

## March 8, 2018

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, March 8, 2018, at Town Hall located at 1150 W. Guy McCown Drive. Terry Baker called the meeting to order at 6:00 p.m. David Drake led the Pledge of Allegiance.

**Roll Call:** Members present were: Terry Baker, President; David Drake, Vice President; Don Calvert, Zach Michael, Brian Miller, Pat Wesolowski and Sandra Hash. Kevin Tolloty, Planning Director; Rick Coppock, Bynum Fanyo & Associates, Town Engineer; and Darla Brown, Town Attorney; were also present.

### Approval of the Minutes

Terry Baker entertained a motion for approval of the minutes for the regular meeting on December 7, 2017. David Drake so moved. Don Calvert seconded. Motion carried.

### Election of Officers

**Terry Baker** opened nominations for President. David Drake nominated Terry Baker. Pat Wesolowski seconded. Motion carried.

**Terry Baker** opened nominations for Vice President. Pat Wesolowski nominated David Drake for Vice President. Brian Miller seconded. Motion carried.

**Terry Baker** opened nominations for Secretary. Pat Wesolowski nominated Sandra Hash. David Drake seconded. Motion carried.

### Monthly Conflict of Interest

### Old Business

**Terry Baker** advised that there was a change to the Agenda and New Business would be heard first.

### New Business

**Petition for Preliminary and Final Plat Approval of Two Lots on the West Side of the 900 Block of S. Deer Run in Deer Run Subdivision, Section 9; Petitioner: Bynum Fanyo & Associates, on behalf of Josh Lewis; Case No. PC 2018-01**

**Kevin Tolloty, Planning Director**, explained this is a Preliminary and Final Plat Request for Deer Run, Section 9. It is 3.72 acres to be split into approximately .25 and 3.5 acre lots. The 3.5 acres will be subdivided in the future. Property is zoned Residential -1. Staff recommends primary and secondary approval. Ms. Hash asked if most of the lots have been larger than .25 acre. Mr. Coppock answered it depends on the section. The lots are about the same size as the original design.

Terry Baker entertained a motion for preliminary and final plat approval of two lots on the west side of 900 block of South Deer Run Subdivision, Section 9. David Drake so moved. Pat Wesolowski seconded. Roll call vote: Terry Baker – yes; Don Calvert – yes; David

Drake – yes; Brian Miller – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

**Proposed Amendments to Chapters 152.001 (Definitions); 152.016 (Uses Permitted by Special Exception); 152.072 (Nuisance Abatement); 152.090 (Uses Permitted by Special Exception in I-2 Districts); 152.295 (Variance from Development Standards) and 152.296 (Special Exceptions)**

**Kevin Tolloty, Planning Director**, began with the amendment to Chapter 152.001, Definitions. Motor Vehicle and Recreational Vehicle definitions were changed for uniformity. Trailer and Transfer Station definitions were added. Mr. Wesolowski asked the difference between travel and camping trailers. Mr. Tolloty answered trailers refer to anything that gets pulled. Mr. Wesolowski asked about trailers used to haul wood. Mr. Tolloty replied it refers to trailers for parking purposes.

The next three amendments dealt with transfer stations which came about after discussions in Monroe County because the Town does not have provisions for it. At this time, recycling and solid waste facilities are permitted in agricultural districts but not in industrial districts. These facilities were removed from the Agricultural-1 Districts and added as a special exception under Industrial 1 (“I-1”) and Industrial 2 (“I-2”) Districts and transfer stations were added. As a special exception, it would have to go through the Board of Zoning Appeals (“BZA”) for approval. Transfer stations were added to §152.296 because it provides extra guidelines for approving a special exception. Mr. Calvert asked for an example of a detached communication facility. Mr. Baker answered a cell phone tower.

**Kevin Tolloty, Planning Director**, explained §152.062, Prohibited Parking in Residential Districts, came before the Plan Commission at its December 7, 2017, meeting. This section references recreational vehicles, trailers and motor vehicles and has been changed to match the definitions. The amendment removes duplicative language and changes abandoned vehicles to private property. Framing of parking areas has been changed to gravel, or a similar material, only. Paved areas will not require the framing. Mr. Wesolowski asked if “visible” has to be included in paragraph (A). Mr. Tolloty explained he didn’t want there to be a situation wherein someone has a car in a garage that could be considered abandoned. If it can’t be seen it is difficult to enforce. Mr. Baker thinks the 90-day requirement is too long. Mr. Tolloty explained they want to give people time to work on vehicles. For some people it takes two months to do the repairs to a vehicle. After a discussion, it was decided to change it to 60 days. Paragraph (F) states, “*Motor vehicles, recreational vehicles, boats and trailers not operated on a routine basis shall not be parked or stored on any public street or public right-of-way.*” It appears if a boat is regularly used that it can be parked on the street. Paragraph (F) will be changed to say “*Motor vehicles not parked on a routine basis.*” There was a discussion on parking on streets. Mr. Calvert asked for clarification on the meaning of “not operated on a routine basis.” Mr. Tolloty answered there isn’t a defined period for routine basis. It is intended for someone who has an RV during the summer months that they’re taking back and forth on weekends. If it something going to be parked for several weeks the wheels should be blocked.

**Kevin Tolloty, Planning Director**, explained a minor change was made to §152.072. Presently, nuisance abatements require notice be sent by certified mail “and” posted on the property. The change requires notices to be sent by certified mail “or” posted on the property.

Section 152.295 pertains to variances going to the BZA. Guidelines were added for what is considered a practical difficulty as it is a requirement for approving a variance. The state does not provide much for what should be required when looking at practical difficulties. The courts, however, have highlighted what they look at and that is listed for the guidelines.

Section 152.362, Permits and Code Violations, is new. This codifies a procedure currently being done in the Plan Commission. If someone has an open code violation they should not be issued permits to do any other work on their property and it is parcel specific. The new section reads *“No permit shall be issued for any parcel of land on which there is an outstanding code violation. Permits may only be issued when all violations have been abated.”* Mr. Wesolowski asked what if he buys a piece of property and is unaware of a code violation. Mr. Tolloty explained if someone purchases property with a code violation on it, it becomes their responsibility whether they caused it or not. Mr. Wesolowski asked if code violations are on a deed. Mr. Tolloty is uncertain whether or not it goes on a deed but the Planning Department periodically receives calls from people wanting to purchase a property asking if there is an issue with it. If there is a violation on the property but nothing has been issued, it would not apply. It’s only for those instances a violation has been issued. Ms. Brown explained if there is an ordinance violation and she has obtained a judgment from the court it would be on a title search as well as liens for mowing grass, nuisance abatements, etc. Ms. Hash asked if they’re approving the text amendments and then they’ll go on to be ordinances for Town Council. Mr. Tolloty answered yes.

Terry Baker entertained a motion on amendments to Chapter 152.001, Definitions. David Drake so moved. Pat Wesolowski seconded. Roll call vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Brian Miller – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

Terry Baker entertained a motion on §152.016, Uses Permitted by Special Exception. Pat Wesolowski so moved. David Drake seconded. Roll call vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Brian Miller – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

Terry Baker entertained a motion to amend §152.062, Prohibited Parking Residential Districts Section A from 90 days to 60 days and Section F as outlined by Kevin Tolloty. Pat Wesolowski so moved. Terry Baker seconded. Roll call vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Brian Miller – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

Terry Baker entertained a motion to pass onto Town Council a recommendation for §152.062 with the modification to Section A. Pat Wesolowski so moved. David Drake seconded. Roll call vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Brian Miller – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

Terry Baker entertained a motion for §152.072, Nuisance Abatement. David Drake so moved. Pat Wesolowski seconded. Roll call vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Brian Miller – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

Terry Baker entertained a motion to forward to Town Council approval of §152.090, Uses Permitted by Special Exception in I-2 Districts. David Drake so moved. Pat Wesolowski seconded. Roll call vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Brian

Miller – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

Terry Baker entertained a motion to forward to Town Council a recommendation for §152.295, Variance from Development Standards. Pat Wesolowski so moved. Brian Miller seconded. Roll call vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Brian Miller – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

Terry Baker entertained a motion to forward to Town Council a recommendation for §152.296, Special Exceptions. Pat Wesolowski so moved. Brian Miller seconded. Roll call vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Brian Miller – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

Terry Baker entertained to move to Town Council permission for new chapter, §152.362, Permits and Code Violations. David Drake so moved. Pat Wesolowski seconded. Roll call vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Brian Miller – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

#### **Proposed New Chapter 152.362 (Permits and Code Violations)**

This agenda item was discussed with the aforementioned text amendments.

### **Old Business**

#### **Proposed Amendment to Chapter 152.061 (Prohibited Parking)**

This agenda item was included in the discussion for text amendments under New Business.

### **Comprehensive Plan**

**Kevin Tolloty, Planning Director**, presented a summarization of Chapters 1 – 4 and 6 – 9 from the Comprehensive Plan (“Plan”). Chapter 1 is the Introduction and starts by discussing why a comprehensive plan is needed. There are pages for those who worked on the Plan which included a Steering Committee, Plan Commission, BZA, Parks Board, Town Council and Town Supervisors. Chapter 1 also contains a Vision Statement and Plan outline.

Chapter 2, Ellettsville, People and Place. This chapter contains History and Geography. Most of this comes from the last version of the Plan. Recent history was added and geography was updated for Interstate 69. Mr. Wesolowski asked how much land is in Ellettsville. Mr. Tolloty did not have that information with him but will include it in the Plan.

Chapter 3, State of the Town. This chapter contains demographic information and three sections on Age, Education and Income Levels. It begins with past population and future projections. Future projections are based on death and birth rates and projected migration. Migration is based on past trends, population and the number of houses being built. Because of current annexation laws, Ellettsville will experience modest population growth over the next 10 to 20 years. Mr. Wesolowski commented the age groups of 29 and younger and 30 to 59 are fairly close. Mr. Tolloty agreed and noted the 60 and older group are going to increase and 29 and younger will decrease. Mr. Wesolowski asked if annexations in the future was considered. Mr. Tolloty answered yes. With current annexation laws it is uncertain if entire neighborhoods can be annexed as they have been in the past. A discussion

ensued on properties both vacant and being built-out and lot sizes. Ms. Hash asked if the statistical information was found on the Census. Mr. Tolloty replied yes, and the American Community Survey through the Census. Under the Income section, there is a great percentage of middle-class compared to the state and country which is based on Census data. Mr. Calvert questioned if the affordable housing data and population projections would result in smaller lots. Mr. Tolloty answered yes, it all works together. Mr. Calvert questioned skilled labor in the statistics as he thinks this is the way of the future. Mr. Tolloty answered he will check with the state because they maintain statistics on skilled labor. The Census has statistics specific to Ellettsville.

Chapter 4, Current Land Use. This chapter looks at current zoning, houses, the current land use map and is divided into three areas: East Ellettsville, Central Ellettsville and Central Ellettsville. Mr. Wesolowski noted under Key Areas for East Ellettsville, it says "Lenzy Hayes property is a sixteen (16) acre tract that has been in steady decline." Mr. Wesolowski asked if a program was passed for Lenzy Hayes. Mr. Tolloty explained a tax abatement was approved for a proposed senior housing project but it did not win funding through the state. The developer may try for funding at a later date. Mr. Wesolowski asked if they would have to return to the Plan Commission if they try for future funding. Mr. Tolloty replied yes, at some point. They obtained a variance through the BZA. They would have to come before the Plan Commission for a site plan review. The variance granted through the BZA would stay if they do the same type of program. Each of the three sections include residential, commercial and a brief analysis. Mr. Calvert thinks ingress/egress needs to be considered when discussing commercial redevelopment along the State Road 46 corridor and Lenzy Hayes is an example of this difficulty. Mr. Tolloty suggested linking a road from Lenzy Hayes to the 61 acres to be developed behind it. Mr. Wesolowski asked if there was a discussion on having a road come out onto O'Reilly's. Mr. Tolloty thinks they're going to have a street to the vacant lot where the large billboard is located.

Chapter 6, Commercial & Economic Development. Divided into three sections this chapter is based on commercial activities for West Ellettsville, Downtown and East Ellettsville. West Ellettsville has a few commercial uses. Comments for this area were a desire for light industrial uses or employment centers. This area has land inside of Town and the ability to annex outside of Town. Objectives include conducting an analysis to determine which areas should remain agricultural, for construction or wooded. Ms. Hash asked how this would be determined. Mr. Tolloty explained there are different factors to look at and it can be mapped to include soil maps and types needed for different uses. They do not want to kill prime farmland. Karst areas should already be mapped so they would have a good idea where they're located. Ms. Hash commented these are things they need to know before they approve subdivisions and Kelli Heights is an example of this because of several sink holes and it's a karst area. Mr. Tolloty thinks the Town is doing better at this. For example, Hidden Meadow, Phase III, identifies areas that are not buildable and people have become knowledgeable. Other options for West Ellettsville is a TIF district which is a way to capture money for future development and infrastructure. Mr. Wesolowski asked how far out they're looking into the future. Mr. Tolloty answered the Plan is looking 20 years out. An implementation schedule outlining priorities will be added as an appendix. At this time, different options need to be evaluated. Mr. Wesolowski commented west of Town is mostly farmland and not a large tax base. He thinks there should be something in place immediately so they have something to show future businesses who want to be in that area. Mr. Tolloty

said the Plan is the first step. Ms. Hash understands there's a benefit and they want to draw businesses but the drawback would be they're trying to support a school system on two townships. Until the infrastructure and TIF runs out the schools wouldn't receive anything more than what they're getting now. There was a discussion on TIF districts versus tax abatements.

**Kevin Tolloty** spoke about Downtown Ellettsville which has its own unique challenges. He would like to see the Town work more closely with Main Street. There are a lot of opportunities through the Office of Community and Rural Affairs ("OCRA") and Community Crossing Block Grants ("CCBG") for downtown revitalization which requires Main Street involvement. There are funding opportunities for façade improvements, revitalization and other issues. More information on business incubators will be added to the Plan. Development of pop-up stores that include mostly retail or services starting out would operate on a smaller scale. There are vacant store fronts downtown. Traffic, whether it be foot, bicycle or vehicles is needed downtown.

East Ellettsville is the State Road 46 corridor. There have been discussions on targeted annexations. A significant portion of commercial is not in the Town's jurisdiction and needs to be annexed. The Town would like to expand east toward future Interstate 69 which may be difficult but they need to try. There are businesses that don't generate much traffic and may be better suited being off of State Road 46. Traffic on State Road 46 is better suited for retail and high-intensity type uses. Mr. Wesolowski asked how this can be controlled in five years. Mr. Tolloty replied it is a matter of watching a business and if they're going to close or move somewhere else then have a business in mind that could benefit from that location. Mr. Wesolowski referenced a newspaper article referring to Ellettsville as "Pizzaville". Long Johns Silvers changed to Domino's Pizza. Is this an example of where the Town should have a say as to what goes into a space? Mr. Tolloty doesn't think the Town could have more of a say. The Town Council has been discussing economic development and having someone contact businesses. Perhaps this is where they need to work with the Ellettsville Chamber of Commerce who knows what's going on with businesses. Ms. Hash asked if traffic on State Road 46 is a hindrance to businesses. Mr. Tolloty doesn't think traffic hurts businesses but better traffic controls along State Road 46 is needed. Mr. Wesolowski asked if there is a possibility that Long John Silvers, for example, should've notified the Town they're moving and another business is coming in. Ms. Brown doesn't know how it could be enforced. Mr. Wesolowski asked if the Town should be forewarned before a business moves. Mr. Tolloty doesn't know how this could be done but it is an example of how someone who communicates with business owners would be helpful. A discussion on attracting businesses to Town ensued. The presentation of the Plan continued. Determinations will have to be made as to whether utilities will need upgraded on the east side. Tax abatements and other incentives may be utilized to bring businesses to Ellettsville. The Redevelopment Commission was never repealed so the framework is in place if Town Council would like to utilize it.

Chapter 7, Housing. This Chapter was drafted for the proposed senior housing that was coming to Town because a land use plan was needed. The land use plan consisted of current land use which are Chapters 7 and 9. There haven't been many changes since it came before the Plan Commission in 2017. Goal No. 1 is to provide housing that is affordable to all

segments of the population. Currently, there are not many affordable houses available. The Town needs to work on zoning to allow people to build smaller homes. Ms. Hash commented it cost so much to put in the infrastructure that people can't afford to build small homes. Mr. Tolloty added housing needs to be accessible to all segments of the population. There is going to be a larger population of 60+ than age 39 and under. Ellettsville needs to ensure housing is appropriate and look at smaller homes. Mr. Calvert asked if the market dictates housing. Mr. Tolloty answered it should, and the problem is markets aren't perfect. There is a demand for large houses but they're being built faster than they can be sold. At some point, people won't want large houses. Mr. Calvert asked if the Plan alludes to the fact that builders can't make as much profit on a small home. Mr. Tolloty replied that's correct. Ms. Hash asked if the solution is to decrease the lot size and put more houses per acre which would help the developer and the aging community. Mr. Tolloty answered yes and it is better for the Town to be more compact instead of sprawling outward. The Town needs to work with the land it has. Discussions in Planning indicates this is the direction it's heading. Mr. Wesolowski is concerned with the blandness of small houses.

**Kevin Tolloty** stated under Chapter 7 another goal is to preserve historic housing stock remaining in Town. More houses are considered historic. Goal No. 4 is to encourage future housing to develop in appropriate locations. Structures should not be built in the floodplain. It is difficult to find places to build in Town. Objectives include revising zoning to allow small scale office/retail uses in neighborhoods. This would allow smaller retail shops to be closer to some of the older neighborhoods to make them more viable. A stock of easily accessible homes for the elderly needs established. Continued and enhanced enforcement of current zoning regulations to help maintain property values in neighborhoods is needed. Ms. Hash mentioned trash trucks go through Ellettsville every day and it's hard on roads and noise levels and it decreases the street/curb appeal when there are different colored trash cans on the curb every day of the week. It would help if there would be city-wide garbage pickup. Trash pickup fees would be assessed through Utilities billing. It is ugly to see different colored trash cans on a street and people leave them at the curb because they won't take them back to their house. This would enhance a neighborhood and help with the streets. Mr. Baker asked how the fee would be assessed because some people don't use a trash service. Ms. Hash answered it would have to be universal. Mr. Baker disagreed as not everyone uses a trash service. A suggestion would be to have the companies obtain a permit to pickup trash in Ellettsville. Mr. Tolloty thinks having a trash service would be a benefit for people who want to annex into Ellettsville. Another objective is to consider minimum property standards to help ensure houses are not allowed to fall into disrepair. This means working with rental properties to make certain basic standards are being met. A lot of the problems encountered through code enforcement, however, are rental properties. The last option is to actively use the Historic Preservation Committee. It is in Town Code but has not been enacted. The Historic Preservation Committee could be utilized to save older homes. Older homes are a positive for the community.

Chapter 8, Infrastructure. Infrastructure includes utilities, streets, sidewalks and roads. One of the goals is to provide the necessary infrastructure to control stormwater and prevent the severity of future flooding. Most important is to stop building in floodplains. Some of the buildings on Vine Street need removed to create water storage so downtown can be redeveloped. Ellettsville needs to ensure that it is prepared for future growth, that utilities can be expanded, and that Town facilities are Americans with Disabilities Act ("ADA") accessible. Objective No. 1 is to create a plan for the placement of future street trees, sidewalks, parking and utilities particularly within subdivisions. Objective No. 2 is to create

and implement a plan to reduce the amount of stormwater runoff generated by future development. The state is trying to limit control over what can be done with stormwater runoff in that it can't be more restrictive than state guidelines. Creating and implementing a plan to effectively channel and retain excess water during heavy rain events is Objective No. 3 that pertains to flood control. Objective No. 4 is to prioritize which locations are most appropriate for expansion of Town utilities which was also discussed in another chapter.

**Pat Wesolowski** read an article on the City of Bloomington needing additional housing and restaurants and asked who makes this determination. Lynn Coyne, President of the Bloomington Economic Development Corporation, answered the article was prepared by a planning consultant for the City of Bloomington and was based on population projections and a few other things.

**Kevin Tolloty** advised there is still another chapter on Parks and Recreation that will be distributed in the next few weeks. In addition, there will be appendices on demographics, survey results and an implementation schedule distributed in the next few weeks as well as Chapter 9 on Future Development. These items will be discussed at the next Plan Commission meeting.

### **Planning Department Update**

**Kevin Tolloty, Planning Director**, advised the Centennial Drive case will be on the agenda for the April 5, 2018, meeting as well as the Mad 4 My Dog site plan review.

### **Plan Commission Comments**

**Sandra Hash** asked Ms. Brown the outcome of the Centennial Drive court case. Ms. Brown explained the Honorable Frank Nardi granted the Plaintiff's petition for an injunction and ordered Centennial Park not to allow Lot 15 to be used as an entrance into the subdivision. Ms. Hash asked if that will affect their construction entrance. Ms. Brown thinks it will. Ms. Hash asked when the injunction takes effect. Ms. Brown answered immediately. Mr. Tolloty noted the entrance off of Ribbon Lane can still be used. Ms. Brown further explained the issue was the covenants and restrictions for the subdivision stated the lots couldn't be dedicated for community purpose and the Judge decided using part of that as an easement or right-of-way violated those covenant restrictions. Ms. Hash asked what the Plan Commission will have to do. Ms. Brown answered Mr. Emery still wants to pursue his petition to have the Plan Commission amend the plat and vacate the restrictive covenants. Ms. Hash asked if that would be against the judgment. Ms. Brown has asked Mr. Carmin and Mr. Emery to each prepare a set of findings discussing citations to authority that consider whether or not a trial court's injunction on that particular issue is binding on a plan commission, who was not a party to the lawsuit and has the final authority to vacate plats. It's a slightly different issue than what they were arguing at the trial court level but closely related. There was a discussion on Litten Estates Apartments.

**Terry Baker** announced the next meeting would be on April 5, 2018.

### **Privilege of the Floor**

### **Adjournment**

Terry Baker entertained a motion to adjourn. David Drake so moved. Pat Wesolowski seconded. Motion carried. Terry Baker adjourned the meeting at 8:03 p.m.

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Terry Baker, President

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David Drake, Vice President

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Don Calvert

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Zach Michael

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Brian Miller

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Pat Wesolowski

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Sandra Hash, IAMC, MMC