looking for housing close to the school system, this would be a great benefit to those people already living in the area and to those who would like to move to the area. Ms. Ervin stated that she is in favor of the development and the positive impact it could have on the school system and the tax base.

Mr. Watson, Town Manager, spoke in favor of the project and the benefit to the community, not just on the tax benefit, but also for the school enrollment. Mr. Watson stated that for every student who moves out of the school system, the school loses \$7500 and there has been a loss in enrollment for the past two years. Mr. Watson stated the only way to increase enrollment is to get families who live here and have kids here. Mr. Watson stated that the proposed development is built and designed specifically to attract families of middle and low income. Mr. Watson stated this is not subsidized housing, this is for wage earning families that are able to pay rent, to provide affordable housing for those families and to bring their children to the school system. Mr. Watson stated that he is very much in favor of the development as it would benefit the entire community.

Mr. Hoffman asked if there was anyone else wishing to speak in favor of the petition.

Judith Hill, State Road 252, Edinburgh, IN, asked if someone could show her on the map the exact location of the property.

Mr. Hoffman asked Ms. Hill if she was speaking in favor of the petition.

Ms. Hill stated that she was in favor, that she thought it would be great for the Town, but she would like clarification of the location. Ms. Hill stated that she did not have any information

prior to the meeting, and would like to know where parcels 1, 2 & 3 are located in comparison to her property on State Road 252.

Mr. Hoffman and Mr. Watson explained the location of it near the swimming pool, south of 252, and just south of Rainbow End Apartments.

Ms. Hill understood the location and was concerned with the entrance to the already existing town homes, and headlights shining into their house, but she thought it would be a good thing for the town. Ms. Hill asked if it would have any effect on the cost of utilities.

Mr. Watson stated that it would not have an effect on the cost of utilities, it would actually increase revenue for the utility department. Mr. Watson stated that there would not be any added infrastructure costs to the Town.

Ms. Hill asked if there is enough room for all of the development.

Mr. Watson stated the plans are preliminary and all zoning standards for setback requirements, barriers, and parking spaces would have to be met for the development before it would be approved to be built.

Matt Ervin, President of Edinburgh Redevelopment Commission, stated that he strongly recommends approval by the board for the variance request. Mr. Ervin stated that this development plan would bring more taxes and children to the community, and everything Commonwealth has presented so far has been positive and would be a very attractive area.

There being no further persons wishing to speak, Mr. Hoffman closed the time for speaking in favor of the petition.

Mr. Huddleston advised those in attendance wishing to speak not in favor of the petition that they would have twenty (20) minutes total to speak just like the petitioner and those in favor had. Mr. Huddleston stated that the petition of the list of people in objection to the development would need to be presented as an exhibit by whoever had brought it in so it could be recorded as part of the records of the meeting.

Hayley Roberts, 513 Clay Street, Edinburgh, IN, asked if the development would be seeking any tax abatements.

Mr. Huddleston stated that would not be in front of the Zoning Board that would be something that the Town Council would hear.

Ms. Roberts further asked how much of the five (5) acres would be used for the apartment complex and if it would go back as far as the big tree on the property.

Mr. Watson stated that the big tree would be south of the complex, the parcel for the apartment complex faces Shelby Street and is just a small part of the large lot behind the elementary school.

Mr. Huddleston then opened the floor for those wishing to speak against the petition asking them to identify themselves and their address for record keeping purposes.

Patricia Quillen, 309 Franklin Street, Edinburgh, IN, spoke on behalf of several neighbors and had several questions and comments concerning the petition for the apartment complex behind the school.

1. This is the only green space on East side of town used for several sporting activities for children such as bantam football practice, baseball practice, kite flying etc., -as well as area for pets - to run and play. What is proposed green space on East side of town to be used for these activities if the property is used for the development?
2. Understands that tax abatement is not a decision for this board.
3. Who would pay the cost of storm water runoff for the property if developed?

Mr. Hoffman stated that is not for this board to decide.

Ms. Quillen continued:

4. Current upkeep of the property behind the pool is minimal taking approximately 30 minutes to mow weekly.
5. Statistics from the 2015 U.S. Census Bureau for the Town of Edinburgh, estimated renter-occupied housing units is 822, estimated owner-occupied housing units is 920, estimated median renter-occupied income is \$23,784, estimated median owner-occupied income is \$46,429, estimated median income is \$38,571. Estimated renter-occupied units of 822 shows the number of rental units is greater by 152 for those earning less than \$30,000. Currently there are units available to rent at Rainbow Apartments. Is the plan to solicit occupants outside of the community?

Mr. Hoffman stated that is not for this board to decide.

Ms. Quillen continued:

6. Statistics from the Indiana Department of Education show enrollment for 2016/2017 at Eastside Elementary is 437 students with approximately 65% of students receiving free or reduced meals, at Edinburgh Middle School is 205 with 68% receiving free or reduced meals and at Edinburgh High School is 269 with 59% receiving free or reduced meals. Will homeowner taxes increase to fund meals, additional teachers, and other essential student needs if the development is approved?
7. Will churches and individuals who contribute money to Clothe-A-Child and back-to-school supplies be expected to contribute more in the coming years, and, if not, where will the additional funding for the additional students come from?
8. What is the plan to separate the school and the apartment complex units? What makes the apartment unit good neighbors with the school property?

Mr. Hoffman stated that is not for this board to decide, they are only to decide on the variance request.

Mr. Huddleston stated that the petitioner would be given ten (10) minutes to respond to the questions if they chose, and will be given the opportunity to address questions.

Ms. Quillen continued:

9. What plan will be put in place for upkeep of the unit, and will it be the responsibility of the Town or the property manager to enforce the upkeep?
10. Will there be annual inspections of the property by someone other than the onsite property manager?
11. Will vehicles be inspected on a quarterly basis for upkeep and proper licensing? She counted seventeen (17) vehicles on her street without proper licensing, if the Town is unable to enforce proper registration now, how can they be sure that registration will be enforced on this property?
12. Are there enough police officers to provide adequate response times and will property taxes be increased to cover the salary of the police officers?
13. Does the town have adequate fire equipment and enough volunteer firefighters available in the event of a fire at one of the units?
14. Where are the entrance and exits planned and is there a plan for traffic flow? Currently, at Clay Street it is only a two-way stop and is a dangerous intersection for children and vehicles.

15. Will there be reduced speed limits on Franklin Street, Shelby Street, and Harrell Drive?
16. Will the residents in the 300 block of Franklin Street lose a portion of their property for access to proposed units?
17. Has there been any thought given to the drop off and pickup of students as the vehicles are lined up from Clay Street to the school with overflow traffic backed up on Franklin Street impeding exit from her driveway.
18. Due to the proposed multiple-story structure, the 300 block of Franklin Street residents do not wish to have upper-story occupants to have a constant clear view of the back yards of their homes. Rainbow Apartments poses no issue due to the distance away from those homes. Trees, shrubs and structures have been put in place to block view from Rainbow Apartments.
19. What is the height of privacy fence allowed in the community?

Mr. Valenzuela stated that fences are not subject to a building permit, but could be a part of the site development plan and they would look at State law standards on fencing for the site development.

Ms. Quillen continued:

20. Will there be an allowance for over eight (8) feet for residents wishing to construct fences for the privacy of their homes from the second story unit occupants?

Mr. Valenzuela stated that building permits are not required for fences, but there are requirements concerning the impeding of public views in some cases.

Ms. Quillen asked if there is a current height limitation for fences.

Mr. Valenzuela stated that there is nothing in the Town of Edinburgh building code that addresses that, but there could be under State law.

Ms. Quillen asked if it would be an issue to put up a twelve (12) foot tall privacy fence around her property.

Mr. Valenzuela stated that it depends on if it impedes a public view.

Mr. Watson stated that all of this would come out in the site development, and that types of barriers and protection around the development would be determined through the Planning Commission. Mr. Watson stated that one of the proposals would be to have no windows on any of the buildings that face the east and the west, to prevent tenants from looking into the pool and the surrounding homes.

Ms. Quillen asked if there would be windows facing the school playground.

Mr. Watson stated that a protective barrier would be required. Mr. Watson stated that a concern for the development is to have a clear separation from the commercial use of the property versus the playground for the children. Mr. Watson stated that all of these considerations mentioned would come under the Planning Commission review.

Ms. Quillen asked to submit the petition for review by the board.

Mr. Huddleston stated that the petition would be entered as Exhibit A.

Christopher Quillen, 309 Franklin Street, Edinburgh, IN, voiced his concerns for the safety of the children in the community. Mr. Quillen stated that most of the students at the Elementary School use the property when walking home from school, and other play activities. Mr. Quillen is concerned with security due to the proposed plan for underground parking and how to prevent a

child from being lured into the underground parking. Mr. Quillen asked what the plan is to ensure safety for the children. Mr. Quillen stated that he is personally opposed to the plan to make it a multi-family dwelling.

Rebecca Simpson, 307 Franklin Street, Edinburgh, IN, voiced her concerns about the view behind her house being changed from an empty lot and being able to watch the children play on the playground and at the pool, to looking at yards with trash, junk cars, dogs, plastic toys, etc. Ms. Simpson is concerned with taking ground that has been enjoyed by the neighborhood for many years to build something for low income families. Ms. Simpson stated that being over the charity fund at her place of employment she is concerned with how many more low income families would be moving in to the units.

Darlene Burton, Glasgow Drive, Edinburgh, IN, is concerned with her privacy if two or three story buildings are built on the empty ground behind her house. Ms. Burton is opposed to the development and bringing more kids and dogs to the neighborhood.

Shawn Kelsay, 301 Franklin Street, Edinburgh, IN, Edinburgh Police Officer, understands the need for growth in Edinburgh, but is concerned with low-income properties typically being high-crime and high drug abuse areas and the location near the elementary school. Mr. Kelsay stated that he is not for or against the development but feels that it should be in a different location in Town.

Mr. Huddleston stated that there was one (1) minute and fifteen (15) seconds left for the remonstrators.

Omer Lollar, 305 Franklin Street, Edinburgh, IN, stated that he is concerned about the alley behind his garage being blacktopped.

Mr. Huddleston stated that there was five (5) seconds left to speak.

John York, 310 Franklin Street, Edinburgh, IN, stated that he is in agreement with Mr. Kelsay.

Mr. Hoffman stated that time was now closed for remonstrators

Mr. Kelsay asked if there is a reason for the time limit.

Mr. Huddleston stated that the Board of Zoning Appeals operates under rules that govern the meetings that include time restraints for petitioners and remonstrators.

Unknown person asked if that prevents those in opposition from talking.

Mr. Huddleston stated that those in opposition just had twenty (20) minutes to talk and that now the petition has ten (10) minutes to answer any questions raised, but they are not required to use the time.

Ms. McKinley stated that she would address some of the concerns raised:

1. Green Space - The lot to be developed and the adjoining school property totals approximately ten (10) acres. The development includes two (2) of the ten (10) acres, leaving approximately four (4) acres of untouched green space for the children to use. The developed site would be very nicely landscaped and Commonwealth would ensure that green space is left in the development so it would not be all concrete.
2. Storm Water Runoff - Civil engineers would design the plans and determine ways to handle storm water runoff to keep it off of adjoining properties.
3. Property Upkeep - Substantial replacement and operating reserves ensure no deferred maintenance of the property. Commonwealth owns the properties and desires to have attractive properties for the long term. The onsite property manager will see that any issues with maintenance are fixed before they become an issue.
4. Households - According to the previous statement that 59% of the students receive free lunch which indicates that they would likely be eligible for the apartments which indicates there is a need for this type of development for the area.

5. Rainbow Apartments - The maintenance of those units looks below par, they serve a different population than the LIHTC would be serving, with having only one (1) and two (2) bedroom apartments, Rainbow is not a comparison to this development.
6. Separation from school property - This will be addressed when it gets to the Plan Commission and further along with the site plans. Previous discussions include a barrier between the property and the pool, fencing and other ways to keep that separated from the development.
7. Annual Property Inspection - Lenders and tax credit syndicators are large banks such as Chase Bank, PNC Bank, Wells Fargo, do annual property inspections to ensure that the money they loan is going into an asset. This helps with long term upkeep and maintenance as inspections are done by lenders as well as other State agencies.
8. Vehicle Monitoring - Onsite property management would be responsible for this.
9. Site Design - Current design shows entrance coming in from Center Cross, this would be looked at further with the Plan Commission, paving of the alley is a possibility, but that would be an infrastructure cost that would be determined later.
10. Property Loss - No properties on Franklin Street would lose any of their property, the development would not touch the backyard of those properties.
11. Underground Parking - The specifics would need to be determined but there would be security features, the parking would not be open for anyone to get into at anytime, there would likely be garage door openers or security features to address those concerns.
12. High Crime/Drug Abuse - Onsite property manager would be responsible to address those issues drug use or any indication of dealing drugs is cause for eviction.
13. Property Taxes - Another development that included a 4 story building raised concerns for a neighbor and the impact on her property value, she later sold her property for more than what she had listed it for.
14. Landscaping - Shrubbery and other landscaping will be used to make the building attractive.
15. Design - The building design would need to be approved by the Plan Commission, with the possibility of not having windows on the sides of the buildings overlooking the properties, but that would be a specific design for later in the process.

Mr. Hoffman thanked Ms. McKinley for her responses.

Mr. Huddleston informed the board that in the Zoning Board of Appeals rules, it gives an allowance to grant more time if they want to hear more from the petitioner or the remonstrators to speak. Mr. Huddleston stated that it is not required as both sides were given the prescribed twenty (20) minutes to speak, if they wish to grant more time they would need to determine how much time and who the time would be granted to. Mr. Huddleston stated that if they have heard enough testimony they could ask questions of anyone they wished.

Mr. Hoffman thanked all residents who showed up to express their concerns. Mr. Hoffman stated that they would not be making any decisions on the buildings, design, or fencing, that they would only be determining whether or not to allow the Zoning to be changed for this development. Mr. Hoffman stated that this is just the first step for this development advising the residents that there would be further meetings with the Planning Commission if they vote to change the Zoning.

Ms. Quillen asked Mr. Hoffman if this board would be the ones to make the decision on the Rezoning, and if this is approved then it is based on this board's vote, so the preliminary decision would be by this board.

Mr. Hoffman stated that it is only the decision to change the Zoning.

Ms. Quillen further asked if the Zoning is not changed then it could not be built.

Mr. Hoffman asked Mr. Watson if that was correct.

Mr. Watson stated that this board does not have the authority to change the Zoning; this board has the authority to grant a variance from the Zoning.

Mr. Hoffman apologized for his misstatement.

Mr. Watson stated that it is his understanding, that if the variance is approved, it is the first step of many to qualify Commonwealth to pursue the project and that it is his understanding that if the variance is not approved then the project would cease.

Mr. Huddleston stated that if the board is not going to allow any additional time then he would remind them of the five (5) criteria to be considered in making their decision. There being no desire to grant further time, Mr. Huddleston advised the board to refer to page 8 of the Staff Report that includes the five (5) criteria required by Indiana Law that would need to be used for making a decision on the petition. Mr. Huddleston stated that if they are in favor of approving the petition they would need to find that the petitioner has proven that they meet all five (5) of the requirements.

1. **General Welfare:** *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*
2. **Adjacent Property:** *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*
3. **Peculiar Condition:** *The need for the variance arises from some condition peculiar to the property involved.*
4. **Strict Application:** *The strict application of the terms of the zoning code will constitute an unnecessary hardship if applied to the property for which the variance is sought.*
5. **Comprehensive Plan:** *The approval does not interfere substantially with the comprehensive plan.*

Mr. Huddleston stated that in his staff report, Mr. Valenzuela has found that all of those criteria are not infringed upon. Mr. Huddleston further stated that if the decision is to deny the petition, then they would need to decide one or more of those five (5) criteria was not met and state that. Mr. Huddleston gave further information and examples of what needed to be done in making the decision on denying the petition.

Mr. Hoffman asked the board if they want to take more time to think about and make a decision at another meeting or if they want to vote on each petition tonight.

Mr. Huddleston advised that there is a regular scheduled meeting in December if they decide to table the petition.

Mr. Hoffman asked the board if they had any comments on taking some time to think about and tabling the petition to the December meeting or to vote on the petition tonight.

Mr. Flory stated that he had some comments. Mr. Flory stated that for Sections 1, 2, and 3, there are already three existing two-story buildings on Section 2, the ground has been plowed and there are pipes in the ground of Section 1, and the ground has been plowed on Section 3. Mr. Flory stated that he has questioned when the existing development would be completed. Mr. Flory stated that with the petition it appears that Section 4 would need to be included to complete the existing development of Sections 1, 2, and 3 and that he would like to have some time to think about this before making a decision.

Mr. Hoffman asked the other board member what their thoughts were. Mr. Pile and Mr. Hamm both agreed with Mr. Flory that they would like to take some time to think about the petition before making a decision.

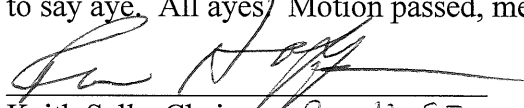
Mr. Flory stated that with Section 4 the main questions and concern seems to be the loss of the green space, with Sections 1, 2 and 3, the green space is already lost with the existing development.

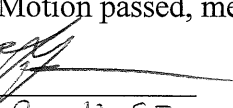
Mr. Flory made a motion to table the decision to the December meeting. Mr. Pile seconded. Mr. Hoffman asked for all in favor to say aye. All ayes. Motion passed petition tabled to the December 6, 2017 meeting.

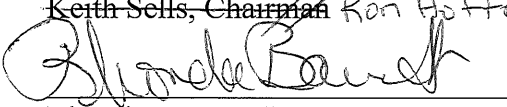
Mr. Huddleston recommended letting those in attendance tonight know what to expect at the December meeting, if they would hear any more testimony on the petition or if they would just be voting on the petition.

After some discussion, the general consensus was that the record is closed and they would vote only at the December meeting.

Mr. Hoffman asked if there was any further business. There being no further business, Mr. Pile made a motion to adjourn the meeting. Mr. Flory seconded. Mr. Hoffman asked for all in favor to say aye. All ayes/ Motion passed, meeting adjourned.



Keith Sells, Chairman

Ron Hoffman, Vice-Chairman

Rhonda Barrett, Secretary



TOWN OF Edinburgh

Administrative Offices: 107 South Holland Street, Edinburgh, IN 46124
Nick Valenzuela, Building Commissioner, telephone: (812) 526-3513, e-mail: nvalenzuela@edinburgh.in.us

Building & Zoning Department Staff Report

To: BOARD OF ZONING APPEALS MEMBERS
From: Nick Valenzuela, Building Commissioner
Date: October 27, 2017
Re: Case No. ZB-2017-02-UV / Case No. ZB-2017-03-UV

GENERAL INFORMATION:

Applicant: Commonwealth Development Corporation of America
9 Sheboygan Street
Fond du Lac, WI 54935
<https://www.commonwealthco.net/>

Owners: Fletcher Investments
P.O. Box 186
Flat Rock, IN 47234-0186

Fletcher Investments, Inc.
P.O. Box 186
Flat Rock, IN 47234-0186

James S. Fletcher
P.O. Box 186
Flat Rock, IN 47234-0186

The Town of Edinburgh
107 South Holland Street
Edinburgh, IN 46124-1411

Property Addresses: 804 Toner Street
Edinburgh, IN 46124

13 Bachelor Street
Edinburgh, IN 46124

Harrell Drive [unaddressed]
Edinburgh, IN 46124

East Main Cross Street [unaddressed]
Edinburgh, IN 46124

Parcel Numbers: 41-12-34-011-054.000-002
41-12-34-011-053.000-002
41-12-34-014-066.001-002
41-12-34-014-066.003-002

Legal Descriptions: NE S34 T11 R5
E NE S34 T11 R5
NW S34 T11 R5
NE S34 T11 R5

Acreage: 0.9000 acres (39,204 square feet)
2.2500 acres (98,010 square feet)
0.2459 acres (10,711 square feet)
2.2300 acres (97,139 square feet)

Zoning: R-4 "Medium Density" (residential)

Land Use: Vacant Land

(13 Bachelor Street: residential two-family designation with Johnson County)

FEMA Flood Plain: None of the subject properties exist in a Federal Emergency Management Agency designated Special Flood Hazard Area

SURROUNDING ZONING:

North: R-4 (red)
South: R-4 (red)
East: R-4 (red)
West: R-4 (red)

SURROUNDING LAND USE:

Medium Density (single-family residential)
Medium Density (single-family residential)
Medium Density (public school)
Medium Density (single-family residential)



PETITIONER'S REQUEST

Commonwealth Development Corporation of America (the "**Petitioner**") is requesting a Use Variance from certain requirements of the Zoning Ordinance of the Town of Edinburgh ("Zoning Ordinance") from the Town of Edinburgh ("Town") Board of Zoning Appeals ("BZA").

Specifically, the Petitioner asks for a Use Variance under §156.252 of the Zoning Ordinance to permit new construction of multifamily dwellings across four (4) parcels zoned R-4, or "Medium Density" [Residential]. R-4 zoning does not currently permit multifamily dwellings, only single-family and two-family dwellings.

The Petitioner has submitted a Preliminary Site Plan for development of twenty-six (26) townhouse-style rental units, including the incorporation of six (6) existing townhouse units at the site; and, twenty-six (26) apartment-style rental units, using all four (4) parcels. The Petitioner stated that it is applying for a grant to make the entire development a Low Income Housing Tax Credit ("LIHTC") property, including with plans for a lease-purchase option for the townhouse units.





ZB-2017-02-UV is for BZA determination on three (3) parcels with the same private ownership interest (Fletcher Investments, Fletcher Investments, Inc.; & James S. Fletcher).

ZB-2017-03-UV is for BZA determination on one (1) Town of Edinburgh municipal-owned parcel.

DOCUMENTATION REQUIREMENTS, LEGAL & PUBLIC NOTIFICATIONS

The Petitioner has satisfied all documentation requirements, and legal and public notifications, specified in the Town's BZA *Application for Variance/Special Exception* adopted on January 4, 2017.

PURPOSE OF STANDARDS

According to the Zoning Ordinance, Division 2: District Regulations, §156.029: *Residential Districts*:

"Districts designated for residential use . . . [including] 'R-4,' are limited to dwellings and public and semi-public uses which are normally associated with residential neighborhoods. The only uses permitted in the residential districts are those which would not detract from the residential character of the neighborhood. The purpose of these . . . districts is to create an attractive, stable, and orderly residential environment. However, the density standards, dwelling types and the lot and yard requirements are different in the each of the six districts to provide for the various housing needs and desires for citizens."

According to the Zoning Ordinance, *Table 1: Permitted Uses & Special Exceptions* states that multifamily dwellings are permitted in zones R-5 ("Medium Density Residence") and R-6 ("High Density Single, Two, & Multi Family Dwelling Residence"); and, in zone LB ("Local Business"), the latter under Special Exception review by the BZA only.

According to the Town's *Comprehensive Plan*, adopted in 2011 and amended in 2016 by the Town Council,

"Community Outreach Summary of Issues & Opportunities: Top Community Issues

Additional Residential Development: Participants desire residential growth. In particular, affordable and 'middle-class' housing was mentioned.

"Goals & Objectives: Residential Areas

Goal: Enhance the Town's desirability as a place to live by improving the quality, character, safety and appeal of existing neighborhoods, and by providing high quality, diverse housing stock through the approval of new residential development and preservation and rehabilitation of existing affordable housing.

Objective 10: Support the use of Rental Housing Tax Credits to preserve and rehabilitate the Town's existing affordable housing developments, such as Edinburgh Country Place Apartments.

“Land Use Policies & Recommendations: Residential

The Town should support efforts to rehabilitate and preserve existing affordable housing rental stock, including Country Place Apartments. The Town should support efforts by owners and developers to utilize private equity, financial institution loans, state and federal government grants and loans, state and federal rental subsidies, the Rental Housing Tax Credit Program, and other available resources at the earliest available opportunity to ensure long-term affordability and up-to-date design and sustainability of these properties, with a goal of having the affordable housing stock maintained and regularly improved, redeveloped, and renovated. To this end, a housing preservation target area [is] included in Appendix B of the Comprehensive Plan [the current Country Place Apartments] to facilitate the rehabilitation of the targeted property by 2019.

“Appendix A: Housing Market Implications

Although owner-occupied, multi-family housing is not typical within Edinburgh, growth among both young professional and empty nester households with higher incomes indicate support for this type of product in the future. Condominiums, rowhomes and townhomes are attractive housing options to first-time home buyers looking for a more affordable means of building equity, empty nester households looking to downsize and those individuals who want to own their own home without the maintenance responsibilities.”

CASE HISTORY

The Petitioner submitted signed Affidavit & Consent of Property Owner for use of the four (4) subject property parcels as part of the BZA Application in October 2017. The Petitioner has stated that it plans to apply for a LIHTC grant from the Indiana Housing & Community Development Authority (“IHCD”). The Petitioner has stated that in order to develop the site as indicated in the Preliminary Site Plan, such grant would need to be awarded by IHCD to the Petitioner. The Petitioner has indicated that it will apply for a LIHTC grant under the next IHCD round, which has a deadline of July 2018.

On October 23, 2017, the Town Council voted to approve Resolution 2017-8 conveying real property 41-12-34-014-066.003-002 [unaddressed East Main Cross Street] to the Town Redevelopment Commission in order for the Commission to develop economic gain for the Town.

CONSIDERATIONS

The Low-Income Housing Tax Credit (LIHTC) is the federal government’s primary program for encouraging the investment of private equity in the development of affordable rental housing for low-income households. The LIHTC program provides tax incentives to encourage individual and corporate investors to invest in the development, acquisition, and rehabilitation of affordable rental housing. The LIHTC is an indirect federal subsidy that finances low-income housing. This allows investors to claim tax credits on their federal income

tax returns. The tax credit is calculated as a percentage of costs incurred in developing the affordable housing property, and is claimed annually over a 10-year period.

The Indiana Housing & Community Development Authority ("IHCDA"), the state government housing finance agency, is the contract administrator for LIHTC properties in Indiana. The Petitioner has stated that IHCDA would conduct regular audits for compliance with United States Department of the Treasury statutes and structural site inspections of the premises.

If a Use Variance is approved by the BZA, the Town's Redevelopment Commission, the Town's Plan Commission, the Town's Building & Zoning Department, and the Johnson County Drainage Board will be required to review site development plans for consistency with the Zoning Ordinance and other applicable statutes.

Town staff has not had a similar Use Variance request within the past several years. The last multifamily dwelling development within the Town of a substantially-equivalent size was Newbury Pointe, which had a Use Variance granted by the BZA for senior housing only.

The Zoning Ordinance, in Division 9: Board of Zoning Appeals, §156.252: Variances, states that in approving variances, the BZA may attach such conditions to the variances as it deems necessary to assure compliance with the purpose of the Zoning Ordinance. An application for Use Variance is required to demonstrate that:

- 1) *The approval will not be injurious to the public health, safety, and general welfare of the community;*
 - 2) *The use and value of the area adjacent to the property included in the variance shall not be affected in a substantially adverse manner;*
 - 3) *The need for the variance arises from some condition peculiar to the property involved.*
 - 4) *The strict application of the terms of the zoning code will constitute an unnecessary hardship if applied to the property for which the variance is sought;*
- and,*
- 5) *The approval does not interfere substantially with the master plan.*

In addition, the Zoning Ordinance states that the BZA shall make written findings of the fact that all of the requirements of Division have been met by the applicant for a variance. The Board shall make a written finding of fact that the granting of the variance will be "in harmony with the general spirit, purpose, and intent" of the above chapter, and in the interest of determining "that substantial justice is done."

Prior to this current BZA hearing and by the date of this Staff Report, the Town's Building & Zoning Department received one (1) written public comment in support of a LIHTC and/or low-income housing for Johnson County in the Town. Eight (8) separate parties made telephonic/in-person inquiries to the Building & Zoning Department about the nature of the Use Variance requested by the Petitioner prior to the hearing.

CRITERIA FOR DECISIONS:

(The petitioner should address the Criteria for Decisions in their presentation**)** In taking action on all variance requests, the BZA shall use the following decision criteria, consistent with the requirements of the Indiana Code. The BZA may impose reasonable conditions as a part of its approval. The BZA may grant a Use Variance from the Zoning Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

1. **General Welfare:** *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

STAFF FINDINGS:

There is substantial evidence that BZA approval of this Use Variance will not be injurious to the public health, safety, morals, or general welfare. There is no evidence that the Petitioner has a record of significant development or property management troubles with any of its similar communities. There is also evidence that LIHTC communities are audited by local, state, and federal regulators to ensure compliance with programmatic requirements which include health, safety, morals, and welfare for a community's residents, visitors, and public at large.

2. **Adjacent Property:** *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*

STAFF FINDINGS:

There is evidence that adjacent properties to the subject properties will not be affected in a substantially-adverse manner. Some major studies have verified the likelihood that neighboring property values are not negatively impacted by multifamily dwelling and/or LIHTC communities, and can enhance a neighboring property's value with professional development and a reduction of taxes for all through increased tax base (for more residents in the area, for more minor children entering the school system, etc.).

3. **Peculiar Condition:** *The need for the variance arises from some condition peculiar to the property involved.*

STAFF FINDINGS:

Collectively, the parcels could host a multifamily dwelling community of a size proposed by the Petitioner in the Preliminary Site Plan. Such a development would utilize the unfinished multifamily dwelling site development that currently exists at 13 Bachelor Street (i.e., Brown Street / parcel no. 41-12-34-011-053.000-002) and has been left incomplete for approximately ten (10) years, to date.

4. **Strict Application:** *The strict application of the terms of the zoning code will constitute an unnecessary hardship if applied to the property for which the variance is sought.*

STAFF FINDINGS:

A strict application of the ordinance will result in an unnecessary hardship if applied to the property for which the variance is sought. (The petitioner should explain how the strict application of these ordinances results in a practical difficulty in the use of the property.)

5. **Comprehensive Plan:** *The approval does not interfere substantially with the comprehensive plan.*

STAFF FINDINGS:

A Use Variance approval would be significantly-consistent with the Town's Comprehensive Plan, based on community input and Town regulatory board approval, for the development of affordable housing. There has been no large-scale, non-senior affordable housing development within the Town for several years.

STAFF RECOMMENDATIONS

Based on the Petitioner's Request; and, the Purpose of Standards, Case History, Considerations, and Town staff analysis incorporated herein, Building & Zoning Department staff recommends **APPROVAL** of the petition in ZB-2017-02-UV.

Based on the Petitioner's Request; and, the Purpose of Standards, Case History, Considerations, and Town staff analysis herein, Building & Zoning Department staff recommends **APPROVAL** of the petition in ZB-2017-03-UV.

Building & Zoning Department staff recommends that the BZA impose the following conditions on the Petitioner specific to approval of the Use Variance:

1. That this decision is only granted to the Petitioner and its affiliates, and the Use Variance not transferable to any other property owner, association, or company not directly associated with the Petitioner;
2. That this decision is null and void should the Petitioner fail to acquire ownership of the subject parcels within two (2) years of the date of the BZA Findings of Fact; and,
3. That this decision is null and void should the Petitioner fail to receive applicable approvals from all appropriate local, county, and state authorities related to site development for the subject project.

Respectively Submitted,

Nick Valenzuela
Building Commissioner
Building & Zoning Department

Notes

If a Board of Zoning Appeals member has received any relevant information to this proceeding outside of the meeting, they should consider disclosure of such at the beginning of the hearing: i.e. potential ex parte contact (required under Indiana law for BZA members)

November 1, 2017

We, the below signed, object the petition by Commonwealth Development Corporation of America, case number ZB-2017-03-UV, for the construction of multi-family dwellings on premises located at:

Parcel ID Numbers (41-12-34-014-066.001-002, 41-12-34-011-054.000-002, 41-12-34-011-053.000-002 and 41-12-34-014-066.003-002

Name Address

Patricia H. Allen	309 Franklin Street
David J. Allen	313 Franklin St
Christopher Alworth	819 S. Howard St.
Ree Jean Hong	212 N. Franklin St.
Alfred Henry	212 N. Franklin St
John Ford	305 Franklin St
Donald Couch	312 Franklin St.
Paul Howard	408 N. Franklin St
Donald Howard	408 N. Franklin St
Robert Williams	503 N. Franklin St
Concepcion Rodriguez	601 Franklin St
Faye Rodriguez	601 Franklin St
Lincoln Sports	508 N. Clark St

Ex. A

Ex. A

Page 1

November 1, 2017

We, the below signed, object the petition by Commonwealth Development Corporation of America, case number ZB-2017-03-UV, for the construction of multi-family dwellings on premises located at:

Parcel ID Numbers (41-12-34-014-066.001-002, 41-12-34-011-054.000-002, 41-12-34-011-053.000-002 and 41-12-34-014-066.003-002

Name	Address
Patricia A. Dullen	309 Franklin Street
David B. Dullen	313 Franklin St.
Christopher D. Dullen	819 S. Holland St.
Rae Jean Henry	212 N. Franklin St.
Clifford Henry	212 N. FRANKLIN ST
John Taylor	305 Franklin St
Bruce Couch	312 Franklin St.
David Street	408 N. Franklin St
David Street	408 N. FRANKLIN ST
Leonard Littlejohn	503 N FRANKLIN ST
Carroll Ridpath	601 FRANKLIN ST
Faye Ridpath	601 FRANKLIN ST
Mark Sparks	508 N. Clay St

ame	Address
Robert Simpson	307 FRANKLIN ST.
Bonnie Toops	604 FRANKLIN ST
MEIBATOOPS	604 FRANKLIN ST
Ed Salzman	118 GLASGOW DRIVE
Edna Burton	202 GLASGOW DRIVE
Parlene Burton	202 GLASGOW DRIVE (NO)
George Hill	
John & Colum York	310 Franklin Street Edinburg, IN
Shawn Kilsay	301 Franklin St.
Whitney Kiewit	301 Franklin St
Brett Lewis	92 Rainbow Lane
Tiffany Schmitt	92 Rainbow Lane
Kate Kewin	92 Rainbow lane
Hayley Roberts	513 N. Clay St
Chuck Blair	Florida
Mer Lollar	305 FRANKLIN ST Edinburg, IN
Bonnie Salvagin	118 Glasgow St