

## March 2, 2006

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, March 2, 2006, in the Fire Department Training and Conference Room located at 5080 West State Road 46. Frank Buczolich called the meeting to order at 7:00 p.m. leading the Pledge of Allegiance.

**Roll Call:** Frank Buczolich, President; William Evans, Terry Baker and Don Calvert. Sandra Hash, Secretary and Frank Nierzwicki, Director of Planning Services were also present. Ed Bitner was absent. Lisa Creech resigned from the Plan Commission at the February 13, 2006 Town Council meeting. Dennis Williamson was appointed to the Plan Commission but could not attend due to a prior commitment.

### Approval of the Minutes

William Evans requested a change to a statement he made at the last meeting concerning the Litten Estate developer working with the neighbors to alleviate some of their concerns. He then made a motion to approve the minutes, as amended, from the meeting of February 9, 2006. Terry Baker seconded. Motion carried.

### Old Business

#### Sims Rezone request 5000 Block of SR 46

**Frank Nierzwicki**, the Director of Planning Services, went over the Staff Report outlining the developments since the February Plan Commission Meeting.

- February 20, 2006: A meeting was held with the developer, neighbors and Director of Planning Services. The main issue of concern was traffic and safety.
- February 23, 2006: A meeting was held with developer, Mr. Guerrettaz, Town Engineer and Director of Planning Services. They discussed plan changes to incorporate neighbor comments from previous meeting.
- February 28, 2006: A meeting was held with the developer, four Plan Commission members and the Director of Planning Services. The developer presented his revised development plan that incorporated neighbor comments from the February 20, 2006 meeting. This meeting was posted in compliance with the "Open Door" meeting rule.

Frank Nierzwicki recommends approval of the Rezoning petition from C-3 to PUD. The petitioner's proposal calls for the construction of 40 two bedroom apartments to be housed in ten separate buildings on site. He then listed the stipulations for PUD approval:

1. The petitioner at his cost will install a five foot wide sidewalk from SR 46 north along the west side of Capitol Avenue north to the area adjacent to apartment buildings 9 & 10 (refer to site plan). The petitioner will also install pedestrian pavement markings for the pedestrian crossover on Capitol Avenue near apartment building 9 & 10. The pedestrian crossover will connect the sidewalk on the west side of Capitol Avenue to the petitioner's internal sidewalk network.
2. The petitioner, at his own cost, will widen Capitol Avenue to at least 22 feet in width, under the direction of the Town's Engineer.
3. The petitioner, at his own cost, will install curb and gutter along one side of Capitol Avenue, under the direction of the Town's Engineer.
4. The petitioner will also install 100 parking spaces for this development. This is an increase of eight parking spaces from the previous development plans.
5. The petitioner will submit a lighting plan for the development.
6. The petitioner will supply the Planning Department with a copy of the tenant lease at the time of approval and then on an annual basis.
7. The petitioner will supply to the Plan Commission an annual building report on his development. The building report will state the completion percentage of the project as well as the occupancy rates of the

units completed.

8. The petitioner will report to the Plan Commission their intention to finish the last two apartment buildings within five years of the project approval. If the developer does not intend to build the last two apartment buildings then the project will be deemed completed with 32 two bedroom apartments in eight separate buildings.
9. The petitioner will have seven years, from the date of approval, to complete this project. The Town will not sign any occupancy permits for buildings for this project following the seven year building completion window.
10. The petitioner will work with the Town to establish a neighborhood association with the Brasswood Subdivision and surrounding landowners.
11. A performance bond or letter of credit needs to be issued on this project before final approval by the Town Board. The amount of the bond or letter of credit needs to be approved by the Town Engineer.

The petitioner has agreed with the above mentioned stipulations.

Frank then read a summary of issues. The neighborhood concerns were:

- Density related matters
- Safety and traffic
- Buffering, sidewalks, curbs and gutter
- Trash collection
- Lease for tenants

The petitioner addressed these concerns in his revised development plan. The issue of density still remains in the revised development plan. The density issued can be addressed in the future if the market place does not support this development. The petitioner has agreed to review the development within five years to see if the market place will support the construction of the final two apartment buildings. If the petitioner does not wish to build the final two apartment buildings then the current PUD development will be frozen at eight apartment buildings. Any other construction on this site would have to be amended by the Plan Commission. The development would also be the first in Ellettsville that would have a construction deadline; all building must be completed within seven years of approval.

Another important item to consider with this proposed development is how it will be managed and maintained in the future. No person can predict with 100% certainty what the future will hold for this proposed development. What the Planning Department can do is put mechanisms in place that will help maintain a high level of interaction and cooperation between the petitioner and the neighbors. The ability to review tenant leases and the reintroduction of a neighborhood association are items the neighbor have asked for over the last month of meetings. If this development is to succeed it will require continued interaction and support from all parties; the petitioner, the neighbors and the Town of Ellettsville.

**Don Calvert** questioned, in the last paragraph, what is the purpose of the residents reviewing the leases. Doug Norton mentioned the whole point is there may be things in the lease having to do with the aesthetics of the property and maintaining the aesthetics of the property (no trash, no extra parked cars, no toys).

**Bernie Guerrettaz** mentioned, after reviewing the map; apartment buildings 3 & 8 would be left until last and taken off the plan if necessary. He pointed out which buildings would go up first. He went on to explain where the parking will be. Frank Nierzwicki said they would be in compliance with the Ordinance setback of 40 feet.

**Jessie Smith** lives north of where the pine tree buffer will be. He is concerned it will take a long time for the trees to grow and become an adequate buffer. Frank Nierzwicki said pines do grow a little faster and there will also be another 5 foot type of tree. They will be planted on a 4 foot berm. Mr. Smith asked why a privacy fence couldn't be put up with the pine trees. He is also concern kids will walk through the pine trees on to his property. Frank Nierzwicki said in previous meetings the residents suggested a landscape buffer but the people in the audience disagreed. Frank asked Bernie how long the trees have been on the diagrams. Bernie answered the one section of trees were on the drawings initially. When the buildings were pushed back in accordance with the Ordinance setbacks the second tier of trees and berm were added. He remembered talking about a fence but thought it was decided a "confined feeling" is not what the people wanted. Mr. Smith said no decision was made on that and others agreed. Frank Nierzwicki explained a 6 foot

fence on top of a berm is all there would be but trees will grow and possibly be 20 feet high on top of the berm. Mr. Smith wants to keep people off his property. Bernie suggested dropping one row of trees and putting in a 6 foot opaque fence. Terry Baker added if the trees (White Pine) are planted (staggered) they will become an effective barricade because the pine trees limbs will interlock and no one will be able to walk through. They will not require maintenance like a fence would. Mr. Smith replied limbs do not grow low to the ground. Mr. Smith and everyone who signed would like a copy of what they signed and a list of who signed for the registered letters on the C-3 zoning change. He did not sign for a registered letter. Frank Nierzwicki said some of the letters were sent out in September and October. Sometimes the letters are refused without signatures and they are not returned. He will look into this. Also with the rezone of the upper part of this area from R-1 to C-3 only the adjacent property owners to the R-1 zone would have been required to receive letters. Mr. Smith is an adjacent home owner and feels he has been lied to since the beginning by Mr. Sims on all of this. He does not trust his word and would like to see a receipt.

**Patricia Harth** lives west of Mr. Smith. She was at a previous meeting and reiterated she had discussed a 6 foot privacy fence because she and her husband didn't think the trees would be enough of a barrier. She also pointed out the street was spelled incorrectly. It should be spelled "Capitol". Sandra said it has been brought to everyone's attention and it is being changed.

**Barbara Rouse** lives on the east side of this development. She has a survey and is going to have a title search done because she believes they are developing on some of her property. This is not official and is still being investigated.

**Chris Sims** stated originally Mr. Guerrettaz and his firm did a survey of this entire property. They found all the markers they needed and felt what they have drawn up is in compliance with what they found. If Mr. and Mrs. Rouse find out the survey was incorrect somehow, they are willing to make the adjustments. Frank Nierzwicki stated before the development is started, this would have to be settled.

**Doug Norton** believes there are some important items still hanging. He is requesting this be tabled until all the issues are resolved. It would be a big mistake to vote this in until everything is complete. He doesn't think they will ever come to a total agreement with the developers. They are looking at it from different sides of the spectrum. One side is in it for monetary gain and the other side is in it for preservation of their own property. He asked where Litten Estates is located. William answered across from Westside General Store. Mr. Norton asked how the developer and residents worked together and came to an agreement on something that pleased everyone. William replied you can not relate one situation to the other because they are totally separate entities. He went on to summarize the changes made to Litten Estates to appease the concerns of the neighbors in Ridge Springs. Mr. Norton stated the density issue is their biggest concern along with the traffic. It is a beautiful area and could be developed in some other way. He quoted Frank "we can not predict what might happen". This is a scary statement because their homes and their futures are in this neighborhood. Mr. Norton then asked about a statement made about some buildings being moved. It was clarified that Ed Bitner made that suggestion at the last meeting to help with the parking lots but this was not a good idea. Again Mr. Norton requested this delayed. There are some pressing issues to be decided on what is best for this small area. Frank Nierzwicki replied when areas are being developed in and around town; the most important thing is the maintenance and the commitment to create and have a neighborhood. This is what he meant by "predicting the future". Mr. Norton said "we have a neighborhood" and adding seven or eight homes would still maintain the character of the neighborhood.

**Sandra Hash** said she spoke with Mike Cornman (of the Fire Department) and reviewed Rick Coppock's engineering report. One item of concern is access. The Ellettsville Town Code states "any subdivision with over 10 lots should have two accesses in and out". The PUD would get around that and the 12 foot paved access is sufficient for emergency vehicles, but it would better serve the community if upgraded to accommodate future growth. Mike Cornman pointed out the State looked at Lakeview Drive as a possible stop light area. The current traffic count did not justify a stop light. If the emergency access was upgraded to an access point that would someday connect to Lakeview Drive it would create two ways out. Increasing the traffic count would encourage the State to put in a stop light at Lakeview benefiting everyone is that area. She applauds the Sims; they have really tried to modify this plan. They have done a great job, made several changes and agreed to several improvements. The two accesses in and out are still of a concern to her. For future development of the area it would be a positive thing to have a road cut left there to make it a street someday. William commented not to expect that to become a street because we don't know if the other developer would want to make that a street. Sandra said every addition we have done since she has been involved with the Plan Commission have all had "stub streets" and our Code requires "stub streets" for interconnection. She does not think it is out of line

to speculate that if a stub was there for street that another developer would not consider using it. It would benefit everyone involved. Bernie said Sandra was correct because the ordinance does say subdivisions over 10 lots. This subdivision is not over 10 lots. They would provide emergency access to the east and the emergency turn around that was requested early on. The connectivity to the east to Lakeview, if that would ever happen, is somewhat opposite of what they are hearing from the neighbors. There is simply not enough room for a street to come back around. Water main extensions, fire hydrants and water flow for fire protection will be added. He would like to leave the connections the way they are if possible.

**Dan Swafford** agreed with the concerns of his neighbors and stressed the dead end street would not accommodate that many families and three businesses. There has to be another way in or out. We need to look strongly at providing another access road onto Lakeview. Frank Nierzwicki interjected; eight parking spaces were added after the last meeting. Mr. Swafford asked if widening the entrance to three lanes was on the plan. Frank Nierzwicki said that needs to be approved by INDOT. Bernie Guerrettaz added that request came up the other evening and he will look into it. He finished the TOPO for the State permit. He will be getting the drawings and working on the permit stage from INDOT. There is a lot of “stuff” at the street entry: signs, storm sewer, hydrants, gas valves and water valves to work with in. The initial conversation with INDOT was to widen the road to 24 feet which is what their standard is for that entry and then bring the radius around for the access into the existing curve lines on SR 46. Sandra announced our Engineer’s report instructs the Plan Commission not approve this until the report is back from INDOT. Bernie said we are going from a subdivision approval to a PUD and he questioned if it said approval or review. Sandra read “the construction of additional units to be served by this drive should be submitted to INDOT as a street for review and approval prior to approving the plan”. Bernie said he has been in contact with Teresa Gallion at INDOT. She sent a letter explaining she would look at widening and straightening the entrance.

**Rick Coppock** said we could approve this but it would be contingent upon getting a State Highway access permit. Sandra asked how long an approval from INDOT takes. Rick said it varies from a month to two at the most. Bernie said it is not practical to get the permit first. Developers do not want to invest the time, money and effort on an application that might not be approved at the local level. A thought process needs to go into the INDOT permits. The three lanes is a great example if they applied for a permit for two lanes and then came back wanting three, they would have to start all over. The condition could be; construction can not start until the INDOT permit is received. Sandra asked if there would be any harm in tabling this until next month. This will give Dennis Williamson and Ed Bitner a chance to look over everything and be part of the decision. Bernie said they have had some initial conversation with INDOT. They do not have a County permit. The INDOT permit is part of their plan and they have started the surveys. They will not be able to start any work until they have the permits. They have looked into the erosion control, water and sewer permits. They talked to these people ahead of time to have some predictably in the process and know what is going to be expected of them. They have met with Eastern Richland Sewer Corporation. They do not have a problem with the plan. They will sign the capacity allocation letters once they have the project and are ready for permits; same with the NOI for the water. The permits are something they are very aware of and will not start a project unless they have the permits from the State or anyone else. He asked this not be tabled this evening. They have spent 5-6 hours in very productive public meetings with neighbors trying to work towards a solution. They have listened to the concerns and even the boundary issues with Mrs. Rouse. He does not see anything with the boundary line on this property that will make a difference. He respects her questions and will be happy to look at what the differences are. Sandra asked if they spoke with the Burrells. Bernie said Flavia Burrell phoned him and Tim Sims months ago and said nothing negative, positive or indifferent and is very excited about what she is doing and felt it was all compatible. Sandra then said a lot of changes have been made to comply with the requests. What is the benefit of a PUD? Bernie said the configurations of the interior lots within the buildings do not comply with the setbacks. This would be the biggest issue. The PUD was suggested by Planning. A PUD is Planning Urban Developments; it takes a unique property and allows more options to make it better. This property is already zoned C-3. The use is very consistent and the density is below what the C-3 zone allows. The property to the west is C-3 along with Mr. Holtz and Mrs. Rouse’s property.

**Robbie Bex** said Mr. Guerrettaz keeps going back to the C-3 zoning. They have asked for signed copies of the C-3 zoning. At every meeting she has attended, the only answer she has gotten is “we will look that up or get back to that”. She feels that every time she goes for legal counseling her answers are always “they are going to get back to me on that” and they haven’t. This all seems like “wishy washy political crap”. She also found out at the last meeting that she “supposedly” signed off on the easement. She is going to challenge that with a lawyer because she was lied to and deceived by Mr. Sims. She was also under medical care at the time.

**Fred Baugh** lives at the end of Capitol. He pointed out the three businesses at the beginning of Capitol Ave. He has come home from work to find a semi blocking the road. He is concerned the dust created by the construction will affect one of the neighbor's daughters who have asthma. She will not be able to play outside in the summer. He feels a "good neighbor" would have come to talk to them before even starting a project of the magnitude. They all paid to have the street paved, none of them knew it was going to be zoned C-3 when it was annexed into the Town. He does not remember receiving a letter and would like a copy of what "he signed". He did sign a paper with the lawyer to give Ronnie Hart an easement through his property for his driveway. That is the only paper he remembers signing.

**Frank Nierzwicki** stated it is up to the Plan Commission how they want to handle the vote this evening.

**Chris Sims** stated they have made a legitimate and good faith effort to work with all the neighbors. Since the initial meeting they have met with the neighbors twice. They have tried to address all the concerns and incorporate them all into the plan. He does not feel there is anything that can be done or changed to make the neighbors happy. He hopes the Plan Commission will keep in mind they did not make the request for C-3 zoning on the majority of this property. The Town, itself, realized this should be C-3. With this in mind he hopes the Plan Commission will take into consideration the development is well below the C-3 zoning. It is actually an R-3. This property with a C-3 zoning could include a lot of things like gun sales, hotels, professional offices or taverns that would generate traffic all through the night. To delay a project because of contested property lines would not be in anyone's best interest. In the course of building this development, they will need to hire builders, painters etc. When the development is completed they will need to maintain the yards and clean carpets. This project will generate income for the community. The current homeowners' property value should not go down. They are planning on maintaining this property to the very highest standard.

**Frank Nierzwicki** reviewed the options. The Plan Commission can:

- Vote to deny
- Vote to accept as presented
- Make no comment and pass it on to the Town Council

What ever happens, the petitioner can take it on to Town Council.

**William Evans** asked Rick Coppock what his opinion was on "meeting the drainage requirements". Rick said as far as drainage, they will provide detention, inlets in the parking lot and collected waters. Then transport the water to a detention pond and then to the overall drainage system down SR 46. He has not looked at their erosion control plan but that is something they will have to meet, regardless. William asked if this falls within the C-3 zoning we have. Rick said the C-3 zoning allows all the uses. He would also like to know if the fence/tree issue was resolved.

**Don Calvert** reiterated people want this to be tabled until all things are settled. All things will not be settled. He gave some examples of his property and the developments that went up around him. The final decision is not the Plan Commissions to make. In all sincerities, they need to look at it from what the law says. With the options given tonight, it will still go to the Town Council. He encourages a vote on this issue so the people who are concerned can deal with the people who will make a yes or no decision. The Plan Commission does not make the yes or no decision. The longer we meet the more difficult it will be on everyone. A decision should be made tonight so we can move ahead so the concerns can be taken to the people who make the decision instead of to the people who only make recommendations. Regarding the tree issues, he put trees behind his house and recommends staggering them as opposed to a fence. William added this will not be an overnight decision by the Council either. It will come before the Council twice.

Frank Buczolich entertained a motion on the rezone request.

Don Calvert made a motion to vote on this. Terry Baker seconded. Frank Buczolich requested a roll call vote. Don Calvert – yes; Terry Baker – yes; William Evans – yes; Frank Buczolich – yes; Sandra Hash – no. Motion carried 4-1 to pass it on to the Town Council with a positive recommendation.

## **Five minute Recess**

### **Town Code – non moving code violations (parking issues) – Discussion**

**Frank Nierzwicki** mentioned this subject was brought up at last month's Plan Commission meeting. He does not have anything new to bring to this meeting. He is looking for direction on where to go from here to enforce this. He presented a letter from Patrick Stoffers, Town Council President. Frank Buczolic read the letter in its entirety:

February 22, 2006

To the Ellettsville Planning and Zoning Commission:

It has been suggested by the editorial board of the Herald-Times as they addressed the local issue of parking in their editorial on February 12, 2006 that "There ought to be a common sense solution to this". I couldn't agree more.

There are competing interests at play. On one hand it is easy to understand the concerns of people with serious medical conditions. Parking in an area more adjacent to an entry way or to avoid steps for instance makes sense for these people. But as a Plan Commission or as Director of Planning, how would one know this condition exists? Clairvoyance? The code makes no allowance for such circumstances. On the other hand there is a clear duty to project property value. Why should one resident's property value diminish because of the acts of their neighbor who may, for example, generate "ruts" in the adjacent property because they don't or won't use a driveway? How many "ruts" makes a violation? Are 2 inch parallel depressions for 6 feet "ruts"? Or it is 5 feet? What if the depressions are 1 inch rather than 2 inches? Are a parking area paved and/or bound with dimensional requirements or is it a 1 foot by 6 foot strip of gravel? How much gravel? Is it 10 pieces or a 1,000? Is it ½ inch deep or 6 inches deep? Is it bound, contained or loosely placed?

The Plan Commission asked our Planning Department in November 2005 to formulate recommendations related to parking to present at the February 2006 regular meeting. Our Director did what was asked. I sense from a number of public comments made that there is some reluctance to send enforcement letters because of the burdensome nature of the task, ticketing or some like activity is perceived as heavy handed, and there some preference for passive rather than active enforcement. Then what is left for our Director of Planning to do without clear guidance in terms of executing the provisions of our code? Are there other provisions of the code he shouldn't enforce or just these? What is the justification to enforce some provisions and not others? How can the department tell the difference? It could be argued if parking provisions are not enforced then why should the provisions governing adult entertaining be enforced? Why should one set of provisions be more enforceable than others? How does the Plan Commission justify this scenario in terms of policy?

If the Plan Commission as a matter of policy does not want to contact people by letter, does not want to utilize a system of ticketing, and does not want to proactive patrolling and enforcement by our Planning Department, then I can only interpret that as a clear signal the Plan Commission does not wish to enforce provisions of the code related to parking and those provisions should therefore be abolished. The Planning Department did what this Plan Commission asked by providing recommendations for your consideration and the Department should not be scourged, publicly or otherwise, for doing what was asked. I am particularly disappointed by some public comments made at the February meeting that had no purpose other than to denigrate our employees. Those types of comments make for good theatre but are lousy for policy formation.

On the other hand, if this Plan Commission believes it can find "a common sense solution" than by all means work towards that objective. I support an open and collaborative process with considerable and rational public input and data collection. I am convinced a solution is possible that balances the interest of all the interested parties.

It should note that IC-36-5-2-10 (a) state in part, "An ordinance, order, or resolution passed by the legislative body is considered adopted when it is signed by the executive". Be advised that any amendments to the Town Code concerning parking that contain any element, practice, or policy advocating or requiring "complaint based enforcement" or some like activity shall not receive my signature regardless of any affirmative council vote and thus will not be adopted. The people of Ellettsville deserve the equal protection of the law and any complaint-driven system violates this sound and time-tested principle in my view.

Patrick Stoffers  
Council President

**Frank Nierzwicki** met with Dale Sissman who was just released from the hospital. There are some issues that he feels will be worked out. The Planning Department will do what is required. There are various amounts of Codes in Town and the Planning Department will follow through.

**Don Calvert** asked “do we have a problem with parking in this community”? There were many responses of “yes”. Don would like to identify the problems and approach it. Frank Nierzwicki believes in consistency and being fair with everyone. It is not fair for the citizens that comply, pay for the gravel and timbers and have others that do not comply or follow-through. What will we say to those who have complied?

**Don Fisher** this goes back to when there was another Council that no longer exists through turn over. There are all these codes and ordinances and he felt the elected officials did not know how to enforce them and did not want to do it. For the most part Ellettsville is a down home grass roots place that is growing. The older part is being neglected and not maintained. People are not staying in office long enough to keep on top of things unless someone complains. Some topics Don Fisher touched on were:

- Gravel was not permitted
- Purging laws; historically there was no parking on the grass for years
- Town Council does not want to take necessary responsibility to enforce
- Trash and debris problem in yards
- Everything was dumped on Frank Nierzwicki shoulders
- The elected officials lead you on with intent, get what they want and then they are gone
- Frank can not be a “man for all people”
- 300 letters were sent out and 67% have complied
- Jeff York made no parking on entire lawn; letters were sent and he was scared off when people complained
- Several properties in one neighborhood create an eyesore
- A progressive fine system is needed
- Give Frank necessary authority to enforce ordinance
- Change is not good, at first, but once everyone learns what is expected then it will level out

**Frank Nierzwicki** interrupted to follow up on the issue of parking on the grass, if we go that direction. Ellettsville has variety of home sites with various parking situations. Changes have occurred since the older subdivisions were created. Creative ways can be made for some of the subdivisions but there is no where to go with the homes on Association. Safety is another issue along with the time of enforcement. Normal enforcement could be 8 a.m. and 6 p.m. Monday through Friday. In other towns, people can wash their cars in the yard, work on cars in the yard and even unload groceries at the door of their homes. The cars are not left unattended. This issue needs to be addressed.

**Kris Kleindorfer** represented his mother Mary who is a neighbor to Mr. Sissman on Association. He feels a lot of good comments came out of the last meeting. His opinion boils down to common sense. Personally he would like to see the ordinance abolished because there is a blanket rule for the Town that is not suitable for the whole Town. As far as parking on the grass, he agrees that he does not want to see the yards torn up but this is not a year round deal. Ruts are cut in the winter. He also thinks a lot of the opposition is from the people parking in the front yards. The bulk of the population is not upset about people parking their vehicles in the back yard. Parking in his mother’s yard is a necessity. He agrees with Sandra’s comment that it is “overkill”. He wanted Ed Bitner to be in attendance this evening because he is the one that initiated this ordinance in the first place and then things got out of hand because it turned out to be more enforcement than he intended it to be. Kris does not feel this should be “complaint driven” either. This would be more fire for neighbors that did not get along.

**William Evans** announced this document is a “living document” that can be changed as we go along. We knew we would have to look at different parts of this. This is just one of many on a continuing basis. When this was created it was not meant as a hardship, it was a place to start. A group met with the Planner, Bill Land, of Huntingburg, Indiana and revised a plan as a place to start.

**Frank Buczolic** asked for some ideas as to what would make this workable in a practical sense. William would like to initially see Frank Nierzwicki take a month and try to come up with a solution. Police the junk cars and abandoned vehicles. Take a month to try and address this and have a work session to come up with some type of solution. Frank Nierzwicki mentioned work sessions are open to the public.

**Don Fisher** clarified we have an existing ordinance that is very clear as to what the existing people of Ellettsville are to comply to. The Council hired a Planning Director after the first one did not work out and now it is suggested to wait another month. What are we afraid of? Why do they want to move a 60 day letter to a 2 week time period? Where are the fines? He does not think anyone wants to make a decision. Frank needs direction now; why wait another month? He wants people to pay fines. If the ordinance is abolished then we are right back to the beginning. William Evans corrected Don and said nothing has been said about abolishing it. We need to get a consensus of opinion about how we actually want to do this. Don said the ordinance tells you how to do it. The ordinance isn't enforced and we don't know if the existing ordinance would work by him sending fines out. He went on to give examples of situations that should be fined. William used the analogy; there are people in Town with allergies due to pollen but a lot of people have a lot of flowers in their yard that might be causing the problem. Frank Nierzwicki went on to say this first year was a learning experience, with the 300 letters. He wants an ordinance that is fair, equal and enforceable from a legal standpoint. Common sense is involved in this. Public input is needed and required. He really needs direction and feels work shops would help. Don Fisher asked where the people were when the ordinance was passed. He emphasized this is Frank Nierzwicki's job and it all falls on him. Frank clarified this was not his ordinance and he was asked by the Plan Commission to come up with recommendations on enforcement. Don said the enforcement is already in the ordinance. Frank said he has been having an issue with people going in and out of compliance and repeat offenders. He is proposing one warning letter a calendar year allowing two weeks for correction. Then after that each time the property has a car on it the car itself would get a ticket. This is what needs to be talked about at the work shop. He needs support from this body on where to go on this. He will get input and comments. Sandra informed Don that Frank did the research, presented the idea and there was some audience comment. There have been no decisions made by this group on any changes. The current code is still in place and we are taking his suggestions under advisement at this time.

**Don Calvert** clarified there are two different situations. One is identification and the other is enforcement. He feels a mistake has been made in identification. Trucks sitting around with trash in the back should have gotten a ticket instead of somebody parking on the grass. We need to look at major violations and then trickle down to the minor violations. We need to identify who are the major violators and focus on that and then use our enforcement. Frank Nierzwicki mentioned we need to bring medical needs and other situations into the Code and be responsive responsible citizens. In the present code he does not have any flexibility because he wants to be fair while enforcing it. Don Calvert asked if there is a possibility of an appeals program. Sandra said yes it is written into his proposal. Don Calvert wondered if there was a first or second year law student at the University that would be interested in gaining some experience in sitting down and listening to appeals on traffic violations. Frank Nierzwicki said we need an appeal process. Don Calvert went on to say when there is a parking problem it should be brought to the board for resolution and modifications instead of a long battle. The trucks with trash and cars with dropped engines should be what we need to focus on. Frank Nierzwicki agreed that a workshop could help us with direction.

**Russ Ryle**, Reeves Road resident, commented that the way the code is currently written it is a "one size fits all approach". The wording in the code needs to be addressed as "unlicensed or uninsured vehicles". Terry Baker said we can not define, under Indiana Code, an unlicensed car as abandoned. It was also clarified that nothing can be done to a vehicle with an expired license plate unless it is on public property. Russ Ryle stated we need to target specifically in the ordinance what we want to address. William Evans asked Russ Ryle to assure Mr. Fisher the Town does do things for people occasionally. Russ Ryle replied "they try". Don Fisher wants to know how long it will take the Plan Commission to present something to the Town Council. This problem has been addressed for a long time. Terry Baker reminded Don Fisher of the letter that was just read from Patrick Stoffers stating there is a lot that needs to be followed or he will not sign anything. Frank Buczolich said to properly proceed on this; a meeting needs to be scheduled to include all the concerns presented this evening. Sandra made the comment Frank's proposal is a good one but the criteria needs some work.

Don Fisher made some closing remarks. The longer we procrastinate the worse it becomes.

### **Edgewood Village, Status Report**

**Frank Nierzwicki** is making some progress. Jim Ragle has picked up four truck loads of debris and trash. A company has been contacted for the fencing. A legal issue has come up that Mike Spencer has been looking into. Frank has been in contact with Mike Farmer on easement, sewer and phone issues. A meeting needs to be schedule with the neighbors regarding fencing and easement issues. He is also working with Ellettsville Trucking to remove a trailer as soon as possible.

## **New Business**

### **Area Plan Commissions fee schedule – Discussion**

**Frank Nierzwicki** explained there are different fee schedules. He asked the Plan Commission to review the memorandum included in the packet “Comparison of Area Plan Commissions fees/Charges” to be discussed at a later meeting. Sandra brought up an example of a fee that was charged. The engineering services from Bynum Fanyo on the Sims project were \$320 for one meeting and \$480 for another. We have only collected about \$300. Frank Nierzwicki suggested we start charging fees especially “per lot”.

## **Non Agenda Items**

**Don Calvert** wants the Plan Commission to consider a \$25,000 bond on new construction so the Town will have some flexibility if there are mistakes, errors or incomplete work to draw from to make the corrections. He also suggests any and all inspections built be completed before the sale of the home. He does not think it is correct to have an occupancy inspection after the home has been sold and “dumping” all the problems on the new owner. He wants to hold the builder responsible. Sandra said currently we use the bonds at final inspection time for street, trees and asphalt. Frank Nierzwicki announced if we cash in a few bonds once or twice; we should not have any more problems with developers.

**Frank Nierzwicki** brought up some of Ed Bitner’s suggestions. He asked about this group considering or recommending to Town Council about “if you are abstaining from a vote; not getting paid for the meeting”. Sandra answered “I think we have all agreed that we need to fix that”. Frank Nierzwicki will write a memo for the next meeting. Frank Buczolich suggested making sure we are not in violation of Indiana Code.

## **Adjournment**

William Evans made a motion for the meeting to be adjourned. Don Calvert seconded. Motion carried. Meeting adjourned at 9:33 p.m.