

## August 7, 2008

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, August 7, 2008 in the Fire Department Training and Conference Room located at 5080 West State Road 46. Sandra Hash called the meeting to order at 7:00 P.M. and lead the Pledge of Allegiance.

**Roll Call:** Members present were: Sandra Hash, President; Terry Baker, Vice President; Willis Ziese, Dan Swafford, Don Calvert and Phillip Smith. Frank Buczolic was absent. Frank Nierzwicki, Director of Planning Services and Connie Griffin were present.

### Approval of the Minutes

**Sandra Hash-** entertained a motion to approve the minutes from July 10, 2008. Dan Swafford made a motion to approve the July 20, 2008 minutes. Phillip Smith seconded the motion. All in favor, all in favor motion carried.

### Request for rezoning at 815 Main Street, Don Baugh petitioner

**Frank Nierzwicki-** You have before you a request from the petitioner to rezone from R-1 to C-2 tourist commercial. Lot 80 and 79 are currently a C-3 zone. Mr. Baugh has acquired lots 348, 133 and 82 and wishes to have all properties a C-2. The other request in this application is to vacate the alley, between 80 and 81. This is an alley, I've contacted the Street Dept. and Utilities and they don't feel we, the Town, have to keep this alley at this point. If this is approved by the Plan Commission, it has to go to the Town Council for two readings.

**Sandra Hash-** Is there a white house that sits on this lot, lot 81.

**Frank Nierzwicki-** Yes, that is correct.

**Sandra Hash-** Does anyone have any questions or opposition to this zoning change?

**Phill Smith-** This alley, they don't need fire protection or anything?

**Frank Nierzwicki-** We usually work with the Street Dept. and Utilities to see there is a need to keep this open. We need to protect easements, and it doesn't appear to have any at this address.

**Sandra Hash-** Any questions from the Plan Commission members? Is the petitioner here?

**Frank Nierzwicki-** No

**Sandra Hash-** No questions were asked. I would entertain a motion for approval.

**Phill Smith-** I make a motion to approve case number 2008 rezone 003 and vacation.

**Don Calvert-** I'll second.

**Sandra Hash-** All in favor say aye? Do you have a question Dan? All in favor.

**Dan Swafford-** I just wanted to make sure all adjacent property owners have been contacted.

**Frank Nierzwicki-** Yes.

**Sandra Hash** – Opposed same sign, motion carried.

### New Business

## **Request for preliminary plat approval for a 78 lot subdivision in Centennial Park - Development Group Network Inc. Petitioner**

**Frank Nierzwicki-** This is a single family development on approx. 32 acres, this area was annexed into Town last year. On August 6, 2008 the Planning Dept. met with the Town Supervisors to have this reviewed and to receive comments. The fire station and the street department did not have any problems with this area. I've also spoken with the Town Marshal, Tony Bowlen and he also doesn't have a problem with this development.

The traffic issue concerning the Centennial Park Development would have 6 street connections with surrounding potential subdivisions; the street connections would intersect SR 46 with an existing traffic signal at that location. When fully developed traffic will increase in this area. This area is served by Eastern Sewer Corporation and Town water service.

The developer will have to submit grading plans to the Town, Engineer and have it approved before any construction is done. The current plan requires 4 water detention areas, which you see on the maps. The recommendation from the Planning Department is approval.

**Sandra Hash-** Is this the developer who did Union Valley Farms?

**Frank Nierzwicki-** Yes.

**Rick Coppock-** Bynum Fanyo, I'm here representing the petitioner. 78 lots on 31 acres, the streets are 24' wide with 2 foot curbs, gutters and sidewalks on each side, 50' right of ways, the water line pipe is 8" pipe as required by Town we will be requesting sewer service from Eastern Richland Sewer Corporation. A Rule 5 Plan will be needed, and the detention areas will require storm water quality measures, this is the same required ordinance that we do with other developments and it is in accordance with the Monroe County drainage ordinance.

**Sandra Hash-** Is everyone here familiar with Union Valley Farms subdivision? Are the sidewalks up against the road?

**Rick Coppock-** No, there is a tree plot in between the road and the sidewalks.

**Sandra Hash-** Are there any questions from the Plan Commission?

**Dan Swafford-** What is the average size of the homes going in?

**Rick Coppock-** About the same as Union Valley Farms, I would guess about \$150,000 homes. There are some bigger lots on the development and the perimeter areas and the ones that back up to ravines those lots become bigger to preserve some trees.

**Sandra Hash-** Are there any areas set aside for open gathering areas for the community?

**Rick Coppock-** No. There are some areas that are undisturbed.

**Don Calvert-** Are we requiring a bond, so we don't run into road problems like we have in some of the other areas?

**Rick Coppock-** A bond would come about when they final plat, so any public improvements or streets that aren't completed with the phase would be required before they could sell the lots, that is standard practice. They are not planning on starting anything this year. It would be next spring or summer before they start any construction.

**Sandra Hash-** On Ribbon Court and Shadow Wood, is Shadow Wood in Meadow Wood Estates?

**Rick Coppock-** No, Shadow Wood is in Woodgate.

There has been some discussion of the right-of-way at the end of Centennial Drive about how it is shown on the plat, that area is highlighted on the map. There are questions in some people's minds about the right-of-way, Bill Williams from Monroe County Highway Department, and Gregg Zody of the Monroe County Planning Department, both feel this is a right-of-way off of Centennial Drive and anticipate that road being extended to the north. They've considered it a

right-of-way for years.

**Sandra Hash-** I'll open questions and discussion to the public, any questions?

**Mike Carmin-** There is not at this time a present connection to Centennial Drive; Centennial Drive is a cul-de-sac, which ends 75' to 100' short of the property line. It is not certain if an easement connects from Centennial Drive to the property line so, for your purposes this isn't something you can resolve, it is not within your jurisdiction to attempt to resolve it. To say that there is or will be a connection directly thru Centennial Drive to SR 46 is premature because I don't know if there will be. It will not be the first time that governmental officials make an assumption that do not turn out to be correct, and Greg Zody's letter from 2005 that Rick Coppock referred to referring to it as an easement, doesn't make it an easement. It is or it isn't and his letter doesn't make it or refute it as being one. The subdivision plat for Highland Park states Phase 1, doesn't label this as an easement in that area, and that will be part of the issue to get resolved. That is something that we will not be able to resolve here tonight, and I understand that. From the petitioner's standpoint it certainly looks to me that they comply with the ordinance requirements for access, regardless if that connection is there. I do want to make it clear for the record there is a question if there will be a connection to Centennial Drive and I'm not sure how soon that will get resolved.

**Sandra Hash-** I would like to ask the property owners, adjacent to this presumed easement; do their deeds show they have ownership of that land?

**Mike Carmen-** No, they don't. Their lot lines stop with that gap in between. If you look at the Westside of the subdivision plat there is a stub that looks just like that from Centennial Drive to the west property line that clearly calls it a 50' wide ingress/egress easement. It does not do that on the north end.

**Sandra Hash -** By looking at the map, why would they leave a 50' strip of land with no property ownership if it is not for ingress and egress?

**Mike Carmin-** The plat was approved in July of 1976 for Highland Park Phase 1.

**Sandra Hash-** Does anyone have a question for Mr. Carmin?

**Sandra Hash-** Rick there are other connections, I know one was highlighted, because it does come to a stop light as an exit and entrance from this subdivision, but does it also have an entrance on to Lost Man's Lane?

**Frank Nierzwicki-** It doesn't go that far north. There are two connections to the south, there is another one to the east in a developing subdivision that would eventually go back into Highland Park subdivision, that would come into Denise/or Dennis.

**Rick Coppock-** The one to the west connects into Woodgate. This is the only physical road that is in place and the other one to the south would be a connection to the development that is currently underway as Highland Park Estates. Dennis/Denise isn't completed enough to be connected to this property at this time.

**Sandra Hash-** I wish we had a map of Woodgate.

**Frank Nierzwicki-** You can go through Woodgate to come out on Union Valley Road; currently. So, you would have that connection right now with this subdivision. The question about the other connection on the cul-de-sac, we may have a discussion on that, but there are other connection points also on it.

**Sandra Hash-** There is Centennial Drive, Ashbrook Lane and Shadow Wood is the circle drive. So the construction traffic would have to go through this way or Union Valley, so they could enter off Woodgate onto Shadow Wood. So, if Centennial was never opened the addition still has plenty of access through other points. Is there anyone else that would like to speak?

**Cherlyn Curtis-** I'm one of the residents on Centennial Drive. We are working at a disadvantage back here, because we don't have a map and we've had two days, before we knew this meeting was coming through. And we have lots of questions. Someone mentioned that there would be 78 trips and if you are going to put a subdivision in with 78 homes first of all, if you open it up, so other people beside the 78 are going to come and go you have mostly homes that have

more than one car, you have more than one trip, you are (she was corrected that it was 780 trips). I'm concerned; did you say there is a possibility of opening up both Denise and Centennial?

**Sandra Hash-** Centennial and Denise, Rick, would you please put one of these maps up on the board?

**Cherlyn Curtis-** I'm an upset homeowner, because what I see, is the value of my property has just dropped into the toilet. And the marketability of my property is going down if this goes through, and there is no compensation for any of us, and I'm not talking about just that we have a peaceful cul-de-sac and now we are going to have traffic, we are talking about a major change of going from kids that play on the cul-de-sac and in the front yard and no fences. Life is going to change dramatically, because they won't be safe with 780 trips. I would like to know if a traffic study that could look into this anymore. On our deed, we are right next to where Centennial would go thru, there is nothing on our paperwork or deed that shows an easement, maybe they don't have to show this since it isn't on our property line. But it does affect our property, and it wasn't mentioned at all, and it seems to me that it should have been mentioned. So, this must mean when the title people did their research it didn't show up to them. We should question is this really an easement or an assumed easement.

**Russ Ryle-** I was a member of the Thoroughfare Fair Plan, Centennial Drive is a unique asset because it has a street light on SR 46. Centennial is also the best access to SR 46 into an area of ground that will be developed that will produce many more residents and more tax base and unfortunately traffic. So, my real question is who owns this 50' stretch of land that may or may not be an easement that is the question.

**Sandra Hash-** I think this will require more research.

**Russ Ryle-** At this point trying to say, that yes we are going to try to consider that in your decision that opening up Centennial Drive for this applicants request at best will have to be resolved, question mark. But, in the long run, Centennial Drive needs to be opened up for traffic flow and you are in a catch 22. Ellettsville continues to piece mail approve development. You have no master traffic plan up there; half of the land has been developed out without any consideration to higher level roads, than development streets. Unfortunately, trying to make a whole out of all of these pieces is going to be real difficult.

It would be very helpful to print out the agenda's and a small area map, so the people in the audience can know what you are talking about.

**Sandra Hash-** I think it is a possibility and we are working toward achieving that goal. Unfortunately, the employees in Ellettsville have to wear many hats.

**Frank Nierzwicki-** This is the third meeting we've had this week, and that is part of it.

**Kelley Cantrell-** I'm a property owner on Cheryl Drive, which is right off of Centennial. I have two questions, because Highland Park is an older neighborhood sidewalks were not required. I have three children, so right now we go down the street and it is a cul-de-sac, and there isn't very much traffic. If you are going to have 780 more trips daily, I would think that something would need to be done to make it safe for pedestrian traffic. I wouldn't think you could burden the property owners when they bought the lots, since there were no sidewalk requirements. So, my question would be can sidewalks be put in and who would pay for them? The new phase has underground sewage and sidewalks which the older part of the addition doesn't have any underground sewage at least up through Cheryl Drive. So, when it rains all of the rainwater runs on the street and down the hill. The hill is steep. One sewer at the intersection of 46 is always clogged with leaves and twigs. They do a fairly good job of cleaning it out, but I would think if you have more traffic coming through there I would think you would have to do something about the water flow at least in the older part.

**Sandra Hash-** The new addition will have retention ponds and in planning new development they have to maintain the water on the land that they are developing and this has been annexed into town and unfortunately your subdivision isn't. The Town doesn't have any authority over your streets or sidewalks or the drainage. All of those are concerns, and we don't want to have to add to the problems. Unfortunately public streets are open for new development.

**Doug Hackman-** I live on the cul-de-sac.

**Sandra Hash -** Are you an adjacent property owner to the easement?

**Doug Hackman-** Yes. When I bought the home it showed the 50' wide area of land/easement, there is a platted ingress/egress on the west side of the road, so I always thought it would stay a cul-de-sac, not a thru street. There are 3 spurs going off to the east of Centennial and I always assumed when a development came thru it would go thru that way, there is a light at Centennial and I realize it is a nice way to get through. One of my questions, is in the 780 figure is that only for the 78 new homes? Because if it is, I can tell you a good chunk of Woodgate is going to come thru there too, because it is safer than coming out of Springs Valley. I would like to see traffic slow down, before it gets run down thru Centennial. According to Indiana Code, I don't see how this was a legal annexation in the first place, to tell you the truth.

**Sandra Hash-** We went through the process on the annexation and that issue came up. We met with Monroe County and they didn't have a problem with the annexation. It met the legal requirement.

**Doug Hackman-** It is a 20 foot strip of land instead of 150'.

**Frank Nierzwicki-** We went through this and we could talk about annexation at some other point, but basically tonight we are talking about the development.

**Doug Hackman-** It could be a question if it actually comes down to it. From what I read you're taking advantage of 20' strip to get to your 1/8 contiguity and it takes 150' to get to 1/8 contiguity.

**Frank Nierzwicki-** That's another point.

**Don Fisher-** I didn't come down for this particular topic, I just sort of wanted to field a question that might affect the future of the Town of Ellettsville. I've talked to Frank Nierzwicki about a perplexing problem that we are already existed with, because we are just adding these subdivisions, one after the other. And Jim Ragle with the Street Department is already over stretched. We don't get the money from the state that we need, we don't have the industrial base to feed the coffer to provide the necessary street repair. As we expand in this development situation we're not in a position to do that. We are in a budget restraint atmosphere. Frank has all of the figures; we can't take care of the streets we have now with what money we have available. We are trying to do our own resurfacing to save money, but we are just doing the pot holes. The new subdivisions bring in taxes, but their streets are going to deteriorate just like the ones right now in the old subdivisions, mine as an example (Arrowhead). We're not getting the fair treatment that we should have, and those people who passed this didn't even put sidewalks in we got short changed there. I've talked to Frank there is a possibility we might get half of that through the internal – island concept. We're talking development, annexations, someone will have to take care of it, and there needs to be a stop and we need to look at an industrial park to try to get the revenues up and not from the homeowners, but from the industry to feed these coffers, so we can do what the people would expect of our departments. We don't think ahead of time, you guys will leave and 15 years from now, someone else will come along and have to make decisions that you made 15 years prior and they don't know what to do about it and we've got to think about it. Those people are going to get short-changed in the future.

We only have a part-time helper with Frank, and he's just got settled in, got a staff, we can't afford to put her on full-time, we're going to try to get an enforcement officer, this has been 5 years and I've been talking about the same issue. For 5 years I can show you where the complaints have been on the same issue, it's just like our Council they either resign or leave. We have no stability and you leave our pockets empty, and you leave your department heads stranded.

**Sandra Hash-** We thank you for your opinion.

**William Curtis-** I own property second from the end of the cul-de-sac. My wife has stated her concerns about the devaluing of the property and the traffic effect on the area. One of the things I'm wondering about this plan is that there are no parks or play areas for the kids and the elderly for walking areas, for people to live.

**Sandra Hash-** There will be sidewalks, so they will have nice pedestrian walkways. Not many neighborhoods have a park within them. People can always go to Campbell's Park for picnics and family gatherings.

**Frank Nierzwicki-** We have some study money we've received from INDOT concerning community planning. In 2009 we are going to be looking at existing green space. I'm going to be working with Monroe County Parks

Department and also the Planning Department to preserve green space within the area of Ellettsville, so we would be more than happy to have input from you later on as we do that type of study. We are thinking about green space in the future.

**William Curtis** - Ok, but outside of the development?

**Frank Nierzwicki**- The other developments that are established have not had green space involved in them too.

**William Curtis**- My suggestion would be to think about taking out one or two houses out and putting in a park.

**Frank Nierzwicki**- We are also talking about some code changes that we may be looking at in the future. We encourage, but we do not have anything in code to enforce green space in development.

**Cherlyn Curtis**- I heard the homes would be about \$150,000, but I would like a little more information, are we talking 3 bedroom, 2 bath homes, or are we talking about a mixture of homes, what kind of homes are they planning on putting back there?

**(The tape quality is severely degraded on side B)**

**Sandra Hash** - Are you familiar with Union Valley Farms?

**Cherlyn Curtis** - No.

**Sandra Hash**- The houses at Union Valley Farms are 3 bedrooms - 2 bathroom homes. They are nice looking homes; you may want to drive through the addition.

**Cherlyn Curtis**- We are going to have a huge culture shock, I haven't heard anything about helping the neighbors that are going to be severely affected, such as sidewalks. You're changing a rural area to be part of a regular subdivision. She repeats some of the original comments, such as traffic studies.

**Sandra Hash**- Are we ready to move on this, or do you want to wait to hear the outcome of the right-of-way.

**Dan Swafford**- This could be several months.

**Mike Carmin**- It could be several years, quite honestly.

**Sandra Hash**- We need to stress there are enough sufficient entrances, if the courts say that is not a right-of-way, and the entrance could not be completed, there is sufficient entrances into the subdivision that it would be fine without that particular one.

**Rick Coppock**- There is connectivity on other roads.

**Sandra Hash**- Is Centennial the best way into the development?

**Rick Coppock**- It is the most direct way in.

**Don Calvert**- I would hope that you, the concerned citizens, would step up at these meetings over the next month or two when all of your neighbors find out about the traffic that will be coming through their neighborhoods and we get the same thing from them that we are getting from you tonight. I'm not opposed to or in favor of, but I do want you to know the problem will just be shifted somewhere else and we will face another group like we are tonight.

**Frank Nierzwicki**- We will try to make sure the traffic is spread out as much as possible.

**Don Calvert**- Are there any stubs going into Centennial Drive? We are trying to get this area under some kind of control. Some people are opposed to being in Ellettsville and need to keep in mind that we can't do anything in an area that doesn't belong to the Town.

**Sandra Hash**- You have to keep in mind, when someone comes to us to develop and their plan meets our requirements,

then we are also obligated to proceed.

**Frank Nierzwicki-** As long as it is covered by code.

**Doug Grimm-** I don't think anyone here on Centennial Drive actually opposes the addition; I think what we are talking about is just this connection to the cul-de-sac. I think that anyone that buys property on a cul-de-sac doesn't expect to have thru traffic. And as far as the other spurs off of Centennial, if those tie into this addition there are no property owners on those spurs. I've lived on Centennial Drive for 16 years. I feel sorry for the people south of Denise, because 780 trips is a lot of additional traffic for an older neighborhood used to a style of living. Your property is affecting the property owners of a different municipality. I think it is unfair to people who have purchased property on the cul-de-sac for them to now accept a road that has never been designated as a right-of-way for a road.

**Dave Morrison-** Developer (Overbrook), when you are changing neighborhoods and traffic you have the responsibility to make sure they plan ahead. I want to go on record to this group, as a developer, I had to meet requirements; your Street Department is doing a great job. My personal opinion is there are too many storm sewers, but if you are going to build a community you have to have an infrastructure that is sound. I see a lot of big change here.

**Sandra Hash-** I have worked with the Town since Union Valley Farms was originally annexed and I think the developer has done a good job. We have not had complaints come back from the residents of the area, so I feel this is a good developer. Are we ready to proceed with this?

**Don Calvert-** I don't see how you can.

**Dan Swafford-** I think we should put this on hold and bring it back under old business at the next planning meeting.

*Too many talking to understand.*

**Frank Nierzwicki-** You could approve this plan with the access you have and pending the determination of the connection at Centennial, if this doesn't happen, Rick would the client reconsider redesigning the area? You could approve it with the stipulations and have the Centennial connection.

**Dan Swafford-** What is the urgency with this?

**Rick Coppock-** They want to apply for their permits.

**Dan Swafford-** We shouldn't by pass Commission steps to the process of approval.

**Frank Nierzwicki-** There is costs to the developer each time you wait.

**Dan Swafford-** But its standard procedure.

**Frank Nierzwicki-** You have a development plan in front of you that is zoned correctly, we went through the development review, if you don't like the access points, and I feel there are other connections to satisfy this development.

**Rick Coppock-** If you accept the plan with the stipulations, that will make them resolve this issue of the easement. Up until then they have no reason to settle this.

**Sandra Hash-** We could choose to delay it for one month, so the Plan Commission can go look at the property.

**Dan Swafford-** I have big concerns on access points for emergency purposes in the addition, getting fire trucks and ambulances through this area and other additions.

**Frank Nierzwicki-** I've talked with the Fire and Police Department and they are looking at the whole connection issue.

**Dan Swafford** - Do they have an understanding of Centennial? Do they understand they can't come through Centennial?

**Frank Nierzwicki-** Well, there is still a connection to Centennial out of this plan.

**Dan Swafford -** Through another development.

**Frank Nierzwicki-** Yes.

**Sandra Hash-** It is good to have other connections and interconnections with subdivisions. Ideally everything will inter-connect; this will help us use streets more equally.

**Cherlyn Curtis-** I personally can't stress enough to you to postpone this for another month, you are asking us to accept both Denise and Centennial. We are going to be affected by two subdivisions; we deserve the respect, especially with only two days notice to come down here. I'm sure this is well within your rights to give us just 2 days notice, but we haven't been able to check with council to see what our rights are.

**Sandra Hash-** Did you get a certified letter.

**Cherlyn Curtis-** No, we received a letter hand delivered to our door, by a young man. My boss said to give this to you and he hurried and left. We are a part of Monroe County, and I think we should have the right to be annexed. To ignore us is rude and disrespectful. You haven't even given us time to ask a real estate attorney, can we ask for parks and sidewalks. Two days isn't enough for us to get together. And again, what about our property value and the marketability of this area, and we get nothing.

**Frank Nierzwicki-** If you want to be annexed in we can talk to you about this.

**Sandra Hash-** I'm not trying to be rude, but when your subdivision was developed and finished then Centennial was declared a public right-of-way. It has been maintained by the County crews, that makes it a public facility. I know you have a lot of ownership and it will be a big change. It is a public right-of-way and we can't deprive other people who own property the use of their property to develop it to maintain that type of atmosphere that you are accustomed to. That gives us the right to use the road.

**Frank Nierzwicki-** What is your pleasure on this?

**Rick Coppock-** One thing I might add, when you talk about fire protection, the Town does provide services when we adjoin, like Woodgate, and I'm not sure why she only got notice two days ago, we sent notices out at least 10 days ago.

**Dan Swafford-** Were the letters sent out certified Rick?

**Rick Coppock-** She isn't an adjacent property owner.

**Mike Carmin-** If you are an adjacent property owner or your property touches the area then you would have received a certified letter.

**Sandra Hash-** Did everyone hear what Mike Carmin said? The law dictates if you are an adjacent property or touching property to the development you would have received a letter, but it sounds like as a courtesy the developer contacted you.

**Rick Coppock-** It wasn't us.

**Frank Nierzwicki-** Or someone in the neighborhood.

**Dan Swafford-** I'm going to make a motion that we table this to the next meeting.

**Willis Ziese-** I'll second that.

**Sandra Hash-** We have a motion to table the request for preliminary plat approval for a 78 lot subdivision in Centennial Park, Development Group Network Inc. A roll call vote was taken.

**Connie Griffin-** Sandra Hash- yes; Terry Baker-yes; Don Calvert –abstain; Dan Swafford –yes; Phillip Smith – yes;



**Willis Ziese** – yes; Motion carried 6-0-1

**Cherlyn Curtis-** She read from the certified letter, that was hand delivered to her, she read the section about receiving notice as an adjacent property owner.

**Sandra Hash-** One of your neighbors, who is an adjacent property owner has made copies and have shared a copy with you.

**Cherlyn Curtis-** Who is James Clark, he is the one that sent it out.

### **Autumn Ridge**

**Sandra Hash-** The next item on the agenda is Autumn Ridge, status report, Frank Nierzwicki.

**Willis Ziese-** Left the commissioners table, since he is a resident of Autumn Ridge.

**Frank Nierzwicki-** On August 6, 2008 Rick Coppock and I met with Bearcos Construction at the Autumn Ridge construction site. The meeting was held to discuss and review needed site improvements to keep Bearcos in compliance with development requirements. Frank read a list of items in need of repair or improvement from a memorandum dated August 6, 2008 that was included in the Plan Commission packet. Bearcos representatives were notified by Town representatives that work on the above mentioned items needed to start by August 11, 2008 and be completed by the end of business on August 20, 2008.

**Sandra Hash-** Asked if all this can be accomplished in 9 days?

**Frank Nierzwicki-** They, Bearcos, stated it would be. Bearcos agreed to the work schedule to have items completed by August 20, 2008. The Planning Department will make a report to Town Council on August 11 and 25<sup>th</sup> concerning the progress of these improvements. We've been asked by Town Council to bring this back to Plan Commission to get a recommendation.

**Don Calvert-** Is the 25<sup>th</sup> the right date?

**Frank Nierzwicki-** No, the 20<sup>th</sup> is the right date. The construction is to be completed by August 20<sup>th</sup>. A report will be ready between the 20<sup>th</sup> and the 25<sup>th</sup> for Town Council.

**Sandra Hash-** Do you feel confident these things will take place?

**Rick Coppock-** I'm as confident as I've ever been.

**Sandra Hash-** I've been approached by a Council Member who feels the pit should be completely filled in.

**Rick Coppock-** That would be one option. They will have to transport a lot of dirt and may cause as much damage filling in the pit.

**Sandra Hash-** From erosion and runoff?

**Rick Coppock-** What we talked to them about was shaping the back of the pit and putting down straw mats so the grass can grow and grading it out so it had positive drainage toward the street and shaping it up and planting it back in grass, so it will look somewhat presentable. The rock face at the back could create another set of problems by moving a lot of dirt.

**Frank Nierzwicki-** There is a safety issue, gradual grading will improve this issue.

**Rick Coppock-** They'll need to be able to mow it. It will be a big undertaking.

**Sandra Hash-** Does the developer still plan on putting a unit there?

**Rick Coppock-** Yes. Their total number of approved units hasn't changed.

**Sandra Hash-** For the other Plan Commission members that may not know what is going on, a group of Autumn Ridge citizens came to the last Town Council meeting and they presented a list of things that they would like to see corrected within Autumn Ridge. They said no building projects have been conducted for at least one year, and they had some pictures. The pit was to be a basement unit, so it was dug out and they left it like that. One home is adjacent to the pit and there isn't much space between the pit and her patio. They also had some other issues.

**Frank Nierzwicki-** IDEM drainage issues were also mentioned. We've addressed that with the developer with some recommendations.

**Sandra Hash-** Asked Connie and Bill Schneider if they brought their pictures and would they mind sharing them with the other Plan Commission Members. I drove through the area; the homes are very nice at least from the front side. We talked with a realtor when we were looking at a model home. The realtor said they have a home owners group, and that would pay for your maintenance and yard work, mow the grass and remove the snow. Are you paying into the home owner's association?

**Connie Schneider** – Yes we are. I addressed a letter to Jason Wall's partner last week asking him to work with Jason to turn over the home owner's association over to us because originally it had to be 100% built out before it would be turned over to the home owner's.

**Sandra Hash-** Is that in your covenant and restrictions?

**Connie Schneider-** Yes, it is. However, there is no end in sight when this will be finished. If it was 5 years, 3 years in sight, so we are petitioning them asking them to please turn it over to us, since we have no say. We would make some changes as far as different maintenance situations.

**Sandra Hash-** Are your dues being safeguarded?

**Connie Schneider-** We received an un-audited report. So, we really don't know where the money is going. We receive that in April every year. We would really like to take over the home owner's association. Connie addressed Rick Coppock- when you say the pit is going to be semi filled in, what does this do for Lynn Winder's property that is very close to an eroding wall. (Connie made a reference to the distance with her arms spread about 3 feet in width).

**Rick Coppock-** They are supposed to take it from the top and slope it down so they can mow it.

**Connie Schneider-** It is my understanding that it is going to go from the limestone in the back and slope down this way or concave? Because, quite frankly, all of us wish it would be filled in. Certainly, he had the dirt in there at one time. Where did the dirt go, I don't know. We can't make them do that or I'm not sure why that is not going to be a retention area, because looking at the plats there are supposed to be two retention areas, north and south.

**Rick Coppock-** Correct.

**Connie Schneider-** There is no retention areas. Where and when is it going to be?

**Rick Coppock-** The retention area to the south really picks up the buildings that have not been constructed on the south edge of the road and the retention area to the north; they are going to have to work out some alternate plan if they can't build that one down there.

When and where on the north, because Mr. George, from my understanding, which was a verbal agreement, which has been rescinded.

**Rick Coppock-** That is correct, that is an issue that we haven't addressed. The pit is an erosion control issue not a detention issue.

**Connie Schneider-** Ok, so that has not been addressed.

**Rick Coppock-** No, we've talked to them about it and mentioned it to them, but there hasn't been any solution.

**Connie Schneider-** From our past experience if you don't nail things down with him, there will not be a decision. He needs a time frame that he has to work within.

**Rick Coppock-** We want him to get the pit cleaned up and make it look half way descent.

**Frank Nierzwicki-** We are looking at erosion in an area to the south which is right up the hill to protect that area for a retention area.

**Rick Coppock-** We've talked about putting in a sediment basin there to slow down the run off and wash off at Harvest Lane.

**Connie Schneider-** Will this be addressed by the 20<sup>th</sup>?

**Frank Nierzwicki-** Yes, by the 20<sup>th</sup>.

**Connie Schneider-** So, we don't know where the retention areas are going to go and when they will happen.

**Rick Coppock-** We know where one will be, but we don't know the status of the other one is going to be.

**Connie Schneider-** It is a concern. It is my understanding Mr. George has retracted that verbal agreement. There is a ravine there, there is no place to go, and there is serious runoff going down the hill behind our houses on September Drive.

**Rick Coppock-** Right, and that is something he has to address, it's in the report that Frank gave him that he would have to fix that area.

**Bill Schneider-** About the pit, did you find out when that was re-approved to become a dwelling, because originally in Phase 1 there was not a home on that site. Now, he did dig it out to put in a one-level slab home, he couldn't put a basement in because he hit rock.

**Rick Coppock-** It was approved by Frank's predecessor.

**Bill Schneider-** So, it was approved, we weren't sure.

**Frank Nierzwicki-** The issue with that area final plat for the pit and lot 41 is still open, it hasn't been final platted yet, now the issue with that is it could happen, that you could go ahead and work on that in the past without having a final plat before you sell it you have to have a final plat before you can get financing.

**Connie Schneider-** So, what you're saying then is that it's kind of in limbo whether a house is going in.

**Frank Nierzwicki-** It has been done in the past that you can actually do that; the issue is the pause on this. Like I mentioned we had a year delay on the one, which we now need a new building permit on, if a house is going to built on there we need to have that platted so the final plat versus the preliminary plat.

**Connie Schneider-** Can it be denied then?

**Frank Nierzwicki-** The final plat can be denied if it is substantially different from what the original, not denied, it would have to go for full review. If the developer wants changes from that it could come back to the Plan Commission for comments and stipulations.

**Bill Schneider-** So, the pit is going to become a home. In the code there is supposed to be a slope of 3 to 1, and if you are talking a temporary grade for the pit, so to speak, you have a straight cut off; he'll have to put in enough fill to get a 3 to 1 slope to cope. When IDEM came out I think 9 or 8 categories, Jason flunked 7 of the 8 or 8 of the 9. That is horrendous, these are severe erosion problems that have been inspected by Rick and apparently Jason has agreed to correct all of these by the 20<sup>th</sup> of August. Is there a penalty if he doesn't correct these after August 20<sup>th</sup> if these are not completed?

**Frank Nierzwicki-** We make a recommendation from the Plan Commission of making a report and recommendation to Town Council. Town Council actually authorizes and issues fines.

**Bill Schneider-** Okay. Our experience with Jason, we purchased a home under contract with Jason and he said he would finish construction of our home in 3 months, and it took him 9 months. He builds a nice home, quality wise construction wise. When you get to the land or the structure of the land it gets done haphazardly. You don't fail 8 out of 9 IDEM erosion problems, he built them that way. When you look at the plots there are drainage problems. When it rains the dirt and silt just runs down into Branch Creek and all of the rip-rap on the north end of the subdivision that is sloping down to the creek in many areas wasn't put down correct. He used plastic, in most of the areas, he didn't use fabric. That whole area has become an erosion situation. When the pit accumulates with a lot of water the silt literally is 2 and a half feet high that has washed down the hills and is approaching the storm drain, which can't get through because there is plastic fencing up, but much of it overflows from the storm drain and goes right down to the creek.

**Frank Nierzwicki-** They will have to be maintained, that is in the report.

**Bill Schneider-** What we are asking at this time is to have the retention structures the two that are supposed to be there, that are on the plot plan, if we can get a date from you people and when you think that can be agreed upon with the builder. We as residents, we have invested over 5 million dollars in those homes and we aren't getting what we paid for. The construction company did get it, are homes are paid, and he's got his money. Yet we don't have our streets totally repaired. Two thirds of the complex is finished. Two thirds of the roads can be finished. I question if your fire truck can get in there. It weighs a heck of a lot more than a full cement truck and a cement truck damages the road damages the roads. You need to give Jason a date and the council needs to give them a penalty per day if it isn't done by the specific date. We would like to get back from you and Rick when you think the dates for the two retention areas will be completed. We would also like a date for the erosion on the slope 5042 West September. We would like timeframes on all of these issues. We would like someone to meet with each owner, the council or the Plan Commission so they can explain the different issues at their homes. Some of these people are tired of dealing with these issues, so it would help for you to talk to each one of the property owners.

**Frank Nierzwicki-** We'll go ahead and get a report.

**Rick Coppock-** It would help if you could comprise a list of all of those and we'll come out and walk each one by the 20th.

**Bill Schneider-** We'll request the list from each unit, and we'll have that as soon as we can.

**Frank Nierzwicki-** We are trying to move on this as soon as we can.

**Connie Schneider-** Rick, the end of March or the first April, I think it was you, Jim Ragle, and Frank came out and marked the areas on the streets that needed to be repaired, but he only had to fix three. There are at least 10 areas that need fixed.

**Rick Coppock-** There is more areas that will fail, but some areas haven't yet.

**Connie Schneider-** When will he be required to repair these, the bond was increased by \$10,000 just for the repairs on the street from the original report? When the three areas were repaired, two people measured with rulers, and the depth was 4" instead of 6" of concrete. Will someone be out there to inspect that 6" of concrete is laid instead of 4" or 2"?

**Frank Nierzwicki-** We will do a final street inspection. What is the protocol on going out?

**Rick Coppock-** Originally, he was supposed to call Jim Ragle for him to go out and watch the repair.

**Connie Schneider-** Jim Ragle went out there and drove by in his truck, he didn't get out of his truck, he looked at it, but he stated to me that he wasn't an inspector. I don't know who can do it, but things are kind of slipping a little bit and eventually the city will be responsible for these streets. First of all there was never a proper base put in on the streets. It was clay and gravel and rough asphalt.

**Frank Nierzwicki-** We have other items on the agenda, is there some things that we could talk about after the meeting.

**Connie Schneider-** I have just a few more items. What about the mail box that has been propped up by 2 x 4's.

**Frank Nierzwicki-** We have talked to him about that and he said that is one item that would be repaired by the 20<sup>th</sup>.

**Connie Schneider-** Ok, then we can meet and discuss the other fine points.

**Max Dexit-** I live on the North Slope, which is eroding. Mr. Walls stood at the top of my property and promised me that something would be done about it.

**Frank Nierzwicki-** Your address is?

**Max Dexit-** 4919 North Gathering Court. I have fears that my deck will possibly wash away, it was over a year ago that we talked. He hasn't corrected it. The question I have for you, is the pit not on an approved plat?

**Frank Nierzwicki-** It is on a preliminary plat, it doesn't have a final plat.

**Max Dexit-** But, it has not been approved?

**Frank Nierzwicki-** The final plat has not been approved.

**Max Dexit-** The approved plat, did not include the pit?

**Frank Nierzwicki-** The pit was supposed to be a construction site.

**Max Dexit-** I understand that, were referring to a piece of property, you can call it a pit or construction site. Has the building site been approved on a final or any plat.

**Sandra Hash-** They did come in and make a revision once.

**Frank Nierzwicki-** That is the northeast corner, I think that was revised, that is not where the lot is, so we have a preliminary plat.....

**Max Dexit-** Which has not been approved?

**Frank Nierzwicki-** A preliminary plat has been approved the final plat has not been approved.

**Max Dexit-** My question is, how can he do this construction on something that has not had final approval? I submit that this whole thing was built illegally, for a lack of a better word.

**Frank Nierzwicki-** The construction can happen, but you cannot do the financing until you have the final plat. You can't sell the house until you have the final plat. It happens. It's not common, but it does happen.

**Max Dexit-** I didn't realize that there had to be a construction for the plat for the subdivision plat to be approved. It was approved before my house was built. My lot was approved before my house was built and before it was sold to me. It was approved in the originally plat, so I still don't understand how this pit could have been created on something that has not been finally approved.

**Frank Nierzwicki-** It's on the preliminary plat

**Max Dexit-** It's not on the original plat.

**Frank Nierzwicki-** I've had a conversation with the Accessor's Office on this recently and we've gone through the issue on this. I can talk to you after the meeting or we can set up a meeting to talk about this.

**Max Dexit-** I think the solution you've come up with on the pit is totally inadequate. It is totally contrary to promises that were made to property owners that bought property adjacent to the pit and still doesn't conform to what the property owners were told.

**Frank Nierzwicki-** And this is between the property owner's and the developer?

**Max Dexit-** Yes. Frankly I think this commission should require that the pit be fully filled up until such time that a construction contract on it. I really don't think the pit is there legally. I'll also repeat what I told the council before. We've been through so many deadlines and so many mandates, and they've always been walked away from. What confidence do we have now that these mandates that you've set up are going to mean anything. This man, he is referring to Rick Coppock, when asked for his reaction, I get the impression that his opinion is "nothing."

**Frank Nierzwicki-** The issue on this is I have a game plan.

**Max Dexit-** We've had game plans up to here.

**Frank Nierzwicki-** Let me tell you right now, the group that authorizes fines is the Town Council. I can make recommendations.

**Max Dexit-** Ok, I'll be talking to them too, thank you.

**Sandra Hash-** Frank, I would really like to see a preliminary plat that has the building on it, if you have that in your office, can you bring that next month? We need the recorded plat and the amended plat, ok. I think we've taken a step forward; it is a short deadline, so that deadline will have passed before the next meeting, so we can revisit this situation at that time.

**Frank Nierzwicki-** Ok.

**Bill Schneider-** He made additional comments and suggestions about development site protocol to assist in keeping timetables and developers on track.

**Sandra Hash-** The Plan Commissioners requested a 5 minute break.

**Sandra Hash-** Planning Staff Comments

**Connie Griffin-** Monthly statistics are kept on incoming complaints. Our office covers citizen complaints, storm water complaints, and enforcement issues. We cover health and sanitation nuisances, planning and zoning and complaints.

Connie explained the process of taking in the information, adding it to an Excel spreadsheet and the various checklists and how each file is kept together with all contact and documents kept in either an active or closed file.

A recap of enforcement issues were presented to date. Several documents were shared. A summary of enforcement to date includes the following results. We have received from January thru July 64 citizen complaints, of those complaints 27 have been resolved with 34 remaining to complete, and 3 of those complaints received no action.

Our office received 16 storm water complaints, 9 have been resolved, 6 need follow up and 1 storm water issue was turned over to the street department.

45 Sign violations have been documented, 37 have been resolved with 8 remaining to date, but many more are out there.

46 Enforcement violations have been documented, with 24 resolved, 2 were turned over to the Street Dept. and 20 remain with many numerous code violations remaining unaddressed.

**Frank Nierzwicki-** Enforcement issues were discussed. Parking on the grass is not enforceable.

**Sandra Hash-** We understand how hard this is to enforce and all you need to do is to come to us with an amended ordinance or suggestions and let us talk it over.

**Frank Nierzwicki-** We'll bring those to you. I'll get on a soap box, not only do I do the enforcement issues we have a lot of other things. When this position was created other items that other departments used to do and now I'm the health officer and the list goes on and on, historic preservation, redevelopment, and BZA.

**Don Fisher-** I'm with you Frank, we have junk yards in Ellettsville. Enforcement is out of control, what good is having the codes if they aren't enforced, and put a little muscle behind them.

**Sandra Hash-** I feel like you think we haven't tried. I'm just asking you to recognize that we have tried, don't you think we have tried.

**Don Fisher-** No. We have codes that are not being enforced. I can't even put up a for sale sign, because I would be too embarrassed to have anyone look at my home. You're not driving around and looking at the problems.

**Sandra Hash-** We do drive around.

**Don Fisher-** Spoke for several minutes about enforcement and how he feels that Ellettsville is becoming a demolition derby and junk yard and we have more and more issues that are not being addressed because we can't please everyone all the time.

**Sandra Hash-** Connie thank you for your report, I didn't mean to get sarcastic. I'm feeling a little bit of what Don Fisher is feeling. I don't know how to make it better. I know we've tried to increase positions and still we have the problems.

**Frank Nierzwicki-** The issue to is, you've seen the report we do every week. We are making progress on things.

**Sandra Hash-** I've taken it upon myself to go and peel off the tape and duct tape and remove the yard sale signs. I think we just have to hope we get a little better each year.

**Terry Baker-** There is a lot to enforcement and things you have to look at, and there aren't enough hours in the day to look at everything that is wrong.

**Frank Nierzwicki-** The issue with codes concerning signage, we can't allow off premise signs. We've had subdivisions off the beaten trail, off SR 46, we've had some questions about changing our code to allow for them to advertise and identify these areas.

A developer from Overbrook, didn't sign in- He stated it is hard to run a city, I want to be a part of building this community. I want to build something that adds to Ellettsville, that you don't have to come back and re-build in 10 years. When we opened this division we wanted to have a price point of \$250,000. Ellettsville is known to have about a cap of \$200,000. With an increase in property taxes this will help fund enforcement positions, and Ellettsville does have problems with enforcement.

Signage can be awful, some looks good and others look very bad. The church next to the fire station has a billboard, area and I would like to have a 4x8 sign at this location. If I build this development, I need to be able to sell them. I'm just looking for an opportunity to help promote this division. People are trying to move product. I don't believe in 80 feet of overpriced ugly signage, but I would like to be able to put a small sign up here on the highway to direct people back to Overbrook. As a developer, if you guys are kind enough to help us develop land then we as developers need to finish the work and do a good job and keep up our end of the deal.

**Frank Nierzwicki-** There are a number of codes we need to revisit. You have the option of going to the BZA for a sign variance. We have been approached for higher technological signs, digital, flashing....but they are not in code. We will keep working on this issue.

**Old Business - None**

**Adjournment**

**Sandra Hash** entertained a motion to adjourn. Dan Swafford made a motion to adjourn, seconded by Phill Smith. All in favor motioned carried. Meeting adjourned at 9:42 P.M. Next meeting will be September 4, 2008.