



# CICERO/JACKSON TOWNSHIP PLAN COMMISSION

## PETITIONERS:

## CICERO/JACKSON TOWNSHIP PLAN COMMISSION MINUTES 2/11/15

President Dan Strong called the February Session of 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  
Christopher Lutz - Vice President  
Chad Amos  
Dennis Schrumpf  
Glen Schwartz  
Steve Shields  
Stephen Zell  
Aaron Culp - Legal Counsel  
Paul Munoz - C/JT Plan Director

ABSENT: Paul Vondersaar - Secretary  
Tim Fonderoli  
Sally Mangas - Recorder

### 1. DECLARATION OF QUORUM:

President Dan Strong declared a quorum with 7 members present.

### 2. APPROVAL OF MINUTES:

Steve Zell made a motion to approve the 1/14/15 minutes as submitted and Steve Shields seconded the motion. All members present were in favor.

### 3. OLD BUSINESS:

#### **Election of 2015 Officers (*tabled*)**

President Strong stated that the Plan Commission needs to make a recommendation to the Town Council for the appointment of Paul Munoz as the Planning Director. Dennis Schrumpf made a motion to reappoint Paul Munoz as the Planning Director and Chad Amos seconded the motion. All members present were in favor of reappointing Paul Munoz as the Planning Director for 2015.



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Dennis Schrumpf made a motion to untable the election of 2015 officers; Chris Lutz seconded the motion. All members present were in favor.

Steve Zell made a motion to nominate Dan Strong for 2015 President. Chad Amos made a motion to close the nominations. All members present were in favor of Dan Strong being the 2015 President.

Steve Zell made a motion to nominate Chris Lutz for 2015 Vice President; Dennis Schrumpf seconded. Steve Zell made a motion to close the nominations; Dennis Schrumpf seconded. All members present were in favor of Chris Lutz being the 2015 Vice President.

Steve Zell made a motion to nominate Paul Vondersaar for 2015 Secretary. Steve Zell made a motion to close the nominations; Chris Lutz seconded the motion. All members present were in favor of Paul Vondersaar being the 2015 Secretary.

### **Comprehensive Plan (*tabled*)**

Dennis Schrumpf made a motion to untable the Comprehensive Plan; Chris Lutz seconded the motion. All members present were in favor.

Mr. Munoz stated that last month they were down to the technicality of approving the Comprehensive Plan but because of officer elections and decisions they had chosen to table it until this meeting to give people more time to review it. There were no corrections, additions, or deletions that were recommended to our consultant by any of the board members so it currently stands as it was. Mr. Munoz asked if anyone had any corrections, changes, additions, things they don't feel comfortable with and if not they will need a motion to give a favorable recommendation to the Town Council for approval of the Comprehensive Plan. Vice President Lutz asked Mr. Munoz if he had access to the Plan so that if in 3 years they wanted to update it he could or would they have to go back...Mr. Munoz responded that we will have full access to this so that every year they should probably put together a couple of people or a committee and review the Comprehensive Plan and see what has been accomplished and what has not, maybe adjust some long term goals. He further stated that we have full right to adjust this as needed in house. Mr. Culp stated that the Comprehensive Plan needs to be forwarded to the Township Board too; they have to approve it as well. Mr. Schrumpf asked about hard copies for the Township to which Mr. Munoz stated that he may have 1 or 2 hard copies and he may try to borrow 1 or 2 from the people who have already read over it and approved it that way he can get them copies. Mr. Munoz continued stating that he thought that everyone on the Plan Commission has already received a copy. Mr. Schwartz stated that he believes that he already has a copy and he believes that their next meeting is the 17th at 2:00pm. Mr. Munoz stated that he would make sure that they have hard copies. President Strong asked if everyone had had a chance to review the Plan and do they feel comfortable with it to which everyone was acknowledging. Vice President Lutz asked if after this is finalized would there be several copies in the office or library to which Mr. Munoz stated that there would be several copies floating around along with the electronic version on the website so people can review it; it will be readable available to anyone who wants it.



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President Strong asked for any further questions or comments to which there were none. He then stated that the board had choices to make; they either make a favorable recommendation and send it on to the Town Council and the Jackson Township Board or they can send an unfavorable recommendation or allow more time to look at.

Steve Zell made a motion to send a favorable recommendation regarding the Town of Cicero and Jackson Township Comprehensive Plan to the Cicero Town Council and the Jackson Township Board; Chad Amos seconded the motion. All members present were in favor.

President Strong stated that final say was up to the Town Council and they will either approve it or send it back to the Plan Commission for changes that they would like to make and some recommendations in regards to those changes.

#### 4. NEW BUSINESS:

##### **Zoning Ordinances**

Mr. Munoz began by informing the board that the papers they had in front of them show the changes made to the Zoning Ordinances for common questions and concerns that were voiced at the last meeting. There were some page numbers and references that needed to be edited, a resolution to remove the fee schedule and have it stand alone, restaurants with alcohol is permitted in a Downtown Commercial and a Highway Commercial, along the US 31 corridor, but it is a special exception, so it is not out of the question but you have to get a variance for it, in a Neighborhood Commercial/Office Commercial C1 or C2; the theory behind this is they would like to promote restaurants and those types of eateries within the downtown corridor to make it more active with retail and foot traffic so they are permitting it more in those areas however in the Office Commercial or Neighborhood Commercial where you are backing up to Residential areas they don't want to promote it as much. The Zoning Map language was cleaned up, there was some annexation language added, there was some verbiage changes made in reference to the Wind Turbines - removing the 1 1/2 times and changing it to 1500 feet, they added the outdoor seating language - any outdoor seating area that will serve alcohol must go for special permission from the Plan Director who may refer the decision to the Board of Zoning Appeals - President Strong does have some reservations about this so they may discuss per Mr. Munoz. President Strong stated that it is in regards to having 1 person make the decision as to whether or not it would need to go to the BZA or not, he is not sure if that would be proper protocol or if it would be better to make it a Special Exception and it would have to go to the BZA automatically which is what they have done in the past. Mr. Culp responded that he feels that it is just a judgment call and based on the past history of this board and the way it's viewed it he thinks that the board would want to keep it as a Special Exception and that way the board gets to sign off and if it thinks it's necessary put in some restrictions or requirements on anyone that is going to serve alcohol outdoors. President Strong stated that he knows that has been the concern in the past, depending on what zoning district it is in but to have some controls as far as some of the things that can happen. President Strong went further stating that the noise is controlled by the local ordinances but some of the other things that they have tried to control in the past and at this point things are moving into the area so we may want to change an ordinance as time goes on and go back the other direction but we can gain some knowledge from Lazy Frogg being are first venture into that. Mr. Culp



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stated that instances where they have granted outdoor seating have been some of the most highly attended and evaded Council meetings. Mr. Munoz stated that for clarification they are allowing the outdoor seating under the current Development Standards, as long as it meets those Development Standards it will still be regulated in areas of Aesthetic Review, this has to do with the actual serving of alcohol in that outdoor area. Mr. Munoz state that he knows that Mr. Culp is legal counsel for Hamilton County and some others but they had discussed it with Noblesville and Carmel and they said that they try to stay away from the regulating of the alcohol and leave that up to the police and State Excise. Mr. Culp asked if that was from a liability point of view to which Mr. Munoz stated that he believed so. Vice President Lutz remarked with the regulation of the alcohol...Mr. Munoz stated the regulation of the alcohol because we are allowing the outdoor seating according to our Development Standards in certain districts anyway so as long as it meets our Development Standards it goes in front of Aesthetic Review and we can put further regulations on it which just about anywhere we are going to be putting outdoor seating is going to have to go for it anyway so we'll be able to regulate some of those issues when it comes to fencing or some of those things but it's the way that this is currently set up it's more the regulation of the fact that they'd be serving alcohol in that outdoor seating that we would be looking at a Special Exception to do. President Strong stated that he does not think that they are trying to regulate the alcohol piece but regulating the use of the property. He continued stating that it's not any different than us regulating what the use would be for any property so we have the right to regulate the use of the property; we're not trying to control the alcohol we're just trying to say that this particular area within a zoning district is what we're trying to regulate. Mr. Munoz stated that that is what he was trying to get clarification about, he's trying to see it from both sides and trying to figure out how this is going to be viewed and if comes down to it will this be an issue in the future if somebody can play it one way compared to another; he's trying to make sure it is right before it is approved. Mr. Culp remarked that he thinks the whole idea of the Special Use is that they are regulating the usage and if they allow someone then it enables them to set certain restrictions or requirements as opposed to if you're in this area you can do what you want; that was the whole idea. He continued stating that it's not regulating whether they can serve alcohol it's just saying if you're going to do it outside we're going to set some standards based on where you're located. Mr. Munoz stated sure if Mr. Culp is comfortable with it. President Strong remarked that they will probably tweak some of the things, moving forward there will be a little more history so they will be able to make some more fact based decisions. Mr. Munoz stated that just for clarification any outdoor seating area that will serve alcohol must get a Special Exception and Use from the BZA...Mr. Culp stated in any district that permits outdoor seating and alcohol. President Strong remarked that they had done that in the past; if you look back at the old ordinances there were restaurants with and without alcohol. He continued stating that it falls under the Permitted Use or Special Exception; Mr. Munoz stated that the correction will be made. Mr. Munoz went on to state that Neighborhood Commercial and Downtown Commercial Electronic Animated Sign was suggested to be changed to be prohibited to the language following the chart on page 134 and 153; this was mainly a cleaning up because it had showed that it was allowed not prohibited. Mr. Munoz remarked that they would be removing the Fee Schedule; adding definitions for small and large wind turbines; definition for a POD; clarify the definition for an accessory structure and min barn; tighten up the definition for a portable structure. Mr. Munoz stated that he would just bring it up so that everyone could see what was said there. POD - temporary or portable storage units are transportable units designed and used primarily for temporary storage of building materials, household goods, personal items, and other items for use on a limited basis on residential and non residential property. The Portable Storage Structure - a transportable storage structure



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that is designed and used primarily for the storage of household goods, personal items, and other materials for use on a limited basis on residential property. Mr. Munoz stated that with both or these they are defining them and addressing some of the problems they had with the PODS on properties. President Strong asked the board if they were all comfortable with these definitions to which Mr. Zell stated that his only concern is the "limited basis" because that is fairly broad; he asked if there were any thoughts on how they would define that. Mr. Munoz responded stating that the only reason they had used "limited basis" was that if they get into timelines how are you going to enforce that and keep track of it; they are not meant to be a permanent structure. The board agreed that this is a lot better than what they had. Mr. Culp asked if for enforcement purposes would they want to set a number of days; it was asked how you would enforce it. Mr. Culp stated that it is kind of like a car, if the car has been there long enough you tag it and if it's still there you tow it away. Vice President Lutz asked if you would not start counting it until you were aware of it to which Mr. Culp agreed. Mr. Culp further stated that his concern is that there will be an argument every time you talk about "limited basis". There was discussion amongst the board on how everyone would have a different definition of what "limited basis" would mean. Vice President Lutz asked Mr. Munoz if they had intentionally worded it that way to allow for some leeway but is there another way of stating that; if we want to stay away from a certain number of days is there another way of stating it with the same objective. Mr. Munoz responded that he believes you would have to research a little bit to see how long you can get/rent a POD for and have it on your driveway and then start regulating that...Mr. Zell stated that if you are a citizen that comes here and you have an issue like we did a few years ago you know they are going to ask the question of how much time do I have in terms of "limited basis"...Vice President Lutz stated that from an enforcement standpoint let's say we come up with 60 days and it's there a year when someone comes and says it's been there a year well then the clock starts from the time of the complaint. President Strong remarked that they could actually tie it in to part of the new ordinance under definitions on page 214; looking under Temporary Use and Structure we can tie it in, that one is a land use with structure, they are not the same but it has a 4 month window so we could actually tie it in and do a 4 month limit so it would actually be no more than 4 months with the intent to discontinue such use for structure on the expiration of the time period...if everyone felt we needed a timeframe and that way we are being consistent. Mr. Zell stated that he just feels we would be opening ourselves up to a lot of potential debates if you don't define it. Mr. Culp added that he knows that if it ended in court they would be asked if they are treating everyone the same and if they do not have a nailed down definition it becomes harder to establish that. Mr. Freeman asked about a temporary storage trailer/construction trailer around the area or a U-Haul trailer, is that a trailer/POD...to which Mr. Munoz stated that it would be a trailer because it has wheels and is moveable, it falls under something else. President Strong stated that they are looking at the PODS from the situation of sometimes people will get them to use as outside storage, there was a local business that had quite a few of them, are they a POD or a storage building so they are trying to fix that and determine the difference between a storage building and a POD and that is why they are trying to come up with a definition for a POD. Vice President Lutz remarked that another concern would be is it on private property versus public...Mr. Freeman stated that a limited time on his property is a POD so if 6 months hypothetically what would keep him from getting 4 U-Haul trailers and setting them in the driveway the same...are there any legal ramifications for saying well the Town let me keep a boat trailer here for an indefinite amount of time...Mr. Munoz stated that you could but you would then be getting involved with your homeowners and covenants and we don't do anything with covenants. Mr. Freeman went on to state that Mr. Amos would agree that their neighborhood doesn't enforce that. Mr. Culp



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stated that vehicles are treated differently. If it's a vehicle there are state laws that apply to it and we have some ordinances that apply to it; he doesn't know that it is in the zoning code as much as it would be in the municipal code. Mr. Freeman spoke about cars with incorrect plates being backed into spots so as to not be towed, boat trailers and camping trailers. Mr. Amos stated that that is a whole other subject and has nothing to do with POD's but he does think that 4 months would be too long for a temporary POD. He gave the example that it may take 4-6 months for the complaint and then they would have another 4 months to get rid of it; he concluded that he would say 60 days max for temporary storage of a POD in someone's driveway. Vice President Lutz said that not around here but he has seen people use the POD's at construction sites; there was discussion about that with Mr. Schrupf and Mr. Amos including making exceptions to the time frame. President Strong stated that he would like to think that we would not have to many issues with them and spoke about the time limit of 60 days. Mr. Zell remarked that he feels that they have to have a time limit on it however he does not care what that limit is. Mr. Schrupf added that if it is a true POD it should only be there for a short amount of time. Vice President Lutz stated that he could see for new construction that they may need more time and that would be an exception. President Strong asked the board if they were all comfortable with 60 days to which they all agreed that they were. Mr. Munoz then began speaking about front/side/rear facades on page 190; a front facade is described as those portions of a facade that face and are most closely parallel to the front lot line, corner lots may have 2 front facades, rear facades are those portions that are mostly closely parallel to the rear lot line, and side facades are mostly closely parallel to the side lot line. President Strong remarked that he does not believe that this took it down to what they were wanting. His interpretation is that the ordinance allows for a sign on each facade, so you could have 4 signs on a building, and what they were looking for was trying to narrow down the specifics and whether it should match...as an example 10 West, in his opinion they have 2 sides, front and side, and our signs are allowed on the facades so it's trying to clarify what (unintelligible) visibility and the discussion came up is the side of the building a facade or just the front...that is how we got to this conversation. So we are trying to narrow down the ordinances as to what we want to see signs on. President Strong continued stating that there were different ones for wall signs versus (unintelligible) and that is where they had run into this in residential districts and never got it clarified so that is why they need to fix it so there is not this big bright sign facing someone's house. Mr. Zell asked about the next steps after the completion of the review of the ordinances; after they adopt this it will go to the Town Council...Mr. Munoz stated that this is another one where they will be making 3 recommendations to the Town Council...Mr. Culp remarked that also includes the Township Board. Mr. Munoz stated they would be looking at...approving the Ordinances, approving the Zoning Map, and approving/recommending that the Fee Schedule be separated from the ordinance; those are the 3 motions they will be making tonight. President Strong stated that they would be making either a favorable recommendation, non favorable recommendation, or they needed to work on them more. Mr. Zell asked President Strong if there were any changes to the Zoning Maps to which Mr. Munoz stated there were, followed by President Strong mentioning the changes along US 31 to which Mr. Munoz stated that they had changed some of the zoning along US 31 to allow for C1...Mr. Zell asked if it was around 276th Street to which Mr. Munoz stated it was...Mr. Munoz continued stating that also along SR 19 for Neighborhood Commercial allowing for cottage style industries. Mr. Zell stated that it sounded like it was pretty limited to which Mr. Munoz agreed. President Strong asked if they could change the Residential district to Neighborhood Commercial arbitrary without involving the property owner to which Mr. Munoz stated "yes". Mr. Culp stated that they could but everything that is there now will be grandfathered; so if someone wasn't complying with



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whatever the new designation is they would be legal non conforming. Mr. Munoz stated that he was looking for signs, he thought they had addressed this and he just wanted to see how they had addressed it if they had. President Strong stated that he thinks it is an easy fix. Mr. Zell stated that he thinks they should leave the language as it currently is just add...Mr. Munoz stated that there are 2 ways of doing this, 1 would be within the Sign Ordinance it would state that the signs are allowed on your front facade and you would keep the definition as it stands...President Strong responded that that would work...or you take away the side and the rear and just leave the definition of the front facade but he believes there would still be some arguments. Mr. Munoz continued stating that the only way he feels you could really change it and have some kind of teeth to it is to change in the Sign Ordinance that allows so many per front facade approved, front and side facade, or however the board wants to determine it. President Strong stated that he would be comfortable with that. Mr. Munoz stated that he really thinks they were looking at the fact that the front facade was the only place they were going to allow signage, they did not want it on the side; case and point is the one down the street where it's above another building but they are on their side. Mr. Munoz continued stating that the front facade, if you're on the corner you would have 2 front facades and any other building would just have 1. President Strong remarked that he thought that was exactly right. Mr. Amos asked how that would work with the Lazy Frogg with the front facades and actually being on the water and advertising on that side. President Strong remarked that they had actually come in and gotten a change for their signage when they did their aesthetic review and then went to the BZA as far as what signs they would like to have so they got approved for additional signage. President Strong continued stating that you always have that recourse to come in and ask for additional signage, you may or may not get it through the BZA process but you always can come in and ask for more. President Strong remarked that he thinks that would be a good compromise if everyone else feels that that would work; he thinks that would alleviate the problem that they are concerned about. Mr. Munoz repeated so clarify in the actual Sign Ordinance everywhere where it discusses or mentions facade - front facade that way it clarifies that we don't want them on the side or rear facades. President Strong agreed stating that that still allows them some latitude if they have a side of a building they can come in and petition for a wall sign or whatever. Mr. Culp asked in what areas are the zoning designations changing to which Mr. Munoz remarked along SR 19 and US 31. Mr. Culp continued by stating that technically they may have to have a public hearing to do that because it's like a rezone so there will have to be a public hearing and then the Council so they need to separate that out as an additional item because they are changing the existing zoning. Mr. Munoz stated that they had had a public hearing on the Zoning Ordinances as a whole including the Zoning Map...Mr. Culp asked if we had sent notice to the property owners that will be impacted to which Mr. Munoz stated that they had to send notice to everybody in the community; it was posted in the paper. Mr. Culp remarked that he would want to look at that just to see if they have to actually go through the formal processes to the people who are being rezoned because you are required to have a hearing and he does not know if not specifically separating it out and telling them that this area is being rezoned where you would have to give notice to the impacted parties and the ajoiners potentially; he was unsure if it could be done this way. Mr. Munoz stated that they would take that out and not make any motion on the Zoning Map this evening and let Mr. Culp figure out if that is something that they need to have a separate hearing for. Mr. Munoz continued stating that they would only be looking at the Ordinances and Fee Schedule this evening.

President Strong asked if there was anything else that anyone would like to add to which there was not. President Strong continued by stating that in looking at the new Ordinances he wanted to make sure that



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everyone feels comfortable with any swimming pool (in ground or above ground) being considered an accessory structure; Mr. Munoz stated that he was comfortable with this. President Strong stated that since they would be considered an accessory structure they would only be allowed to the rear or side of a building. President Strong stated that just for clarification; in Types of Violations, 15.7, page 189, item H, it talks about Verbal Commitments and in the past we covered it as Written Commitments but they added Verbal Commitments in regards to Written Commitments as far as being able to enforce; he thinks this is a good thing being added this time, is that correct to which Mr. Culp asked if it was verbal commitments to the BZA to which President Strong stated it was as well as the Planning Commission. President Strong stated that this is as opposed to in the past where the ordinances dealt mostly with written but in this one they added the verbal piece which is good because if someone from the public makes a verbal commitment to them and they approve it then they can enforce that in court as well. Mr. Culp agreed but further stated that it would need to be in the minutes and he would still suggest that they make certain that any Verbal Commitments are recorded because that puts the potential purchaser on notice that that's out there because if it's not in the Chain of Title they won't necessarily know it's out there and that is what would alert them that there is a variance for the property and it is subject to those terms. President Strong asked Mr. Munoz about the Written Commitments that have been done in the past and if there is a way to add a verbal piece if they sign off on it and know they have to have that recorded as well to which Mr. Munoz stated that the Written Commitments that we have are recorded with the Deed, he asked if they were wanting the Verbal Commitments included with that. President Strong stated that if they made a Verbal Commitment, or maybe they just make everything written even if they do it but he thought it was important that they discuss this. Mr. Munoz stated that for Written Commitments they are signed off and recorded with the Deed of those properties but the Verbal Commitments come down to more of the Aesthetic Review and the BZA when there are small little things mentioned that we may not include in the Written Commitments. Mr. Munoz continued with the case and point of the one they are currently dealing with, Lazy Frogg, if you look through the minutes it says that its monument sign is going to be a one sided sign and face the corner at Jackson Street and Main Street well they are coming back saying that it shouldn't matter if they want to put a sign on the other side of it, well the fact that it was a one sided sign was a verbal commitment that was made by them that kind of dictated some of the reason why the BZA made the decisions they made or could have affected those decisions but for any change in that would have to go back for review. Mr. Munoz continued stating that something like that would not normally have been caught or put in a written formal commitment; so if clarifying if verbal commitments are made in the minutes of the meeting then you can be held accountable to those too. Mr. Culp remarked that when someone buys a piece of property they are held to what is in the record even if they don't pull the Chain of Titles and look at it and to be aware of any easements, any rules or restrictions that have been placed on the title; if someone were to purchase the Lazy Frogg and not know that there was a Verbal Commitment there and wanted to put a sign on both sides he is not certain how that would play out in a court of law. Mr. Munoz stated that he believes that it would be similar with what they have done with...Vice President Lutz remarked that the purchaser would have the obligation to look at the zoning variances that were granted...Mr. Munoz stated that it would be similar to what was done with the Cicero Market because the finishing of the parking lot and alley was never a Written Commitment it was a Verbal Commitment (Mr. Munoz stated that he believes this to be right off the top of his head) with the previous owners of the building that they were going to finish that, he is not sure if it was ever written anywhere as a Commitment along with the title of that building and recorded as such and he had to do it.





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Vice President Lutz asked about a distressed property, if there is a property with outstanding obligations how is the potential purchaser put on notice about those outstanding obligations to which Mr. Culp stated that they would be put on notice of the obligations through the Chain of Title, it would say that there was a variance granted under these conditions. Vice President Lutz asked if there was a verbal commitment during the permit process it should be recorded at the...if the permit is closed that falls under a different level of jurisdiction but if the permit is open how do you...Mr. Culp responded not an open permit but if there is a Variance or something like that where we made them put down Written Commitments, not necessarily a property that is being built pursuant to that but where we've recorded because a lot of times the presumption is going to be if that's in writing then everything is going to be there. Mr. Culp continued stating that if we are going to put it in our minutes that they made these Verbal Commitments he does not see the challenge in cutting and pasting that into the actual Written Commitments as Additional Commitments. Vice President Lutz asked if the Written Commitments would be recorded to which Mr. Culp stated that they would. Mr. Munoz stated that he felt that they would have to cut and paste the entire section of minutes because if they were trying to catch every single thing that is mentioned, using the Lazy Frogg as an example that would be 8 pages with 9 Variances there would be 5-6 pages recorded with the deed. Mr. Munoz continued stating that it would be very hard to catch every little thing that he said that he committed to because he talked about aesthetically he was going to put a piece on top of the roof and the reasons why and then you had the fact that it was going to be gooseneck lighting instead of backlit, there were a bunch of little things committed to for 1 variance...Mr. Culp stated that maybe the solution is to include language at the end that is a catchall that says that any Verbal Commitments made at this hearing and then attach a copy of the minutes. Mr. Munoz remarked that that will have to happen because we can't...Mr. Culp continued stating that that will put somebody looking at it on notice that there may be commitments that are not in writing and it tells them where to find those commitments; that would accomplish what he is concerned about. Mr. Munoz stated that he understand Mr. Culp's concerns but they have to find a better way to just include all of them...Mr. Culp stated that just a sentence in there to cover that...Mr. Munoz remarked that he could do that. President Strong asked Mr. Munoz if he would add that to which Mr. Munoz stated he would; President Strong stated it was 15.7, page 189, item H. President Strong asked from that standpoint though if there are Verbal Commitments and those commitments are not met on an existing piece of property they wouldn't get a C of O to start with anyway; if it's something getting ready to open and we look back and see that all of the Verbal and Written Commitments were not met then we would more than likely not issue the C or O...Mr. Munoz stated that 1 of the things regarding the Written Commitments that the board makes on a normal basis is that they will not allow leaving quarters or operate a business out of an accessory structure those carry on through the course of it, they can still get a C of O with the basis that those Written Commitments are still there and...so it wouldn't always be the case that they wouldn't get the C of O.

President Strong stated that he also like the Residential and MP Districts in that they used prerequisites; that is how they handled all the little things such as the different allowed signage...he asked that everyone take a look at that.

President Strong spoke about the Zoning Administrator, it's been in the definitions in the past, it's on page 215 in the new Zoning Ordinance. This really holds the board to enforcing their ordinances because they



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are considered the Zoning Administrator and Mr. Munoz is their Planning Director and it's up to this board to make sure the ordinances are enforced and they do what they should to enforce the ordinances.

President Strong directed the board to page 67, Process 5.11 in regards to subcommittees. There used to be subcommittees: Aesthetic Review Overlay District Subcommittee, Sub Division Committee, and a Sign Committee, at one time they all went away and it was in regards to the fact that they did them 30 minutes before the meeting to make sure that all of the paperwork was done ahead of the meeting, to see if anything was missing or needed review but a couple of members a few years back didn't feel comfortable with subcommittees because they felt they were not knowing everything that was going on so they did away with the subcommittees. However, in looking at the new ordinances they talk about subcommittees; they need to either remove those from the ordinances or they need to go back and reform the subcommittees because they do tie in to the process. President Strong stated that he thought that the subcommittees were good; they would have petitioners who would come in that were not prepared and they would withdraw themselves from the agenda so that they could come back prepared. There was discussion amongst the board members on what the actual page number was; Mr. Munoz stated that there had been some problems with the numbering however they were correcting the page numbering issues. Mr. Culp stated that he would agree based on how it is written, it says shall; if they are not going to operate that way he would recommend removing it so they are not in a position if someone were to say they are not following the procedures. President Strong stated that that is his concern too unless Mr. Culp felt comfortable changing it to "may" but he feels they should react since they are rewriting the ordinances...Mr. Culp stated that they could give the Plan Commission the discretion to create subcommittees as it deems appropriate and so that way if the Commission saw it to be beneficial to have an Aesthetic Overlay Subcommittee it could do that but there is nothing that requires it to. President Strong remarked that they should then amend the word to take out "shall" and make it "may" would that alleviate that concern then to which Mr. Culp agreed. It was asked if subcommittees are mentioned anywhere else to which President Strong stated that in the old ordinances in the Subdivision Control piece but he does not believe they are anywhere else in the new ordinances other than this. Mr. Culp stated that they could change it to say that the Plan Commission may establish an Aesthetic Overlay District Committee and if a Subcommittee is established it shall and then lay out how it would function. President Strong stated that would be good. President Strong asked Mr. Munoz if he was okay with this; he further stated that if they change it to "may" as opposed to "shall" it still gives them the latitude in the future...Mr. Munoz stated that they are on page 63 and they are looking anywhere that it talks about processes of subcommittees or just on this one to which Mr. Culp stated...Plan Commission may establish an Aesthetic Overlay District Committee in the event a committee is established it shall and then just the rest of the language. President Strong stated that they would then do Subdivision Control Ordinances...correct those as well to which Mr. Munoz agreed.

President Strong stated that that was all he had but he found it very interesting that the Town of Cicero talks about getting ahead of the curve on some things and he was reading an article about Tipton and they are just now doing their definitions and tying them to their ordinances.

Mr. Munoz stated that there were some changes to consider and he has a list of them. He asked if the board wanted the changes made and bring this back next month and review it with those changes or do you



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want to approve it with those changes now. Mr. Zell stated that he thought they could go ahead and approve it tonight with the changes they had discussed. President Strong stated that he thinks they should tie to it that Mr. Munoz is allowed to review it and make sure that the changes were made before it proceeds to the Council and the Jackson Township Board...Mr. Munoz agreed stating that once he gets the final copy he and President Strong can review it to make sure.

Mr. Munoz stated that the first thing would be a motion for a favorable recommendation for the Zoning Ordinance changes for the Town Council and the Jackson Township Board.

Steve Zell made a motion regarding the Zoning Ordinances that the board send a favorable recommendation to the Cicero Town Council and the Jackson Township Board of Directors, to be amended by the changes that were discussed tonight, as well as having Mr. Munoz review them for these corrections before it is made available to the 2 boards to make sure that all of the changes have been made. Chad Amos seconded the motion. President Strong stated that he had a motion and a second on sending a favorable recommendation to the Town Council on the new Zoning Ordinances as amended tonight with Mr. Munoz being able to review those before it goes to the Town Council and making that decision to send those forward. All members present were in favor.

Mr. Munoz stated that the next motion is to make the recommendation to remove the Fee Schedule from the Ordinances and make it its own separate Ordinance so that it is more easily codified if for whatever reason we decide to review those on a yearly basis. President Strong reminded the board as to why they would be removing the Fee Schedule from the Zoning books.

Chris Lutz made a motion to remove the Fee Schedule from the Zoning Ordinance such that it is separated out and it is created as a separate standalone ordinance and sending that on to the Cicero Town Council and the Jackson Township Board; Steve Zell seconded the motion. President Strong stated that they had a motion and a second to send a favorable recommendation in regards to removing the Fee Schedule from the Zoning Ordinances and making it a standalone document. All members present were in favor.

President Strong reiterated that there was a lot of hard work and a lot of hours spent but hopefully the Council and the Jackson Township Board will look favorably at what they have done but of course they have the latitude to make any adjustments and send it back to them and go from there...they will await their decisions. Mr. Schwartz asked if it would be sent to the Trustee to which President Strong and Mr. Munoz stated that it would.

## 5. PLAN DIRECTORS REPORT:

Mr. Munoz stated that he did not have anything at this time.

## 6. PRESIDENTS REPORT:

President Strong thanked everyone for taking the time and working through this process that has been going on for a little over a year close to two years ago. He continued to state that it is nice to put some of this behind them and start working on some other projects. It will be ready for the community and it will be nice



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to have things that correlate to the Comprehensive Plan a little more directly and ordinances so in the near future...Mr. Munoz stated that although budget cuts were made he was able to do it in such a way that still let him have some funds to be able to look at Codification and maybe changing a couple of things later on in the year if they choose to do so. Mr. Munoz continued stating that they can wait and see how the year goes and as they get closer to the end if the funds are still available that might be something that they look and asking Ratio to help out with the Subdivision Control Ordinances or see if there are any other ordinances or planning that they need to get done. President Strong stated that he does not feel that those are that critical right now because they do not have a lot of subdivisions that they are working on but hopefully they will get that done in the near future.

## 7. LEGAL COUNSEL REPORT:

Mr. Culp stated that he did not have anything at this time.

## 8. PUBLIC COMMENT:

There was no comment from the public.

## 9. COMMENTS FROM COMMISSION MEMBERS:

Mr. Zell asked about the status of the Auto/Truck Repair Center south of town on State Road 19 regarding signage and their business. He had not seen any changes there and wondered if there were any updates. Mr. Munoz stated that they have been sending letters trying to find out...Mr. Culp asked if this is the property where it's being sold on contract to which Mr. Munoz replied that it is. Mr. Culp stated that he has sent several different letters and they have stopped picking up the letters because the title owner now lives in Florida and the people who are buying it on contract are renting it to a 3rd party. So when the letter is sent to the house it is the renters who are getting it, when you send it to Florida the title owner has not picked it up and she is also the one who will be liable. Mr. Culp continued stating that this is something where they may need to look at implementing legal action and it may be right for discussion in an Executive Session because right now they seem to just be ignoring us no matter how we try...he continued stating that he has sent some letters that were not Certified...but Mr. Munoz and he have been trying to make contact since October...Mr. Munoz stated that he had handed the file to Mr. Culp back in October but prior to that they had spent several months going back and forth with them; they had sent them a letter and finally got them to pick it up, finally got to the process, they came in to us and started them on the process to get a Land Use Variance, gave them a little leeway, they hired a legal temp. or something along that line, they came to the office and wanted to argue the point then said they would be complying but still never did and that is when the conversation broke down, they stopped contacting us, they would not answer the phone and that is when it was handed over to legal counsel. We tried to give them the leeway, benefit of the doubt, when they stopped complying and keeping the conversation going it was passed on to Mr. Culp. Mr. Culp stated that the one way to maybe get them to pay attention is to initiate a lawsuit where they get served by the court and once they see that maybe they will rise to the level and see that they have to do something. Mr. Culp continued stating that the owner does not feel she has any obligation because she sold it on land contract and the people with the land contract do not think they have any obligation because they are leasing and the people who are leasing just don't seem to care. President Strong stated that the unfortunate thing is that they are using it for something that it was not approved for. Mr. Culp stated that if the Plan Commission wants they could see if the Town would



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approve filing a lawsuit and Mr. Munoz and he could approach them about that and have that discussion at an Executive Session with the Council. Mr. Zell stated that it appears to him that Mr. Culp is correct and to get their attention a conversation is going to have to be had with them because it is an ugly property on the south end and there are no corrections being made and they are not using the land as they are supposed to. Mr. Munoz stated that a point of reference to this is that this is the same person that the Town of Cicero has already filed a legal suit on several years ago for operating a business out of a residence and just last year finished paying the fines from that. Mr. Zell remarked that since that gentleman is involved he knows that they can take those steps and the conversation has to happen. Mr. Culp stated that legally the lawsuit would be against the title owner and any fine would be against the title owner and it would be up to her to deal with the person she sold it to or a tenant. Mr. Zell stated that this might be what it takes to get the attention that it needs to clean it up. President Strong asked if that would be Mr. Culp's recommendation that he discuss this with the Town Council to which Mr. Culp stated it is.

**10. NEXT PLAN COMMISSION MEETING:**

**March 11th, 2015 @ 7:00 p.m.**

**11. ADJOURNMENT:**

Dennis Schrupf made a motion to adjourn and Stephen Zell seconded the motion. All members present were in favor and the meeting was adjourned at 8:14 pm.

***Signature on Official Documents!***

\_\_\_\_\_  
Dan Strong, 2015 C/JT Plan Commission - President

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Christopher Lutz, 2015 C/JT Plan Commission - Vice President

\_\_\_\_\_  
Sally Mangas, C/JT Plan Commission - Recorder

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

Location:  
Cicero Town Hall  
70 N Byron Street  
Cicero, IN 46034