

## Amy Lacy

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**From:** Jan Stutzman <stutzjan@gmail.com>  
**Sent:** Sunday, May 1, 2022 9:34 PM  
**To:** Amy Lacy  
**Subject:** Fwd: Historic District--Established as a Conservation District (Phase 1 ONLY)?

Hi, Amy:

I neglected to include you on this email from last week. Please include it in your files as a response to the proposed Ordinance.

Thanks,

Jan

----- Forwarded message -----

**From:** Jan Stutzman <[stutzjan@gmail.com](mailto:stutzjan@gmail.com)>  
**Date:** Thu, Apr 28, 2022 at 10:22 PM  
**Subject:** Re: Historic District--Established as a Conservation District (Phase 1 ONLY)?  
**To:** Joe Culp <[jculp@zionsville-in.gov](mailto:jculp@zionsville-in.gov)>  
**Cc:** Josh Garrett <[JGarrett@zionsville-in.gov](mailto:JGarrett@zionsville-in.gov)>, Jason Plunkett <[JPlunkett@zionsville-in.gov](mailto:JPlunkett@zionsville-in.gov)>, Brad Burk <[bburk@zionsville-in.gov](mailto:bburk@zionsville-in.gov)>, Alex Choi <[achoi@zionsville-in.gov](mailto:achoi@zionsville-in.gov)>, Bryan Traylor <[BTraylor@zionsville-in.gov](mailto:BTraylor@zionsville-in.gov)>, Craig Melton <[cmelton@zionsville-in.gov](mailto:cmelton@zionsville-in.gov)>, Emily Styron <[estyron@zionsville-in.gov](mailto:estyron@zionsville-in.gov)>, Heather Lusk <[heather.p.lusk@gmail.com](mailto:heather.p.lusk@gmail.com)>, Chelsea Worrel <[chelsea@heyville.co](mailto:chelsea@heyville.co)>, Rinkey Boleman <[rinkey@sbcglobal.net](mailto:rinkey@sbcglobal.net)>, Wendy Bair <[wendybair@gmail.com](mailto:wendybair@gmail.com)>

I've just read the latest draft of the ordinance and am not in favor.

It was mentioned at a recent Town Council meeting that a stand-alone ordinance could be written to require review of homes proposed for demolition. This would avoid all the incendiary language in the Indiana Code. Along with new zoning regulations, it could save salvageable historic homes with language that reflects the Zionsville I know. My neighbors, though they don't agree on all things, respect each other and are civil in their interactions.

I have many objections to the Indiana Code on which this ordinance is based. Much of the language that enables formation of a Commission is harsh and unnecessary. Why include every option that any community MAY select if our community has limited intent? And why form a Commission if a much simpler ordinance would be more efficient?

Here are a few areas of concern:

- Neighbors suing neighbors for noncompliance is not in the spirit of Zionsville and stated liability for legal fees leaves the homeowner at shameful disadvantage
- There is no definition of "property owners" or "owners of real property" in the state language, but requirements for written objections or petitions signed by a "majority" or "60 percent of" require that a number of property owners be established. What about joint tenancy? What of property inherited by several individuals? Partnerships? Who determines "n"?
- The severability clause states "If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby." So any provisions Zionsville has made may revert to Indiana language, resulting in a Historic Preservation District, which few are in favor of.

You mentioned adding a "sunset clause." My understanding is that the sunset clause would terminate a Conservation District after 3 years unless the Town Council passed another ordinance to continue it--and since this ordinance is based on Indiana Code, the sunset clause could easily bump up against the severability clause.

As a new resident of Zionsville, I am concerned that this issue has evolved so drastically since I became aware of it last March. Documents shared with the public have run the gamut from written guidelines on what homeowners may do with their homes to an ordinance that "just forms a Commission." This has resulted in claims of misinformation from both sides. Unfortunately, this ordinance has pitted neighbor against neighbor in a reflection of the nationwide divide.

The public review process has been disappointing. When questions are requested (and submitted) in advance of a public hearing, I expected that they would be addressed in the meeting. Mine were not.

Finally, tallying "for" or "against" when people rise to speak is not a true reflection of public opinion. Public speaking is said to be feared second only to death. If you want to know the opinion of those present, provide a set time for alternating "pro" and "con" speakers and then ask for raised hands.

I know this process has been grueling for you, as it has been for the community. I believe a clearly written stand-alone ordinance would be far preferable: more easily understood and much easier to administer if approved.

On Wed, Apr 20, 2022 at 10:25 AM Joe Culp <[jculp@zionsville-in.gov](mailto:jculp@zionsville-in.gov)> wrote:

Jan's response to my email:

"I would need to see the language of the sunset clause, but am in favor of review before tear-down of historic homes." **This is exactly the intent**

"But here's another issue... Since the language of the ordinance has been revised so many times, I'm unclear on the intent. Demolition and house moving review in the first phase was originally limited to outstanding, notable and contributing historic buildings. Then it was historic buildings. Now it's any building in a historic district." **The intent is for a future Conservation District, NOT a Historic district. The extra language is per the State Statute, but the potential second ordinance would be strictly for a Conservation District that would only focus on tear downs and moving of Outstanding, Notable and Contributing homes. Also, the state statute has to include all buildings for a historic district. However, since the intent is to have a conservation district that would be specific to only include homes, we are good.**

"I assume that was done to reflect State language. But what is the intent here? If there's a cafeteria approach to district guidelines (as long as they are not more demanding than the state statute), there should be latitude in setting forth parameters for a commission. Isn't it possible to restrict COA requirements to specific categories of (historic) buildings?" **This would be up to the creators of any future DISTRICT ordinances.**

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**From:** Jan Stutzman <[stutzjan@gmail.com](mailto:stutzjan@gmail.com)>

**Sent:** Monday, April 18, 2022 11:52 PM

**To:** Joe Culp <[jculp@zionsville-in.gov](mailto:jculp@zionsville-in.gov)>; Josh Garrett <[JGarrett@zionsville-in.gov](mailto:JGarrett@zionsville-in.gov)>; Jason Plunkett <[JPlunkett@zionsville-in.gov](mailto:JPlunkett@zionsville-in.gov)>; Brad Burk <[bburk@zionsville-in.gov](mailto:bburk@zionsville-in.gov)>; Alex Choi <[achoi@zionsville-in.gov](mailto:achoi@zionsville-in.gov)>; Bryan Traylor <[BTraylor@zionsville-in.gov](mailto:BTraylor@zionsville-in.gov)>; Craig Melton <[cmelton@zionsville-in.gov](mailto:cmelton@zionsville-in.gov)>; Emily Styron <[estyron@zionsville-in.gov](mailto:estyron@zionsville-in.gov)>

**Cc:** Heather Lusk <[heather.p.lusk@gmail.com](mailto:heather.p.lusk@gmail.com)>; Chelsea Worrel <[chelsea@heyville.co](mailto:chelsea@heyville.co)>; Rinkey Boleman <[rinkey@sbcglobal.net](mailto:rinkey@sbcglobal.net)>; Wendy Bair <[wendybair@gmail.com](mailto:wendybair@gmail.com)>

**Subject:** Historic District--Established as a Conservation District (Phase 1 ONLY)?

Until it is clear that a Historic District limited to the "first phase" is possible, I can't support formation of a Historic Preservation Commission. I have spoken with many village residents and the overwhelming response has been opposition to needless destruction of historic homes. I've not heard arguments for a Historic District that would regulate existing homes to preserve historical accuracy.

With formation of a Commission and proposed district(s) vast energies will be expended by the Mayor, Town Council, new Commissioners, Town staff and concerned residents. **Please resolve this issue before you vote.**

I submitted the following question on February 28, hoping that it would be addressed at the March 7 meeting. It was not, so I resubmitted it to Joe Culp on March 8.

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Section 5 b provides that:

"In an ordinance approving the establishment of a historic district, the Town Council **may** provide that the establishment shall occur in two (2) phases."

The first phase being a "Conservation District" that restricts demolition and moving of **existing historic\*** structures and requires a Certificate of Appropriateness for **new** structures. The second phase additionally requires Certificates of Appropriateness on **existing historic** structures for which owners plan "conspicuous change in the exterior appearance," "change or construction of walls and fences," or "conspicuous change in the exterior appearance of **non-historic** buildings subject to view from a public way..."

The Indiana Model Ordinance that the Town's Final Draft is drawn from seems to indicate an option.

**May the Town Council approve establishment of a Conservation District, opting out of the Historic (Preservation) District from the outset?**

\*NOTE: **The most recent draft of the Town's Ordinance has been revised to remove "historic" from the above language.** This section of the ordinance now applies to **any building within a historic district.** (This complies with Indiana Code)

It is important to determine **now** whether the Commission can set up a first phase, or Conservation District, from the outset. If not, the Town Council and residents are in for a long battle. The Indiana code enabling Commissions and Districts is unclear on this but the process to remain in the first phase is very specific--and it would be nearly impossible to accomplish.

**Section 5 c of the Town's current Ordinance follows Indiana Code and sets forth the means for the first phase (Conservation District) to continue.**

"...the second phase does not become effective if a **majority** of the property **owners** in the district **object** to the Commission, in **writing**, to the requirement that Certificates of Appropriateness be issued for the following activities:

1. a conspicuous change in the exterior appearance of historic buildings by addition, reconstruction, alteration, or maintenance involving exterior color change;
2. a change in walls and fences or construction of walls and fences along public ways;
3. a conspicuous change in the exterior appearance of non-historic buildings subject to view from a public way by additions, reconstruction, alteration, or maintenance involving exterior color change.

The objections must be received by the Commission **not earlier than one hundred eighty (180) days or later than sixty (60) days before the third anniversary** of the adoption of the Ordinance.

Because the required content of the objection is so specific, people have busy lives, the effort to comply is time-limited, and we have non-resident ownership, it's hard to imagine that a majority of property owners would participate.

It is easy to imagine the uproar in the community if, after three years, a more expansive Certificate of Appropriateness requirement began to impact your constituents in Zionsville.

The means to **remove a district** is simply 60% of property owners signing a petition (Section 13 b).

**Please ask your attorney whether a petition signed by a majority of property owners would suffice for the written objection required to avoid moving to the second phase.**

The Devil is in the details.

Thank you for your time and attention,

Janet Stutzman

210 S Second Street

Zionsville