



# CICERO/JACKSON TOWNSHIP PLAN COMMISSION

**PETITIONERS:**  
**Cicero Chiropractic**

## CICERO/JACKSON TOWNSHIP PLAN COMMISSION MINUTES 02/08/12

President Dan Strong called the Cicero/Jackson Township Plan Commission meeting to order at 7:02 pm.

The members of the C/JT Plan Commission were present or absent as follows:

**PRESENT:** Dan Strong-President  
Stephen Zell-Vice President  
Chris Lutz  
Dennis Schrupf  
Brett Foster (joined meeting at 7:30 pm)  
Mark Thomas-Secretary  
Paul Munoz-C/JT Planning Director  
Kelly Gunn- Recording Secretary  
Aaron Culp- Legal Counsel

**ABSENT:** Tim Fonderoli  
Paul Vondersaar

### 1. DECLARATION OF QUORUM:

President Dan Strong declared a quorum with 5 of 8 members present. There is currently one vacancy on the board.

### 2. APPROVAL OF MINUTES:

President Dan Strong entertained a motion to approve the meeting minutes from 01/09/12 and the special session of the Plan Commission which was held on 01/25/12. Stephen Zell made a motion to approve the 01/11/12 meeting minutes and Mark Thomas seconded the motion. All members present were in favor.

Stephen Zell stated for the record that he would abstain from voting on the 01/25/12 meeting minutes as he was absent. Dennis Schrupf made a motion to approve the minutes and Chris Lutz seconded. All members participating in the vote were in favor.



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## 3. OLD BUSINESS

**Docket #: PC-1011-019-AG**

**Petitioner: Walter and Heather Gibbs (Gibbs Auto Interiors)**

**Proposed Address: 23999 US 31 N**

**Arcadia, IN 46031**

Aesthetic Review: *Review of AROD approval; Petitioner to discuss new location of building on lot to cut the cost of construction and provide better site layout.*

Paul Munoz discussed the confusion on the AROD application where the Gibbs' listed themselves as the property owners. After further discussion with the petitioners', Paul Munoz realized that the lease to buy agreement was not sufficient for Mr. and Mrs. Gibbs to act on behalf of the property owner, Marcus Patterson. The Gibbs' obtained a Limited Power of Attorney and are now able to speak on behalf of the owners. Dan Strong asked Paul Munoz if the board needed to go back through each item on the previous agenda or just reaffirm the items. Legal Counsel Aaron Culp recommended that the petitioners, Mr. and Mrs. Gibbs, explain the misunderstanding and then the board can choose whether they would like to go through each item or just reaffirm. Dan Strong asked if Paul Munoz had anything else that he wanted to address prior to the Gibbs' coming forth and speaking. Paul Munoz stated that he received a new letter from an opposing neighbor, Herbert Strough. Dan Strong stated that the Aesthetic Review applications are not open for public comment or for a Public Hearing, so they will address the letter at the public comment portion of the meeting.

The petitioner, Walter Gibbs came before the board and explained that he believed that his lease to buy agreement was sufficient for him to act as the property owner. Mr. Gibbs stated that he was by no means trying to be deceptive. Dan Strong asked if Mr. Gibbs has the authority to speak on behalf of the property owners now and he stated yes, that he has a Limited Power of Attorney declaring the same. Paul Munoz stated that the Power of Attorney is on file and that legal counsel, Aaron Culp has reviewed it. Aaron Culp discussed the Power of Attorney and the fact that the document addresses all necessary items and is sufficient. Dan Strong asked if all board members felt comfortable with the Limited Power of Attorney and all members present stated yes.

Mr. Gibbs discussed his proposal to place his business at 23999 US 31. Mr. Gibbs stated that he needs a sign to let people know that the business is there and that they have previously come before board to get approval for the proposed signage. Dan Strong asked if he had a plan for a fence as required by the BZA. Mr. Gibbs stated that he wants to put in a nice privacy fence that looks classy and is functional. Dan Strong asked for a description of the fence materials. Mr. Gibbs stated that it would be a wood privacy fence with a chain link gate. Chris Lutz asked for the definition of a privacy fence and Plan Director Paul Munoz discussed the characteristics and dimensions. Stephen Zell asked the petitioner if he could point out on the diagram for the record where the fence will be placed. Mr. Gibbs complied with the request. Discussion of the placement of the fence continued amongst the members of the board and the petitioner. Dan Strong asked if there would be signage on the gate, and Mr. Gibbs stated that he had no plans for that. Mark Thomas asked where the closest neighbor is in relation to the fencing and gate. Mr. Gibbs stated that the closest neighbor to the gate is 300-400 feet away. Mr. Gibbs stated that there is a fence line grown up with bushes and trees and that he will



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leave it alone for privacy and security purposes. Dan Strong stated that the parking lot placement has been reviewed and sign and landscaping have also been addressed. All board members agreed that they are comfortable with the sign, landscaping, lighting and fence plans. Dan Strong asked if any additional lighting for the parking lot was planned. Mr. Gibbs stated that he doesn't believe he will need it. There were no further questions or comments from the board members. Dan Strong asked for a motion to approve the Aesthetic Review Overlay District. Stephen Zell made a motion to approve and Mark Thomas seconded the motion. All members present were in favor.

#### 4. NEW BUSINESS:

**Docket #: PC-0112-001-R5**

**Petitioner: Cicero Chiropractic (John and Terry Lewis)**

**Proposed Address: 209 S. Peru St.**

**Cicero, IN 46034**

Aesthetic Review: Review and approval of landscaping, lighting and signage for parking lot addition to existing business.

Dan Strong noted that the petitioner, Mr. Lewis is looking for some things from the BZA as well, so approval is contingent upon their decisions. Mark Thomas stated for the record, that Mr. Lewis has been his chiropractor in the past and has been a basketball coach to his daughter but that he has no financial interest in the business. Stephen Zell stated for the record that Mr. Lewis and his wife have been his chiropractor as well and that he has no financial interest in the business. Legal Counsel Aaron Culp asked if their relationships with the petitioners' would influence their decisions and both Stephen Zell and Mark Thomas stated no.

John Lewis came before the board to discuss the AROD and his proposed new parking lot. Mr. Lewis discussed the history of the business, its growth and the parking problems that they have endured because of the growth that they have seen. Mr. Lewis stated that they want to add a parking lot to the north side of the property. Mr. Lewis stated that he spoke with Planning Director, Paul Munoz about his options and the only feasible option was to go to north side. The petitioner discussed the layout of the proposed parking lot which creates a very simple traffic flow that does not increase traffic. Mr. Lewis stated that they are remodeling the whole property inside and have added exterior lights for security purposes. Mr. Lewis stated that he wants to add dusk to dawn lighting in the rear of building for added security and that he has spoken with Duke Energy about this. Mr. Lewis stated that drainage wise; there is a low spot where the parking lot sits. Mr. Lewis stated that he has spoken with Pat Comer and he recommended that a beehive drain be put in, so that is what the petitioner intends to do. Mr. Lewis apologized to the board for not supplying them with pictures of the proposed signage and stated that the gentleman whom is doing the sign is in Florida right now. Mr. Lewis stated that took a picture of his existing sign and if they did add parking lot signs that they will be similar in aesthetics but scaled down to meet all size requirements. Landscaping was discussed amongst the members of the board and the petitioner. Mr. Lewis stated that he will be adding a sidewalk up to the house and will add boxwoods. Dan Strong asked about the dusk to dawn lighting and where it would be at located. Mr. Lewis pointed out the area on the diagram. Discussion continued in reference to the placement of lighting. Mr. Lewis stated that on every corner of the house there is light. Dan Strong asked about the drain being in the



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yard as opposed to being in the parking lot. Mr. Lewis stated that Utilities Director Pat Comer told him that it was fine to place it in the yard but if the board would like it moved, it will do so. Paul Munoz stated that the drain that would be needed in the parking lot is much more expensive and that the type of drain in the yard is sufficient and more cost effective. Discussion of this continued topic continued amongst the members of the board and the petitioner.

Paul Munoz made a recommendation that no curbing be done. Mr. Lewis stated that there is natural curbing due to 14 years worth of gravel being laid in the area and that it measures approximately 8 inches high. Paul Munoz discussed the previous issue with drainage onto another property but stated that it has been fixed. Paul Munoz stated that Pat Comer is happy with the design and has given his approval. Stephen Zell asked about directional arrows on the pavement as opposed to parking lot signage and whether the petitioner would be willing to do so. Mr. Lewis stated that he would be happy with that. Paul Munoz made the recommendation that directional arrows be placed on the pavement as opposed to more signage. Paul Munoz talked to Town Engineer, Keith Bryant about studies in reference to this and Mr. Bryant said that it seems that directional arrows help the flow of traffic more so than parking lot signage. Aaron Culp stated for the record that he may have a conflict of interest in reference to this docket due to his firm representing Riverview Hospital. Aaron Culp discussed that he may have done work on the deal between the hospital and the petitioners' so he will recuse himself from the hearing. Brett Foster joined the meeting at 7:30 pm. Dan Strong asked if they would be ok with an impervious surface and Planning Director Paul Munoz stated yes they are under the 75%. Dan Strong asked if the landscaping plan was agreed upon by all members present and they stated yes. Dan Strong discussed the requirements for landscaping. Stephen Zell stated that the petitioner has done a great job of maximizing their territory with very little space. Mr. Lewis stated that parking spots will be 10 ft instead of 9 ft to accommodate and make it easier on patients. Dan Strong asked about handicapped parking in the other lot and Mr. Lewis discussed the placement of the handicapped spots. Dan Strong asked if the setbacks were ok and Paul Munoz stated yes. Paul Munoz also stated that sidewalk has been reviewed and has met all requirements as well. Dan Strong asked the petitioner to describe the exact location of the proposed parking lot and the traffic flow and entrance off of Spring St. Dan Strong stated that the AROD can be approved subject to approval of BZA or the AROD can be approved with the exception of the entrance off of Spring St. if the BZA does not approve that entrance. Mr. Lewis stated that if they do not allow the entrance off of Spring St. that he would have to change everything. Dan Strong said that the motion will be contingent upon approval of BZA for entrance off of Spring St. Chris Lutz asked about the pole lighting and if there were houses back in that area. Mr. Lewis stated that there are garages all along the backside that would buffer that particular light. Mr. Lewis stated that he thinks for safety sake that the light is a good thing. There were no further questions or comments from the board members.

Stephen Zell made a motion to approve the docket as discussed contingent upon approval of BZA for the entrance off of Spring St. and 19 with the exception of the entrance/exit signs which would be arrows on the parking lot pavement instead of actual signage. Chris Lutz seconded the motion. All members present were in favor and the AROD was approved. Mr. Lewis asked what would need to be done if the BZA rejects his requests. Paul Munoz stated that he would have to come back and describe the changes that would be made to the site plan, but the petitioners' would not incur any additional costs.



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## 5. PUBLIC COMMENT:

NONE

## 6. PLAN DIRECTORS REPORT:

Paul Munoz discussed the revised map for Downtown Overlay District and the proposed parking. Paul Munoz passed a diagram out to members for them to review. Paul Munoz stated that they decided to include the vacant restaurant and waterfront property in the proposal. Paul Munoz pointed out that you can see some areas that are not directly on Jackson St. which have also been included. Paul Munoz stated that this will be used by the Economic Development Council for the façade improvement program. Paul Munoz stated that if you are located within that area, you may apply. Paul Munoz stated that he is looking for approval for the map from the members of the board. Paul Munoz stated that he will then contact Miller Surveying to obtain an actual legal description so that violations can be issued in this particular area and that everything is correctly defined. Paul Munoz continued to discuss the parking and Façade Improvement program. Aaron Culp stated that in regards to the parking, the credit was going to be a 5 spot credit initially, however Mr. Vondersaar brought up at last meeting buildings that have numerous businesses contained within them. Aaron Culp stated that because of that point, the credit has been changed from 5 spots per business, to 5 spots per building. Paul Munoz stated that this follows what is stated in the sign ordinances for Single/Multi-Tenant. Dan Strong stated that he is concerned about Stringtown Pike/Main St. and the fact that no parking is allowed there currently. Paul Munoz clarified the actual locations where there is no parking allowed currently. Dan Strong stated that he would like to see those areas excluded and looked at as separate entity. Stephen Zell stated that there really is no intention to allow parking on Main St. because it does not facilitate parking. Discussion continued about this topic.

Chris Lutz discussed the former Arni's building, and the fact that it is being excluded now. Dan Strong stated that yes that is the case. Dan Strong discussed the numerous small businesses that want to go in between La Cascada and Erika's Place and raised the question, how do you tell them that they need a parking lot for a low impact business. Discussion of these topics continued.

President Strong stated that the consensus of the board is to remove that top section of the diagram and he asked if Paul Munoz and Aaron Culp felt comfortable moving forward with that. Both stated yes. Aaron Culp asked if the proposal addressing the allotment of spots was agreeable and the board stated yes. Discussion continued in reference to the Downtown Parking proposal.

Paul Munoz discussed the latest update on the Comprehensive Plan project. Paul Munoz stated that he met with the Special committee before the 01/25 Plan Commission meeting, and has since contacted a reference or 2 of each potential consultant. Paul Munoz stated that the references spoke highly of the consultants that they worked with as expected. Paul Munoz stated that what he noticed was with the bigger firms you are getting more "bells and whistles" and details which you pay for. Paul Munoz stated that the question that was brought up about the smaller firms was will they be around in 5 years when an update is necessary to the Comprehensive Plan is necessary. Paul Munoz discussed his correspondence with Brad Johnson and whether the board would like to open it up to them submitting a proposal despite the fact that they did not do so prior



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to the deadline. Board agreed that it will not be opened up to any other firms at this time. Chris Lutz discussed the questions that he had at the meeting about the Comprehensive Plan project. Paul Munoz discussed the favorable references that he received about the Planning Workshop. Dan Strong shared with the board the concern that what would happen with the use of a small firm in 5 years if an update is needed and they go out of business. Discussion of this topic continued.

Dan Strong asked about Paul Munoz's recommendation at this point. Paul Munoz stated that he would like to see at least one more meeting of the subcommittee and then the board can decide if they are happy with what they are seeing. Paul Munoz also discussed ideas on what can be done to drive the price down further. Dan Strong stated that Paul Munoz did a great job of presenting the comparisons between the proposals from each firm. Chris Lutz asked Aaron Culp if the summary/selection process needs to be entered into the record. Aaron Culp stated that a board members' notes that they took during a subcommittee or Plan Commission meeting do not, but that an oral report, vote or decision all need to be entered into the record. Aaron Culp stated that if RFP's are above and beyond what they want then the board has the option to reject the proposals and ask for a scaled down version from the firms that previously met the RFP deadline.

Paul Munoz stated that he needs an idea of what they want prior to applying for grants and funding for the project. Mark Thomas asked if any of these firms will help in the process of finding grants/funding. Paul Munoz stated that several would if the funding is Federal or State grants. Paul Munoz stated that because of the entitlement restrictions, they cannot apply for those types of grants at this time.

President Dan Strong asked Plan Commission member and Town Council President, Brett Foster for the Town Council's perspective. Further discussion occurred about the vetting and selection process and options to reject proposals and send out new RFP's if necessary. Brett Foster stated that the council knows that this is a priority and needs to be done. Brett Foster discussed the concern with the quotes and why they were so far off from each other. Brett Foster discussed what the council is looking for and what some of their expectations are. Paul Munoz discussed the estimates of cost to the town for the Comprehensive Plan project. Discussion continued amongst the members of the board and the Plan Director.

## 8. PRESIDENTS REPORT:

President Dan Strong has questions about the Cicero Chiropractic property being in the Wellhead protection area. Paul Munoz stated that Utilities Director Pat Comer has addressed this and has no issues with what is being proposed. President Strong discussed the notifications in reference to violations from the Planning Office and the fact that Paul Munoz and the legal counsel are working on that.

## 9. LEGAL COUNSEL REPORT:

Aaron Culp asked about the 01/25/12 meeting minutes and if Brett Foster was in a position to approve those minutes. Brett Foster stated no he cannot due to being late to the meeting. President Dan Strong discussed a previous clarification in reference to voting on the minutes by John Culp. Aaron Culp stated that if members whom weren't present feel comfortable based upon other members approving the meeting then they can vote if they so choose. Stephen Zell stated that he believes everything looks accurate based upon



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agenda and the opinions of the members present so he will vote to approve. Stephen Zell stated that he is familiar with the petitioners' situations and approves the minutes based upon the information that was presented in the minutes. Discussion continued about this topic. 6 members of the board whom were present approved the minutes, including Brett Foster and Stephen Zell whom stated that they were not present but agree to the information as presented.

## 10. COMMENTS FROM COMMISSION MEMBERS:

Brett Foster asked the members of the board about Corey Sylvester and what members know of him as he has been recommended to fill the current vacancy on the Plan Commission. Stephen Zell stated that Mr. Sylvester works for Edward Jones and is one of his personal financial advisors. Brett Foster stated that he will be in contact with him as he has been brought up as a possible candidate for the Plan Commission vacancy, but he wanted to obtain any references or information from existing board members in reference to Mr. Sylvester. Stephen Zell stated that he would have no objections to Mr. Sylvester joining the Plan Commission as he is highly thought of and involved within the school corporation, Chamber of Commerce and other area interests. Dan Strong stated he has spoken with him and believes he is a nice gentleman who does a lot in the community. Dan Strong asked Paul Munoz for his input and he stated that he recommended him for the vacancy and will abstain from comment. Mark Thomas stated that he has spoken to him a few times and thinks he is a stand up guy. Discussion continued in reference to this topic. Brett Foster stated that the position will be filled before March meeting.

## 11. PUBLIC COMMENT

Paul Munoz read a letter into record (see attached) from Herbert and Dorothy Strough whom oppose the Gibbs' AROD. Paul Munoz discussed the letter and the previously submitted documents opposing the Board of Zoning and Appeals decisions'. The letter was drafted by Laurie McCammon, who is the Strough's daughter and is representing them in this matter. President Strong addressed Ms. McCammon's question in reference to why she has not yet received a copy of the BZA minutes that she requested. Aaron Culp discussed the legal standard and deadline for the minutes to be submitted to board members by the Recording Secretary. Aaron Culp discussed the fact that he told Ms. McCammon that she would receive a rough draft copy of the minutes as soon as they were completed and as of this meeting, they are still being transcribed due to the length of the previous BZA meeting. Aaron Culp discussed his conversation with Ms. McCammon the day after the January BZA meeting and what was explained and discussed. Aaron Culp stated that Ms. McCammon has complained about the distribution of information but she appears to have just as much information as the board members have. Paul Munoz stated that all of the information that was requested was sent to Ms. McCammon upon her request. Aaron Culp stated that the questions that the Strough's have are questions that are answered through the meeting and public hearing and legal notification processes. Paul Munoz stated that the notice of Public Hearing process is a state statute that dictates whom is notified by legal notice as well as state statute for the timeframe of notification. Paul Munoz stated that the petitioners' exceeded the required deadlines by approximately 2 weeks and their efforts were more than sufficient.



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Aaron Culp addressed the Special Use question that the Strough's asked in the letter, and stated that the petitioners' applied for and were approved for a Land Use Variance not a Special Use Variance. Aaron Culp spent a lengthy amount of time explaining the differences in what is reviewed and approved by the BZA and the Plan Commission and how most of the time, their decisions are not contingent upon one another. Aaron Culp stated that he has had 2 lengthy conversations with Ms. McCammon in reference to her parents' opposition and any questions that she has had. Paul Munoz stated that he has had contact with her countless times and has answered everything that she has asked or mentioned to the best of his ability. Paul Munoz stated that Ms. McCammon has access to the Town's website, ordinances, and all information that was requested and in most cases, she has not contacted the office to discuss her concerns and questions in a timely manner. Aaron Culp stated that Ms. McCammon told him that she has experience and much knowledge in reference to these types of issues. Aaron Culp stated that he was under the impression that she would be here tonight until an email was received today stating otherwise. Aaron Culp believes that from his discussions with her that she understood all of the information provided.

Aaron Culp addressed the Strough's questions in reference to the appeals process and gave them the timeframe in which to do so. Aaron Culp stated that he feels that they have gone above and beyond to provide all information to the parties that have requested it. President Strong stated that based upon Mr. Gibbs explanation and the obtaining of the Limited Power of Attorney, that he feels that all information was sufficient to move forward. President Dan Strong discussed the letter being entered into the record during the Public Comment portion of the meeting instead of when the docket was heard due to a Public Hearing not being required for an AROD. President Dan Strong discussed the Comprehensive Plan being brought up in discussion and Aaron Culp stated that he explained this topic to her in reference to future use and planning. Aaron Culp discussed that procedurally, public comment has never been required or allowed for AROD's and if it were allowed tonight, previous petitioners' or members of the community can appeal the procedure.

Dennis Schrupf addressed the question in reference to the petitioner needing a sign and stated that it is needed to identify the business for the patrons so that they go to the correct property. Chris Lutz asked Legal Counsel Aaron Culp if he feels that the Plan Commission has done everything correctly and addressed all questions and procedures in an appropriate manner. Aaron Culp stated yes and that the Plan Commission has asked all questions that they have had and are comfortable with the answers and explanations given. Chris Lutz asked if the Plan Commission had any obligation to answer the new letter. Aaron Culp stated that his response will address the most recent letter of opposition. Chris Lutz stated that Aaron Culp has been quite generous with his knowledge of the statutes, ordinances and procedures and thanked him for his hard work. Aaron Culp stated that each time that he and Ms. McCammon spoke, he was available and willing to talk until she wanted to end the conversation or had to go because of other obligations. Paul Munoz stated that he has now begun to forward all emails and correspondence to Aaron Culp because he feels that he has answered all of these questions and provided all pertinent information. Aaron Culp stated that he plans on emailing Ms. McCammon and informing her of what was decided tonight and that he will suggest that she review the BZA minutes that she will receive by the end of the week. Aaron Culp stated he is not her Attorney, and is in no position to give legal advice and will suggest that if his answers are not sufficient that she contact her legal counsel. President Dan Strong stated that the board has worked within the ordinances and recommendations





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of the legal counsel and feels that all appropriate information has been given, and that questions have been addressed and procedures have been followed. Dan Strong stated no further discussion is needed.

## 12. NEXT PLAN COMMISSION MEETING

**March 14th, 2012 @ 7:00 p.m.**

## 12. ADJOURNMENT:

President Dan Strong asked for a motion to adjourn. Dennis Schrupf made the motion to adjourn the meeting and Mark Thomas seconded the motion. All members present were in favor and the meeting was adjourned at 9:00 p.m.

### ***Signature on Official Documents!***

\_\_\_\_\_  
Dan Strong, 2012 C/JT Plan Commission-President

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Stephen Zell, 2012 C/JT Plan Commission-Vice President

\_\_\_\_\_  
Mark Thomas, 2012 C/JT Plan Commission Secretary

\_\_\_\_\_  
Kelly Gunn, 2012 C/JT Recorder

Date: \_\_\_\_\_