

# AVON TOWN COUNCIL MEETING

November 15, 2018

7:00pm

Avon Middle School South

7199 E US Hwy 36, Avon, Indiana

**Call to Order** was made by Council President Aaron Tevebaugh.

**Roll Call** was taken by Clerk-Treasurer, Sharon Howell. Council members present were Marcus Turner, Steve Eisenbarth, Aaron Tevebaugh, Bev Stafford and Greg Zusan. Tom Klein, Town Manager and Dan Taylor, Town Attorney, were also present.

## **Consent Agenda**

11/15/18 Check Register

9/10/18 Town Council Work Session Meeting Minutes

10/11/18 Town Council Executive Session Memoranda

11/1/18 Town Council Meeting Minutes

Introduction: Ordinance 2018-22: Additional Appropriation

Introduction: Ordinance 2018-23: Registration of Underground Utility Excavation Contractors

Introduction: Ordinance 2018-24: Amending Building Code for Advanced Structural Components

Introduction: Ordinance 2018-25: Amending Procedure for Soliciting Quotes for Public Works Projects

Introduction: Ordinance 2018-26: Requiring Employee Drug Testing for Bidders on Certain Public Works Projects

Discussion was held on the additional appropriation ordinance.

Council member Turner made a motion to approve the Consent Agenda as presented. Council member Stafford seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for

5-for, 0-against, Motion carried 5-0.

## **Public Comment**

Brenda Riley, 7612 Cabinet Maker Court, has read the Benefit of Fairwood Planned Unit Development and Statement of Consistency with the Town of Avon's Comprehensive Plan that was recently submitted (Fairwood PUD Ordinance Request). The location of the property is relevant. The Fairwood PUD site is south of and adjacent to Avon High School, west of and adjacent to Dan Jones Road, a heavily traveled roadway. She agreed that the site of the third largest subdivision in Avon is relevant. Because of its location a petition was submitted requesting 24-hour traffic counts, the high school dismissal and a thorough analysis of the projected roadway. All of which have not been included in the original study. The site is relevant, not only because Dan Jones is heavily traveled but it is also a two-lane road with no shoulders, hilly with very limited site lines. This proposed development with 285 homes will add cars entering and exiting making left turns in and out, within a half mile of young inexperienced drivers exiting the high school onto Dan Jones through a roundabout; a proposed new fire station with emergency vehicles entering Dan Jones at that same roundabout; an undefined commercial property from that roundabout and a gas station on the southeast corner near the roundabout. If there was ever a more relevant location for a very thorough complete traffic study the location of the proposed Fairwood PUD would certainly warrant one. Yet, it seems to many of the residents who will be impacted the most that the minimum was done on the original traffic study. It was only after a petition that was signed by 147 area residents and her vehemently requesting a thorough analysis has the study

been revisited. Still many questions and concerns remain. There are many that would greatly and vocally disagree that placing Avon's third largest subdivision adjacent to a large high school campus on an already heavily traveled road is not going to have a huge impact on the adjacent roadways and is not going to create safe conditions. Ask the residents of Plainfield who live there and see it every day. Secondly, on that same page under Tab 9, regarding the benefits of the Fairwood PUD and consistency with Avon's Comprehensive Plan is this statement "the properties southern border is adjacent to the Town of Plainfield town limits. In contrast developing the property for the existing R1A standards would result in an unimaginative resident subdivision lacking in character and amenities. This is one of the justifications for the developer that the developer uses for his request for a zoning change from R1A. Her home is built on that southern border built almost 25 years ago by J.R. Lazaro Builders. John Lazaro is a member of the Avon Chamber of Commerce and recently served on the steering committee that helped with input on the very document that developer references. Lazaro is currently building some beautiful homes throughout Hendricks County including Stratford of Avon, Pine Tree Estates, Timber Bend, Oak Bend, Forrest Commons and Shiloh Creek Reserve. All subdivisions would never characterize their neighborhoods as unimaginative. Even though they were developed per the existing R1A standards. This is total nonsense and asked for Council to not be deceived.

Rian Wathen, 1480 Laurel Oak Drive, stated he wanted to give a short preview of what will happen with the PUD introduction and discussion. The developer will try to get you to focus on minor architectural hearings where he exceeds the minimum standards and those will be mostly cosmetic. He will talk about shingles, shutters and windows in garages. He will claim this justifies waiving all of these significant development standards for lots. However, you will remind him that this argument is absurd. It would be like a car manufacturer claiming that because they put in upgraded floor mats, they do not have to follow the same safety laws regarding air bags or seat belts. Then, you will talk about Section 5.6 which says that any lower in those developments must be directly related to the intent of the PUD. You will ask him to explain this because there is no (unable to hear) in his proposal. He won't have the answer so he will deflect and give in to amenities. He will say he is putting in amenities that he could not put in under R1A Zoning and he can only put in amenities under a PUD. You will say that is not true because our Avon Subdivision Control Ordinance actually has 4 pages which require amenities. You will also say that doesn't (unable to hear) because the builder puts in amenities to make it attractive so he can sell houses. You will also say actually Section 5.2 requires amenities for both the development and the Town and unless he is building a community swimming pool for the Town these amenities do not qualify under the PUD ordinance. Then he will deflect again and say that no one builds houses on normal zoning lots anymore. Then you will say, I know that isn't true because I have been to Brownsburg and looked on Beacon to confirm lot sizes and found Hession Fields by Pulte Homes just sold their last lot. Their lots are 11,000 to 17,000 square foot lots. The Enclave by Fisher Homes has only one lot left and it is over 16,000 square foot. Windridge by (unable to hear) has sold most of their lots at 13,000 to 15,000 square foot and a young professional couple that graduated from Avon High School just bought this lot 3 weeks ago. Then you will say, we have a finite amount of land in Avon and we need to be very selective in how we build since new home sales are down 13%. Interest rates are rising and we currently have over 1,000 unbuilt lots in Avon, maybe now is not the time to approve a huge development with substandard zoning. At least those are the things I hope you ask and are the things that should be said, those are the things that people in this community expect you to say. We have read the ordinances, we have done our research and we understand the process. You can call us many things, but stop calling us misinformed.

Jean (unable to hear) 6840 Black Oak Ct., stated that Council President Tevebaugh said he wants Avon to be better. (unable to hear her comments) ..... there is no distinction, no open space, all

look like cookie cutter homes. She added this is a major thorough fare and this is laughable. (her time limit ran out).

Claudia Young, 3174 Sydney Lane, stated you only have one time to make a first impression. Dan Jones presents a good first impression and gives one a sense of driving in the country that she finds appealing. Crowded lots in Plainfield on narrow two-lane roads is not the impression we want. Some say Avon needs more housing, she said when a home in her neighborhood goes up it is bought by a company as a rental. Within a two-block area of her home there are 10 rental homes. Some of these renters are wonderful neighbors but they are not going to add landscaping and make improvements that they do not own. She asked how much of Avon's housing is rental and is this the best for us. She believes we need to come up with an identify for Avon. Right now, it consists of home, strip malls and congested Highway 36. Visitors go to Plainfield Aquatic, Beasley Orchard and Mayberry Café. Avon needs these attractions for people to go and spend time. We need to develop our own character and fix and plan our infrastructure before building more homes.

Lowell Jackson, Pines of Avon, stated that anyone who drives on two lane Dan Jones Road with no shoulders knows it is already a traffic zoo. Until our infrastructure is improved, we should not approve more high-density housing and apartment units. As of July, the Town of Avon had 1054 approved housing lots that were available to build a home. It also had 1,144 approved apartment units that are being constructed for occupancy. Additional PUD's will add more overcrowding in the Avon school system which impacts the quality of our schools and put a dent in property owner's pockets. The school corporation will then request more funds to handle over crowded class rooms. PUD's with compressed housing that are 10-15 feet apart is a serious safety concern even when using the best building materials. It is not adequate to stop a fire from spreading to other homes. It will also have a negative impact on the home values in adjacent neighborhoods. It changes them from home ownership to rental properties. Neighborhoods with a lot of rental homes begin with one bad apple and leads to others. Do not buy bad apples. He urges the Town to look at the common sense and put a moratorium on residential rezoning and allow enough time to reevaluate and plot a new direction.

Teresa Shear, 7495 Brickmaker Ct., stated that property taxes have skyrocketed in this township. She purchased her home in 2016 and between escalating assessments and the school referendum her taxes increased by 26 percent. She believes they were sold a bill of goods with the referendum. They were painted a dismal picture of school crowding and why we need a referendum. Yet, with over 1,000 vacant lots and more PUD's being rubber stamped, the school will grow and will not be able to accommodate the growth. It has become a vicious cycle for homeowners. More PUD's do not generate more tax revenue and is a greater tax burden. She added that the Council election was a close election with a much narrower win margin than any other County race. The residents are starting to pay attention and she asked that they start listening. She is not happy with the development and voters are becoming more educated and involved when they see the decisions being made.

Jack Mason, 6308 Timber Climb Dr., stated the system is broken. PUD's are not for Indiana and Avon, they are for the builders. We should make the rules and if the developers and builders don't like it then they can go somewhere else. We do not need any more swamp land parks. People are going to leave Avon. We need to build quality homes.

Diana Mason, 6308 Timber Climb Dr., stated that tax revenue should be for the community. The Town of Avon is not considering the Town dream. We are spending money in the wrong places and allowing PUD's and crowded homes. At one point, the property was going to be for empty nesters. People with smaller homes that would go by the high school are not going to be for single parents, not empty nesters. This PUD is too crowded. You also approved a building development

on the other side of Dan Jones. An enormous amount of money was spent in the last couple of years fixing Dan Jones. There are no sidewalks on some parts and it is too crowded. The idea that Avon will grow with this PUD is wrong because the convenience is so close to Plainfield, people will go there. This is not creating any kind of uniqueness for this Town to grow. She said Mr. Tevebaugh was reelected however, no one is listening to the people and stated that we do not want this.

Gary Georgett, 7727 Corsican Circle, stated that the infrastructure is not adequate for a PUD. Traffic is ridiculous and now you want to add additional homes that will add additional cars on the roads. That subdivision does not fit the character of the rest of the Town. Be careful about the developer driving the bus. Their interests are not the same as the residents. This is an opportunity to do what is right for the residents. Avon needs to consider long term infrastructure. This is the Town's responsibility.

John Serak, 1371 Burrough Ct., stated we just had elections and elections should have consequences. This election should send a message and that message is that responsible growth is required. This is just the beginning of citizen involvement in Avon for the Town Council seats. Responsible growth is the motivator and that is why they are there tonight. He asked Council to please listen to them because this impacts all citizens.

Cindy Klein, 7592 Cabinet Maker Ct., supported the referendum for the schools. But now they are adding more homes. Taxes will continue to go up. Her taxes increased by \$800 per year due to the referendum. They cannot vote for Town Council in her neighborhood which is taxation w/o representation. Her lot is 21,000 square feet. The proposed addition would put 3 homes on the size of her lot. The roads cannot handle the traffic without consequences. She added, you live with what you do so be careful with the decisions that are made.

Marsha Stubemann, resides in The Parks of Prestwick. She added they can't vote for Council but she did campaign against people on the Council. She did it because she felt strongly about this growth and development in Avon. She said small overpriced homes on small lots and no assurance that the houses in the proposed subdivision will be shown in the proposal. She is against the PUD as she believes it will lower home values. Congested roads, overloaded infrastructure. This PUD has caused strained relations between residents and Council. Rude comments have been made about the citizens by Council. Developers only want our land and money and throw a bad plan in front of you. Councils first duty is to make it better and she asked that they vote no. She asked that they take time and listen to the citizens.

Brianna George, 1190 S. C.R. 625 E, stated that homes being built so close are a fire hazard. The fire code needs to be addressed. This is irresponsible. She asked for them to take their time and to do their homework.

William Crawford, 6480 Wood Haven Ct., stated he just moved to Avon in July and said it is too crowded. He feels like he is in Castleton and he believes this will be adding more stress to infrastructure. He believes this is outrageous. He moved to Avon to be away from the city.

Janine Fidler, 6894 Merritt Ridge Way, is concerned about safety on a two-lane road. If there is a car stopped on a two-lane road there is no where to go. These children will be coming out on a roundabout. There were 2 accidents at 200 N and Dan Jones Road and now we want to put unskilled children on those roads. She is concerned about the safety, homes too close and fire hazards. She asked that they give this more thought.

Dave Fidler, 6894 Merritt Ridge Way, stated he actually knocked on doors and spoke to residents. Their concerns are traffic, property values and schools. They spoke to hundreds of people and he is requesting that Council knock on doors and talk with people in the community and obtain feedback.

Paul Rious, 6659 White River Place, Fishers, asked if the plan will be presented this evening. Mr. Klein responded that it will.

Kyle Thompson, 7556 Book Binder Drive, stated that he moved to Hendricks County and one of the big draws was the school system. They wanted to go to Avon and were fortunate to move into Williamsburg in the Woods. As they saw the development occur in Avon and they started to have a family, they made the decision that their kids would not go to Avon and would go to Plainfield. He stated he is only one voice but is not the only one that has the same feelings. In his 13 years here he has seen Plainfield, Brownsburg, Danville grow responsibly. Avon seems to have no direction or leadership. Traffic is awful and then you hear these ideas which will only add to this problem. He wants to see Avon do the right thing. He added that we have citizens that know the ordinances better than our own Town Council. Because of rates, we are building at the absolute wrong time. Things will only go down from here. He asked why we should do this?

Charles Bischoff, 2324 Lingerman Ct., said that stopping the Fairwood PUD doesn't solve the problem. He said he has sat through many meetings regarding PUD's. He believes they need to look at the definition of a PUD. He would like to see a Town ordinance redefine the true meaning of a PUD. For a rezone there are 5 criteria's that must be met within Avon. The Plan Commission was unable to come to a consensus on what that meaning was. He feels that to resolve this long term it needs to be defined.

Wilma Moore, 7830 White Pine Drive, stated she retired in Avon. Houses this close are where most of the crime starts and this is her concern. Fire is also a concern.

#### **Council Comment/Liaison Reports**

Council members provided updates on meetings they attended.

Council member Eisenbarth stated that Sharon Howell was recently recognized for serving on the Heritage Festival Board. He thanked Sharon Howell for her service. He also encouraged others to look into serving on Boards and Commissions and to look into Leadership Hendricks County.

Council member Stafford thanked the Daughters of the American Revolution for putting on a great Veteran's Day Program in recognition of the 100<sup>th</sup> anniversary of the end of the war. She also discussed PTO carryover that was brought up at the last meeting. She added that her employer accrues to a point and there is a cap until you use the time off. Ms. Stafford thanked everyone that provided input on the community where we all live. She especially appreciated the personal outreach and conversations she has with some. She has listened for several hours of public comment and read several emails providing on this petition. She added that it is not easy to attend public meetings and it can be scary to speak out in front of a crowd and she appreciates everyone's efforts. Sometimes it is difficult as she has served in this capacity for 12 years and many of the comments that have included things that were pretty hurtful. As a Plan Commission member, she has been called inept and accusations of poor and no planning by the Town including not improving the roads. The road that her neighborhood is on has been referred to as the slums. She has been accused of corruption and financially benefiting from development and there have been inaccurate assumptions that have spread virally. She added that her tenure on the Council has taught her to toughen her skin. She has also learned that navigating local government can be difficult. She has tried to listen but has felt defensive at times. Land owners have the right to benefit from their investment. It's our responsibility to make sure it follows the comprehensive plan. On the note, that the Town approves every PUD that has been presented, is incorrect and developers have pulled out. She has no bias in this and just wants to see an accurate and fair process.

Council member Zusan thanked all Veterans for their service. (unable to hear)

## **Old Business**

### **Discussion of Abolishing Town Court**

Discussion was held regarding new data on court tickets, where ticket revenue goes, Police overtime estimate if they have to attend other courts, revenue and expenses. Council member Turner asked about other departments that are supported by revenue and not covering their service. He added we are not here to make money and said it would be hard to restart something after stopping it. His inclination would be to keep it open and make it work. Asst. Chief Nugent spoke about fuel expenses, wear and tear on vehicles and overtime. Council President Tevebaugh stated that the convenience and time would be a fraction if they had to go into the County. Judge Owens stated that she may only have 2 cases or it could be 18 and said it varies. Asst. Chief Nugent said this could cause an additional burden on the other courts. Council member Zusan spoke about the court (unable to hear).

## **New Business**

### **Approving Quote for Liability Insurance**

Nate Peterman with Hylant presented the quote. He added that he would like to have a conversation in the near future about cyber liability. Council member asked about the cost to raise the deductible. Mr. Peterman responded that it can be revisited and he can put together an analysis. Council member Turner made a motion to approve the quote with Hylant as presented. Council member Eisenbarth seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for  
5-for, 0-against, Motion carried 5-0.

### **Approving Bid for 200 North Reconstruction Project**

Ryan Cannon stated we were awarded federal funds to reconstruct 200 North. An evaluation process was done to determine how to reconstruct the road. At that time Council made the decision to do an enhanced version of the reconstruction. The low bidder was Milestone at \$3,098,000. The engineers estimate was right at \$3,000,000. Staff recommends Milestone as the low bidder. Council member Stafford made a motion to authorize staff to award the low bid to Milestone Contractors and authorize the Clerk Treasurer to pay the Town match from Edit. Council member Zusan seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for  
5-for, 0-against, Motion carried 5-0.

## **Ordinance**

### **Final Reading: Ordinance 2018-06: Amending Bereavement Leave**

Asst. Chief Nugent discussed the current policy and the possibility of adding K-9 bereavement due to the death of a K-9. Asst. Chief Nugent added that 4 days were used by Officer Owens when Hunter passed away. He asked that this be retroactive to when K-9 Hunter passed away. Council member Zusan asked about the 80 hours of bereavement and stated that he believes 80 hours is too many hours. This is at the discretion of the Chief. Council member Eisenbarth made a motion to adopt Ordinance 2018-06 as presented. Council member Tevebaugh seconded the motion. Discussion was held. Council member Zusan asked that the motion be amended to 40 hours instead of 80.

M. Turner-against, S. Eisenbarth-against, A. Tevebaugh-for, B. Stafford-against, G. Zusan-against  
1-for, 4-against, Motion denied 4-1.

Council member Zusan made a motion to approve Ordinance 2018-06 with 40 hours instead of 80 hours. Council member Turner seconded the motion. Asst. Chief Nugent asked if this would be retroactive to the date of K-9 Hunter. President Tevebaugh stated it would be retroactive.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for  
5-for, 0-against, Motion carried 5-0.

## Introduction: Ordinance 2018-21 Fairwood PUD

Jodi Dickey presented Ordinance 2018-21 Fairwood PUD. The Public Hearing was held in September and in October the Plan Commissioners discussed a number of commitments that they would like the developer to consider. The petitioner has made a number of revisions and enhancements based on comments received. Packets of revisions were provided. All criteria were included in the staff report provided. The petitioner, John Dabashi presented for Platinum Properties. He stated they have combined features such as open space, walkability, mixed zoning and lot size variations to enhance the elements which are not required under the R1A zoning. Traditional R1A zoning tends to produce monotonous zoning design. The Fairwood PUD provides a mix of offerings that meet the demand of the current housing market as well as a commercial use area as a transition adjacent to Dan Jones and the commercial development on the corner. The neighborhood meets the criteria for the PUD and will result in more expensive homes and a neighborhood served by enhanced amenities and public open space and additional development commitments which benefit the Avon community. In addition to the standards the zoning ordinance architectural standards, the Fairwood PUD provides requirements for architectural standards which exceed the standard required under the current R1A zoning. Regarding home sizes, the minimum home size standard within the proposed PUD are 1,400 and 1,600 square feet. The size of homes meets or exceed the size requirements under the existing R1A. The additional standards of the PUD add value to homes and enhance the residential character of the development which are as noted by staff superior to the standards under the existing Avon Zoning Ordinance. Regarding the separation between homes, the minimum is 20 feet with an allowance for 15 feet between dwellings in the villa area. This standard was enhanced from 10 feet by Avon's technical advisory committee earlier this summer. The PUD establishes landscaping and open space requirements that greatly exceed the requirement under R1A plats. More than 20 additional acres of space are provided. This is significant. The PUD also allows for more innovative site design with more open space available to all residents. The developer is proposing significant investment to neighborhood amenities providing for a combination of active and passive amenities. Enhancements include a play court, a community swimming pool of at least 1,800 square feet and a wading pool. Also, a pergola covered walkway, a shade pavilion as well as an expanded network of pedestrian pass and sidewalks. Additional amenities add value to proposed homes and provide a community focal point for residents and the overall community. Regarding infrastructure, the Fairwood PUD plan include the extension of C.R. 200 South across the property, construction of a private street on the Avon High School Property connecting the school to the extension on 200 S. Construction of a frontage on Dan Jones is also being provided for improved community aesthetics. They were asked to provide consideration of a fire station within the development. If the decision is made to not construct a fire station within 10 years, it would then be conveyed back to the HOA in perpetuity and maintained as open space.

The Fairwood clearly meets the guidelines of the Planned Unit District Ordinance which is in the Avon Zoning Ordinance. The development of the PUD would result in higher value homes, enhanced amenities and open space and provide additional public infrastructure improvements within the community adjacent to the Fairwood proposal which benefit not only the neighbors that buy homes within the development, but the overall community.

Paul Rious, with Platinum Properties spoke. Mr. Rious stated that he has been living with what he does for 30 years. He stated that he has developed 35 neighborhoods with over 12,000 residents. In Avon, they have done Forrest Commons, Parks at Wynne Farms, Mapleton, Oaks of Avon, Grand Haven and stated this is a sound plan with a lot of amenities. Ironically, most of the people that live in subdivisions went through a process like these. They do not stop to think that it was a battle to get their development approved. He stated he is happy with what he does and proud of

these developments. He asked that they look at the enhancements that add value to the overall area.

Questions were asked and discussion was held.

Council member Eisenbarth asked about clarification as to why a senior facility would be located by a high school. Mr. Rioux said there was no restriction on the Villa area to being an empty nester component. Typically, there will be ranch homes that young families with small children, singles or empty nesters would live in. Council member Turner stated that there appears to be a lot of common area and asked if HOA fees have been estimated. Mr. Rioux stated that for a neighborhood like this it will run \$600 - \$700 a year. Council member Turner asked what is the property immediately west of the PUD. It is not part of the proposal and actually owned by Avon schools. They have agreed to put a fence between this area. Council member Eisenbarth asked if there has been any outreach to the existing commercial component on the professional offices on the northwest corner of the roundabout. He stated he has not spoken with anyone, but would be happy to do so. Council member Eisenbarth asked staff if they have had any comments concerning Etica or others in that building. The response was no. Council member Turner said regarding the commercial component, is there any commitment to meet a timeline. Mr. Rioux said there is not a time commitment and stated this is about 3 acres of usable ground which is severely restricted in use. Council member Turner asked Ryan Cannon if he had any traffic concerns toward the commercial site. Mr. Cannon responded that they do not want them to have access on Dan Jones Road to the commercial area. That access would go to the roundabout. The commercial outlet access would be to the 200 South extension, so they would have to utilize the existing roundabout. Council member Stafford said that over the last few months she served on the Plan Commission; from the Comprehensive Plan they know that the property included in this request if developed for anything besides farm land would be residential. The request to change the zoning to a PUD doesn't change the desire for this parcel to be primarily developed as residential with the exception of a small commercial portion. The town has identified the areas along 100 South and Ronald Reagan Parkway that are zoned for commercial and industrial uses. She added that this is not the property for that and stated she cannot imagine what would happen if they said they wanted to build a warehouse. This is a residential place that everyone can benefit from. This comes down to lot size and the number of homes. (unable to hear all comments). Council member Zusan asked if the product that has been presented met all the criteria for a PUD. Ms. Dickey responded that the state required criteria and the factors when looking at a PUD were considered. Mr. Zusan asked if they would have to go through the DPR process. Ms. Dickey stated they would first have to file for a primary plat. That goes to the Plan Commission for approval and would have to file a development plan and secondary plats. Those actions are administrative so if they bring a plat that complies with the ordinances, the Plan Commission needs to approve that plat or the development plan. (unable to hear Mr. Zusan's comments).

Jill Palmer, Strewsbury & Assoc, spoke about the growth rate that we are using. She has worked with traffic volumes in Avon and around areas for 20 years. Once an area starts being developed, you have at that point a large amount of traffic and a large percentage of grown. Once it is fully developed it slows down considerably. Historical growth rates are not necessarily an accurate predictor of future growth. It is what happened in the past. Growth rates follow the economy and do not steadily rise over time. INDOT has a lot of data but you do not always know if it is apples to apples. Sometimes you may find one with a classified count and one with a volume count. When they look at those historical count you have to give it a fair amount of skepticism to know are those numbers directly comparable. As part of the thoroughfare plan, they did counts throughout the community. Some were done in the fall and some were in the spring and the reason they broke it up was because roads were under construction and traffic was detoured making counts

not reliable. She discussed how they determine growth rates and traffic counts and their reliability. Council member Stafford asked if they would be willing to add a commitment for the number of estate homes. They replied that they would commit to the number on the plan. She asked Ryan Cannon about the plan for improvements on Dan Jones from U.S. 36 and a timeline. Mr. Cannon discussed the improvements and said the Town is planning on building a roundabout at 150 South and Avon Avenue. That project will be awarded in December and that will address some of the long-term traffic issues. He added that roundabouts are much safer and said out of all the roundabouts that they have built, they have never had a fatality and added personal injury is low. We do have accidents but, the severity is greatly decreased. The roundabouts slow people down and said the roundabouts add safety to drivers. Council President Tevebaugh stated that they have a product and need to make a decision to take it or leave it. If they decide to leave it then the chances are that we are going to get the product on the left. He asked if this is the case. Mr. Rious said it was. Council member Tevebaugh stated he does not believe there is a reason to kick this can down the road for another two weeks and would like to hear discussion on why they should not suspend the rules and take a final vote. He added that everyone is exhausted and nothing is going to change in the next two weeks. Council member Zusan stated that he has attended many of the Plan Commission meetings and he believes a vote should be held off until December 6<sup>th</sup>. Council member Turner discussed his traffic concerns and stated his dilemma is the fact that they have a room full of people that do not want traffic and congestion. We listen but it is a lot harder to address than that. At this point we are in a proceeding whereas we have free reign over this and we need to determine if we take the amenities and take the 20% less congestion. If we accept this and go on, it will go to the Plan Commission and we will not be able to comment on this again. Council member Eisenbarth believes we need more time to make commitments to the roadway or commitments in those directions. Council President Tevebaugh stated he has reviewed all the information and does not see this as a good project and does not know why we need to wait two weeks if nothing is going to change. Council member Stafford asked Ryan Cannon if this development was going to include the widening on Dan Jones. Mr. Cannon stated that is correct and would be required under either scenario. Ms. Stafford asked Council if there were other commitments they would like. Mr. Rious responded that they have over 10 pages of commitments and he does not know of any others they could make. No motion was made.

#### **Legal Counsel Report**

There was nothing to report.

#### **Public Comment**

Diane Mason, 6308 Timber Climb Drive, stated that they are under the scrutiny of being bullied by saying we take one or the other. That is a crime. The Fairwood development that includes the Fire Department planning and working on the placement is not a good placement. She also believes there should be a stop light before the roundabout. The commercial space is not a wise move for that development. She also believes that this subdivision should be cut by two thirds.

The developer would do much better by putting in less housing at \$750,000 and making it a more exclusive area. Avon needs that. Avon needs more commercial space to help with taxes.

Bruce Mayo, 7662 Gunsmith Court, pointed out that after reading the Avon Zoning Ordinance starting on page 67, the residential division that R1A does not exclude front facing homes on Dan Jones, a pool, a wading pool, walking paths, larger lots, larger homes, a fire station, open space, amenities centers or extended buffer. It also does not exclude helping the school with the roundabout. It does have minimums, but does not exclude other things. It is possible that we could still meet the requirements of R1A without having to just blanketly take the second option.

There should be a way to develop this and get what the developer wants and he could get a higher price for his homes if he creates a better property than what they have right now.

Rian Wathen, 1480 Laurel Oak Dr, is sorely disappointed that someone doesn't think that two weeks is too long to wait to make a decision like this. It is unbelievable. He stated that many do not like the things he has said and added that in response to Ms. Stafford's comment earlier, he has never called any areas slums. However, he must respectfully disagree with the definition of bias. Indiana Code 36-7-4-223 says a member of a plan commission is disqualified and may not participate in a hearing of that commission concerning a zoning commission if that member is biased, prejudiced or otherwise unable to be impartial. On November, he wrote the Council a letter outlining much more than bias, but actual advocacy by an Avon Plan Commission member. Advocacy is the strongest form of bias. On July 3, 2018 Plan Commission member Bev Stafford wrote an email to Jodi Dickey outlining plans to build support for the Fairwood PUD and rebut public criticism. These plans included using resources such as Town Staff and contacting Avon Schools for an endorsement. Only July 6, 2018 they met and discussed this plan in more detail. Between those dates and the public hearing, the plan was implemented. At the Public Hearing the script that Ms. Stafford proposed played out publicly. The Avon Schools finance director even attended and gave an unprecedented implied endorsement of the Fairwood project. Based on those actions, Indiana Code mandates that Ms. Stafford should have been disqualified from participating or voting on the Fairwood PUD. Yet, she actively participated and cast the decisive vote which had material impact on the outcome. Even this week Ms. Stafford continues to advocate on social media for the passage of Fairwood PUD. He has received no response to his letter and his question is, the Council going to completely ignore this grievous violation of Indiana Code?

Mr. Rious response to the previous gentlemen was he would assume that anyone in favor of this would be bias. He considers Ms. Stafford to be doing her homework to know what is going on with this neighborhood. The reason the school got involved was because he (Mr. Rious) met with the school on four separate occasions with the business development director because this neighborhood has a direct impact on the school. He added, as a matter of fact, the first thing they discussed was trading these 80 acres for the other 80 acres. To think that Ms. Stafford spoke to the school and made an unprecedented approach to the Plan Commission is because he asked them to come to the Plan Commission and take a position on whether or not this was good for the community. He wanted to be clear, that he involved the school and not anyone else.

Brenda Riley, 7612 Cabinet Maker Court, said the big issue is that state law, Indiana Code 36-7-4-603 establishes five criteria for any zoning change and requires the Plan Commission and the Town Council to pay reasonable regard to them. It is on criterion 2 and criterion 4 that she would like to focus. Criterion 2 of this Indiana Code refers to paying reasonable regard to current conditions and character of the structures and uses in each district. The staff report states in referring to the PUD, the property is zoned R1A and is currently farmed. The report goes on to describe the property surrounding the proposed development as residentially zoned on one-third to just over 1 acre lots. To the north is Avon High School. Subdivisions to the east are existing or proposed Settlement West newer homes on similarly sized lots as what is proposed. This staff report ends with the petitioner's proposal would be an appropriate addition to the surrounding area. This report does not say that the two neighborhoods that actually abut the development are also zoned R1A; what actually abuts the property to the east is heavily traveled Dan Jones Road. It is only after crossing the heavily traveled road and traveling through some future park land do you reach newer homes on similarly sized lots. Since The Settlement and Settlement West PUD are according to this report, not only mentioned but are being used to justify criterion 2.

Criterion 4 states the Plan Commission and Town council must also pay reasonable regard to the conservation of property values throughout the jurisdiction. Town staff report states the proposed development expected to have neutral or positive impacts on property values. She asked what this is based on. On the Town's website is a document entitled Average Sale Price by Neighborhood Homes for the Town for 2017. There are three neighborhoods on that document that she mentioned. Settlement Bluewood with an average of \$195,797, Settlement Waterleaf with an average sale price of \$171,450. Settlement Arialia average sale price of \$221,250. That averages \$196,165. Much like the proposed Fairwood PUD all three of the neighborhoods are within a PUD that offers amenities. More homes on similarly sized lots are being used as part of the justification for criterion 2. Yet the developer has consistently stated that his homes that would abut Williamsburg that are 1,600, 1,800 to 2,200 square feet on 10,000 square foot lots will sell between \$325,000 to over \$400,000. What is this based on? She stated the developers pricing has been questioned since the beginning. There are many that are concerned about the impact this PUD will have on their property values. There is a glaring discrepancy between what they see and what they are being told.

Claudia Young, 8174 Sidney Lane, stated that they need to fix the infrastructure before building new homes. She lives in Glenfield and has brought their traffic issues to the Town's attention and were provided with one speed hump that has not fixed anything. They continue to call and talk and get no other improvements. Instead of being proactive, we are being reactive. Her assessed value has gone up \$40,000 and there is no way to sell it for that much. The schools are congested and U.S. 36 is too crowded. Fix what we have before we add more problems.

Bob Culler, 1483 Laurel Oak Drive, believes we should look at rezoning this as commercial.

Gary Georgette, 7727 Corsican Circle, stated he likes the addition with the traffic plans. He said the traffic plans are welcomed but if you look at the entrance off of Dan Jones, you have no left turn lane. Did the study include how long it takes to make a left turn during peak hours and how long does it take to merge? It is the getting out and driving around that is a daily frustration. The Town needs to make a commitment to widening Dan Jones to keep traffic from backing up.

Theresa Shears, 7594 Brickmaker Court, said there is something missing from the analysis with the PUD. Early on there was talk of the price range being anywhere from \$250,000 to \$400,000 but when you look at the final statement it shows \$275,000 to \$325,000 range and asked why is that. We have empty retail spaces and need more business development for the tax base. We have over 1,000 lots available. This all impacts infrastructure. She asked for them to consider what the residents want.

Jack Mason, 6308 Timber Climb Drive, said many have spoke about the rules and regulations and it does not seem to be getting across to the Council. This development is a lot of small lots to squeeze people into which means more traffic. These people speaking know what they are talking about and Council needs to listen. Please hold off on a vote until the new Council is in.

Craig Johnson, 7702 Woodmaker Court, stated the new motto is a monotonous neighborhood that puts homes on the market and in less than 10 days they sell. What they are concerned about is the traffic on Dan Jones and it will take years to fix it. The builders are unknown and the fear was that you are not producing something that is not unique and high quality. You are doing it by cutting corners. There needs to be a mix of homes but it is the unknown and how will it survive a recession.

Kyle Thompson, 7656 Bookbinder Drive, thanked Mr. Zusan and Mr. Turner for asking tough questions. His issue is that all they see is a plat. They just hear ideas and have seen no homes and no details. He asked how it can be approved with nothing.

### **Council Calendar & Ajournment**

12/6 Next Council Meeting. Meeting adjourned at 10:37pm.