

## **June 10, 2010**

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, June 10, 2010 in the Fire Department Training and Conference Room located at 5080 West State Road 46. Dan Swafford called the meeting to order at 6:00 p.m. with the Pledge of Allegiance led by Phillip Smith.

**Roll Call:** Members present were: Dan Swafford, Ron Wayt, Don Calvert, Phillip Rogers, Phillip Smith, and Sandra Hash. Clayton Sullivan was absent. Connie Griffin Director of Planning Services was also present.

### **Approval of the Minutes – May 6, 2010**

**Dan Swafford** entertained a motion for approval of the May 6, 2010 minutes as amended. Phillip Smith so moved. Ron Wayt seconded. Motion carried.

### **Monthly Conflict of Interest Statement**

Don Calvert announced his addition is adjacent to the Matthew Cascio property. Dan Swafford so noted.

### **New Business**

**Frank Nierzwicki, resident of the City of Bloomington, IN** – stated he didn't request to make a presentation to the Board and was not informed he was to make a presentation. The information was passed on to him in the last day or so that he was on the agenda. He has nothing to say on this. If this Board or anyone else would like to have him speak, that would be fine, but he requests official notice before hand.

**Connie Griffin, Director of Planning** – addressed the president stating in this particular situation Mr. Nierzwicki wanted to meet with her, Dan Swafford, Phillip Rogers, and Rick Coppock about some issue he of concern regarding the Autumn Ridge First Assembly of God developments. This meeting was to be held outside of the Plan Commission. Therefore, rather than censor any information, or not allow the Commissioners to hear this information, it was placed on the agenda.

**Frank Nierzwicki** asked to follow-up. He said one of the Board members asked him to go to that meeting. He clarified he did not ask for the meeting. Dan Swafford acknowledged this and apologized for any lack of communication asking Mr. Nierzwicki if there is anything that needed to be discussed at this time. Dan Swafford then called on Rick Coppock to clarify the issue.

**Rick Coppock, Bynum & Fanyo** – stated Frank and he met and there was a question about the right of way for the street connection to Autumn Ridge. There was an existing right of way that crossed the property the church owns and connected to the Autumn Ridge property. It also went across the Town's Fire Station property. In order to make the connection to the street stub in Autumn Ridge, the right of way will have to be revised because they wouldn't match up. At some point in time, that will come before the Council. The Council will be asked to vacate the existing right of way and then accept dedication of the new right of way to conform with the plans when the road is built. Dan Swafford asked if that will change the plat in any way and Rick Coppock answered it would not. He went on to clarify it is just moving the right of way to

accommodate the existing roads. He pointed this out on a displayed map. Phillip Smith asked if they were just going to curve the road a little more to avoid the property. Rick Coppock responded they would curve the right of way more to match up with the existing road so they will meet. The road will be the way the plan was approved. Sandra Hash asked if this would have to come before the Plan Commission or the Town Council. Rick Coppock replied it would go before the Town Council to vacate the existing right of way and accept the dedication of the new right of way.

**Myron Lewis, Autumn Ridge resident** – asked what the process is for the citizens to put a formal plea against that road coming through Autumn Ridge. Dan Swafford responded it has already been through this Board and would now have to go through the Town Council. Sandra Hash stated the public hearing had already taken place, but he could still voice his complaint. Mr. Lewis asked through what group. There was discussion on when and to whom Mr. Lewis could voice his complain. Dan Swafford suggested he start at the Council level. Mr. Lewis asked the Commission to explain their reasoning behind their decision. Dan Swafford responded the Town supervisors met and wanted that road to connect because of the thoroughfare plan and safety issues with the fire and police getting up into that addition. Sandra Hash added it is in our Town code to interconnect subdivisions. Mr. Lewis noted he knew of other, longer roads with only one entrance/exit and asked if there were plans for all the roads in the area. Dan Swafford answered, no, there was not, but as this development was built, the requirement was in place and that's why the stub was put as the development was put in. Mr. Lewis expressed his concern that when the road is put in, it will dramatically increase traffic patterns in that subdivision. There's a stop sign at the corner of Weathers and Harvest Lane that's not really adhered to even by many of our own residents. He asked to see a four-way stop sign at Weathers to slow traffic down. Sandra Hash asked to clarify that Weathers is in Autumn Hills and Mr. Lewis responded it was. Sandra Hash then replied it was in the county, but they could notify them of his request. Dan Swafford asked if this is what Mr. Lewis is requesting. He replied his choice would be that the road not goes in, but otherwise this was his request. He doesn't see the safety need. Connie Griffin added she would talk with Bill Williams with County Highway regarding this.

### **Request for Autumn Ridge PUD Amendment – Jason Walls**

**Connie Griffin, Planning Director** – introduced and explained the request. Jason Walls is the petitioner with Bearcos Construction Company, Inc. It concerns the property behind the Fire Station. He provided a letter to the Board dated May 6, 2010 requesting the PUD amendment. He has a map with the sidewalk information.

**Jason Walls, Bearcos Construction** – stated he was here to present a request for an amendment to the original PUD for the neighborhood for sidewalks in Autumn Ridge. The main concern and reason for the request is the sidewalk engineering that was done for the subdivision currently has quite a bit of issue with slope in the yards. In Addition to that, it would be taking up quite a bit of space off of the curb. We have had a number of requests not to put the sidewalks in due to the impact it would have on the front yards of most of the residents. This combined with the fact we do not have current sidewalks on either side of the subdivision, we propose the sidewalk amendment for the future development of the church which would allow access from the neighboring subdivision to the stub street and would go to the church to the south. Phillip Smith asked what the purpose was of the sidewalk on the left side of the street. Mr. Walls responded there is

a strip of land, he believed it was 17 feet or so of land, and would not encroach on any of the yards if put over there. It would simply be against that line of trees. Dan Swafford asked if there would be sidewalks along both sides of the new street and Mr. Walls signified in the affirmative. Ron Wayt asked what the current setback was of those sidewalks. Mr. Walls deferred to Rick Coppock, but stated he believed they were seven or nine feet from the curb, then a four foot sidewalk. Ron Wayt asked if they couldn't move them to the street where you have the curb and then the sidewalk. Rick Coppock responded you could. Sandra Hash asked if he meant everywhere or just on the amended plan. Ron Wayt responded just on the amendment. Mr. Walls stated that was part of the request. Ron Wayt asked why the sidewalks were not put in when the driveways for the condominiums were being poured. Mr. Walls replied it was because they tend to get broken by equipment. Ron Wayt asked when the last unit was completed. Mr. Walls answered it was approximately one and a half to two years ago. Ron Wayt stated it had been two years since these sidewalks should have been put in. He went on to ask Mr. Walls if he was planning on building more condos. Mr. Walls replied he absolutely was. He stated due to the economic downturn, they had not to this point. But, if they have more sales, they intend to build the rest of them out. Dan Swafford expressed his concern that the new sidewalks match up to the existing ones so they look uniform. Rick Coppock added that they would have a tree plat to allow for pedestrian safety. Sandra Hash added it gives the pedestrian a safety net so they're not right on the road. Ron Wayt added similar to what's on the highway but the highway has a much smaller plot. Rick Coppock added urban areas many times have a sidewalk up against a curb in the downtown area. Most of the time, the minimum is a five foot separation and then a five foot sidewalk. Sometimes if in a more residential area you have a six foot sidewalk. Generally you have at least a five foot separation from the back of the curb to the face of the sidewalk. That's the way it is on the First Assembly of God church, there is separation. He added, he'll need to add sidewalk on the stub road too. The church is building up to the stub. Dan Swafford asked if Mr. Walls would be completing the sidewalk all the way down to his part of the stub. Mr. Walls said that would be acceptable. The area marked (one the map presented) is on a plane where the set-back would be possible. There are no residents living there, so it will be much easier to deal with. Dan Swafford asked if he would amend it to the existing stub as well. Mr. Walls responded in the affirmative. He went on to say they could drop both of those on each side of the street or whatever the Board prefers down to the end of the stub. There's room in that area to do that with the set-back. Sandra Hash commented she had been involved with the Town for many years and the town has worked so hard to get sidewalks in additions. She personally lives in an addition that doesn't have sidewalks. They are a great asset. They are attractive and they are safer. Right now we're doing a Safe Routes to School project to add sidewalks to an existing neighborhood so children can walk to school safely. She added she understood his situation now, after the fact, he doesn't want them and the property owners don't want them. But as a Plan Commission member she is very disappointed that, as the condos were finished and the concrete drives were put in, that he did not put the sidewalks in as the Plan Commission had approved in the plat years ago. Ron Wayt asked if there could be one sidewalk on one side of the street; whichever is easiest to build. Mr. Walls asked if he meant throughout the rest of the project. Ron Wayt stated there are lots that don't have any development on them. So, maybe the sidewalk could go around through one side of the development until it stops. Then, add on as you add new buildings, until this whole exterior circle is completed. He doesn't think the cul-de-sac necessarily

needs one. But, on one side or the other, whichever is easiest to grade, would not be as much destruction. When these were built, the owners knew there were going to be sidewalks. If we keep amending all of these plats we're going to set precedents. He also lives in a neighborhood with no sidewalks and sees a lot of close calls with kids and people walking. It's a dangerous situation. An adjustment to the sidewalks so that it works for both the developer and the residents would be the best thing to do. He didn't understand why the sidewalks weren't put in two years ago when the homes were finished and the drives were put in. The drives are concrete the same as the sidewalks and when the homes were finished, you should have been able to put in the sidewalks when these people were moving into these homes. Mr. Walls stated the PUD never had sidewalks in the cul-de-sac area. That's not a discussion to put in or leave out. The rest of it is. It is a safety issue and he would rather walk on a sidewalk. A lot of this is not a through traffic area as of yet. Ron Wayt said we say this is not a through traffic area but, say in the future, there is a development of the property behind or beside Autumn Ridge. There could be a lot of what ifs. There should be sidewalks in that neighborhood if that's the way it was planned. He feels there should be some adjustments to it, but there should be sidewalks in that neighborhood. Dan Swafford asked Mr. Walls how he felt about adjusting the original plat to accommodate sidewalks throughout the development. Is that something you think you could do or is it something you would like to come back next month. Mr. Walls asked for clarification that it was on one side as Ron Wayt was suggesting. Dan Swafford clarified, if he understood correctly, Ron Wayt is asking for just around the inner ring or the outer ring – whichever would be easiest. Ron Wayt added the outer ring would serve more people once all of these homes are built. Mr. Walls responded it was certainly something they could look at and return and speak about with the Commission. He reiterated a lot of the reason, besides the slope of the neighborhood, was resident driven for the request. But, if that's what the Commission wants him to look at, he will be happy to look at and see what's feasible to do construction-wise. Sandra Hash stated there was a comment by the residents at a Town Council meeting and she told the residents at that time it might be good to bring some signatures stating their wishes. She added she thought they ought to consider the homeowner's request. She hates this has happened but now people are living there and have established yards and some of them in the front are quite small. Dan Swafford asked Mr. Walls how he wanted to proceed. Did he want them to table the matter so he could come back before them with an amended request or did he want them to vote on the amendment as presented to them now? Mr. Walls stated he would like it to remain the way it is now because, after speaking with the residents, this is how they want it and how he wants to do it. If the Commission decides that's unacceptable, then obviously we need to find a way to work together to make something work in there. Dan Swafford noted they would proceed with comments from the residents at this time. He asked they limit their comments to three minutes and if you need additional minutes, they could ask for them.

**Max Dixon, resident** – asked why the sidewalks didn't go around the street and go down the street. Sandra Hash responded they were going to.

**Bruce Frey, resident and reporter for the Homeowner's Association** – stated he had the written responses to their poll. It indicates 24 homeowners are in agreement they don't have to have the sidewalks, there's one homeowner indicated they do want sidewalks, and there were four or five who were not available to respond. The poll was then given to Sandra Hash who read the petition. It is as follows:

*The Town Council of Ellettsville has requested that a survey be taken of the residents in Autumn Ridge regarding the placement of sidewalks in our neighborhood. Sidewalks are on the original plat filed with the city. If the residents desire to not have a sidewalk, the Council needs to have a 75% majority before taking under consideration the removal of the sidewalks from the plat.*

Sandra Hash then indicated there was a place for a signature and there is a yes and a no box to indicate your choice. The form was then passed to all the Commissioners. Connie Griffin asked where the 75% figure came from. Someone from the audience responded she had given that figure. She went on to say she must have misunderstood that. Bruce Frey said four homeowners were not contacted and one was undecided. He added he would like to express his opinion personally at this point. He went on to say, nothing has happened up there for two years and the request to change the sidewalks is premature. Today, they are trying to get rid of the sidewalks. He feels they should be looking at the entire plat concerning the trees and the road. Dan Swafford interjected at this point. He cautioned Mr. Frey to stay with the issue of the sidewalks and not get onto another subject until Privilege of the Floor later in the meeting.

**Willis Zeese, Autumn Ridge resident** – stated he wanted to comment on Ron Wayt's statement that other subdivisions would want access to their street. It would not be possible because of the spacing between the condos. There is no room for any other street to come in from any other direction. Plus, there is a creek that bypasses on the north side and he thinks that would be inaccessible in addition to the slope in that area.

**Max Dixon, Autumn Ridge resident** – When you approved this road here, you opened up Autumn Ridge to through traffic. The traffic is going to increase tremendously when that becomes a three-way on over to Union Valley Drive. This is a sleepy, quiet neighborhood and that is going to end promptly when this road is completed. He added something which hasn't been fully considered and he doesn't think the residents are fully apprised of all the factors going into this proposal. They were blind-sided by the petition. He received a call yesterday saying they were coming down for him to sign this. There was no meeting of the residents. There was no general feeling of what the neighborhood wanted. It was just "here, sign this." He did not sign it because he felt it was too simplistic. He said when the residents purchased their properties, they were promised sidewalks. They were also promised completed streets, street lights and ornamental trees. It was all part of the package that encouraged us to purchase in Autumn Ridge. They considered their purchase price representative of part of the cost of installing these pieces of infrastructure. Each resident has a vested interest in the completion of these installations – not just the sidewalks – but all these other things too. If the developers don't wish to honor this commitment, they need to approach the residents, not the city. He stated if these things are not going to be completed, then he wants some of his money back because he was promised these things. He feels he paid for them and that's why he bought there. He sees no reason to turn their backs on that now. For that reason, he feels the document is simplistic. He doesn't feel it has any merit or significance.

**Russ Ryle, Reeves Road resident** – stated in a technical sense, regardless of the merits of the question at hand specifically for sidewalks, it's inappropriate to pick apart a plan unit development piece by piece that's already been a less than sterling track record. It's a developer that's already gotten mutual concessions from everybody. If you can't even get your equipment in to grade somebody's backyard, God help you if you get a

fire on a windy night the way those things are packed together. If this were an R1 development, or an R2, you would not have near the density you have on that piece of ground. The homeowners have already paid for amenities they may or may not get. The last thing we need to see is the Planning Commission set the precedent of, well, we'll give you a PUD if you can promise and sell anything. But, in the final result, we may take that back – sorry. There should be no modifications of this PUD and the developer should have to develop this property as promised. The precedent you are setting is disastrous.

**Myron Lewis, resident in Autumn Ridge** – stated he heard some good points tonight and he appreciated hearing them as they were diverse. He said he couldn't agree more with Ron Wayt when something is put forward, you should really follow through. Obviously, it doesn't always occur that way. The majority of the residents are in agreement, but they've also had some changes in there they hadn't planned like Smithville putting boxes where the sidewalks were supposed to go. The sidewalks won't even be able to go through there in a logical manner. They're going to have to go around everything that wasn't in existence before. It alters the sidewalk pattern. The residents would probably agree they would like to see some of the other things done that will probably be mentioned later. He went on to say his goal is to get that stop sign there to slow things down. The sidewalk up there is fine. He added he didn't really understand the sidewalk to the left of the new road. Traffic is not really going to go that way. He can understand the sidewalks to the right even though they will be dead-ending into a dead pathway. He went on to say, he can't speak for the other residents, but the sidewalk around the area was never an interest. It was one of those things you had to accept. Maybe, this is going to come and it's nice to have the opportunity to say, actually, I really don't want it. He remarked he has small children and they ride their bikes in the neighborhood and feel quite safe. He added, statistically, there are more accidents on sidewalks with children crossing driveways because people don't look when backing out. He feels this plan is reasonable and tolerable.

**Ray Nelson, Autumn Ridge resident** - commented he and his wife would prefer they have no sidewalks. According to the poll before the Council, that is the desire of most of the residents. He thinks the Council should take into account their wishes in this matter.

**Phillip Smith, Council member** - stated every resident he has spoken to does not want sidewalks. Ellettsville is a small town and we ought to be able to sit and listen to what the residents want.

**Connie Schneider, Autumn Ridge resident** - asked if anyone knew the reason for the counters across the streets in the neighborhood. Dan Swafford responded he didn't think it had anything to do with the sidewalks. Mrs. Schneider went on to ask if the residents of Autumn Hills were aware of the possibility of increased traffic in the neighborhood. Dan Swafford responded they were on the sidewalk issue at present. He said in earlier days, additions didn't put in sidewalks like they do now, so you will see many additions without them next to newer additions which have them. As people become more health conscious and walk more, you will see more sidewalks in neighborhoods. That was part of your addition, when it was put in, to have sidewalks. This is what they are here to decide on tonight; whether or not to go with what they have in decided to do in this town - to go with sidewalks - or to amend this plat to go with no sidewalks. Mrs. Schneider added that she was a walker and walks six to ten miles per day. When she crosses over to Woodgate, which has sidewalks, she walks in

the street. She says she actually finds it safer. She added the last time she walked on a sidewalk, she fell and broke her wrist.

**Russ Ryle, Reeves Road resident** - says what the current home owners want is excellent and he agrees with Phillip Smith that it should be paramount in our minds. But, they are building something that will be there for 50 to 100 years. What are those homeowners going to want? If they become starter homes for families with kids, single parents with multiple kids in those houses. If we don't put the sidewalks in now, think of the problems we're going to have. Planning is for the future and you have to look forward to what issues will be there in the future.

**Bruce Frey, Autumn Ridge resident** - reiterated he wanted to make it clear if you were to vote to do away with the sidewalks, at this point, it would be premature to do that until everything else that was on the plat has been completed. Dan Swafford stated he understood and was reminded by Connie Griffin that no matter what the decision of this Board, it will still go to the Town Council. This is not the final say on the PUD agreement. Dan Swafford went on to say the only thing we are deciding on is the developer's request to alter the PUD to delete the sidewalks. Everything else in the approved plat is still going to have to be done. Bruce Frey asked if everything showing on the plat is going to be put in. Dan Swafford answered that, yes, everything on there has to be on there. Bruce Frey stated he wanted to hear Jason Walls say that. Dan Swafford said he could answer if he wanted to, but he was not required to.

**Ray Nelson, Autumn Ridge resident** - stated the sidewalks may raise some safety issues also. It's already been mentioned that the Smithville Telephone boxes are probably in the spot where the sidewalks would be put in. You build sidewalks; you create the need for snow removal every winter. That has to be done at a certain cost which has to be borne by the homeowner. If, in the future, repairs have to be made to the sidewalks, those repairs will be assessed to the homeowners. Those are two issues which figure into his reasoning why he doesn't want sidewalks. Ron Wayt asked if the sidewalks wouldn't be the responsibility of the Town. Connie Griffin answered these particular ones are owned by the Homeowner's Association. Sandra Hash added any sidewalk in front of any commercial or residential building is the responsibility of the owner to keep clean. Ron Wayt asked if it would be their responsibility to repair. Connie Griffin clarified, if not mistaken; the Homeowner's Association would be responsible for the repairs since they are listed as the owners. Dan Swafford added other towns and cities will do the repairs, but the homeowners must pay for the materials. Sandra Hash stated Ellettsville doesn't have a sidewalk replacement plan. Connie Griffin requested a recess at this point and Dan Swafford call a five minute recess.

Phillip Smith made a motion to amend the PUD to remove the sidewalks from the original design of the development and to place sidewalks on the south side of Harvest Lane from the beginning of the subdivision, to the stub street. They would then begin again on the west side of the stub street and dead end at the start of the half cul-de-sac, with the walks placed against the curb. Dan Swafford seconded. No vote was taken. Don Calvert said there was confusion and more understanding is needed. The sidewalks were promised as shown on the plat. The vote needs to be postponed. He went on to request the motion be tabled until next month. The motion died. Ron Wayt made a motion to amend the motion to change the PUD to do away with the setback, but add sidewalks on either the inner or outer loop. He then withdrew his motion. Ron Wayt made a motion to table the PUD discussion. Phillip Smith seconded. Roll Call

Vote: Dan Swafford - yes; Ron Wayt - yes; Don Calvert - yes; Phillip Smith - no; Phillip Rogers - yes; Sandra Hash - no. Motion carried 4-2. The PUD discussion was tabled until the July 1 meeting.

**Richland-Bean Blossom Community School Corporation Development, Petitioner - Bledsoe Riggert Guerrettaz, BRG Project No. 6940**

**Derek Marshal, Bledsoe Riggert and Guerrettaz**, presented a map of the proposed improvements to Edgewood High School. There will be two phases. Phase one will be a 203 car parking lot. This will be in front of the High School on the old soccer field. The current parking lot will be used for the staging area for phase two. Phase two will be a 22,000 square feet, 2 story addition to the front of the school on the west portion. There will be a court yard between the existing structure and the new addition.

Dan Swafford entertained a motion. Phillip Smith made a motion to approve the request of Richland-Bean Blossom Community School Corporation Development, Petitioner - Bledsoe Riggert Guerrettaz, Project No. 6940 for Phase I. Don Calvert seconded. Roll Call Vote: Dan Swafford - yes; Ron Wayt - yes; Don Calvert - yes; Phillip Smith - yes; Phillip Rogers - yes; Sandra Hash - yes. Motion carried 6-0.

**Matthew Cascio - Administrative Appeal Cedar Bluff Gardens**

**Connie Griffin, Director of Planning** - stated this was the owner of what was known as the former Cedar Bluff Gardens business at 4210 W SR 46. It is approximately 8.66 acres. There were some discrepancies found when there was a rezone petition. She stated she was going by the appeals sheet before the Commission. It's listed as Commercial, but there's actually some R-2 or possibly R-3. It was difficult to figure out because there are lots of parcels there. This is located between Citgo Gas Station, CVS on W SR 46. This is an administrative appeal. The inspection was conducted on May 20, 2010 and the letter mailed certified return receipt was signed for on May 21, 2010. She went on to say, by the Town Code 152.316 Conduct of Hearings, the first order of business is a staff review, followed by a presentation by the petitioner, then by opponents to the case, then discussion by the Commission and finally a formal vote on the petition. Any rejected petition must not be reheard for a six-month period. Connie Griffin then presented a slide show with the violations.

- 152.257 (E) Condition of Signage - Maintenance and Removal. All signs shall be maintained in a readable state of repair. Signs which do not display an advertising or other message for a period of six months, or which are in a state of dilapidation, shall be removed within 30 days following notification. The 30 day time frame on that is June 18, 2010.
- 93.16 Public Health Nuisances; Abatement - June 7, 2010 was the clean-up date for this.
- 93.15 - Public Health Nuisances; Definitions for the purpose of 93.16 of this code.

**Putrescible substances** - substances which are subject to organic decomposition  
**Refuse** - all putrescible and non-putrescible wastes, including animal wastes, garbage, rubbish, and dead animals

**Rubbish** - non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, cardboard, tin cans, wood, glass, bedding, crockery, construction debris, and similar materials



- 93.17 Removal of Excessive Weeds and Vegetation - June 7, 2010
- State of Indiana Code - Unsafe Buildings Law I.C. 36-7-9-27; Adopted by the Town of Ellettsville, IN 150.35. Currently the main building has an open access. The back door was left open. The side door was left unlocked which she locked. However, there are two other access points.
- The ceiling of the main building is falling in. The roof opening shows insulation damage and mold. There is broken glass showing an unsecured building.
- There is an open water area not secured and in close proximity to residential land uses. There are fish in the pond. There are children going into this area.
- 93.01 Disease Control - mosquitoes breeding in the water area.
- 152.355 Maintaining a Common Nuisance area. Any structure erected, raised, or converted, or land or premises used, in violation of this chapter or an ordinance or regulation made under this chapter, is a common nuisance and the owner or possessor of the structure, land, or premises is liable for maintaining a common nuisance.

**Matthew Cascio, owner former Cedar Bluff Gardens** - stated they had been in Ellettsville for over 30 years, they closed their business a few years ago and are trying to sell their property. It's a nine acre site and the medium left there encourages growth. Some of the buildings left are in disrepair. We're not going to put money into fixing up a building that's going to be torn down. The pond has been there for 28 years and we've never had an issue about the pond in the past. The pond is what it is. Whoever purchases the property will tear down the building. He stated he came to the Commission to find out what he needs to do about the sign. He went on to say they mow the grass in the front. The realtor is using the sign to advertise the sale of the property. If there's an issue about moving the couches and such, he stated he could do that. Some kids do come in and break windows and paint graffiti. He added he doesn't know where this is coming from, since it has been this way for years now. Dan Swafford asked for a copy of the letter from Connie Griffin. Sandra Hash commented if he was supposed to be storing contents of evicted renters for 90 days, then throwing them out there to the elements is not storing them. Mr. Cascio stated that 100% of the people they evict never come back for the stuff. It's just a state ordinance to keep it for 90 days. Sandra Hash responded if you are required to keep property for a period of time, it would come with some responsibility to preserve it for that time period. He said if he had to, he would move it. Sandra Hash added the whole place is an eyesore. It's against our Town Ordinance to have grass over nine inches. It is a developed piece of property. It was a highlight of the Town when you were up and functioning and you walked away from it and are currently using it as a dump site. We still live and operate here. You asked to be a part of our Town and follow Ellettsville's rules and then you walked away from your business and left an eyesore. Mr. Cascio responded that the property had been vacant for four years. Sandra Hash stated it had looked awful every year and she was so glad they were finally addressing the issue. Mr. Cascio charged there were other properties in the area where the weeds were let to grow up 20 feet. He went on to say he didn't understand where this is coming from. Dan Swafford stated right now they were only concerned with his property. He added that he understood his statements regarding other properties but Mr. Cascio is not aware of what is going on in regards to those properties either so let's just stick with what we have in front of us

please. Dan Swafford agreed with Sandra Hash that this was a development and there are buildings in there. It does look horrible with all the vegetation growth up there. The dumping looks horrible and we do not allow for dumping on a site. It's starting to look like a landfill. As far as the building, the broken glass needs to be removed and the building needs to be secured. The windows need to be boarded up to keep anyone from going inside the building. There are steep edges to the pond and if a kid were to fall in there they could drown. With fish in the pond, you are enticing the neighborhood kids to go over there. Something needs to be done about the pond. Mr. Cascio stated the pond had been there for 30 years - ever since they had been in business there. He added, if he had to, he would get a lawyer to deal with this because there was no way he was going to be able to deal with that - other than bulldozing it and filling it in. It's been that way always. Sandra Hash added when they were open for business they were there to oversee it. Mr. Cascio responded they were not there 24 hours a day. Dan Swafford asked if it was correct that no code violations were sent to Mr. Cascio as he stated earlier and Connie Griffin responded that was not so, the code violations before the Commissioners were the ones sent to him which he signed for with the certified return receipt. She went on to say he is arguing something called laches where a resident argues that a town hasn't been enforcing its ordinances in the past so why should he be compelled to comply with the ordinances now. Laches does not affect municipalities. We can enforce at any time. She stated the Town's attorney has given her that information and has asserted we do have the right to enforce these code violations. Dan Swafford asked Mr. Cascio what he was willing to fix for the Town. Mr. Cascio responded he did not want to walk away from his business. He became sick, the market changed, and they are having some financial difficulties right now. He said they do not have the financial means to do any major work on that property. He said they are trying to sell the property. What he thought he was coming here to comment on was the grass in the front being too tall, the trash visible from the road, and the sign issue. He went on to say he could pick up the glass and make the building secure. The property is naturalizing itself and if he cuts down the weeds and grass on the 9 acre property, it will be back in two to three weeks. Sandra Hash stated the debris should have been dealt with in the beginning. Rent a couple of dumpsters and get it taken care of. Mr. Cascio said that wasn't doing harm to anybody. Dan Swafford said the safety issues concerned him. Mr. Cascio said he could pick up the glass and secure the building. He said he was willing to make it road appealing, but he doesn't have the means to do major cleanup work on the property. He added he wanted to get some information on the sign issue. Ron Wayt asked Connie Griffin what exactly was the violation with the sign. She said it violated code 152.257, Signs which do not display advertising or other message for a period of six months, or which are in a state of dilapidation, shall be removed within 30 days following notification. Ron Wayt clarified for Mr. Cascio that since the business is closed, the sign must be removed. Realtors have other means of advertising a property for sale with their own signage. Dan Swafford asked if these were old or new codes. Connie Griffin answered they were old codes in effect in 2008. Dan Swafford asked Mr. Cascio if he agreed to clean up the debris. Connie Griffin stated she felt they should have an agreement in writing and then have the Town's attorney draft that, because we have other violations we are going to be addressing. Dan Swafford asked what Mr. Cascio is there to agree on. Mr. Cascio responded he was there to address the three issues in the letter - the sign, the weeds along the road, and the trash. Sandra Hash clarified it was the weeds all over the property. Mr. Cascio stated he wanted to start with the sign. He didn't see how the sign

was in disrepair. Connie Griffin reiterated it was not advertising a business that is open. Sandra Hash asked Mr. Cascio when he closed the business. He responded he didn't know - four or so years ago. Ron Wayt added he had been in the community five years and the property had always been for sale since he had lived here. According to our code, six months after the business closed, the sign should have come down. Mr. Cascio stated again he didn't know where this is coming from. He feels he should be able to use something of his - the sign - on his own property - to advertise his business for sale. Phillip Smith asked if we have a particular sign designated for real estate signs. Connie Griffin responded we have not dictated the size of real estate signs - other than their location for visibility issues. Phillip Smith asked what size Mr. Cascio's sign is. Mr. Cascio responded it was probably 8 feet by 12 feet. It's made of full sheets of plywood. Sandra Hash asked if he agreed that the sign on the fence for the business that's closed should come down. Dan Swafford added yes. There was some discussion as to whether the L&M Rentals and Cascio Construction conducted business at that address and Mr. Cascio conceded he would remove the sign - it wasn't worth the discussion. Dan Swafford asked how he felt regarding the vegetation. Mr. Cascio responded he didn't think it was fair to apply to the whole site. Dan Swafford asked him how far he would go on it. Mr. Cascio said if they wanted the vegetation cut back to the buildings visible from the road, he could do that. Dan Swafford asked what about the rubbish. At this point, Dan Swafford called for a five minute recess.

After returning from recess, Dan Swafford asked Mr. Cascio if he had anything to add briefly before they took a vote. Mr. Cascio answered he did not. Dan Swafford stated he would like to break this down into three different votes on the three different issues presented in the letter.

Dan Swafford made a motion to grant the appeal by Mr. Cascio on code violation 152.257 (E), removal of signage. Phillip Smith seconded. Roll Call Vote: Dan Swafford - no; Ron Wayt - no; Phillip Smith - no; Phillip Rogers - no; Sandra Hash - no. Motion denied 5-0. Dan Swafford informed Mr. Cascio the appeal is denied and he must follow the code.

Phillip Smith made a motion to grant the appeal by Mr. Cascio on code violation 93.16, Public Health Nuisance. Dan Swafford seconded. Roll Call Vote: Dan Swafford - no; Ron Wayt - no; Phillip Smith - no; Phillip Rogers - no; Sandra Hash - no. Motion denied 5-0. Dan Swafford stated the violation stands.

Dan Swafford made a motion to grant the appeal by Mr. Cascio on code violation 93.17, tall vegetation. Phillip Rogers seconded. Roll Call Vote: Dan Swafford - no; Ron Wayt - no; Phillip Smith - no; Phillip Rogers - no; Sandra Hash - no. Motion denied 5-0.

## **Old Business**

### **Landscape Ordinance, Chapter 97, New Code - Discussion**

**Connie Griffin, Director of Planning** – asked this discussion be tabled. Dan Swafford made a motion to table the landscape ordinance, chapter 97 discussion. Ron Wayt seconded. Motion carried.

## **Planning Department Updates**

### **I-69 Grant Updates**

Connie Griffin stated she has the Five Year Parks and Recreation Master Plan as far as she can take it without getting our ADA Transition Plan done. This is ready to go to our I-69 Grant. She is working on the analysis of that report right now. It is due on Monday. She went on to say next month Smithville will be coming before the Commission. They are building out on the Wilderness Chapel Hill west of town. They want to put a warehouse out there. She has some map drawings available. It is possible they are requesting a variance on the materials the parking lot is made of. They want to use gravel initially.

**Ron Wayt** stated the July meeting is the Thursday before a holiday and did the Commission want to keep that date or move it to the 8th. Dan Swafford asked to move it to the 8th of July. Connie Griffin stated she would check the availability of the room and email the Commissioners.

### **Adjournment**

Dan Swafford entertained a motion to adjourn. Phillip Rogers made the motion to adjourn. Ron Wayt seconded. Dan Swafford adjourned the meeting at 8:41 p.m. The next meeting will be July 8, 2010 at 6:00 p.m.

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Dan Swafford, President

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Ron Wayt, Vice President

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Sandra Hash, Secretary

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Don Calvert

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Phillip Smith

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Phillip Rogers

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Clayton Sullivan