

**Vanderburgh County
Rezoning Meeting
January 24, 2000**

The meeting was called to order at 6:37 p.m.

President Jerrel: I'd like to call the Board of Commissioners Rezoning Committee to order.

Approval of minutes

President Jerrel: The first item on the agenda is to approve the minutes of our previous meeting.

Commissioner Mourdock: And I'll move the approval of last month's zoning minutes as filed.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading	VC-01-2000	Baseline Properties, Inc.
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President Jerrel: Under first reading we have VC-01-2000, petitioner Baseline Properties, Inc.

Commissioner Mourdock: And on first reading I would move approval of VC-01-2000 for Baseline Properties.

Commissioner Tuley: On first reading, second.

President Jerrel: So ordered.

Final reading	VC-24-99	Dean Brinker
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President Jerrel: Under final readings the first item on the final reading is VC-24-99. The petitioner is Dean Brinker.

Joe Harrison, Jr.: You ready? This regards address 1510 North Burkhardt Road a request from AG to C-4. All those wishing to speak concerning this petition please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Barbara Cunningham: Ms. Jerrel, do you want me to start? Mike Mitchell is the representative for petitioner Dean Brinker in this request to rezone the property located at 1510 North Burkhardt Road from Agricultural to C-4. This is a one acre site located at the southwest corner of Burkhardt and Oak Grove Road. Current owners are Ronnie and Cherrel Underwood. The petition was heard at the December 1st Area Plan Commission hearing and was recommended for approval with nine yes, one no and one abstention. The site is one of the few remaining residential locations south of Morgan and west of Burkhardt. The area on North

Burkhardt Road is experiencing increased traffic due to rapid commercialization. This proposed change in zoning is consistent with the Comprehensive Plan. If the commercial use is designed to minimize the number of access points be sure that those access points are safe access points and eliminate access onto Burkhardt Road. Tonight we are addressing land use, we are not addressing access. However, the submitted site plan indicates a desire for a commercial access drive onto Burkhardt Road and both EUTS and County Engineer John Stoll agree that there shall be no access onto Burkhardt Road. Alternative access such as frontage roads or shared access should be pursued. That...if you'll recall last month, and I don't have last month's minutes so I can't tell exactly what was said, but last month this was continued for the purpose of allowing the petitioner to work out a solution that would comply with the Commissioners' adopted plan for the Burkhardt Road corridor and behind me I brought the drawing of the plan, I'll pass this around, of the Burkhardt Road corridor that was adopted. You'll notice that on this plan is it...what's it...?

Mike Mitchell: Oak Grove.

Barbara Cunningham: To go to Oak Grove, right here, Oak Grove and...Joe, help me. What's that street, Kimber Lane?

President Jerrel: Tutor.

Barbara Cunningham: Tutor Lane. We had called for the extension of Tutor Lane if you would also recall what we were concerned about last month when it was continued was the safety issue with the closeness of the access point on this property to Oak Grove and Burkhardt Road. That was probably one of the main issues and that is why Mr. Mitchell has continued it for his client so that they may work out a compromise and work out a compromise that utilizes the plan that was adopted by the County Commissioners.

Unidentified: Your name and address.

Dean Brinker: Dean Brinker, 2131 Boonville-New Harmony Road. One of the points I would like to make is the access point on Oak Grove Road is no closer to Burkhardt Road then it is down on, I think, it's Virginia Street at the Amoco station. There is a zoning there and they are off of Burkhardt Road the same entryway down there at the end. There are 15 curb cuts on Burkhardt at the present time and I don't know when they were passed or when they weren't passed on there, but I've got a feeling if we go back to Amoco again or the Bigfoot station down on Virginia did get a curb cut on Burkhardt Road within the last two years that building has been put up. I understand the Burkhardt Road extension and what we're asking for is right out only like Florida Street is on Burkhardt Road. As far as Tutor Lane I have some confusion about that because my property don't even touch Tutor Lane. There is no access to Tutor Lane from my property. There is no right-of-way, so I am not sure how you're...I don't understand why I have to worry about Tutor Lane.

Mike Mitchell: You stole all my thunder.

Dean Brinker: Okay, go ahead.

Mike Mitchell: My name is Mike Mitchell and I represent the owners and the petitioners for the rezoning at 1510 North Burkhardt Road who are Dean Brinker, who just spoke, and his brother, Dirk Brinker. Dean just spoke and out there in the

crowd somewhere if you want to hear from them is his wife Cherrel and her parents, Mr. and Mrs. Norman Claymeier. Preliminarily I want to set the record straight concerning the ownership of my client's property and that property which abuts to the west. The property subject to this rezoning is owned by Dean R. Brinker and Dirk B. Brinker by deed dated October 22, 1999 recorded in Deed Drawer 13 Card 716. I have given you a copy of that deed. The abutting property to the west is owned in two separate undivided one half interest. One half is owned by Dean and his wife Cherrel. The other half is owned by Mrs. Brinker's parents, Norman W. Claymeier and Judith A. Claymeier. The Brinkers and the Claymeiers acquired this property by deed dated January 22, 1994 and I have given...furnished you with a copy of that deed. Hopefully this will clarify any rumors of ownership of this parcel to the contrary. Mrs. Claymeier and Mrs. Brinker own and operate the Farmhouse Charm, a high end gift shop handling home accessories and quality antique furniture located at 6301 Oak Grove Road. The subject property to the zoning petition is surrounded by M-2 to the north, C-4 to the south, C-4 along with C-2 to the west. Across the street to the east is still agricultural. However, this is in the process of being developed commercially. Immediately across the street to the north from the proposed rezoned property is A-Asphalt Ready Mix. Going to the west is a body shop, then a pump and supply business and then IMI Concrete Ready Mix operation. With this informational background I will remind the Commission that the Area Plan Commission on December 1, 1999 recommended to you that the zoning be approved by a vote of nine affirmative, one negative and one abstention who was Mr. Tuley. I respectfully request that my client's property be zoned C-4 which is in conformity with all the surrounding property in this commercial area. I would also ask that the existing curb cut on Oak Grove Road be permitted. This curb cut is at the westernmost part of my client's property. I would also ask that the Commission refer the closing of Burkhardt Road curb cut to the County Engineer John Stoll. As I stated in the previous meeting we asked that this curb cut be considered to remain open subject only to the exit right out on the curb cut going south. This request is not so much for the convenience of my clients, but would help the traffic flow in this area. My clients realize that the Commission desires Tutor Lane to extend to the north onto Oak Grove Road. This would cut the Claymeier/Brinker property in half. Mrs. Claymeier and her daughter, Cherrel, Dean's wife, plan to continue to operate Farmhouse Charm. Their parking is on the western portion of their real estate. Many of their customers are elderly. The extension of Tutor Lane as proposed would hinder those customers access to the shop. The Claymeiers and Mrs. Brinker are not being stubborn or unreasonable. They merely want to protect the integrity of their existing business. I am handing you a plat, a copy of the plat of the area, and please excuse my non professional engineering drawings. However many copies you want. Do you need some more? This is a proposal to have a Tutor Lane cul-de-sac to the rear of Claymeier/Brinker property, yellow. You already have a cul-de-sac on Mortensen Lane, green, and a proposed terminus cul-de-sac, Florida Street, orange. Referring to the copy of the plat just handed to you that which has been colored blue is the parking area of the gift shop. It actually extends over into the...I didn't put it over across Tutor Lane, but it extends into Tutor Lane. I'm just showing you how it would separate the parking from the shop. The extension of Tutor Lane as platted to Oak Grove Road would utterly destroy the access from the existing parking to the business. I would also point out concerning the exit only right out curb cut at the south end of the property subject to the proposed rezoning is in the same traffic flow as Florida Street, which Mr. Brinker eluded to, which is a right only exit heading south. Section 153.002 of the County Zoning Code states and I quote:

"The purpose of this chapter is to promote the public health, safety and

general welfare of the city to enhance the use and enjoyment of the property and to provide for regulation of land use in the community while preserving the right of the individual owner to use and enjoy his property.”

Two other purposes deal with the general police power of the local government namely to promote public health, safety and general welfare as well as providing regulation of land use. The other two of the four purposes enumerated are for the protection of the individual which is to enhance the use and the enjoyment of the property and preserving the right of the individual to use and enjoy his property. The zoning ordinance must create a reasonable balance between the two. In conclusion, it is my opinion that the failure to rezone this property, I’m not talking about the curb cut on Burkhardt, but I am talking about the rezoning could result in an unconstitutional taking since it prevents the reasonable use of the land in conformity with the surrounding properties and their uses. The closing of Burkhardt Road curb cut would, again this is just my opinion, exasperate the traffic situation rather than helping it, but that is for the professionals to determine, not for me. We’re ready for any questions you may have.

President Jerrel: Is there...do you want to go on and hear from anyone else that wishes to and then see if there are any questions? Would that be appropriate?

Mike Mitchell: However you want to do it.

President Jerrel: Is there anyone else that wishes to speak?

Joe Ream: My name is Joe Ream, I’m the developer for Waterford Plaza, a property owner in the area and adjoins Mr. Brinker’s property and Claymeier’s property. We would like to go on record as stating that we don’t object to anyone using their land and developing it. We’re all for development and we don’t want to hold up Mr. Brinker and any plans he may have. The reason I am here is if there is a way that everyone could have good access with safety and ease of entry we would do whatever we could to support that and to accommodate Mr. Brinker and the Claymeiers. So we’re just here to cooperate if something could be worked out.

President Jerrel: Now are there any questions from Commissioners?

Commissioner Mourdock: I have one for Mr. Brinker or Mr. Mitchell. As I look at the map you have given us there are several properties labeled. One is Brinker and the other one to the east of it is Underwood.

Mike Mitchell: That is now Brinker.

Commissioner Mourdock: Okay, how about the one that is south of that one that is also labeled Underwood?

Dean Brinker: That is now Brinker.

Commissioner Mourdock: And the one that is labeled Hirsch?

Dean Brinker: That is Hirsch.

Commissioner Mourdock: That is Hirsch, okay.

Mike Mitchell: Correction, the one you are looking at that is labeled Brinker, that should be Claymeier.

Dean Brinker: Claymeier and Brinker.

Mike Mitchell: That's really Mr. Claymeier and that's not an issue at this zoning as Mr. Ream wanted to point out that he would cooperate with the Claymeiers, that's fine, but this has no bearing on this zoning at all. That property extends all the way across where the blue is is owned one half by Mr. and Mrs. Norman Claymeier, who is Dean's in-laws, and his wife and he own the other one half. If you want to look at it technically Dean has one-fourth, he's got 25 percent of the vote if there is to be a vote on anything.

President Jerrel: Go ahead.

Dean Brinker: I agree with Mr. Ream as far as the safety of the properties and everything. I think that's my point. Right now my wife has been out there for five years. She has a parking lot. She does her business. She goes about her daily routine and there are no problems. What I am asking is for the right-of-way or the zoning for the next property to be able to pull into a parking lot and do our business daily with no problems. As far as Tutor Lane I can't answer that because my property doesn't touch Tutor Lane, I have no access to Tutor Lane. If at the point that Tutor Lane wants to come through the Claymeier/Brinker property I agree with Ms. Cunningham, the developer will either have to make some amends or the county will have to make some amends to purchase that right-of-way to bring Tutor Lane on through. I have no problem with that. I don't think my in-laws would have any problem with that, but at that point I don't think it's up to...you know, I don't think it is up to any of us. We don't know how long that is going to be when the county is ready or when the developers are ready to do that, so what we're saying is we just want to leave the parking lot go there and as far as that half, but really what I am down here for is to get the corner property zoned C-4 and go on with business.

President Jerrel: I have a question, Barbara. This is first reading--

Joe Harrison, Jr.: No, final.

President Mourdock: It's final.

Barbara Cunningham: Final reading.

President Jerrel: If we move on this and we don't address the right turn only, let's just say the zoning is all we're dealing with and if, Dean, in the future this issue arises that in fact we do have a plan to move Tutor Lane all the way to Oak Grove so that there is a flow of traffic you're willing to cooperate with that? We're not asking that issue now, we're just saying from the beginning that was one of the issues we were interested in was to stay with our plan. Is there any other question about--

Commissioner Mourdock: I just want to clarify you are asking for cooperation but that is not an opposition to the zoning?

President Jerrel: No, it isn't.

Dean Brinker: That particular portion of that question really I don't think...again, what does that have to do with the zoning of the corner property?

President Jerrel: It doesn't.

Dean Brinker: Because it does not touch it. At the time that the county or the developer would want to talk to the Claymeiers and talk about that road right-of-way they are there every day from 8:00 to 5:00 and they are more than willing to sit down and listen. The problem with that particular...somebody...is when they do that they are going to separate that property in half and there is no room for parking. At that point it destroys their business, so she just wants to wait until the time comes when development comes, yes, that can buy her land. At that point she'll hopefully have the money to choose to go elsewhere or put a different building up or whatever, but again that wouldn't do anything for the zoning of the property we are asking for tonight.

Commissioner Mourdock: Again, just to clarify, Mr. Mitchell, when you were here last month I was just reviewing my notes from that meeting, did you have a different understanding as far as how the ownership was established?

Mike Mitchell: No. Somebody on the Commission had a different understanding.

Commissioner Mourdock: Okay.

Mike Mitchell: On the County Commissioners and I wanted to clarify that.

Commissioner Mourdock: Okay, well--

Mike Mitchell: Which I did tonight.

Commissioner Mourdock: Alright, when we adjourned last time it was to, I thought, see if there was some understanding there and from that I took it that there was misunderstanding, I guess, on both sides of the microphone here.

Mike Mitchell: No, there was some misunderstanding as to what the ownership of the Claymeier/Brinker property actually was. That's why I wanted to clarify. That didn't come out in the meeting that you're referring to, no.

Commissioner Mourdock: Okay.

President Jerrel: Do you have any questions?

Commissioner Tuley: No, it's one of those situations where, you know, I wish we could have the road, but obviously we're not going to get the road. It doesn't touch his property and I don't see where we have much choice but to grant the rezoning. It's unfortunate because I know of all the other developers who have controlled large parcels, but because they controlled them we were able to get the ground for building the road. In this case, if I am understanding what you said, Dean and his brother own the property in question--

Mike Mitchell: That is correct.

Commissioner Tuley: The other property is owned by your in-laws, you and your wife.

Dean Brinker: Correct.

Commissioner Tuley: I don't like it, but I don't see where we've got any choice but to grant it.

Commissioner Mourdock: Well, we put a lot of effort and planning into our Burkhardt Road plan and certainly in every way that we deal with that we certainly want to see the right turn only and those types of things, but I tend to concur with you where we are right now.

President Jerrel: Okay, is there a motion?

Commissioner Mourdock: I'll move on final reading the approval from AG to C-4 for VC-24-99.

Commissioner Tuley: Second.

President Jerrel: I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Mike Mitchell: Thank you very much. Appreciate it.

Final reading	VC-26-99	Jacob's Village, Inc.
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President Jerrel: The next item on the agenda is VC-26-99, Jacob's Village, Inc.

Barbara Cunningham: Commissioners--

President Jerrel: Will you speak into the mike so everyone--

Barbara Cunningham: Sure.

President Jerrel: And as loud as you can so everyone can hear?

Barbara Cunningham: Since the next two are planned unit developments I have a little bit of clarification of what exactly a planned unit development is so everyone understands in the room and outside really what a planned unit development is. A planned unit...PUD as we call it is a zoning classification to allow for more flexible regulations. State and local laws allow for single use developments or for any combination of uses. It really is a more restrictive classification than a pure zoning would be as it requires commitments, time tables, specifics on setbacks, height, density and many development standards which may not be the standards established by the zoning code for a specific residential, commercial or industrial district. That is the purpose of a planned unit development. It's to allow creative or innovative approaches to development. A planned unit development is first heard by the Area Plan Commission at a public meeting and they make recommendations to the legislative body which tonight is the County Commissioners. The legislative body has the final say on approval or denial of the petition to change the zoning

classification of the site to planned unit development. If the petition is approved, if the zoning is approved, the next step is to present a site development plan to the Area Plan Commission. The Area Plan Commission board reviews the site development plan and determines if it complies with the restrictions, commitments and standards set forth and adopted as part of the rezoning. This may be done in phases, but changes to any component of the plan cannot be made except in public hearing. Now, then I will start...that deals with both the Jagoe property and this property. As far as VC-26-99, Kent Brasseale and Mark Samila are the representatives for petitioner Jacob's Village, Inc. and owners, the beacon group, in this petition to rezone 132 acre site on Vienna Road just north of Diamond Avenue from Agricultural to Planned Unit Development with a Use and Development Commitment. The common address for the site for the purpose of this rezoning is 7400 Vienna Road. The petition was heard at the January 5th Area Plan Commission meeting and went forward to the County Commissioners with a no action no recommendation vote, five yes and six no votes. The ordinance that was voted on by the Area Plan Commission as a planned zoning classification included the conceptual master plan for Jacob's Village, a time table for phasing in the development, and a Use and Development Commitment that addressed uses that would be prohibited on the site and further addressed such development standards such as limits on size, height and number of buildings. The ordinance that was voted on by the Area Plan Commission is the same document that the County Commissioners will hear tonight. Any changes to the Use and Development Commitment including the time table would necessitate the return to the Area Plan Commission. Because there was some confusion at the Area Plan Commission hearing regarding size and numbers of buildings and uses I'm going to try to clarify this matter and go through the Use and Development Commitment. I will address exactly what the presented ordinance includes and perhaps Mr. Brasseale and Mr. Samila can correct me if I am misinterpreting the intent of your petition. The ordinance that was voted on by the Area Plan Commission included the following limitations. Light industrial. Under the light industrial classification light industrial is limited to a total of 80,000 square foot gross floor area and this area may be divided into no more than eight buildings. There will be no one building that is bigger than 40,000 square foot. The conference research and training buildings are limited to a total of 428,291 square foot gross floor area. This maximum square footage may be divided into more than one building, but no building will have more than five wings and no wing shall be larger than 50,000 square feet each. The height limit is five stories and no building taller than 88 foot high. The commercial is limited to 366,250 square foot gross floor area and this area may be divided into no more than 15 buildings. There will be no one building that is bigger than 15,000 square feet on the ground floor. The height limit is three and a half stories with no buildings higher than 60 foot tall. The high density residential is limited to 132 residential units. The density is limited to 50 units per acre. The footprint, which is the first floor outline of the building, the footprint is always the first floor like a footprint of the building, is limited to 4,500 square foot if it is one story and it is limited to 3,500 square foot if it is one and a half or more stories in height. The maximum height of assisted living or Alzheimer buildings would be four stories and no taller than 66 feet. All other residential units are limited to three and a half stories and no building is taller than 60 foot high. The low density residential is limited to 326 residential units. The density is limited to 25 units per acre. The footprint of each building is limited to 4,500 square foot if one story and limited to 3,500 square foot if multi stories. Residential structures are limited to two and a half stories and no building shall be taller than 42 foot high. The conceptual master plan also identified those areas which were to be utilized for parking, recreation, maintenance and sewer treatment. Due to the absence of sewer and the existing agricultural land in the area the

Comprehensive Plan designated this area to remain agricultural and undeveloped with scattered residential uses. The surrounding area is completely agricultural and residential with the exception of a C-4 motorcycle shop rezoned in 1981 adjacent east across Vienna Road from this site. Section 20 of the Comprehensive Plan talks of planned implementation and evaluation criteria to evaluate proposals that do not conform to the plan and I passed that out to you this evening, a piece from the Comprehensive Plan since we talk about the Comprehensive Plan all the time and that shows you this section of the Comprehensive Plan has been copied and is on your desk this evening for review. Vienna Road is a narrow residential street. Evansville Urban Transportation recommends a traffic impact study. Applicant's conceptual site plan indicates that two access points are planned onto Vienna Road for the 132 plus acre site. An interior network of private drives will move traffic inside the site. Given the size and scope of the proposed plan unit development site it is likely depending on the specific uses developed that improvements will be required at the entrances to the property on Vienna Road. County Engineer John Stoll has stated that since Vienna Road is only approximately 20 foot wide this additional traffic will necessitate improvements to Vienna Road. A private sewage treatment facility is planned as part of this development. Indiana...IDEM, which is for the Indiana Board will determine if it is necessary to install a treatment plant or if they will require lift stations and connection to the sewer that is approximately four and a half miles away. The sewer is approximately four and a half miles. It is generally the policy of IDEM that what they try to do is if you can at all connect to a sewer they would rather you do that because if you have a private treatment plant others cannot tap into it and if you would connect the four and a half miles with lift stations there could be a connection with others. So petitioners, I think, should inform the board about the plans and commitments for this facility. Now what I told you, the numbers I gave you tonight, are the numbers taken from the information that was submitted and reviewed as part of the Plan Commission.

President Jerrel: County Attorney.

Joe Harrison, Jr.: All those who...this is going to be difficult. All those who wish to speak with respect to this petition will need to raise their right hand if they can hear me. All those who wish to speak with respect to this petition please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Kent Brasseale: Good evening. My name is Kent Brasseale. I'm an attorney with Kahn Dees Donovan and Kahn in Evansville at 501 Main Street.

President Jerrel: Kent?

Kent Brasseale: Yes?

President Jerrel: May I ask just a moment if you could speak more directly into the microphone. I have asked the people outside if they can just listen. He'll speak as loudly as he can.

Kent Brasseale: I will try to do that. Before I talk about this Barbara Cunningham explained that the numbers that she was summarizing there were according to the

materials that were initially submitted with the petition for this. You're right, but as I am going to explain I wanted to make it clear that some of those numbers are inaccurate, they are typos and errors that we did not intend. We will address those with some materials tonight. We also have some other numbers that we would like to place some additional restriction on this that I think will address many of the neighbor's concerns on this project. As I said, my name is Kent Brasseale. I am here on behalf of Jacob's Village, Inc. It is a 501(c)3 non profit organization that has filed a petition for this matter. Also here this evening to explain the project and answer questions are Barry Graves, who is the President and CEO of Jacob's Village, Inc. Also here is Roger Winstead, who is the landscape architect working in conjunction with the architect on this project, Veazey Parrott & Shoulders. Jim Coy and Andy Guagenti are here with the beacon group. Jim Farney is here, an engineer with Bernardin Lochmueller & Associates to answer questions and finally Mark Samila also with Kahn Dees Donovan & Kahn. In addition to those there are several people here in the audience and in the hallway that are also attending this evening to express their support for and illustrate the need for a facility such as Jacob's Village. Before I explain too much about Jacob's Village I want to expand on some of the information that Barbara Cunningham talked about about the type of zoning that is being sought for this project. The primary thrust and the overriding plan for Jacob's Village is a residential community development for people with disabilities. However, because of some integrated activities and services to Jacob's Village the typical R, the residential zoning, alone is not available. To seek the county's approval for this residential community of Jacob's Village together with those integrated activities and services our petition asks you for approval for a planned unit development, or a PUD. This is precisely the type of project and it's a perfect example of the reason that the Vanderburgh County ordinances contemplate and allow for PUD zoning. With the planning flexibility and the opportunity to integrate the necessary services and activities into the residential development of Jacob's Village PUD zoning also requires an explanation of the long-term vision of this project so that the planned end product can be verified. While this requirement to look forward into the future is an important safeguard for PUD zoning it also poses some unique challenges which are not faced by other developers seeking more common zoning classifications. First, we must remember that Jacob's Village is a project plan which will develop over no fewer than six phases over a period of 30 to 35 years. That is the...this is the entire layout, the entire conceptual plan of what is intended to happen over a 30 to 35 year period. The entirety of what we consider tonight is not going to occur in the next year or two. In fact, even after this PUD zoning is approved still not one bit of construction on Jacob's Village will be able to commence. We only consider tonight the PUD rezoning for the plan of Jacob's Village. In order for work to begin a detailed engineered plan for any and every phase of work must be presented for final approval by the Area Plan Commission. This final approval requirement is important and necessary to be sure that all aspects of any development work are consistent with the approved plan and fully comply with all zoning, engineering, utility and traffic requirements of the county. We have to remember that the consideration this evening is only for the overall project plan of Jacob's Village. A second challenge of the forward looking plan requirements for PUD rezoning is that it is extremely difficult to project and determine what anything or anybody for that matter is going to be when they grow up in 30 years, but our team of management staff, architects and engineers have worked very hard to create a project plan that maintains compatibility with the Vanderburgh County master plan, commits to very low intensive use of the Jacob's Village land, results in absolutely minimal impact to surrounding property owners, provides a beautiful and relaxing area not only for the people in Jacob's Village, but also available to be shared by others in the area while still allowing some flexibility

as this project progresses over the long-term. The Vanderburgh County Comprehensive Plan indicates that agricultural and residential uses are appropriate for the Jacob's Village property and surrounding properties in the county. As mentioned previously, Jacob's Village will be a residential community geared to people with disabilities. Some services and activities will be integrated to assist and teach the people in Jacob's Village. Other areas will provide recreational activities and some parts are necessary for the maintenance, the utility services and the management of this community. Again, the primary function will be a residential community. This coincides with the county's Comprehensive Plan. An objective of the Comprehensive Plan's general land use action plan is to efficiently utilize and to preserve land and environmental resources. One policy for fulfilling this objective provides that alternative means of development including PUDs should be examined to protect green space and environment. As a primarily residential planned unit development which commits to preserve and not develop not more than half of it's land area Jacob's Village squarely fulfills this policy of the Comprehensive Plan and meets that stated objective. Other policies of the general land use action plan are to encourage natural resource corridor protection to preserve wildlife habitat, strengthen and create focal points for variety and community landscape and protect environmental features. Again, with a plan to preserve more than 50 percent of its area and a plan which works around and leaves untouched virtually all existing trees on the property Jacob's Village is consistent with these policies in the master plan. This undeveloped green space in Jacob's Village is envisioned to include ADA accessible bicycle paths and walking trails so that people can enjoy this beauty and tranquility. Never, never does a developer come before you with a commitment for such an extensive park like area within their development. This infrequency of commitment to preserve natural resources such as the commitment Jacob's Village makes is likely a primary reason that the master plan states:

"Vanderburgh County is severely lacking in park facilities."

By incorporating this natural recreational area into this residential development Jacob's Village is right on track with the master plan's preferred solution to this park area deficiency. Indeed a policy of the Comprehensive Plan's recreation action plan contemplates, and I again quote:

"Mandatory dedication of desirable park open space in subdivisions."

Another section of the Comprehensive Plan suggests that developments are well designed when perception of environment stimulates positive human thought and emotions through attractive appearance. Jacob's Village is designed to be a very low intensive use and natural surrounding for its residential community will not only offer a beautiful and nurturing place for the people in Jacob's Village to live, but is consistent with the residential use called for in Vanderburgh County's Comprehensive Plan for this area as well as the aesthetic preferences and environmental preservation sought generally for the county by the Comprehensive Plan. I mentioned the Jacob's Village architects, management staff, engineers and landscape architect have worked very hard to plan a community that will be acceptable to the neighbors, unobtrusive and even an asset to the area. This effort to seek and address neighbor's concerns about Jacob's Village design began with a meeting with neighboring property at a neighboring property owner's home even last July. With about 25 neighbors and area residents attending that meeting some good comments and concerns were heard. Jacob's Village planners also met later with members of the West Side Development Association and a follow-up meeting was held with the neighbors again. I would like to show the initial plan, the

conceptual drawing, that was considered at that time. We have heard comments that this plan has changed over time. That's part of the concern. That is true. This plan has changed, but it has been downsized and the changes that have been made are for the benefit...to the benefit of the neighbors in the area. It is even less light industrial and it is even less commercial areas. Just some of the changes that are made from this working draft that we had in July include if you'll notice here along Vienna Road there was initially contemplation that there would be two industrial buildings, if you will. If I could just kind of step to the side here for a moment, we use the term light industrial building and we use the term light industrial activities because that is what the zoning code calls for. The activities that are intended to occur at these places are going to be essentially vocational training for the people that live in this community. We cannot say vocational training because they are going to be earning wages when they do this work. We can't say that, but we are forced to keep saying light industrial and I think it gives a more negative connotation than is really fair for the type of training jobs that would be present on the site. But as I said, we've got two of those buildings that were initially planned. The concept was initially that those two buildings were going to be along Vienna Road and that they might be 80,000 square feet each. Another part of the plan was that there was going to be an amphitheater in the back. Another part of the plan, as you can see, is that the project is much closer to Vienna Road. Those are three changes that were made as a result of concerns raised by the neighbors as this project has gone on. You can see from this plan which is an enlargement of what has been submitted that we have one light industrial area designated and the one that we kept is the one that is closer to Diamond Avenue. We've done that to minimize the amount of traffic that needs to come onto Vienna Road and how far it needs to go. Secondly, we've done that to keep it as far away from the neighbors as possible. You can also see that the amphitheater is gone. There were concerns that might result in late night concerts and things of that nature. We didn't want that, the amphitheater is gone. Thirdly, you can see this project as a whole has been shifted back on the property as much as possible. The lack of negative comments prior to the APC hearing led us to believe that the project plan was okay with the neighbors. From the APC hearing we know that other area residents were concerned about the project. Again, wanting to work with the neighbors and explore solutions to their concerns we held an open meeting a week ago Saturday at the Holiday Inn. Though more than 30 letters were mailed and calls were made to residents not only adjoining the property but also in the area of the Jacob's Village project site only three people attended. Follow-up information was mailed to those people to address some of the information requests that they had given and with that we gave another invitation for them to call us and allow us to talk with them and hear any other comments or concerns. We heard nothing. Even though our efforts to meet and work with the residents were virtually ignored we have continued to listen and we've tried to glean the neighbors' concerns so that we can respond with appropriate changes while still maintaining a good community plan for Jacob's Village. For every concern received from neighbors we have come up with an appropriate change in commitment. Understanding that our filed Use and Development Commitment cannot be altered from the form considered during the APC hearing our changes and commitments are tendered tonight in the form of a restrictive covenant. This is a copy of that restrictive covenant agreement. For your advance review we provided copies to the Commissioners' office Friday morning as soon as this agreement was completed. We also, again, worked to keep neighbors fully informed as possible...as fully informed as possible by hand delivering copies of this restrictive covenant agreement to more than 30 neighbors over the weekend. Once we received a letter on Saturday indicating that some of the neighbors were represented by attorney Steve Bohleber materials were promptly faxed to Steve's office the same day. I

have extra copies of this agreement if anybody would like. Let me summarize the concerns that have been raised by the neighbors and the commitments this restrictive covenant agreement makes in return. Number one, we know that area residents are concerned about the filed petition materials making reference to 457 residential dwelling units. While this count refers only to the maximum number of bedrooms which might be in the project many residents interpreted dwelling units to be residential dwelling structures, ie homes. To clarify this potential ambiguity and to provide further assurance to the very low intensiveness of this project's development plan the restrictive covenants stipulate that there will be no more than 100 group homes. It also allows for no more than four high density residential buildings which can consist of no more than 123 living units in total among those four buildings. I'm sorry, 132. Accepting the average potential of two homes per acre Jacob's Village is a far less intensive use of the real estate than the more than 260 homes together with roads that the developer might otherwise be permitted to build also in compliance with the county's Comprehensive Plan. No doubt area residents have been concerned with the light industrial of the plan. Many of these concern arise from a typographical error by which the Use and Development Commitment provides for as many as eight light industrial buildings. This was not ever truly the intention of this project. Other concerns stem from how quickly the light industrial area might be developed, the types of operations that might be at the site, how big the buildings will be and rightfully so how the processed sewage will be disposed of. Section three of the restrictive covenant agreement makes several commitments to address these concerns. First, it provides that no industrial activity which is defined according to the zoning ordinance use groups will occur on the light industrial parcel prior to January 1, 2005. Being mindful of not only area residents but also the people that will live in Jacob's Village this postponing of activity remains...this postponing of activities remains complimented by the six pages of prohibited industrial activities that are set forth in the Use and Development Commitment. Second, consistent with Jacob's Village intentions and to correct the typographical error in the Use and Development Commitment the restrictive covenants stipulate a maximum of two light industrial buildings with a cumulative limit of no more than 80,000 square feet total. To eliminate any opportunity for misinterpretation the restrictive covenants dictate that no light industrial building may be constructed prior to January 1 of 2005. Finally and perhaps even longer impacting is a provision that all industrial process waste must be disposed through the municipal sewer systems. We cannot...we want to make clear our stated assurances that industrial waste will not be disposed into the planned septic system. Like all homes in that area Jacob's Village contemplates initially a septic system with a below ground disposal field to accommodate its first phases of development and the resulting domestic sewage. Cost, design requirements, regulatory concerns and the concerns for neighbors in Jacob's...people in Jacob's Village makes it impossible to dispose of industrial process waste in a septic system. The restrictive covenants now make this a firm commitment and depending on the time frame for extension of municipal sewer to Jacob's Village potentially forestalls any industrial processes to well beyond the January 1, 2005 limitation. Neighbor's comments illustrates concern also about the varying and perhaps difficult to understand height restrictions for the various planned buildings in Jacob's Village. As a concise expression of a more restrictive and a uniform limit this restrictive covenant agreement simply places limits of three and a half stories and no higher than 66 feet in height from the ground to the tip of the roof for all buildings throughout the entire Jacob's Village project. To the extent the Use and Development Commitment is more restrictive than that, of course, the Use and Development Commitment will apply. Finally, a neighbor expressed concerns about being able to view much of Jacob's Village from the roads. While we are confident that this residential community development will be well designed and visually

pleasing we at the same time do want to be a good neighbor. As the project plan illustrates preservation of existing wooded areas completely block the north and the south boundaries of the property. The west side is comprised also of woods, lakes and other expanses of green space. The east side along Vienna Road has an existing six foot embankment to block much of the view from Vienna Road. However, to further satisfy the neighbor's concerns the covenant provides for landscaping to screen the views from the eastern boundary from Vienna Road. But the landscape architect has discouraged use of simply a row planting of white pines. Instead to maintain consistency with the preserved green spaces and the woods on this property the covenant provides a naturalized screen of varying trees and land forms so that it will blend. This naturalized screen will be more consistent with the existing wooded areas and it is also going to be a more costly commitment by Jacob's Village than simply planting a row of pines. We believe this is just another example of the planning and concern for aesthetics that is going in to making this a quality and desirable residential community for the people living in Jacob's Village and also its neighbors. Other concerns that are not specifically addressed by the Use and Development Commitment but I wanted to take a moment to talk about first have to do with the fire concerns, the ability to respond to a fire. It is recognized that the area is serviced by a volunteer fire department. That in and of itself is not a problem. That area is already serviced by a volunteer fire department and it seems to be doing alright. There are other areas in the county, there are areas in other counties surrounding. For example Newburgh is serviced...Newburgh and its surrounding areas. An area of approximately 8,000 in a much higher...much more densely developed area is serviced by volunteer fire department. There haven't been any problems in that respect. The benefit that we've got going on this project is that every building in this project is going to have sprinklers. If the volunteer fire department is called out to respond to a fire effectively they are going to be a clean up crew because the sprinklers will address the fire already. Another concern has to do with the safety and the emergency responsibilities for this property. The three things I want to mention about that is that all of the staff working at Jacob's Village will be required to receive CPR and first aid training. If and when Alzheimer units are built on this property it will be staffed with nurses. Thirdly, this is a residential community just like all the other people living in that area if there is a medical problem that requires medical treatment the people will go to a hospital. The nearest hospital is less than eight and a half miles away and it is accessible by major thoroughfares of Diamond Avenue and First Avenue. As you can see, this is a good plan for a residential community development that is consistent with the objectives and the policies of Vanderburgh County's Comprehensive Plan. It's a well developed plan with a comprehensive Use and Development Commitment that illustrates the end result potentials of a project that will phase in over 30 to 35 years. Further, commitments are also now made to address the resident's concerns by a restrictive covenant agreement which is for the benefit of and enforceable by any person owning land within a two mile diameter circle surrounding Jacob's Village residential community. The petition before you seeking PUD designation for Jacob's Village should be approved. At this time I would like to give...in order to give an explanation of Jacob's Village, its operational plans and its principles, I would like to ask Barry Graves to talk a bit. Again, Barry Graves is the President and CEO of Jacob's Village, Inc.

President Jerrel: And if you could, Barry, I know if we could begin to move along because I know there are people that want to speak and we want all the correct information that we can have.

Barry Graves: Certainly. My name is Barry Graves, President and CEO of Jacob's

Village. What I am going to try to clarify here is some of the language, some of the issues.

President Jerrel: Could you speak--

Commissioner Mourdock: Could you move, yeah, a little closer to the mike?

President Jerrel: You're going to have to get closer to the mike.

Barry Graves: Okay. Is that better?

President Jerrel: No. Take it out and hold it maybe.

Barry Graves: Okay.

President Jerrel: May I ask perhaps this map could be turned around so that the people in the audience can see it?

Barry Graves: I would like to point out first for your indulgence here. North is to your right on the map and I wanted to make that clear because it is not typically done that way and the same on this. Jacob's Village is a 501(c)3 not-for-profit corporation whose purpose is to provide services for individuals who are developmentally or physically disabled in a residential environment. Jacob's Village has applied for a PUD for 132 acres on the northwest intersection of Diamond Avenue and Vienna Road. This property is approximately 200 yards north of Diamond and is completely bordered by woods on the north and south. The Posey County line forms the western boundary. The current zoning is agricultural and the zoning properties are zoned residential...the surrounding properties are zoned residential except for a business located at the northeast corner on the east side of Vienna Road which is zoned C-4, commercial. Jacob's Village is requesting a zoning classification as PUD in order to provide for the long-term development of a predominantly residential community. The owners have purposely designed the overall plan to be non evasive and a very low impact to nature and environment in the current neighborhood. More than 50 percent of the land will remain in woodland and open green space. It is our intention to work with the oil lease operator of the oil wells on the property to cease production and cap the wells consistent with Department of Natural Resources' guidelines and to remove the water injection system and storage tanks servicing those wells. Nature trails will be included throughout the facility and landscaping will be installed to not only buffer the development from the line of sight of the road, but also provide for wildlife habitat. There have been several meetings with the adjoining landowners beginning in July of '99 and as recently as January 15th of this year. Information as to the planning and refinement of design has been shared and concerns raised have been addressed to the best of our ability. Many of the concerns have generated new design and direction as the development progressed from a dream to shared thoughts and finally to specific commitments. The village is committed to providing residential opportunities to individuals 21 years of age and above who are developmentally and physically disabled. The design will resemble a relaxed campus setting and provide a neighborhood consisting of individuals who share common desires and experiences. Living, training and work opportunities will be designed to promote the growth of each individual to his or her potential for independence and self-sufficiency. Support programs and services will be provided to assure for health and safety of the residents. There have been several concerns brought forth over the past two weeks. Several of which have been addressed in a separate covenant provided by Jacob's Village to all neighbors within a two mile

diameter of the property. They sent the response it is our belief that other concerns are based on either misinformation or misstatements of fact. Again, I will point out that the PUD requires Jacob's Village to establish upper limits which can never be exceeded on all of the developmental areas. One of our major concerns is the atmosphere within the village and the best interest of the residents. We have been lead to believe the following are major concerns which we have addressed in the application for rezoning, the private covenants with the neighbors or by clarification here. The number of residential units, information provided at the July '99 meeting suggested approximately 40 houses provided for four residents each. This meeting was held to provide information as to the project. At that time there had been no surveys done on the property and a conceptual drawing was used to give a general overview. The development plan commitment provides for 12 area parcels of low density housing. Current ideas are to build only 64 residences within these parcels during the next 30 to 35 years, with the land area designed as low density it can support up to 100 such residential buildings. Building heights. It may have been discussed at the July meeting that no building would exceed two stories in height, but at that time there had been very little discussion as to the design of actual buildings, the best use of the land area or aesthetics of mixed height buildings. In the development plan commitment some buildings were listed as being up to five stories. Again, this was intended to establish an extremely long-term upper limit. Jacob's Village has committed in the private covenants with the neighbors to limit all buildings to three and one half stories. Number three, the light industrial facilities. During the July meeting the light industrial facilities were discussed and again the conceptual drawing displayed depicted two buildings each consisting of approximately 80,000 square feet.

President Jerrel: Barry, may I ask a question?

Barry Graves: Certainly.

President Jerrel: This is repeating a lot of what Mr. Brasseale said and we are going to make an attempt to move to the City Council Chambers because they are through and that room is larger, but I would urge you when we get there if you could because we want to give everyone an opportunity to speak, so if you could bring to a close you are repeating much of what he has said.

Barry Graves: Okay.

Commissioner Mourdock: Let me just add to that if I may, Barry. By the way, before people start packing we have not yet gotten word that City Council Chambers is open so don't go packing your bag.

Commissioner Tuley: Don't give up your seat.

Commissioner Mourdock: Yeah, don't give up your seat, that's right.

President Jerrel: Fifteen minutes.

Commissioner Mourdock: Barry, my point was with a lot of the information that you stated in the last couple of minutes I understand you are correcting the misperceptions, the miscommunications of the past. For the purpose of this board tonight let me state for all three of us what I think is true, we understand that as this is developed your plans have somewhat been presented and changed and all we need to deal with right now is the here and now which is where your plan is today.

Barry Graves: Okay, I am going to skip the other points that have been raised and addressed. Additional questions that have been raised are as follows. Funding for the project, and at this time we have commitments of approximately ten percent...or in fact more than ten percent of the total projected cost of the project. We have in hand contributions from Lilly Endowment of \$200,000 for the conference center and a grant from Scripps Howard for \$10,000. Concerns on the traffic and roads, I've had a meeting with John Stoll and discussed the potential problems and remedies that we would be willing to assume. We have agreed that we would do a traffic impact study and address the additional information that is brought from that. Safety issues, and I've met with John Buckman, the Chief of the German Township Fire Department. We discussed the building codes and the fact that all buildings on the property will be equipped with sprinkler systems and also the availability of putting in an auxiliary fire pump with the lagoons or retention ponds as water supplies. I've been informed tonight that the response time to the village is approximately three minutes. Additionally, I spoke with Ron Gold concerning the design incorporation of disaster preparedness features for the building to address the threats of tornados and earthquakes. The last area that I will address is the concern which has been raised as to the appropriate social or philosophical issues concerning the segregation of the residents. It is our opinion each and every individual has the right to determine how and where they will live. No one should assume they know what is best for everyone because each case has its own set of circumstances and each person has their own desires and abilities. I personally believe the best alternative is to have individuals living within their family units with all the support and care that may entail. I also believe that there are many individuals who cannot live on their own and many families that are not capable of providing for their loved one's needs. What Jacob's Village is offering is a choice to those that have determined their own individual plan for service and their own service provider. No one will be committed to the village rather they will come here by their choice. Thank you.

Kent Brasseale: If I can make just two real quick points of clarification. One has to do with the numbers that Barbara Cunningham had mentioned and one does require some addressing. She had mentioned some limitations on the square footage of the ground floor area of the high density residential buildings saying that they wouldn't be more than 4,500 square feet in the case of one story and 3,500 in the case of multiple stories. While that is true I wanted to clarify that is with respect to group homes that would be in that area as that paragraph in the restrictive covenant provides. The second thing...I'm sorry, in the Use and Development Commitment.

Barbara Cunningham: Okay.

Kent Brasseale: Page 8, Section 5, Paragraph B, those limitation that you stated are specific to group homes on that property. The second point has to do with the restrictive covenant agreement that I talked about tonight to address the neighbor's concerns. That is a private agreement that is for the benefit of and to the...for the enforcement by the neighbors in the area, but I wanted to point out that it is not less restrictive than the Use and Development Commitment to the extent that the Use and Development Commitment is more restrictive the Use and Development Commitment will still apply and be binding.

Commissioner Mourdock: As a point of law, and as you know I am not a lawyer and I'll stop right there, will the Use and Development Commitment when it is less restrictive than what you've offered apply? For instance, I noticed in one you were giving basically the right of enforcement to anyone within a quarter mile and in the other it says one mile.

Kent Brasseale: That's been changed, it's a mile.

Commissioner Mourdock: So it is a mile?

Kent Brasseale: For the Use and Development Commitment and the private covenants.

Commissioner Mourdock: And then the second question and maybe this takes care of it, in your first submitted restrictive covenants you had a number, as you said six pages, of specific things you were not going to do.

Kent Brasseale: Right.

Commissioner Mourdock: And in the new document that came out on Saturday it does not specifically include all those things.

Kent Brasseale: Right.

Commissioner Mourdock: But if I understand it correctly you're saying that in this document all those still apply?

Kent Brasseale: Exactly. The Use and Development Commitment is not being amended or modified or weakened by the restrictive covenant agreement. The restrictive covenant agreements are complimentary and additional restrictions on the facility. Again, to the extent that the Use and Development Commitment, the initial document filed to the extent that that is more restrictive than any of the numbers or the limitations in the restrictive covenant they will still apply.

Unidentified: In fact, if you look at the restrictive covenants--

Commissioner Mourdock: Sir, I don't know who you are and neither does she when she does the tape.

Unidentified: I'm sorry.

Commissioner Mourdock: Please--

Unidentified: Excuse me. I'm Mark Samila with Kahn Dees Donovan & Kahn. I was going to point out in the private covenants the third whereas provides that the private covenants are entered into as additional restrictive covenants in addition to and in further restriction of the provisions contained in the Use and Development Commitment. So, again, we're trying to make it clear the private covenants are more restrictive.

Barbara Cunningham: Mr. Mourdock, the only thing I would say is all I can enforce is the Use and Development Commitment that is on file and that was done by Plan Commission. I cannot enforce the private commitments.

Commissioner Mourdock: Right, but that private commitment, again, if I understood the reading of it correctly you are offering that private basically to all those within one mile?

Mark Samila: Within a one mile radius.

Commissioner Mourdock: And if they should bring suit against something you are in fact saying you would also cover their legal fees.

Kent Brasseale: That is correct.

Mark Samila: That is correct. Yes, section six. To the extent that they prevail.

Commissioner Mourdock: Yeah, we do read that stuff.

President Jerrel: How much time do you think we have? Another five or ten minutes?

Barbara Cunningham: She just said they are doing bicycle paths tonight.

President Jerrel: Okay, then who at this time...yes.

Kent Brasseale: I heard the mention of bicycle paths and we have one other person that I think could add some information on that.

Barbara Cunningham: They're doing bicycle paths in City Council.

Kent Brasseale: Oh, well, what a coincidence because we can address them here, too.

President Jerrel: Let us move now. Is there anyone else from your group? Okay. Is this something that is pertinent to the--

Kent Brasseale: This is pertinent and it is new.

President Jerrel: Okay, if it is pertinent and new then let's hear it.

Kent Brasseale: Right now?

President Jerrel: Yeah.

Commissioner Mourdock: We didn't say it at the outset, but for all of those who will be speaking it is very important as Bettye Lou said Charlene takes every note verbatim. When you come to the microphone you must state your name and address and if there is any question please spell your name so it is simpler. And the people in the press would like that, too, I'm sure.

Roger Winstead: Good evening. My name is Roger W. Winstead with Roger W. Winstead, Inc., planning and landscape architecture. I live at 7922 Oak Grove Road in Newburgh, Indiana. I'm representing Jacob's Village and I am one of the planners and landscape architect on the project. I'm going to explain a little bit about this land at first so you can understand with why we came up with what we did. I'm going to take this microphone out so people can hear me. Okay, north is basically to the right here. Diamond Avenue is here. Vienna Road runs along here. Again, it's wooded. Wooded here and wooded here. This is open area. This is open area. There is a ridge line that runs along here, a ridge that runs here.

Unidentified: Hey, let's move over so that we can see that. Can't nobody see what's going on. (Inaudible.)

President Jerrel: That sounds fine. I really...I think they want to be able to view that.

Roger Winstead: That's fine.

President Jerrel: Because that is why I had it turned around.

Commissioner Mourdock: Shall we adjourn until we get to the other room?

President Jerrel: I think we just need to adjourn for a couple of minutes.

Joe Harrison, Jr.: Recess.

Commissioner Mourdock: Okay.

President Jerrel: It's to your right. It's the last room.

The meeting was recessed.

The meeting was reopened.

Tape change

President Jerrel: Would you please tell the audience now that is in the room what they're viewing and if you would explain the landscaping.

Roger Winstead: Okay, my name is Roger Winstead. I'm a planning and landscape architect on Jacob's Village. What we have here is a conceptual master plan for the entire development and I'm going to go through a few things first to explain how the plan got formed the way it did because of the existing landscape. There is a tree line on this side. There is Diamond Avenue, Vienna Road that comes down here, this is the Posey County line and that is north. Everybody oriented? Okay. So, again, there is a wooded area to the south, a wooded area to the north and on this ridge line here there is an existing wooded area through this area. It slopes downhill to the southwest here and downhill to the west here. There are also intermittent feeders here. The hills go like this and where you see the box of trees that are preserved on here that is where the watersheds are. So the existing open space that was in this area that's where we decided to put all of our development and to try and preserve as much as the existing vegetation as possible. Not do any grading in it, not do anything that would disturb the existing vegetation. The concept for this is a true walking village. Everything is within walking distance of each other on this site. What you see down here is a light industrial, conference center, Alzheimer units in here and then a spine road that looks towards the west, towards the sunset, over park land here, here and here. The yellow you'll see residential that is all around the outside of this hub. This whole thing has been geared toward the pedestrian and bicycle traffic and that kind of modes of transportation since none of the people in here that will be residents will be able to drive, so that will be their primary modes of transportation. There will also be nature trails throughout all of the wooded areas. It will be a campus atmosphere, village character, a New England architectural style that will be very pleasing to the eye. Even the light industrial vocational centers down here will have a facade that will be pleasing to look at. We preserved woodlands on the edge here to screen that and, again, we're talking about a visual buffer along here of native and ornamental plants that are non evasive and compatible with the existing habitat and the existing animals and will actually draw some animals to this site. Anywhere from this development green space is readily

accessible and you'll be able to get to it very easily. All of the paths and all of the roadways for people to walk on will be ADA compliant and you'll be able to get to anywhere from anywhere in a wheelchair, on crutches or any kind of mode of transportation you would be taking. As I mentioned, there are park areas scattered in throughout the village and, let's see, we'll talk about the watershed protection. Water will run down through the center of these valleys that we have preserved and saving the existing vegetation in that will protect the watershed, will reduce soil erosion and that is something that is very paramount on our developer's mind was to protect the environment. To the north we've got an area that is going to be preserved in green space. It will be available for passive and active recreation. We're looking at a pond. The same down here. This is all passive recreation. To this west side is a drain field for the sewer system, for the septic system, and that again will be below ground so this entire area will be green space. The village plan calls for small cottage homes that are very comparable to the size homes that are in the area. If you think of them as single family homes there will be five residents in each one of them and they will be just like single family homes and they will be no different. It will be in a very nice architectural style that will be complimentary to development. There are no buildings closer than 100 feet to Vienna Road. There are no buildings closer than 250 feet from any of the other property boundaries. There again, they are going to be visually screened on the north and the south and from Vienna Road. I think that's about the end of that. This development is a non institutional residential community development that has peers that residents can relate to in a peaceful environment that is harmonious with the surrounding land use for wildlife and for humans.

President Jerrel: Thank you. At this time, you know, those of you in the audience if you have a direct question that you would like to ask any of the individuals that are speaking for the developers if you have a question. Well, I think we need to move, Kent, to the representatives for the homeowners and the other people that wish to speak in the room, but I think it is appropriate now if there are any homeowners or landowners in the area that have any questions about any of the covenants, any misunderstanding about any of those issues I would appreciate it if you would raise your hand, come up, give your name and ask the question. We'll get to everyone else on the speakers list, but if you have something specific that you want to ask these individuals. Yes, ma'am. You want to come up and give your name?

Doris Peerman: My name is Doris Peerman. I live at 7003 Vienna Road directly across from what is going in. What I don't understand you keep talking about the green space and all the natural surroundings and everything yet you have parking spaces for 1,250 cars and the mode of transportation is going to be wheelchair, bicycle paths and so forth, why the need for all this parking space?

President Jerrel: That's a good question.

Commissioner Mourdock: That's a great question.

President Jerrel: And I don't know if Mrs. Cunningham needs to respond to that. I think that is where it originates.

Barbara Cunningham: Our code specifically states how many parking places are needed for each type use and it states how many are needed for residential use, how many would be needed for a nursing home type facility or a Alzheimer use. How many would be utilized for any industrial or commercial use and so I think these are spread out throughout and maybe Keith can tell you exactly...I think the plan

shows what it is, but I think it is for all the variety of uses that they are asking for on the 132 acres.

Doris Peerman: This is certainly different than the...I attended the first meeting in July and also the zoning meeting. These plans have been changed several times since then. They're nothing like they originally started out because I was told there would be five cars in and out on any given day by Mr. Coy. The fact is I have it on tape and the Commissioners have a copy of that tape and also that there would be 100 cars on a conference day and that is nothing like what is proposed. That's all I have to say.

President Jerrel: Thank you.

Kent Brasseale: Barbara is correct. The amount of parking that is provided for in this plan is according to the zoning code requirements. Frankly, we don't see this much parking being necessary to fulfill the needs. Again, this is a PUD that is looking out over a long period of time. As this thing develops in phases that parking is in phases as well. It is not going to be there overnight. The reason we keep talking about the green space because even with those parking spaces, even with the retention ponds and even with the park areas that are designated here still more than 55 percent of this property is green space, is untouched green space development. As far as the comment that changes have been made along the way, yes, during the meeting in July this was a conceptual plan that the people of Jacob's Village were working on and were talking about from a conceptual basis with the neighbors. Things have changed from there. As I illustrated many, many of those changes have been positive to the neighbors and have caused this to be a much less intensive use. I believe I heard a comment or an insinuation that changes have been made since APC. That simply is not true. There have been no changes to this plan since then.

Commissioner Mourdock: Let me clarify the parking lot question if I may because it certainly jumps off the page when you look at this and do see 1,250 spots. When Mr. Winstead was at the microphone a moment ago he said that there would be five residents in each home. They'll look like single family homes, but then he went on to say...my screen just went blank, excuse me. Where did it go? He then went on to say:

"None of the residents would be able to drive."

Now, did I understand the code statement that those residences require parking spots even though none of the people will drive? Is that right, Barbara?

Barbara Cunningham: That's correct because what we do is with the code...now the alternative to that is to seek a variance. If there is a...and that is what you may ask for. You always have that alternative is to seek a variance. All except a PUD cannot have a variance, Beverly just reminded me. We're talking code requirements.

Commissioner Mourdock: Okay, but the point is there are five residents in each of these houses in theory. Their code is saying there are five spots.

Kent Brasseale: Yes, that is correct.

Commissioner Mourdock: That's what you figured.

Kent Brasseale: The one thing I do want to clarify. There is going to be five people

there and one of those will be the chaperone and in all likelihood they will drive and I don't know that it is really fair to say none of the other residents will drive. I think it will be a vast minority, but you know there may be some and we don't want to give the indication that there is not going to be any.

Commissioner Mourdock: Okay.

President Jerrel: At this time I would like to read the speakers the way they have signed up. Mr. Bohleber will speak representing...I'm going to just give six and then we'll go with the next six. The first six will be Mr. Bohleber, Gary May, Vince Bernardin, Paul Farmer, Nancy Lee and Stacy Stevens. I'm going on down the list as they appear, so Mr. Bohleber.

Steve Bohleber: Thank you, Mrs. Jerrel. Is the mike on?

President Jerrel: Yes, it's on.

Steve Bohleber: I normally can hear myself better than that. Maybe that is advancing age. My name is Steve Bohleber. I have been retained by a large number, but I am not going to say all of the residents that are here this evening, to oppose the plans submitted for this rezoning. Rather than having each of them speak to you the folks that hired me agreed that I would be the sole spokesperson for those individuals and in that regard I am not going to hash over many of the issues that may have been contained in letters received by the Commissioners, letters to the editor in the newspaper or even detail many of the comments that were made at the Plan Commission meeting. I would like for proposes of the record however to simply incorporate the comments of the neighbors from the Plan Commission meeting into the comments here this evening in an attempt to make this as simple as possible. A few points to make about what I am about to say. My clients want to emphasize that they are not opposed to the mission and the dream of Jacob's Village. In fact, I think almost to a person they applaud those dreams and in many ways wish there were other people such as Mr. Guagenti and the beacon group board members in our community. That is not why they're here this evening. In fact if the plans were as presented in July as one of the speakers has already mentioned I doubt there would be very many remonstrators here today. If the plans were this evening presented as totally residential but with the same goals I have been told by Stan Newingham who is sitting behind me, the leader for want of a better term of the neighbors who first contacted me, I've been told by him that he doubts that many of his constituents would be here this evening. It's not a residential community for the purposes outlined by the Jacob's Village supporters that is the concern. What the concern is is that this project is far, far more than a residential community. To characterize it again and again and again as a residential community is not telling the full story. As I understand the current level of possible development when we look at the use commitment, the restrictive covenants that were filed in the last couple of days, Mrs. Cunningham's presentation, there still is the potential at this site as I read it of almost one million square feet under roof of non residential uses be they for a conference, be they for commercial, or be they for light industrial. To me that is a massive, massive non residential component part of this that can't be sloughed off under the guise that this is a residential community. That's what brings us here this evening. I'll be quite honest with you, I think the fact, and the neighbors have said this time and time again, they're not certain what is going to be there. That's a great concern and you might say that, well, everybody fears the unknown. Well, that's true and none of us really like change, but to this day these neighbors don't know, don't have any idea, what might be developed in

this PUD with the potential of nine hundred thousand to a million square feet of non residential uses. So those are the things that...general concerns that thread throughout all the comments that I am about to make. I'm not here to speak on behalf of Gary May or West Side Improvement Association because I am not empowered to do that. I'm not an expert in the social implications of this and quite frankly there is a question as to whether or not those even address what we're here for this evening and that is what is proper land use. I won't address the West Side Improvement Association representations were made that they support this. I've been told they don't and they have changed their position after the full plan was revealed to them, but I think someone is here to speak to that this evening as well. The problem my clients have is the site selected by this group of dreamers, this group of good people in this community, is totally inappropriate for the intended uses if they include this massive commercial and industrial undertaking. As Mrs. Cunningham pointed out both at the Plan Commission meeting and this evening it is inconsistent with the Comprehensive Plan. Totally different than anything else in that neighborhood. There aren't any PUDs there. There aren't any commercial there save that one small C-4 that slipped in in 1981, was attempted to be rezoned sometime after that to industrial and was solidly defeated by the County Commission unanimously in the face of all of these neighbors again interposing this concern about something of an industrial nature coming into their area. So save that one C-4 zoning that is adjacent and used in conjunction with a person who lives there this is also spot zoning. That sounds like a real commonplace term but it is sort of a term (inaudible) in this business of land use regulations. Spot zoning is something that is inconsistent, something that is contrary to the plan, something that is contrary to the neighborhood. Historically we see spot zoning particularly when it is incongruous with the Comprehensive Plan often encouraging additional commercial adventures, additional industrial adventures. That potential exists. We can call this a PUD, but it is really a residential, commercial and industrial development that could just as easily have been developed with a residential zoning component, a commercial zoning component and an industrial zoning component. I suspect if that were the case this Commission wouldn't even be considering it sticking industrial and commercial out there. That's in reality what we've got. The primary concern of commercial and industrial development of that location from a practical and from an economic standpoint is that it lacks the necessary infrastructure to serve such a tremendous potential complex. Some of those issues have been tangentially addressed here this evening, but I would like to go over them briefly with you. The traffic and traffic congestion issue are certainly valid concerns. Evansville Urban Transportation Study, as Mrs. Cunningham pointed out, recommends a traffic impact study. It has not been done yet, don't know what that will say. Don't know what that will entail. Don't know what that will require. Another unanswered question. Your County Engineer states in the Staff Field Report that due to the type of land uses proposed a large volume of traffic will be generated on that 20 foot wide roadway. Well, that is going to mean that someone is going to have to improve the infrastructure along Vienna Road to the entrance. Somebody is going to have to build a better road. Someone is going to have to maybe have excel and decel lanes maybe on Diamond Avenue, too. All these things are uncertain, but they are reality when you have an intensive commercial and industrial development or even a significant residential development that is going to happen, so that is one infrastructure concern. Another infrastructure concern is the impact that this increased traffic, commercial activity, industrial activity, conference activity, and residents to a lesser degree what burden this is going to place on the emergency response time and the ability to provide those services that this Commission and this community must supply. As pointed out during the principal presentation from the petitioners there is a volunteer fire department involved. I haven't spoken to Mr.

Buckman, but I think he realizes his responsibilities are to take care of any problem that arises within his district, but that is going to tax them. Response time is somewhat curious because that requires them, as I understand it at least, to primary come down Number 6 School Road to Vienna to get there from their principal location at St. Joe Road and Number 6. That is not a wide road. That may create all sorts of problems and cut down the response time. I will point out one thing in the APC meeting, and again this is something that was pointed out by Brad Grisby who is a neighbor and also is involved in providing some...works in a related health care area, he says it has been his experience that there is a 22 minute response time for emergency vehicles. That is far beyond the county's contracted 13 minutes out there so any way you cut it there is going to be a significant impact on police served by the County Sheriff, fire served by the volunteer fire department and emergency medical response if we're having hundreds of people living there, maybe hundreds of people at a convention there, lots of people working there and people coming to and from it's going to be a problem. Those are infrastructure concerns that are legitimate land use questions as this is developed and they haven't been answered as to how they are going to be addressed by the taxpayers or by the developer. However, I think the biggest land or biggest infrastructure concern of all is the sewer service. There is no sewer service. Now, I have spoken to some folks at the Water & Sewer Utility and, again, I was just engaged a few days ago in connection with this, it's unclear in my mind as to where the closest sewer line is. I think in the paper it was reported by the petitioners as four and a half miles, by Mrs. Cunningham as four and a half miles. I have also received information that perhaps the only usable sewer line is at Diamond and St. Joe, the old K-Mart complex and that is over six miles away. Who is going to provide that ultimate sewer service? As you know commercial septic systems are generally disfavored by the Health Department. IDEM and everyone else would really like to see this hooked up to a sewer system. In fact, I think the petitioners at least today even realize by the commitments that they've made that they will not be able to even develop the industrial portion without sewer. Who is going to address those infrastructure concerns? If it's in a subdivision often the developer does, he has got the cash. Is this not-for-profit that has currently failed to demonstrate an ability to even fund its own project going to be able to help with infrastructure? Probably not. In fact, Mr. Hatfield at the Plan Commission, and this is in the minutes, asked Mr. Guagenti about that. What about your financial situation? The quote was from Andy:

"We haven't started to raise any funds at all. We feel the time isn't right yet."

There are some assets available, a \$200,000 grant, a \$10,000 grant, but we've got an estimated dollar cost today to develop this project at \$35 million. I don't think that if sewers have to be extended four point five or six point one miles that the \$35 million would even touch the cost of that. That's not anything that they are budgeting for, that's not anything that they are thinking about, but yet it is going to be a necessary result if this PUD creates all these residences. That could probably be handled by septic, but all this commercial and all this industrial, 900,000 to one million square feet. In the long run this project can only fly with sewers and who is going to pay that? The taxpayers of Vanderburgh County in all probability, not a not-for-profit. As we know, this is a planned unit development. It's a creative type of land use regulation. It's on the cutting edge of planning. Mrs. Cunningham pointed that out. My experience locally however with PUDs has been that they are very, very specific in both what is going to happen at the site often even limiting by design the footprint of a building and all the questions are asked. This comes with a Use and Development Commitment and in recent days a clarification of the many typos and,

I guess, misstatements in that by a private covenant, but it still does not define in any way the parameters of the commercial and industrial development that are going to be there in such a way to give any comfort to these neighbors. Now, I asked Mr. Newingham to do something for me so I didn't have to do it because I'm not very good with numbers and I am not a very good proofreader. I asked him to take a look at the Use and Development Commitment and I gave him a copy of all the defined uses possible in the use groups that encompass this project and asked him to make me a list. In his own word what he did was he highlighted in yellow those things that are prohibited by the Use and Development Commitment and highlighted those things in green that are allowed and I want to make that a part of the record right now and I want to talk about the way I counted the numbers up. If my math is correct, and keep in mind I'm a lawyer and not a biologist because I can't do math very well, there appears to be the potential for 144 different types of commercial uses at that site. There appears to be industrial use potential in excess of 50 different types of industries and of course all the agricultural and residential uses remain a possibility. This is hardly any comfort to the neighbors. This hardly defines a strict PUD. It allows hundreds, literally hundreds of possibilities. Every time I come in with a commercial rezoning request or an industrial rezoning request I find that this body and the City Council wants limitation, limitation, limitation because that makes everyone comfortable, but yet we have almost 200 remaining uses of a commercial and industrial nature that appear to be revealed by an analysis of the Use and Development Commitment and its preclusions against all the possible uses defined by our code. I wonder if this Commission if this were a request for industrial or commercial rezoning in this part of the county would even consider the request for industrial or commercial much less consider it with almost two hundred possibilities. I also am concerned about something I read in the paper and this is by way of a question, I guess, to the Jacob's Village folks, it is my understanding from talking to the people with that July meeting they were talking about a little ice cream operation, I guess, since we know Mr. Guagenti can make some very good ice cream at G.D. Ritz's, I'm sort of a testament to that unfortunately, that type of operation was suggested. That's one use. What about those other 144 or those 194 that, you know, my clients have interpreted the intent of this plan to allow. This is not a small operation. This is not a residential operation. If in fact this came as a commercial and residential rezoning request it would be defeated out of hand because it's contrary the Comprehensive Plan, it's spot zoning. It's all sorts of bad things that this Commission in fact has said is inappropriate in prior votes throughout this part of the county. I would hate...I would hate to think that the thin veneer of a PUD can change the practicality and the reality of that situation. There is another land use issue that is on the cutting edge. PUDs are in the cutting edge and there is another land use issue that is on the cutting edge in all planner's minds and that is the distance of this far-flung and vast development for the core of our community. Now all of us including probably a lot of my clients went out there to get away from the city, but getting away from the city has been creating increasingly greater burdens on all of us as taxpayers and has developed a whole line of new land use philosophy that I want to talk about a little bit because I think this is a good example of it. We have a development now that is ten miles from the heart of the city, six miles or thereabouts from its western boundaries. It's totally isolated, totally contrary to the Comprehensive Plan and totally incongruous and inconsistent with everything around it. It's a village. I'm not playing on a word from Hillary Clinton here either, but it is a village, it's a community, it's an extension of Evansville that is going to provide all the services of this city. I mean, there can be shopping centers, bowling alleys, a myriad of businesses, grocery stores, all sorts of support are possible for this community under that Use and Development Commitment. We're moving away from that now. As our population has grown it has created problems. A new term

of art has even cropped up in the land use planning industry that I believe may even be a part of our national political scene this year. I know at least from the Democrat perspective there is a growing concern to encourage communities not to do this very thing. It's been labeled urban sprawl. We're abandoning our cities and creating new cities as satellites. The cost of sprawl are becoming immense to communities. Road costs go up. Air pollution goes up as we travel to and from those areas. Emergency response time goes up. Sewer costs go up. Environmental degradation occurs. So cities and states are now encouraging growth in town and discouraging sprawl and discouraging the disintegration of the community out into the suburbs and are promoting the implementation of model acts and ordinances all around to contain this. In fact, the American Planning Association has a model plan that it is encouraging many people to adopt. Let me read you a couple of comments from some publications talking about sprawl. First of all, US News and World Report back in April of 1988 had an article, Who Pays for Sprawl? Let me read a quote from it:

"Time was when only nature lovers and urban sophisticates would get worked up about suburban sprawl, but no more. Growth moratoriums have sprung up around the country. Conservative think tanks and even institutions like the Bank of America, which has a huge stake in construction loans, sponsors reports attacking the economic costs of continuing to convert undeveloped land into low density tract housing and strip malls."

I'm not saying that is what is going to happen here, but the possibility exists for that type of commercial development currently.

"According to a recent market research (it goes on) most ordinary Americans who are still favoring detached single family homes are increasingly fed up with the congestion and sprawling commercial development that is all too often come as part of the package. Today's consumers say they are annoyed by commercialization and in principle would prefer neighborhoods clustered around the downtown or the center of town."

American Farming Trust in the same article says:

"In a report issued last year (which would have been 1997) American Farmland Trust estimated that the United States is losing 50 acres an hour of farm land to suburban and exurban development. At this rate the United States will lose 13 percent of its prime farm land by the middle of the next century."

And the report says:

"Could conceivably become a net food importer."

President Jerrel: Mr. Bohleber?

Steve Bohleber: Yes?

President Jerrel: Could you, please.

Steve Bohleber: A couple of statistic, I think this is important as it deals with infrastructure. New Jersey has adopted a statewide plan right now for managed

growth it is going to save \$700 million in road costs, \$562 million in sewer and water costs, \$178 million in school costs and up to \$380 million in operating costs per year. Again, stopping urban sprawl and moving things back into town.

Barbara Cunningham: The mike quit.

Steve Bohleber: It did? Maybe that is telling me something. I didn't touch it.

Barbara Cunningham: Hit it and see. You need the mike on to tape it.

President Jerrel: Say something.

Steve Bohleber: Hello.

President Jerrel: You're off.

Steve Bohleber: That won't work and I suspect I am not being recorded then either.

Unidentified: Now it is working.

Barbara Cunningham: Can anything else go?

Steve Bohleber: I won't belabor the point out of deference to the hour, but I want to leave with you a list of articles that have been published in learned land use development journals put out again by the American Planning Association talking about the problems with urban sprawl, how costly it is to infrastructure, how costly it is to everything that we hold dear. How we're seeing everything, people that are businesses moved to the fringes of the community. I submit to you that's a greater problem and probably why the Comprehensive Plan intended to reserve this for residential use. Again, if this were residential my clients would have no problem. They have a big problem right now however, and I asked Stan to get a petition signed by individuals along the Vienna Road area, in that general area, that are opposed to the potential of this and there are over 1,100 signatures on this petition. How many of those people are here tonight? Would you stand up? These people are concerned about the issues. They're concerned about the potential. They ask that you look at this as what it really is. Not a quiet residential area, but a residential community that has a tremendous capacity to build commercial and industrial activities that are going to stretch and strain and create difficulties for our city to pay for. I thank you very much for your time. I would like to make a copy of the US News article and the references that I read a couple of a part of the record as well.

President Jerrel: Thank you. Okay, the next speaker on the roster is Gary May. You need to change tape?

Commissioner Mourdock: One second.

Tape change

President Jerrel: Okay.

Gary May: Thank you. My name is Gary May. I live at 2699 Briarcliff Drive, Newburgh, Indiana. I'm here as a representative of Indiana Governor's Planning Council for People with Disabilities. The late hour has sort of taken my vocabulary. We oppose the planned use of the land that is in the proposal that is currently being

considered. In 1998 the Governor's Planning Council passed a resolution opposing this plan mostly because it is at great odds, great variance, it's diametrically opposed with the direction of services for people with disabilities. That has been codified and pursued both through public policy and public funding. The trend overwhelmingly has been in favor of providing support services for people in their own communities, even people with disabilities. We already have our villages. They are called Evansville, Indiana, and Darmstadt, Indiana, and St. Joe, Indiana, and Haubstadt, and Fort Branch. We're out there. It's not as if we don't exist and suddenly there is going to be this separate place that is going to see to our needs. We do need however additional support services to maintain a chosen lifestyle in our own communities and with people with whom we choose to live. For many of us our major link to independence is our automobile and I was shocked to hear this evening that the planners don't expect that residents there will use automobiles. That compounds the isolation that will already be begun by the separate residential enclave that is being proposed. We think that this idea is an idea that has been tried, has failed and it is time to move on. Mr. Winstead made reference to that main spine road heading to the sunset. We believe that the sun has set on this idea. It doesn't work. It's not what most people with disabilities want. It's not what we feel serves our interests best and we think for all of those reasons the council, the Commission, should vote against the planned use of this land. The advocates for this have something of an alliance of convenience with the homeowners who have understandable, expected and even predictable concerns about the location. We don't disagree with the location, we disagree with the whole concept. We think this would be a bad idea no matter where it would be located, so we urge you to vote against the zoning request. Thank you very much.

President Jerrel: Thank you. Vince Bernardin.

Vince Bernardin: President, members of the Board of Commissioners, I'm Vince Bernardin. I promise to keep my remarks very short. I am a lifelong resident of Vanderburgh County. I am a principal of Bernardin Lochmueller & Associates. We are a firm that does a lot of transportation and land use planning as well as civil engineering, but I am here primarily as a resident of Vanderburgh County who really believes that this is a valuable asset. First though, given all the discussion about what is considered to be good planning practice I would like to establish that I have a few credentials of my own. Twenty five years ago I received a master's degree in urban planning and I have been practicing urban planning ever since. That's my profession, that's my career, particularly land use and transportation planning. I'm a member of the American Institute of Certified Planners. I'm a member of the Institute of Transportation Engineers. I'm here to address really just a couple of issues. First, the question of whether or not the proposal constitutes good land use. Second, the question of whether or not the development is in conformance with the spirit of the Vanderburgh County Comprehensive Plan. Only those two issues and then I'll stop. Regarding the first issue there is a great deal of discussion in professional planning circles and in the literature about neoclassical urban village design. This concept applies to large scale developments. It advances the idea of mixing land uses in a pleasant human scale that promotes such human behavior as walking and bicycle riding and separates these activities from heavy highway traffic by providing a mix of house types as well as opportunities for employment and essential commercial and community facilities in the same development. The residents are provided options to private automobiles for many of their transportation needs. In the big picture this results in reductions in vehicle miles of travel throughout the transportation system and at least in a small way reduces associated air pollution. Jacob's Village is a perfect example of neoclassical urban village

design and it embodies all of these characteristics of good land use planning. Regarding the issue of conformity to the Comprehensive Plan there have been assertions in letters to the editor that this is not in conformance with the Comprehensive Plan and I would like to point out a couple of things. Enabling legislation for comprehensive planning in Indiana requires three elements in the comprehensive plan. First, a statement of objectives for the future development of the jurisdiction. Second, a statement of policy for the land development...the land use development in the jurisdiction. Third, a statement of policy for the development of public ways, public places, public lands, public structures and public utilities. Interesting that the statute does not require the future land use map. I'm not suggesting that it shouldn't, most comprehensive plans do and it certainly is a permissible element in a comprehensive plan, but it is not required. I think that is actually very wise and the reason for that is because none of us has a crystal clear ball wherein we're able to forecast with great precision exactly where proposals for good land use are going to occur. This is recognized in the following quote from the 1996-2015 Comprehensive Plan for Vanderburgh County. I quote:

"Development proposals must be evaluated for consistency with the land use plan. However, the plan is conceptual and is meant to be flexible. There may be development proposals which will arise during the planning period which do not conform to this land use plan. The justification and rationale supporting such proposals that are responsible and beneficial to the community, but not conforming to the land use plan must be carefully evaluated."

That's on page 6-2. One of the land use policies in the general action land use component of the Comprehensive Plan reads and I quote:

"Examine alternative means of development including cluster development and planned unit developments as a means of protecting green space and environmentally sensitive areas."

That's on page 6-7 of the Comprehensive Plan. It's as though that policy was written with Jacob's Village in mind. How many residential developers in Vanderburgh County would be willing to commit to preserve better than 50 percent of the land area for open space? I would submit very few. Two more policies stated in the residential action plan component of the Comprehensive Plan:

"Continue to encourage and support non-profit, religious, private and government entities in providing affordable housing."

That's on page 7-9. On the same page:

"Promote creative subdivision design that is sensitive to and minimizes the impact on natural features and provides for common open space, bicycle and pedestrian ways."

I would submit that Jacob's Village accomplishes all of those aspects of our Comprehensive Plan and is very much consistent with the policies stated there. In my estimation this represents good land use planning and will be an asset to this community. Thank you.

President Jerrel: Nancy Lee. Nancy has gone. Stacy Stevens.

Stacy Stevens: Thank you for the opportunity to speak to you tonight.

Commissioner Mourdock: Excuse me, Stacy.

Stacy Stevens: Uh-huh.

Commissioner Mourdock: They are indicating the mike is off. Could we try that other mike?

President Jerrel: It's on.

Commissioner Mourdock: Is it on? Can you folks in the back here? Someone was pointing.

Stacy Stevens: Is there a volume? I can get close.

President Jerrel: Your volume is you.

Stacy Stevens: I'll get close. My name is Stacy Stevens and I thank you again for the opportunity to speak to you tonight. Vanderburgh County is fortunate to have a project like Jacob's Village coming before the County Commissioners. It promises to be a natural park like environment for mentally and physically challenged people to live, work and play. Many have tried to make the issues here tonight social in nature. Everything I have heard and seen regarding the planning and development of Jacob's Village has been done with the residents and the community in mind. This facility is light years away from the institutions that may be driving the fear of those opposing this project, both from a social standpoint and a neighbor's standpoint. Every effort has been made to date and will be made in the future to ensure the quality and integrity of the facilities as well as the property. I have had the great fortune of working with mentally challenged individuals and have found them to be a great blessing. Jacob's Village will not be the right fit for everyone, but will certainly offer an excellent option for those who want a choice. The land use is the issue here tonight. It is your responsibility as County Commissioners to protect our county as well as embrace projects that will benefit our community for years to come. This is such a project, one we can all be proud to say is in our county. The property in question is ideal for this type of project. I ask you to issue Jacob's Village the land use needed to make this dream for so many a reality. Thanks.

President Jerrel: Paul Farmer.

Paul Farmer: My name is Paul Farmer. I live at 3716 Koring Road which is on the west side of Evansville just a stone's throw from the land that we're talking about this evening. I want to read to you from our West Side Improvement Association is in favor of the Jacob's Village project. We know the philosophical arguments against the concept, but feel that the need is there for many persons and that the proposed project will eventually provide additional information through its research and study facilities and adjustments would be made accordingly. The West Side Improvement Association believes strongly in the integrity of Mr. Andrew Guagenti, the former land owners and the beacon group. They have all proven themselves over the years. We submit that there could not be a better combination of persons to develop such a quality project with up-to-date facilities, potentials for improving the lives of human beings, research and study facilities, a beautiful campus and much, much more. However, the issue for you this evening as you know in your decision is the appropriate use of the land on the Vienna Road site. The long-term planning and

development of this area and the immediate area around it having to do with sewers, the sealed pipes underneath the land, the pumping of oil currently at that particular point and other considerations that you've heard this evening from Mr. Bohleber and others. We realize that emotions run high when it "is in our backyard", but the preservation of the land area for scattered residences would be much more suitable for the use of the land area in question. This is the last of the prime residential area in Vanderburgh County. We see what has happened on Highway 62. The West Side Improvement Association requests that you, the County Commissioners, deny the PUD zoning for this project at the Vienna Road site. However, there may be other locations in the west side and other parts of our county and city that would be more appropriate than the Vienna Road site. Since the project is projected to develop over several years there appears to be adequate time to explore other locations and explore with other neighbors and other neighborhoods in many areas of our city to secure the prime and appropriate location. I think we see a project that is developed well, carefully planned and executed and has a need...meets a need for many folks in our community now and into the future so we hate to see that momentum drop, but we need to be willing to assist in any way possible to make sure that our community has such a project, but we feel that the location in question this evening is inappropriate. Thank you.

President Jerrel: I'm going to read the next four names and if you would raise your hands if you're here so we don't stay with an empty seat. Steve Weitzel. Okay, you're next. Peggy Gaul. Peggy follows him. Pat Greubel. Okay, she is not here. Okay, Todd, I think it's Lucy. Todd, okay you follow Peggy. Nonnie Robison. Is she here? Do you wish to speak? Okay, you want to speak?

Nonnie Robison: No.

President Jerrel: Okay, Rhonda Webber. Is Rhonda here? Okay, do you want to speak. Jim Coy and Norb Woolley, then we'll finish the list. So you want to begin with Mr. Weitzel.

Steven Weitzel: Good evening members of the Commission. My name is Steven Weitzel. I am counsel for Mr. & Mrs Steve Chancellor whose residence and undeveloped property is near the vicinity to this project. This first became known to us very recently. My client had, I would summarize, two areas of concern. One being site specific and infrastructure specific to the project and the other being an issue before your Commission generally. We have spent a considerable amount of time and have engaged in considerable dialogue with counsel for the developers, with principals of the developers and I believe most of my client's site specific concerns have been addressed and assuaged. Should this body however pass this petition my clients do have considerable concerns about the precedential value of the industrial and commercial components of the project. They are not insubstantial, but they are also supportive of this very laudable project, so in that context my clients would be hopeful that this body would set some precedent through its commitment on the record that this not be considered precedent for additional commercial and industrial developments that are inconsistent with the Comprehensive Plan. That's the extent of my remarks. Thank you for your time.

President Jerrel: Thank you. Peggy.

Peggy Gaul: Commissioners, I thank you for the opportunity to speak before you tonight. My name is Peggy Gaul and I am the Coordinator of Continuing Education for the School of Nursing Health Professions at the University of Southern Indiana.

I'm also the mother of 20 year old twins who have multiple disabilities and reside at the Wendell Foster Center in Owensboro, Kentucky. Seventeen years ago my husband Ron and I embarked on a search for assistance for our children. The search would cover at least four states and because you see despite the efforts of our caring family, friends, neighbors, volunteers and many dedicated health care professionals it was apparent that we would not be able to care for our children in our own home. The intensity of care and stimulation and attention that was required for them was more than we could handle. Consequently we were compelled to make the most difficult decision that we have ever made. We had to find a facility that would meet the complicated needs of Megan and Andrew including speech therapy, physical therapy, occupational therapy, and management of their health problems. After an exhaustive physical and emotional two year search we found the Wendell Foster Center. For 16 years Megan and Andrew have received conscientious care from the dedicated health professionals and staff at the Wendell Foster Center as well as the benefits of bi-weekly home visits, family vacations, holiday celebrations in our home and participation in numerous activities in the community. I am very sad to say that the waiting list at the Wendell Foster Center is from five to ten years and includes over 50 applicants. If Megan and Andrew were to be discharged for some reason from Wendell Foster Center there would be no facility appropriate to meet their increasingly complex medical and physical needs. This area needs more facilities like the Wendell Foster Center and the proposed Jacob's Village. People with disabilities and their parents deserve to have health care options available to them. My husband and I support the Jacob's Village concept and the opportunity for people to choose to live in an appropriate environment that meets their specific individual needs. Thank you.

President Jerrel: Thank you. Todd Lucy.

Todd Lucy: Hello, my name is Todd Lucy. I live at 8188 Amherst Drive in Newburgh, Indiana. I would like to reserve my comments primarily to the planned use issue. I think Mr. Bernardin has adequately addressed the land use issue. I have an older sister who is blind and that is my interest in this issue. I feel like it is unfortunate to a large degree that there has been this divisive issue with regard to inclusion and exclusion. I don't think that there is anybody that has a disabled child or adult that doesn't desire at some point for that disabled person to be able to be included fully whether it be in a work environment or also in a living environment. My sister is one that probably never will be able to do that and like the lady who preceded me while my folks are alive she is able to live at home and is able to work at SIRS, which is a sheltered workshop in Boonville, thrives in that environment, but there is going to be a time when my folks are no longer available and a facility like Jacob's Village or another one would be an appropriate place for her to live and a workshop setting would be appropriate to her as well. I feel like it has been really unfortunate that there has been this either/or. I think it is both. Certainly most families would want to have the choice and I believe that it is the individual family that needs that choice. They know the very specific and unique requirements of the disabled person that lives in their family. I do want to make just two real quick comments about the land issue, land use issue. I think a project the size and scope of Jacob's Village regardless of where it goes is going to have a rezoning question. The scope is very large and obviously any place it goes is going to encounter very many of the same questions. Certainly anybody who heard the presentation earlier to the council I think would agree that the beacon group has made every effort to work with the community and try to mitigate the concerns that the community has and has really certainly in my estimation bent over backwards to try to address those concerns. Again, I guess my comments would really end there. I think that they are

endeavoring to address the concerns of the community, address the concerns of the neighbors and regardless of where this goes we're going to have a rezoning problem. I would certainly support the Jacob's Village project and would encourage you to support it as well.

President Jerrel: The next speaker is Rhonda Webber, Jim Coy, Norb Woolley, Dan, and I can't read the last name. It looks like G-r-u--

(Inaudible comments made from audience.)

President Jerrel: Okay, thank you. After Jim Coy, Norb Woolley, okay and then Charles Altman. Is Charles...okay, and Joyce Taylor and the last speaker on the list, Kathy Grant Murrell. So next would be Rhonda Webber. Okay, alright, Jim Coy.

(Inaudible comments made from audience.)

President Jerrel: Okay, Norb Woolley.

Norb Woolley: My name is Norb Woolley. I live at 2310 Chandler Avenue. I am a retired educator. I would like to speak for Jacob's Village. I've had the privilege of working with disadvantaged children for over 40 years. The greatest concern that I have ever heard from parents was a concern that was mentioned here a minute ago and that was what is going to happen to my children when I am not here? I think that the Jacob's Village concept is an excellent use and I would ask that you vote yes for Jacob's Village. Thank you.

President Jerrel: Mr. Altman, do you want to speak?

Charles Altman: My name is Charles J. Altman. I live at 2258 East Florida and have lived there for approximately 35 years. One of the reasons I moved to Evansville was because of my son, Dean, who is now 38 years old. We originated from a small community at St. Meinrad where there was no facilities whatsoever for a child like Dean being autistic. He has worked in various shelter workshops for years. It has worked out awful good. Now there is a choice we have to make. Sooner or later me and my wife are both getting up in years and we're going to have to have a place that is willing to take care of him. I investigated several group homes. Even checked into who owned these buildings. They are all for profit organizations. I would like to make a comment that we privately visited these places and they are far below the standards that I am willing to accept for my child. Now this Commission is faced with a choice. We have listened to Mr. Bohleber come up here and make a presentation of an absolutely scare...trying to scare everybody of what this project is going to be. All I am asking is let Jacob's Village either fail or succeed on its own merits. Thank you.

President Jerrel: Joyce Taylor.

Joyce Taylor: Yes, my name is Joyce Taylor. I reside at 116 South Dexter Avenue, Evansville. At the last meeting I attended on this topic someone who opposed the exploration of Jacob's Village showed a picture of her disabled child I assume to demonstrate her special insight into the many plights of the disabled. Tonight I show you my equal credential and an opposing viewpoint. Her name is Nicole. We call her Nicki. Those of us who favor the project fully realize that there are a lot of answers which we do not yet know the answers. We even might go further by saying we don't even know all the questions. It would be impossible for anyone to

know entirely what the future holds. All any of us can do is make the best plans we can and then handle the unexpected or unforeseen as it arises. We only ask from those of you who presently do not favor Jacob's Village to allow this project to go forward and meet the many challenges and scrutiny that a myriad of governmental agencies will present. I can...whether social, safety or environmental or whatever issues might arise, I can assure you there will be at least one if not more than one government agency who will be intensely focused on Jacob's Village and its conformity to every required standard. If those standards cannot be met and the founders of Jacob's Village cannot flex their plans to meet those standards then there will be no village. While I respect the viewpoint of the opposing neighbors it is not their decision to decide on who lives next door to them any more than it is my decision on who lives next door to me. I cannot and they should not mandate how adjacent properties will be used simply because they have subjectively determined the proposed use for the Vienna Road property is inappropriate. That is why we have elected officials. While I am sure that none of you need reminding I will only just state that it is the job of local and state officials to represent all citizens to make certain that all citizens whether disabled or able are represented fairly. To deny Jacob's Village a chance, and at this point it is only just a chance, to come into reality is to deny opportunity to deserving and capable citizens. In closing I would say if you are disabled and choose to live in the community I will do everything possible to make sure that your rights to do so are upheld and protected and your endeavors encouraged. If in the community is where you want to be then that is where you should be. However, those with disabilities who prefer not to live in the community should not be forced to do so because others have decided that is what is best for them. If they prefer to live in a sheltered community such as the proposed Jacob's Village then I am asking that you and I offer them the same heartfelt dedication to personal freedom and individual choice which all of us citizens enjoy. Do not allow a few to decide for the many how and where they should live. Again, and I promise I am closing this time, I would like to see those who are in favor of Jacob's Village to stand and raise their hand so we can get a good view of who does and doesn't. I might also add one last observation, I really feel like Mr. Barry Graves was not given a very fair hearing when you compare what the opposition was allowed to do in the cool seated comfort of this conference room and what rapt attention he got, I really think Mr. Graves deserves to be heard again under those same conditions. Thank you.

President Jerrel: Our next speaker is Kathy Grant Murrell.

Kathy Grant Murrell: My name is Kathy Grant Murrell. I'm a registered nurse with a master's degree in nursing. I am here to speak in favor of this project. Jacob's Village will provide a choice for these individuals, another opportunity. The opportunity to enjoy life, have meaningful work, and friends in a sheltered setting. No one has to go there. It is simply an opportunity for these clients to have a level playing field. While working at Ball Memorial Hospital in Muncie, Indiana I had the privilege of starting an acute care rehab center for brain and spinal cord injured clients. We visited many acute and long-term care facilities. I can assure you that the people who work in this field are special people motivated by the very best reasons. They will be good neighbors. Jacob's Village is a project of the heart conceived by a man who loves his grandson and knows there are others who may want the same for their family. I urge the Commissioners to vote in favor of this project so that it may go forward and I think it is unthinkable that we would deny those who have such a small voice this opportunity. Thank you.

President Jerrel: Thank you. Before we do what we're here to do tonight I would like

to first apologize for the crowded, heated room in the beginning but that is the only room we've got to operate in. I appreciate the City Council moving through their agenda quickly so we could come over here, but more than that regardless of whether you are for or against or how this vote turns out you are without a doubt the best audience of this size I have ever seen in any kind of zoning and I want to congratulate all of you. You are really a tribute to this community. Okay, change the tape.

Tape change

Commissioner Mourdock: I've been here six and I was going to say the same thing, so you're absolutely right. Pat has been here--

Commissioner Tuley: I've got you going on eight and I would say the same thing.

Barbara Cunningham: I'm 18 and I'll say the same thing.

President Jerrel: Well, at this point I am going to ask my fellow Commissioners if they have any questions or any comments or any issues that they want to address? I'm just going to say--

Commissioner Mourdock: Go ahead, Pat.

Commissioner Tuley: Is this on?

President Jerrel: Yeah.

Commissioner Tuley: Okay, I guess this would be for the...someone from Jacob's Village because I know there was a lot of questions about sewers and what have you. I understand from your covenants and commitments and what have you that 2005 is your target date for any industrial and it would go beyond that if there is not sewer, so there would not be in 2005 if there is no sewers you would not do any industrial, correct?

Kent Brasseale: You want an answer?

Commissioner Tuley: Yes, please.

Kent Brasseale: Yes, that is correct. The commitment by the restrictive covenant agreement is that there would be no industrial process waste being disposed of except through municipal sewer system, so you are right. Municipal sewer needs to be out there before those processes are going to happen. Another clarification on the septic system is this is a septic system...the designs are for a septic system with a below ground disposal system. We are not talking about a package treatment plant or any other kind of treatment facility other than the septic system. Septic systems cannot be, I mean for all intent and purpose they cannot be for industrial processes in the first place. And certainly it is in Jacob's Village's, you know, interest from an environmental perspective and on several other perspectives to get on to the municipal sewer as quickly as possible.

Commissioner Tuley: That was part B so I am glad you answered that. The next question, the oil wells, you made some reference to those.

Kent Brasseale: Yeah.

Commissioner Tuley: Those are going to be--

Kent Brasseale: Yeah, I am glad you brought that one up because that is something that I wanted to touch on real quickly. There is a tenant, there is an oil tenant on that property that had been there before Jacob's Village acquired the property. Forgive me, I think it is C & M Oil, is that correct? C & M Oil is on the property. There are oil wells there. Neighbors' comments and concerns tonight were about the, you know, the aesthetics or the issues with that and the odor with that. We need to...you know, those oil wells need to be removed before the development can occur. That is a private lease agreement. We have to work with that oil tenant and make arrangements to get them out of there whether it is buying them out or working with them in whatever fashion, but those will be going. One thing I did want to clarify on that that C & M has requested and this is something that is consistent to what was discussed and agreed to by the APC is that if you look in the Use and Development Commitment there is prohibited use of petroleum and refined products. Our interpretation of that is not the storage of crude oil as is going on on this property. That is an unrefined product as opposed to the petroleum and refined products that is talking about. Our intention is not to impede that existing use on the property. Area Plan Commission did agree with that and did stipulate it into their record. But you're right, the oil wells need to go and they will. There are very stringent DNR requirements for that. There is going to need to be an inspector on-site when it occurs. There is a bond put up by that oil tenant that is in place in case that doesn't happen the bond can be exercised by DNR to get that done. The end result only if that is done properly is a certificate of plugging and it would certainly be in our interest as well as everybody else that we want to see that the certificate is obtained as a satisfactory end result for that.

Commissioner Tuley: Okay, you said the storage tanks that I guess are right along Vienna will remain?

Kent Brasseale: For the time being.

Commissioner Tuley: For the time being.

Kent Brasseale: Yeah, but the idea is to eventually--

Commissioner Tuley: To eventually get rid of them?

Kent Brasseale: Yeah.

Commissioner Tuley: Okay.

Kent Brasseale: To get the entirety of the oil operations off this property, but I am just pointing out that is something we have to work with.

Commissioner Tuley: Okay, then I've got one final question for now. Kent, it looks like if I remember correctly, and I don't have my...I'm not like Richard, I don't bring a computer, so if I misquoted you I kept thinking I kept hearing you mention something about six phases of 30 to 35 year build out, but when I look at what was submitted, and this may be some of the things that changed, it looks like an eight phase 25 year.

Kent Brasseale: Well, I said no fewer than six.

Commissioner Tuley: Okay.

Kent Brasseale: So that obviously is not inconsistent...if you'll notice the 20 to 25 year that is the range for the start date requirement for each phase.

Commissioner Tuley: Okay, I see.

Kent Brasseale: The last phase that would start within 20 to 25 will take...we don't know. Looking that far out in advance it could take longer than that.

Commissioner Tuley: That's why the question, thanks.

Kent Brasseale: Yeah.

Commissioner Mourdock: Mr. Brasseale, while you're there the septic issue, have you or has your client done any investigation at this point as far as what the potential is for septic off the residential units that you are looking to put out there? In other words, how many feet of bed space and all that, have you started into that?

Kent Brasseale: Jim Farney with Bernardin Lochmueller is here to talk about that. As a broad overview comment of that just like with any other development a limited amount of engineering has happened at this point. It is premature to spend that kind of money until you know that a plan can go through, but Jim can talk about that.

Commissioner Mourdock: Okay, and, yeah, I don't know that I need a real specific answer, Mr. Farney. In fact, Kent may have just given it. I just want to express that what I know I have heard from a number of neighbors is that there are some real tight soils out there and I am just wondering if in fact even for those residential units there is an ongoing assumption that somehow field beds will work?

Jim Farney: There have been about four different processes that have been investigated. The one that appears to be the forerunner for a solution is a sophisticated process that is designed by a company called Jim New. It's adopted and accepted by the state. It is basically a septic type system and then the effluent is disposed of in an absorption field and the absorption field in order to counteract the soils has a plant biology to it that activates and works on the treatment of the water rather than depending on the soils.

Commissioner Mourdock: And there is an IDEM permit issued for that or required, is that right?

Jim Farney: Yes, there is.

Commissioner Mourdock: Okay, so obviously there has got to be a lot of geotechnical testing before they are going to issue that permit?

Jim Farney: Yes.

Commissioner Mourdock: Okay.

Jim Farney: It is an approved system by IDEM and the only thing that is in question in that particular system is the use or the effluent from industrial waste, so that is why the commitment was made this evening as it has been said over and over again that there would be no industry put into this system.

Commissioner Mourdock: Right, okay. Going on to the industry side, but not the sewage treatment side, again that question has been raised how can this be consistent with the plan? I've heard Mr. Brasseale use the term very deliberately light industrial and if I heard you say it correctly you...it is your belief that light industrial isn't necessarily the best several words to describe it, it is really vocational training, is that right?

Kent Brasseale: Yeah, I mean I say that in the sense of trying to describe the spirit of what we're talking about.

Commissioner Mourdock: One of Mr. Bohleber's clients had put together this list of what is accepted under those classifications and what isn't. Have you gone through a similar list? Can you tell us how many things you are going to be looking at?

Kent Brasseale: I cannot tell you the number, but I will venture a guess that the list that was provided to Mr. Bohleber may be a copy of a recitation of the list that we provided to Mr. Newingham after last Saturday's meeting along with a request that if you've got any concerns about this please talk with us about it.

Commissioner Mourdock: And--

Kent Brasseale: The items that were redacted from that were the items that are excluded by the pages in the Use and Development Commitment of the prohibited uses.

Commissioner Mourdock: Okay, well that is a little bit of my point of confusion because on that, the list that Mr. Bohleber provided tonight, I think and I haven't held them up side-by-side, but I think it is essentially the same listing that you provided as your Use and Development Commitment. Is that right?

Unidentified: That's the intent, yes.

Commissioner Mourdock: Okay, and I understood your Use and Development to say you are striking all of these.

Kent Brasseale: That's exactly what it says.

Commissioner Mourdock: And yet it came to be Mr. Bohleber's argument that no you're not really striking all those and I don't understand.

Steve Bohleber: Well, the list was compiled--

Commissioner Mourdock: You need to come to the mike, Steve, please.

Steve Bohleber: The list was compiled by my client highlighting the ones that were stricken as well as highlighting the different color of the ones that still remained. He found a hundred--

Commissioner Mourdock: But it's my understanding that they were stricken in the Use and Development Commitment.

Steve Bohleber: Only those that are highlighted as not included in that list.

Barbara Cunningham: There are others that would be included.

Steve Bohleber: Yeah, there are about...Stan, would you come up. You compiled this list. This is Stan Newingham.

Stan Newingham: My name is Stan Newingham. I live at 8845 Vienna Road. I attended the January 15th meeting with the Jacob's Village group. I asked them at that meeting because they had provided in their Use and Development package that they gave to the Area Plan Commission a list of things that they would not put on that piece of property. We asked them at that time what is the list of things that you can put on that piece of land. What you see before you is a list of things that they can. I highlighted those, yes.

Commissioner Mourdock: Okay, and let me define that then, Mr. Brasseale. Of those things that you can what is it that you see happening out there? And maybe you need others of the beacon group to answer that question, I don't know. They're your clients.

Kent Brasseale: I would like for Barry to answer that. But, again, this is a PUD that is looking long-term and who can say for sure what is going to happen when we grow up is what it amounts to.

Barry Graves: Again, my name is Barry Graves. My experience is in the past operating an industrial workshop for blind and visually impaired. The types of industry that we're talking about and the types of job opportunities that would be offered at the village are simply light hand assembly, packaging, repackaging, labeling products that would be brought in for hand work in the industrial facility. We're not talking about stamping materials or steel smelting or anything like that. We're talking about light hand assembly operations that the individuals can be trained on and those skills can be transferred to other opportunities.

Commissioner Mourdock: Okay, so the imagine of a smokestack goes out the window, I think, is what you just said.

Barry Graves: Right, yes.

Commissioner Mourdock: Okay.

Commissioner Tuley: Are you familiar with the Kotter Avenue operation for ARC?

Barry Graves: Uh-huh.

Commissioner Tuley: Would that be a similar type environment you are talking about?

Barry Graves: Yes. I have not seen it, but I'm aware of the type of work that they do, yes.

Stan Newington: Gentleman, if you may one of our concerns regarding that list is we're not only dealing with what you're asking for industrial property here, we also have 760,000 square feet as of the map tonight of commercial properties available that that list allows supermarkets, retail establishments, bed and breakfast, overnight facilities, service stations, gas and diesel fuel--

Commissioner Mourdock: Okay, let's let Mr. Brasseale respond to that then. Trying to give both sides a shot here.

Kent Brasseale: Yeah, as far as the amount of commercial space that is concerned you look at the layouts of what is designated as sections 21 and 22, I mean, what we're looking there is a retail corridor, if you will, to some degree. The idea consistent with the plan of Jacob's Village is to allow the villagers to sell their wares or their products perhaps. I think Barry has said to maybe have a pottery store or something where they make the pottery and they are able to sell it there, too. The sizing of that is not consistent with a supermarket or something like that. Sections 4 and 23 are for conference center use to compliment the teaching and the educational aspects of this facility.

Commissioner Mourdock: Is it the intention of the retail side that Mr...I'm sorry.

Stan Newingham: Newingham.

Commissioner Mourdock: Newingham is asking about, it is the intention for those retail things to only be the products of what are made at the village?

Kent Brasseale: Let me let Barry answer that.

Barry Graves: It's the intention that those products would be...or those shops would be either employing individuals from the village or selling their wares of the industrial facility. I might point out that it was noted by the attorney for the neighbors that the plan that was presented to them in July differed greatly from this and it does in the fact that in July when this was presented and they said they had no problem with it there is 28 buildings shown there for commercial. We have eliminated that to 15 and we've reduced the ground space. When you talk about the space availability those buildings are on 15,000 square foot each. That's 225,000 square foot total for the commercial. The second floors or additional floors would be possibly for residential facilities. They're not going to be stores that are two stories.

Stan Newingham: I don't wish to stand and carry on a debate and I will not, but I have two more concerns. One digresses a little bit back to the parking. If we are still talking about 760,000 or 780,000 square feet of commercial parking space I believe Mrs. Cunningham will even bear me out, at the most liberal one parking space for every 400 square feet you're still looking at something like 2,100 parking spaces, so the parking spaces weren't just for the residential areas. They also had to deal with people coming and going from the conference center, from the commercial pieces of property. Secondly, and I think this is probably our biggest point with this is we keep coming back with intent. It is not our intent to do this, it is not our intent to do that. This plan if approved is period, final, exclamation point, you know. We can't judge intents we can only go on what was offered to the Area Plan Commission and what is before you tonight.

Commissioner Mourdock: But that is not technically true and, Barbara, you may need to help me out here, but part of Barbara's beginning statement tonight was that because this is a PUD that the different elements of it do have to come through Area Plan Commission at different times.

Stan Newingham: I understand that.

Commissioner Mourdock: Well, you made it sound like--

Stan Newingham: But in general...I'm sorry, no, I didn't mean to do that. I didn't mean to do that at all. Another question that I would have if the zoning out here is

for a PUD which allows some industrial, residential and commercial buildings worst case scenario this system fails right here, this property goes up for sale and this zoning goes with it, what then? There are just too many things that we don't intend to do this, we don't intend to do that. This is not a social issue. This is land use and there are just too many unanswered questions for us. Thank you. I appreciate your consideration.

Commissioner Mourdock: Okay, thank you.

Kent Brasseale: If I might respond. As far as the parking is concerned, the parking is designed on what the zoning ordinances reflect. There is nothing we can do about that. Whether this reflects the actual use of the property we can't affect that. We don't think it's going to. It does not accurately represent the traffic usage for this, but we have to comply with the zoning code. As far as the precedential value of approving this PUD I think that is something to consider and Mr. Bohleber brings it up, Mr. Weitzel brings it up, Mr. Newingham brings it up and we agree that approval of this PUD should not be a precedent for additional zoning of industrial or commercial activities. This, whether they like to hear it or not, is a residential community. People will be living here. It is equally in their interest as well as anybody else that other industrial and commercial activities do not occur in this area. Mr. Bohleber said, well, this is not residential because there are commercial and there are industrial aspects of this property that are in it and therefore it is not genuine. On the other hand Mr. May said that the concept needs to be that people can live in an area where the needs and the facilities for them are integrated to where they live. That is precisely what Jacob's Village is and that is precisely why we seek a PUD. We could have gone, I suppose, for zoning of residential, and commercial, and industrial, but frankly we didn't like the precedent that that set and to have a PUD to lay this plan out for everybody to see and everybody to consider showing what this is going to be over 30 to 35 years of development is a more honest and up-front use of...illustration of what is going to happen. The Use and Development Commitment is very extensive of what can or cannot happen. In addition to that the restrictive covenants give even further restrictions on the development of this property. We're saying that there are a lot of questions out there of what can or cannot happen. To the extent those questions are there it's just simply because there needs to be some ability to respond to what the future holds, but on the other hand I would submit that there are very few other developers out there that are posed with the restrictive obligations that people seeking a PUD have to satisfy.

Commissioner Mourdock: Mr. Newingham asked a good question...not...well, they were all good questions, but his final question was a very good question.

Kent Brasseale: You're right.

Commissioner Mourdock: Regarding what happens if in fact for whatever reason this thing doesn't work and the property is sold.

Kent Brasseale: You're right, and thank you for reminding me. What happens to this if this doesn't work out the first thing this is not an all or nothing project. It does develop in phases. The phases that are planned are to develop on an incremental increase of various aspects of this project so that at any given phase if that is where it has to stop it can be an ongoing concern. It will be generating income. It will be a self sufficient activity...concern at whatever level it becomes, so this is not an all or nothing project. But secondly what happens if this just simply doesn't work?

Another possibility is if there is no development in two years PUD requires...zoning ordinances requires that it has to be initiated by APC that it has to be reverted back to the zoning that it was previously. The third possibility if something goes...is transferred or something like that and this project goes on by another concern the Use and Development Commitment that would be a part of the approval for this PUD zoning as well as the restrictive covenant that we are placing on this land enforceable by the neighbors within a one mile radius will continue to be there and will continue to be in force against this property.

Gary May: Ms. Jerrel?

President Jerrel: Yes.

Gary May: May I respond please?

President Jerrel: Sure, then we'll call for a motion.

Gary May: Hi, Gary May again. I just wanted to clarify an apparent misunderstanding about my comments. Nothing that I said should be construed as being in support of this idea. The notion that having services available to people at this separate facility and equating that with supporting people in their natural home environments with family and friends and neighbors of their choice it shouldn't happen, so I just wanted to clarify that. Nothing that I said should be construed as supporting this idea.

Kent Brasseale: Can I just real quickly say I don't want to belabor the social issues, but Mr. Bohleber asked that the minutes and the comments from the APC be incorporated. To the extent that those comments in response to the social issues were made in the APC meeting minutes we would like to incorporate those as well.

President Jerrel: Fine. Okay, is there a motion--

Commissioner Tuley: One more hand.

President Jerrel: Yes.

Commissioner Tuley: That guy hasn't spoke yet.

President Jerrel: Okay, then--

Chris Wischer: I'm sorry, this will be brief. I'm here representing C & M Oil Company which was eluded to earlier.

Commissioner Mourdock: State your name please.

Chris Wischer: my name is Chris Wischer. I'm with Fine & Hatfield here in Evansville. I simply want to make sure it is clear on the record from my client's perspective. C & M Oil is the lessee of an oil lease on this property currently at, I believe, 22 approximately active oil wells.

(Several inaudible comments from audience.)

Commissioner Mourdock: Get very close to the mike, please.

Chris Wischer: Okay. Basically, C & M Oil, my client, is the tenant of an oil lease on this property. The concern we had originally was that in the Use and Development Commitment offered with this petition it prohibited "storage use of gasoline and petroleum". It's has been represented to us by the petitioners that is not intended to include the storage of crude oil which is a current existing use on this property. That was brought up at the APC and to that extent I would like the minutes with respect to this be referred to by reference in these minutes. The APC voted unanimously to acknowledge that enforcement will not proceed against our client for the existing use of the property. I would just simply like to ask that an adoption...in the vote tonight on this petition that this Commission, if this is approved, also adopt the APC's position. Thank you.

Barbara Cunningham: That was a unanimous vote.

Kent Brasseale: Just to let you know Jacob's Village does agree with that.

President Jerrel: Is there a motion on the floor?

(Inaudible.)

President Jerrel: Pardon me?

Commissioner Tuley: I think she said that was going to be it.

President Jerrel: Yeah, that's...we've finished. Is there a motion?

Commissioner Mourdock: Okay, just so everyone understands the way we do this there is a motion made in the affirmative and then we do a roll call vote for all ordinances, so in the affirmative I will call for approval of VC-26-99 for Jacob's Village which is at 7400 Vienna Road with the request from AG to a PUD.

Commissioner Tuley: Second.

President Jerrel: And I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: You heard us talking about our years up here and with each one of these tough ones I have I think it's the toughest one, but this one has been by far for me the toughest primarily because I have friends who live in or around the area, I have friends who are a part of Jacob's Village and trying to weigh their very biased opinions about what is right and what is wrong with this. It has been difficult to do, but I am trying to look at it from land use. I think Mr. Bernardin did point out that it does or can be in compliance with the Comprehensive Plan and that's what it is is a plan, a guideline. I think it meets it at least in the spirit if not to the letter and I am going to vote yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Pat said it very well. It's difficult to cast votes when you do have friends on both sides of the issue and I have met with and spoken with people who I consider friends who are passionate about this issue and they are passionate on each side. Joyce Taylor during her remarks made the comment that we can't determine who lives next to me and others shouldn't be able to do it either that's why we have elected officials. And I'll tell you what you have to wonder why you decide to be an elected official when you have to make these kind of decisions.

This is a very difficult one. I know many of the emotions that are in this room deal with the disabled and I don't have a hundred percent of the answer on the mainstreaming issue and I don't have a hundred percent of the answers on what some of what others would view as a segregated issue, but quite honestly there is probably no one hundred percent answer anyway. As Pat said, this is a land use issue. We work in government to build systems that continue to review themselves and I see that's what the PUD is about in the strict measure of the various criterion for time tables and for checking how things work. My grandmother used to have the phrase, and she told me this on her 80th birthday. There are two things we almost never live to see, our greatest hopes and our worst fears. My Grandmother Bobel, a good German name there by the way, my Grandmother Bobel told me that as she looked back on her life that was the one thing that she really recognized that the thing that she was most afraid of never happened and the things that she really wanted to happen most badly never happened either. I suspect the neighbors out there right now see something that is absolutely horrible and your worst dreams are not going to be seen. But to those of you with the beacon group I have a word of caution. The most poignant remarks that were made to me on this issue occurred Saturday when a gentleman who came to the microphone tonight told me that...well, he asked me if I had ever been to a group home and the answer is yes I have. He said, you know, I wouldn't want my child in a place like that and I understand that. I will guarantee you that the people who built those homes never imagined their homes would be the shape they are in right now. I guarantee you they went forward with the best of ambitions and the highest goals, but it hasn't been maintained that way so I think that's a tremendous challenge that all of you need to consider. Having said all that I wish this project well. I know you have many milestones ahead and I urge you to follow every one of those criteria to the letter in getting this thing to move along, so with that I will vote yes.

President Jerrel: I just have one very, very brief comment. I find this planned use development very unique and my vote for the project should not be in any way interpreted to be an intent that I encourage industrial or commercial in the area we are talking about. I do not and I find this unique or I wouldn't be voting for it. With that, motion carried.

Joe Harrison, Jr.: As far as with the storage of crude oil on that particular issue, I would look for a motion from this board along the lines that the storage of crude oil on the property is not to be construed as a prohibited use as set forth in the Use and Development agreement.

Commissioner Tuley: I'll put that in the form of a motion.

President Jerrel: Yeah.

Commissioner Mourdock: And I will second.

President Jerrel: So ordered.

Commissioner Tuley: If it might, too, just for the record and I don't know if you're going to be able to hear this or not, but I would like to go on record as I will come back before this body or any other body in the event in the near future that there is any presentation for industrial or commercial growth in that area and speak out against it.

President Jerrel: Well, I feel the same way.

Unidentified: Thank you.

President Jerrel: You're welcome.

Commissioner Mourdock: That's well said, Pat.

Unidentified: Thank you, Pat.

President Jerrel: Okay.

(Several inaudible conversations going on at once.)

Final reading VC-27-99 Jagoe Land Corporation
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President Jerrel: Where are the Jagoe Land people?

Charlene Timmons: Outside in the hall. Do you want me to get them?

President Jerrel: Yeah, tell them to get this show on the road.

Charlene Timmons: Okay.

President Jerrel: Do you mind?

Charlene Timmons: No. I think they're probably heading this way.

President Jerrel: Yeah.

(Several inaudible conversations going on at once.)

Joe Harrison, Jr.: Let's go.

President Jerrel: We've got drainage yet to go.

Commissioner Tuley: I know.

Joe Harrison, Jr.: We probably scared them off!

President Jerrel: The next item on the agenda is VC-27-99, Jagoe Land Corporation. It is a final reading.

Commissioner Tuley: You don't have a three hour presentation do you?

Marco DeLucio: No.

Charlene Timmons: Thank you.

Commissioner Tuley: Do I get charged more for the one with the hair?

President Jerrel: Alright, are you going to swear them in?

Joe Harrison, Jr.: Let me get my doodad here. This is a PUD, too.

Commissioner Tuley: Well, that other one was anything but a pud.

Joe Harrison, Jr.: This is VC-27-99, petitioner Jagoe Land Corporation at 3401 North Stockwell Road. The request is from AG to PUD. All those wishing to speak with respect to this petition please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Marco DeLucio: I do.

Joe Harrison, Jr.: Thank you.

Barbara Cunningham: Okay. Marco DeLucio is the representative for Jagoe Land Corporation in a petition to rezone 13.83 acre site east of Stockwell, south of Pigeon Creek. The petition was heard at the Area Plan Commission hearing on January 5th and went forward with a recommendation for approval with eight yes and three no votes. A regular single...for example, this is for a planned unit development. The plans indicate 90 single family detached homes and lots typically 36 feet wide with depths ranging from 108 to 170 feet or more. A regular single family subdivision on this site utilizing the same street configuration would result in approximately 51 or 52 lots. This is Section 5 of the Village at Timber Park. It's a 90 lot expansion. I think you changed that to 87, is that right?

Marco DeLucio: Eighty-eight.

Barbara Cunningham: A homeowner's association will maintain the common areas of the site. The PUD subdivision plat shows a 20 foot front yard, a 15 foot rear yard, zero on one side and ten on the other side. It's in an area designated by the Comprehensive Plan as an area of residential development. The planned unit development rezoning is to allow single family residential development which is consistent with the overall plan for the area.

Charlene Timmons: Can I have that?

Barbara Cunningham: You sure can. I jumped all over it. It's consistent with the Comprehensive Plan.

Marco DeLucio: Commissioners, my name is Marco DeLucio. I am here this evening on behalf of Jagoe Land Corporation, the petitioner. I'll be very brief. I handed each of you a little booklet that is marked Timber Park Section 5 and I would ask that be incorporated into the record this evening for purposes of making my presentation very brief. Very briefly, if you'll turn just to orient you to this site if you'll turn behind tab one you'll see the crosshatch area. This is the location map from the Plan Commission. I have also highlighted in pink Jagoe has Timber Park Subdivision immediately to the west of this and this is a PUD that is going to be substantially similar to what we're proposing on this particular project. Behind tab two are our typical photographs and I think you've seen those with our subdivision out on the north side. These are the same photographs and it is the same type of development that we're proposing here. Behind tab three we just show some land use statistics for this area. There are 88 lots as opposed to 90. We reduced those lots for some additional space on the interior and you'll see some density figures there. One thing I would like to particularly point out is the third page in tab three and that compares the residential use versus what we could put in there in the AG designation from a subdivision standpoint versus the PUD and you'll see with the existing zoning that the population in that area could be as high as 163. With our proposed zoning that

will be closer to 134 so there will be less people in this particular area as a result of the PUD designation. Behind tab five I have listed some of the criteria for rezoning. I like just briefly to touch on those. First, as Mrs. Cunningham indicated, this plan, this property, is in a residentially designated area. It does fit within the Comprehensive Plan. Behind tab six you'll see I have highlighted a provision from the Comprehensive Plan that talks about the type of housing that is going to be envisioned in the future and it is anticipated that there is going to be smaller single family types of housing units, patio homes like Jagoe is proposing, that we feel are appropriate for this neighborhood. I'll talk a little bit about property behind tab seven. That's one of the criteria that you look at. We've given you some detail as to homes that have sold in this area in the Valley Downs Subdivision in particular over the last three years and compared those with the sale prices of the patio homes in Timber Park Section 4 immediately to the west of this and you'll see that the price of the homes in Timber Park are substantially the same, a little bit higher than what you see in Timber Park so we don't believe that we are impacting values. One of the things I would like to read into the record Eric Norrenbrock, one of the neighbors...Jagoe spent a lot of time meeting with the neighbors out there beginning in December and I would like to read into the record, Eric was here early this evening, but had to leave and asked that I read this note into the record and I'll hand it to you in a moment. It says:

"To the Vanderburgh County Commissioners,

I'm a resident of Valley Downs Subdivision and reside at 4116 Oxmoor Road. My property backs up to the Day School and the Jagoe property. I have met with Tom Hansen of Jagoe on numerous occasions to discuss our concerns as a neighborhood about their proposed development, Section 5 Timber Park. Tom has been genuinely concerned about our issues and has addressed them all in a timely manner. After several meetings myself and three other neighbors most heavily involved, the Flints, the McCalisters and the Browns agreed to a compromise. Tom has added a...Jagoe has added a 30 foot landscape buffer to the rear of its property that will be between the property on Oxmoor Road and the new development. He has also added six to eight foot pines every 15 feet within the buffer to maintain some of the privacy and the aesthetics. We feel that this is a fair compromise and beats the alternative of a neighborhood directly on top of our property line.

Eric C. Norrenbrock
4116 Oxmoor Road.

President Jerrel: Thank you.

Barbara Cunningham: For the Commissioners' information this will come back as a site development/subdivision type (inaudible) and it will come back next month and at that time those items such as floodways, flood plain, etc., etc., will be (inaudible).

Marco DeLucio: Having said that, we're happy to answer any questions that you may have about this particular project and would ask that you follow the recommendations of the Plan Commission and approve this rezoning petition. Thank you.

President Jerrel: Any questions?

Commissioner Mourdock: No. Anyone here to speak in opposition?

President Jerrel: The...Eric that you worked with I went out on some awful, dreary, rainy weekend and at that point in time they were very, very upset and I encouraged them to talk to you and you performed just like I thought you would, so I am happy that worked out.

Marco DeLucio: I think we probably...we met with them in the first part of December and I'm not sure when that was, but I think we tried to keep the doors open so if you ever hear that happen again you'll know to have them call myself or Tom and we'll try to address any concerns.

President Jerrel: It worked and you're to be complimented for that.

Marco DeLucio: We appreciate you referring them to us.

President Jerrel: Is there a motion?

Commissioner Mourdock: On final reading I'll move approval of VC-27-99, 3401 North Stockwell from AG to PUD.

Commissioner Tuley: Second.

President Jerrel: And I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Well, compared to the last one this really is a pud. I'll vote yes.

Commissioner Mourdock: Wish I had thought of that. That's a good line.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Marco DeLucio: Thank you very much.

President Jerrel: Okay.

Commissioner Mourdock: Move to adjourn.

Commissioner Tuley: Yes.

President Jerrel: So ordered.

The meeting was adjourned at 10:05 p.m.

Those in attendance:

Bettye Lou Jerrel
Patrick Tuley
Charlene Timmons
Mike Mitchell
Joe Ream
Barry Graves
Roger Winstead
Steve Bohleber
Vince Bernardin
Paul Farmer
Steven Weitzel
Todd Lucy
Charles Altman
Kathy Grant Murrell
Stan Newington
Marco DeLucio
Members of the media

Richard E. Mourdock
Joe Harrison, Jr.
Barbara Cunningham
Dean Brinker
Kent Brasseale
Mark Samila
Doris Peerman
Gary May
Stacy Stevens
Nonnie Robison
Peggy Graul
Norb Woolley
Joyce Taylor
Jim Farney
Chris Wischer
Others unidentified

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
February 28, 2000**

The Rezoning Meeting was called to order at 7:00 p.m.

President Jerrel: I'd like to call the Rezoning Meeting of the Vanderburgh County Commissioners to order.

Approval of minutes

President Jerrel: The first item on the agenda is the approval of the minutes of the previous meeting.

Commissioner Tuley: I'll move approval of the previous meeting.

President Jerrel: Second and so ordered.

First reading VC-02-2000 Red Bank Development, Inc.
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President Jerrel: The first item on the agenda are the first readings.

Commissioner Tuley: Okay, normally on first reading all we do and we'll continue with that tonight is we will read the minutes...or we'll read the request into the minutes and ask that it be passed on to the Area Plan Commission for consideration. The first reading is VC-02-2000. The petitioner is Red Bank Development, LLC, 525 South Boehne Camp Road. The request is from AG to C-4. I will move approval on first reading.

President Jerrel: And I'll second and say so ordered.

First reading VC-03-2000 Tim J. Zeller

Commissioner Tuley: The next item is VC-03-3000. The petitioner is Tim J. Zeller. The address is 5100 Upper Mount Vernon. The request is from R-3 to AG. I'll move approval on first reading.

President Jerrel: I'll second and say so ordered.

First reading VC-04-2000 Keystone Development, LLC

Commissioner Tuley: The final first reading is VC-04-2000. The petitioner is Keystone Development, LLC. The address is 5900 North Green River Road. The request is from C-2 to R-1. I'll move approval on first reading.

President Jerrel: I'll second and say so ordered.

Final reading VC-23-99 Terry Coon
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President Jerrel: Under final reading the first is VC-23-99, Terry Coon.

Joe Harrison, Jr.: Yes, this is 13601 Highway 41 North. The request is from AG to C-4. All those wishing to speak with respect to this petition please raise their right hand. Do you swear or affirm that the testimony that you are about to give is true

and accurate so help you God?

Response: Yes, I do.

Joe Harrison, Jr.: Thank you.

Blaine Oliver: Steve Bohleber is the representative for Terry Coon in this petition to rezone his property located at 13601 Highway 41 North. Mr. Coon has a .7 acre residential lot located on the east side of Highway 41 between Boonville-New Harmony Road and Inglefield Road. He is requesting a change in zoning from Agriculture to C-4 for use as an auto repair shop. Mr. Coon has filed an amended petition which includes a Use and Development Commitment which limits uses of this site to agricultural uses and Terry Coon's automobile repair shop only. The petition was heard at the February 2nd Area Plan Commission hearing and received a no recommendation with four yes, five no and two abstention votes by the Plan Commission. Highway 41 is a controlled access thoroughfare. Currently there is a shared residential access on the highway. INDOT has stated that the existing driveway is acceptable for the auto repair usage. If this site is approved for commercial use the existing curb cut must be widened to commercial standards. Conversion of a residential drive to commercial results in more turning movements at the driveway which can decrease road capacity and travel speed and increase vehicle accidents. The Year 2015 Conceptual Land Use Map in the Comprehensive Plan designates the site for residential uses. This site is located in a rural residential and agricultural area. The southern end of the projected industrial corridor along US 41 is Inglefield Road. According to the Comprehensive Plan it is essential for development proposals along major arterials to be accompanied with commitments to construct the infrastructure improvements necessary to accommodate safe site generated traffic and sewers. The site is served by septic and commercial development should be served by sewer. The Water and Sewer Department estimates that the cost for extending sewers to this site could be as much as \$150,000. An automobile repair shop requires a C-4 in the zoning code as it is a use considered incompatible with residential development. The code also requires that all parking and access must be paved with a hard and sealed surface.

Joe Harrison, Jr.: Was it five/four?

Blaine Oliver: I said four/five.

Steve Bohleber: Yeah, I was going to correct the minutes. I think the vote was five yes, four no and two abstentions before the Plan Commission which would be no action either way.

Joe Harrison, Jr.: Yes, the minutes reflected five yes, four no, two abstentions.

Steve Bohleber: Good evening, I'm Steve Bohleber and I represent Mr. Coon who is seated with his wife right behind me. The Coons filed this petition on their own and then retained me at a later point. Mr. Coon is an auto mechanic and wishes to repair autos in the garage adjacent to his home at that location. There is no known neighborhood opposition and Mr. Coon has spoken with INDOT who feels that with minor modifications the existing drive will be sufficient. Both I and Mr. Coon have talked to the environmental officer at the Health Department about this small operation. He feels the current and existing septic system will meet the needs and is comfortable with the plan from that perspective. Now we realize at first blush this petition may seem to promote other commercial rezonings, may even be considered

spot zoning although there is some commercial not too far to the north. To ameliorate that concern my client has submitted a very restrictive use commitment that limits the use of the property to a single use only as defined by your code and that's for automobile repair and specialized service. I used the precise language from the code to make this limitation which has a confusing subpart because this does specifically exclude by definition overhauling, rebuilding, painting and body work, so if you read that quickly you might think that the request is to include those things, but actually I am using the language of the ordinance in the use commitment and it specifically excludes those. Those would require an M-1 zoning. To further restrict the use we have made it personal to Mr. Coon. As this use commitment is drafted when he sells the property or, heaven forbid, when his time comes to leave this earth it shall cease being commercial, a life estate so to speak with a rezoning. The concern I think that was expressed by some members of the Plan Commission was the possibility even with these restrictions of Mr. Coon expanding the garage on that site. As a practical matter if you take a look at the topography and the current structures on the site that would be extremely difficult to make any significant improvement. His residence is to the south and both Mr. and Mrs. Coon certainly want to live there as well as allow him to utilize the garage for his trade and the septic system is located to the southwest which prevented the expansion in that area. The rear of the property to the east drops off precipitously into a wooded and grassy area that would require significant landscaping and movement of dirt to accommodate it, so to construct any new or expanded building is one, not on the horizon and two, is limited by the geographic and structural limitations. I would also suspect that if any greater utilization of that site was anticipated INDOT and the Health Department would take a different look at it as well and they are both comfortable with the situation as we see it. Again, the vote at the Plan Commission was five/four. Four against and two abstentions. My clients are here this evening as am I to answer any questions you might have, but we do ask for a positive vote from the Commission tonight.

Commissioner Tuley: Are there any remonstrators at all? There were none at Area Plan, Mr. Bohleber, is that what you said?

Steve Bohleber: That is correct and my clients have spoken to everyone in the neighborhood. They are comfortable and indicate that they will be customers, as a matter of fact.

Commissioner Tuley: Are you, Mr. Coon, are you working somewhere else and then doing this on the side, so to speak, or this is your full-time employment?

Terry Coon: (Inaudible.)

Commissioner Tuley: Okay. Have you been operating in the past, is that why you are getting your zoning to make it comply with what you are actually doing? So I would take it then if none of your neighbors are here complaining you must not have cars parked out and around and all over the place then?

Steve Bohleber: And he will be required by the zoning to put up appropriate barriers and required by the code to shield the operation. He recently moved from another location. Where was that? It was up in the general area wasn't it?

Terry Coon: (Inaudible.)

Steve Bohleber: Okay.

Commissioner Tuley: Oh, that's where you were.

Steve Bohleber: He was just—

Terry Coon: (Inaudible.)

Commissioner Tuley: Is that what the C-4 is just to the north of him?

Steve Bohleber: Yes.

Commissioner Tuley: Okay.

Steve Bohleber: Yeah, he was required to move. He lost his lease, so to speak.

Commissioner Tuley: That's the only questions I had.

President Jerrel: I don't have any. You asked them.

Commissioner Tuley: Okay, well, normally I would say it does make you want to believe...or the code of the Comprehensive Plan usually asks for a commercial...not a commercial, but a sewer system be in place before we do something like this. However, I think as Mr. Bohleber has indicated he has had conversation with the Health Department and given the nature of the work in that very restrictive Use and Development Commitment they didn't seem to have a problem with it. I'm willing to move then for approval of petition VC-23-99 from AG to C-4 at this time.

President Jerrel: I'll second and call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: And I vote yes.

Steve Bohleber: Thank you very much.

President Jerrel: Motion carried.

Final reading VC-28-99 North Point Center, LLC

President Jerrel: Next item on the agenda is VC-28-99.

Joe Harrison, Jr.: This is North Point Center, LLC. The address is 12400 Highway 41 North. The request is from AG to C-4. All those wishing to speak concerning this petition please raise their right hand. Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Blaine Oliver: Jan Hart is the representative from North Point Center, LLC in this petition to rezone a 1.9 acre site located at 12400 Highway 41 North from AG to C-4. The site is southwest of the Highway 41 and Boonville-New Harmony Road intersection. Current owners are Freddy and Karen Bromm. This petition was heard

by the Area Plan Commission at the February 2nd meeting and was recommended for approval with eight yes votes and three abstentions. This site is being added to the adjacent 11.7 acre parcel to the north which was rezoned to C-4 with a Use and Development Commitment in 1997. A grocery, banks and retail shops are planned on the 13 plus acre site. This site is located just outside of the corporate boundaries of the Town of Darmstadt with the town limits being adjacent to the west. Just inside the Town of Darmstadt is the Vanderburgh County 4-H Center. This area is identified on the Year 2015 Conceptual Land Use Map in the Comprehensive Plan as an area of commercial development. This proposal is consistent with the plan. Highway 41 is a controlled access thoroughfare leaving the only access to this site from Boonville-New Harmony Road. This controlled intersection experiences heavy traffic congestion during those periods of special events or activities at the 4-H Center. County Engineer John Stoll states that one, the widening of Boonville-New Harmony Road adjacent to this development should include a left turn lane into the site if sufficient right-of-way exists on Boonville-New Harmony Road and two, since the widening of Boonville-New Harmony Road will affect state right-of-way INDOT approval will be required. The site plan was preliminarily reviewed by the Site Review Committee on January 4, 2000 and the committee recommendations included a traffic impact study, drainage plans, sewer extension, a subdivision being filed, a study on flood protection grade and site grading plans. A subdivision plat has also been filed and was reviewed by the Subdivision Review Committee in February.

Jan Hart: Hi, my name is Jan Hart. I represent North Point Center, LLC as the petitioner and I guess I represent the landowners that are currently the landowners, Freddy and Karen Bromm also. Really, that's a pretty extensive report. I don't know that I have very much to add to it. We're bordered on both sides by property that is zoned C-4 and it's part of the Comprehensive Plan that it be commercial. We are just asking to rezone this two plus acres to match up the adjoining property that North Point Center, LLC now owns.

President Jerrel: Is there anyone here that wishes to speak to this? Hearing none, are there any questions?

Commissioner Tuley: No, I have none. It looks like he is bordered, like he said, on both sides by C-4 already. So if there is no remonstrators I'll move approval of VC-28-99, North Point Center, LLC, 12400 Highway 41 North with a request from AG to C-4.

President Jerrel: I'll second and call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: And I vote yes. Motion carried.

Jan Hart: Thank you very much.

President Jerrel: Thank you.

Final reading VC-30-99 Mid-America Clutch Co., Inc.
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President Jerrel: The next item is VC-30-99.

Joe Harrison, Jr.: This petition is filed by Mid-America Clutch Co., Inc. The address is 5620 Upper Mount Vernon Road. The request...rezoning request is from AG to M-2. All those wishing to speak concerning this petition please raise their right hand. Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

Response: I do, sir.

Joe Harrison, Jr.: Thank you.

Blaine Oliver: Les Shively is the representative for Mid-America Clutch Company in this request to rezone the property located at 5620 Upper Mount Vernon Road from AG to M-2. This 1.5 acre site is located at the southeast corner of Upper Mount Vernon and Boehne Camp Road. This petition was heard by the Plan Commission at the February 2nd meeting and was recommended for approval with ten yes votes and one abstention. This residential site is located adjacent to an existing M-2 zoned auto parts remanufacturing facility. This rezoning to M-2 is to allow expansion of the existing industrial use. The only way for existing spot zoned businesses to expand is through the purchase of adjoining residential lots and rezoning those lots. The Comprehensive Plan designates this area for residential use. As called for in the plan if this proposal is approved screening and setbacks must be provided and maintained for protection of the surrounding residential development. The site plan submitted by the applicant indicates that a new 15,000 square foot warehouse building is planned for this site south of the existing residence. If the existing residence is to remain it will be come a legal nonconforming structure. A plan for maneuvering to load and unload large trucks is necessary for this and will be required prior to issuance of any permit for a new warehouse on this site. The site is located in a residential area with the exception of the Mid-America Clutch business. All surrounding properties are residential. The Mid-America Clutch building was rezoned to M-2 in 1983 to bring the existing manufacturing facilities into conformance with the current zoning requirements. The requested M-2 district allows many uses considered incompatible and inappropriate adjacent to residential development. The use of landscape buffers and trees could lessen the impact on surrounding residences if this industrial expansion is permitted at the site.

Les Shively: Madam President, members of the Board of Commissioners of Vanderburgh County, again, for the record my name is Les Shively representing Mid-America Clutch. Mid-America Clutch has been located in this area for approximately 20 years. It started out with approximately four employees to 40. They are one of the largest clutch remanufacturers in the country. Most of their...in fact, their customer base includes about half of the United States. They go even a little bit beyond the Mississippi River. Most of the eastern half of the United States is their primary market area. They purchased this property several years ago for future expansion. You may recall or you may not recall that this particular property under its prior ownership was in bad shape. Discarded vehicles and junk and such and so the Schneiders, Bob Schneider and his son Scott who operate Mid-America Clutch, purchased this property, cleaned it up and even made improvements to the existing residential structure and now wish to rezone the property to use it for a warehouse location under the dimensions 15,000 square feet as indicated in the staff report. Plans right now are to allow the residents to remain. It will be a legal nonconforming use. Also the warehouse will be situated so as to be shielded from the view of any residential properties to the north and northwest by the existing residents and if, in fact, that residential structure would be removed we would put in an additional buffering over and above what is required in the code so as to provide the screening

for the business operations. EUTS has made recommendations in terms of access. We're going to follow all of EUTS' recommendations on access plus the time we start the paperwork to pull our permits we will also submit our site plan for the movement of the truck vehicles. Actually, this will improve the situation. It will mean less area for outside storage and more area for maneuvering. We have one neighbor that attended the last meeting, the Plan Commission meeting, and indicated that Mid-America Clutch has been a good neighbor and just simply wanted confirmation that we were going to continue this operation the way it has been for 20 years. Also, I would note there are some photographs and one thing I would like to point out that the south part of this property, a large portion of it, runs along the railroad right-of-way. In fact, this warehouse will only be visible from the railroad right-of-way and that little part of Boehne Camp Road. It will not be visible from where the residential properties are to the north and northwest. Again, the vote was ten in favor, one abstention. I guess the good news is it allows this business to remain there and expand without having to go into another area and rezone it to M-2 so you sort of keep things where they are already established. I'm more than happy to answer any questions you have at this time. Unfortunately both Mr. Schneiders are out of town on business and could not be here this evening.

President Jerrel: Is there anyone here that would like to speak at this time? This is a final. Any questions?

Commissioner Tuley: Les, I thought I heard you answer the question. The house is going to remain that sits there on the corner?

Les Shively: Yes, sir.

Commissioner Tuley: And then the warehouse is going to be built back in the corner you said, closer to the railroad?

Les Shively: Closer to the railroad right-of-way. I guess it will be located on the southwest portion of the property.

Commissioner Tuley: Okay, back in the corner where this meets up a little bit with Boehne Camp and the railroad tracks.

Les Shively: Yes. Mr. Tuley, if you would stand in the railroad right-of-way and look towards Mid-America's existing facility it would look like one contiguous operation.

Commissioner Tuley: Okay.

Les Shively: In other words, if you came on the train tracks you would see one continuous row of buildings which include this warehouse, but, again, if you're looking from Upper Mount Vernon—

Commissioner Tuley: Upper Mount Vernon.

Les Shively: —you're not even going to see it.

Commissioner Tuley: Okay. I got a good picture because I know exactly where this is at. I'll move approval of VC-30-99, Mid-America Clutch Company, address 5620 Upper Mount Vernon with a request from AG to M-2.

President Jerrel: I'll second and call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: And I vote yes. Motion carried.

Les Shively: Thank you.

Final reading VC-31-99 Marvin Randall McClaskey
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President Jerrel: The last item on the agenda is VC-31-99.

Joe Harrison, Jr.: The petitioner on this rezoning petition is Marvin Randall McClaskey. The address is 4601 Highway 41 South. The request is from AG to C-4. All those wishing to speak concerning this rezoning petition please raise their right hand. Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Blaine Oliver: Krista Lockyear is the representative for owner Marvin Randall McClaskey in this request to rezone a 3.17 acre site located adjacent to his property at 4601 Highway 41 South from AG to C-4. Mr. McClaskey's property is located at the northwest corner of Highway 41 South and Shawnee Drive. This petition was heard by the Area Plan Commission at the February 2nd meeting and was recommended for approval with ten yes and one abstention. This site is located in a rural agricultural area. In 1983 the existing gas station on the site at the northeast corner of Highway 41 and Shawnee Drive was rezoned to C-4 to allow a mobile home sales lot. The site has been utilized for fireworks sales since the mid to late 1980s. In 1987 the McClaskeys petitioned to rezone 43 acres surrounding the corner site to C-4 for retail development and was denied. At that time it was stated that approximately 19.5 feet of fill would be required. This is a petition to rezone three plus acres adjacent to the north and east of the corner site. The rezoning parcel available for commercial development would be 5.6 acres. Flood elevation is a major concern in this area as is the limited possibility of sewer extension. Development in areas not served by utilities is discouraged. Information submitted by Mr. McClaskey indicates that the only utility available to the site is electric and this site is served by a septic system. Commercial development should be served by sewer. Due to the absence of utilities and the existing agricultural land in the area the Comprehensive Plan designates this area to remain agricultural and undeveloped. The surrounding area is completely agricultural. According to the Comprehensive Plan it is essential for development proposals along major arterials to be accompanied with commitments to construct the infrastructure improvements necessary to accommodate commercial development. No infrastructure commitments have been submitted with this rezoning. When rezoning the corner site was approved in 1983 the petition agreed to closing the western curb cut on Shawnee Drive. No access is permitted onto Highway 41.

Krista Lockyear: Good evening. My name is Krista Lockyear. I represent Randy McClaskey who unfortunately is out of the country and couldn't be here tonight. His son-in-law, David Barancik, is here and can assist me in answering any questions you may have. What I would like to point out, I guess, of major importance on this rezoning is that this is the State Line Fireworks property that is currently zoned C-4.

What Mr. McClaskey would like to do is simply build another building that would be larger so they could better accommodate their customers around the Fourth of July season. The existing building would be demolished once the new building was finished. This would add some parking. Other than that there really will be no change in use. EUTS did recommend that we move the existing driveway further to the west and we have contacted INDOT and we will meet with Bill Kotter in Vincennes, actually send him the information. He said actually meeting with him might not be necessary since we aren't changing the use for the property. They will evaluate whether that drive does need to be moved and then we will address that as well with EUTS locally. I wanted to clarify with regard to the fill issue. Mr. McClaskey does have a DNR permit for fill that is still valid through this fall, however, for the new building there is no fill that will be required. That building, the site is already at an elevation that would be adequate, so we wouldn't have to bring in fill except very slightly maybe to provide adequate drainage away from the building. I did contact the Sheriff's Department to find out if they had a history of accidents, back to the access issue, and they said that they don't show any accidents at this address. That intersection, of course, has had some in the past, but particularly with regard to the State Line Fireworks they don't show any accidents in their records. Because this is really just a replacement of an old out-of-date building we feel that this is appropriate despite the fact that, you know, it is within an agricultural area, but it is simply a continuance and really improvement of an existing business. I would be happy to answer any questions you may have and like I said, David Barancik is here as well.

President Jerrel: Is there anyone else that would like to speak for or against this project? Any questions from the board? Is there a motion?

Commissioner Tuley: I'll move at this time the approval of VC-31-99, petitioner Marvin Randall McClaskey. The address 4601 Highway 41 South. The request is from AG to C-4.

President Jerrel: I'll second and call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: And I vote yes. Motion carried.

Krista Lockyear: Thank you.

President Jerrel: Is there a motion to adjourn?

Commissioner Tuley: So moved.

President Jerrel: Second and so ordered.

The meeting was adjourned at 7:30 p.m.

Those in attendance:

Betty Lou Jerrel
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Blaine Oliver
Steve Bohleber

Terry Coon
Jan Hart
Les Shively
Krista Lockyear
Others unidentified
Members of the media

Vanderburgh County
Board of Commissioners

Bettye Lou Jerrel, President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
March 20, 2000**

The meeting was called to order 6:45 p.m.

Approval of minutes

President Jerrel: I'd like to call the Board of Commissioners' Rezoning Meeting to order.

Commissioner Mourdock: I will move approval of the minutes of the prior meeting which...I don't have the date in front of me.

President Jerrel: It was the 28th of February.

Commissioner Mourdock: Approval of the minutes of the...oops, I can't do that.

Commissioner Tuley: I was going to say, were you even here? I don't think you were that night. I'll move approval of the minutes from February 27th.

Charlene Timmons: The 28th.

Commissioner Tuley: The 28th, let's try that.

President Jerrel: And I'll second and say so ordered.

First reading VC-05-2000 Gary L. and Deanne Burden

President Jerrel: First item on the agenda.

Commissioner Mourdock: On first reading I would move approval of rezoning request VC-05-2000, Gary L. and Deanne Burden for an address of 2905 North St. Joe Avenue from C-2 to R-1 with use and development commitments.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-06-2000 Gorman, LLC

Commissioner Mourdock: I would also move on first reading VC-06-2000, Gorman Limited Liability Corporation. The address as submitted I think is incorrect here, so I am going to read it the way I believe it is correct. It should be 3016, 3020 and 3030 North Green River Road. Tracts one and two C-4 with a use and development commitment and tracts three and four AG to C-4 with use and development commitment.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-07-2000 Durchholz Family Trust
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Commissioner Mourdock: The third one this evening, on first reading I would move approval of VC-07-2000, the Durchholz Family Trust, 3100 and 3400 North Burkhardt Road from AG to M-1.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-08-2000 Charlestown Square, LLC

Commissioner Mourdock: I would move on first reading VC-08-2000, Charlestown Square, Limited Liability Corporation. The address being 8300 East Lloyd Expressway from R-4 to C-4.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-09-2000 Brad Sterchi
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Commissioner Mourdock: And last but not least, VC-09-2000, Brad Sterchi, the petitioner, for 900 East Mount Pleasant Road from AG to C-4.

Commissioner Tuley: Second.

President Jerrel: So ordered. There are no final readings.

Clarification - VC-06-2000 Gorman, LLC

Commissioner Mourdock: Wait a minute, Joe has something.

Joe Harrison, Jr.: I'm sorry, on the Gorman one, Richard, I pulled the petition and it looks—

Commissioner Mourdock: It says 3016, 3020, and 30030.

Joe Harrison, Jr.: Yeah, it's 3030.

Commissioner Mourdock: It should be 3030, right.

Joe Harrison, Jr.: It's 3030 North Green River Road and I don't think tracts three and four—

Commissioner Tuley: Have a U & D?

President Jerrel: Don't have a use and development?

Joe Harrison, Jr.: Right, from AG to C-4.

Commissioner Mourdock: Okay, maybe I typed it in wrong.

Joe Harrison, Jr.: Don't have a use and development...doesn't have a use and development commitment.

Commissioner Mourdock: So tract one and two...

Joe Harrison, Jr.: One and two from C-4–

Commissioner Tuley: With.

Commissioner Mourdock: What does that mean?

President Jerrel: With use and development.

Joe Harrison, Jr.: With use and development–

Commissioner Mourdock: Tracts one and two, is that from AG to C-4 with use and development? This is AG to C-4 for three and four. What are we going from and to?

Commissioner Tuley: My guess would be from AG.

Commissioner Mourdock: Yeah. Okay, well let me–

Joe Harrison, Jr.: Yeah, that's a little confusing here on this petition because it says C-4 with use and development commitment to C-4. That doesn't make any sense.

Commissioner Mourdock: Yeah, it must be from AG to C-4.

Joe Harrison, Jr.: And three and four from AG to C-4 and there is no use and development commitment.

Commissioner Mourdock: What do we have right here? C-4, AG–

Commissioner Tuley: Are they saying it's a C-4 with use and development now going to C-4 without it?

Commissioner Mourdock: The requested change is to C-4. Apparently tracts one and two are currently now in C-4, but they're offering a use and development commitment.

Joe Harrison, Jr.: Okay.

Commissioner Mourdock: And tracts three and four is presently AG going to C-4.

Commissioner Tuley: Well, here, present and existing land uses: tract one, pest control office, tracts two, three and four says residential on item six. I was getting ready to make a comment about who typed up this agenda, but no wonder they had trouble.

Commissioner Mourdock: You don't represent these folks, do you by chance?

Charlene Timmons: Do you want me to go to City Council and get Beverly?

Commissioner Mourdock: Yeah, let's see if Bev or Barbara is over there to straighten this out. We definitely want to get it in the record right.

President Jerrel: Why don't you take this with you.

Charlene Timmons: Okay.

President Jerrel: And ask them—

Charlene Timmons: What that means?

President Jerrel: —what that means.

Charlene Timmons: Okay.

President Jerrel: Here is a copy of the agenda and tell them it is confusing.

Charlene Timmons: Okay, be right back.

Joe Harrison, Jr.: Yeah, I can't give you an answer on that.

The meeting was recessed.

The meeting was reconvened.

Commissioner Mourdock: Okay, we can go ahead and reconvene here. Let me be sure I understand this, Charlene. Tracts one and two are presently C-4 and they're simply adding the use and development?

Charlene Timmons: Right now they are C-4 with a use and development.

Commissioner Mourdock: And what will they be afterwards?

Charlene Timmons: C-4 with nothing.

Commissioner Mourdock: Okay, so they are dropping the use and development?

Charlene Timmons: Yes.

Commissioner Mourdock: And then tracts three and four are presently AG and those will become C-4?

Charlene Timmons: Correct.

Commissioner Mourdock: The request is to go to C-4?

Charlene Timmons: Per Barbara Cunningham.

Commissioner Tuley: Second your motion.

President Jerrel: And I'll say so ordered on first reading. If we reconvene you will eliminate any of the discussion from the point of approval of the number five and no final readings?

Charlene Timmons: Yes.

President Jerrel: Thank you. Is there a motion to adjourn?

Commissioner Mourdock: So moved.

Commissioner Tuley: Second.

President Jerrel: So ordered.

The meeting adjourned at 6:54 p.m.

Those in attendance:

Bettye Lou Jerrel

Richard E. Mourdock

Patrick Tuley

Joe Harrison, Jr.

Charlene Timmons

Others unidentified

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
April 17, 2000**

The Rezoning Meeting was called to order at 6:43 p.m.

Approval of minutes

President Jerrel: I'd like to call the Rezoning Meeting of the Board of Commissioners to order. The first item on the agenda is the approval of the minutes of the previous meeting.

Commissioner Mourdock: And I'll move approval of the minutes. I've lost the date here. I lost the pack. I'll move approval of the minutes of the March 20th meeting as submitted.

Commissioner Tuley: And I will second.

President Jerrel: So ordered.

Final reading VC-19-99 R.E.I. Properties

President Jerrel: We have no first readings and we have four final readings. If you would like to begin with VC-19-99.

Commissioner Mourdock: Okay, that's fine.

Joe Harrison, Jr.: All those wishing to speak concerning VC-19-99, petitioner R.E.I. Properties, address 3200 North St. Joe Avenue, please raise their right hand. Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

Response: I do.

Blaine Oliver: John Habermel is the representative for the petitioner, R.E.I. Properties, in this request to rezone a portion of the remaining 10.6 acres of the tract owned by Thomas Alexander from agricultural to C-2. The address of the site is 3200 North St. Joe Avenue. This petition was heard at the Plan Commission meeting on April 5th and was recommended for approval with eight yes, four no and one abstention. This petition was also heard by the Plan Commission...or first it was heard by the Plan Commission on October 6, 1999 as a petition to rezone this site from agricultural to C-4 and was recommended for denial. R.E.I. Properties filed an amended petition requesting C-2 without use and development commitment for the full 10.6 acre site. The amended petition was heard by the Area Plan Commission on February 2, 2000 and was recommended for denial. R.E.I. Properties then filed a second amended petition which is before you tonight for a small 3.3 acre portion of the original site. They have also filed a subdivision plat, Panther Park, which subdivides the 3.3 acres into a four lot commercial subdivision. The subdivision plat was approved at the April 5th Area Plan Commission meeting subject to rezoning approval. The entire site lies within the floodplain of Locust Creek which is located to the east. A portion of the site is also within the Locust Creek floodway. The Comprehensive Plan encourages the use of floodplain land for open space recreation or agricultural. A portion of the original site was deleted from the petition. That portion was totally within the floodplain...or floodway, excuse me, of Locust Creek. There are many C-2 uses which have the potential of creating heavy traffic volumes. Developments along St. Joe should plan for shared commercial access

to minimize curb cuts. To be consistent with this policy any commercial development north of Allen Road must be limited to the St. Joe Avenue intersection and I believe there is a note on the subdivision plat which indicates that the access to the lot on St. Joe would be through an existing easement with the Casey's. The site is in an older area, very mixed zonings and uses. The 1996 Comprehensive Plan Future Land Use Map designates the area north of Allen Road at this location for agricultural and residential uses. South of Allen Road it is recommended for commercial uses. Recently commercial zoning was approved for a convenience store at the northwest corner of St. Joe and Allen Road. The Comprehensive Plan calls for compact commercial areas and avoidance of new or expanded strip commercial development.

John Habermel: I'm John Habermel. I think he pretty well said everything. Casey's has granted a 35 foot easement to the property off of St. Joe Avenue and we plan to have only one ingress and egress off of Allens Lane and a shared road would service the remaining lots that front Allens Lane.

Commissioner Mourdock: Blaine, would you define for me the difference...I know what a floodway is, but I see the flood zone is also listed on here. Is flood zone equivalent to the floodplain?

Blaine Oliver: Yes, that's correct.

Commissioner Mourdock: Okay.

Blaine Oliver: The floodway is the area that is needed in a 100 year flood for the flow of the water where water is actually moving. You have a lot of area in the floodplain where water may spread out, but a lot of that area is not moving water. But the flood zone and the floodplain are the same thing.

Commissioner Mourdock: Mr. Habermel, the question with so much of this being so low, in fact all of it being very low, and the bigger parts of Lot 2, 3 and 4, in fact Lot 1, too, do I recall you said you are not going to be filling the property?

John Habermel: That's correct.

Commissioner Mourdock: Okay. If you're not going to fill it and it's that low what do you hope to use it for?

John Habermel: Well, the lots on St. Joe Avenue are buildable and the one immediately behind Casey's is quite buildable.

Commissioner Mourdock: Okay.

John Habermel: Part of the plan was that we would notify the, I believe it's DNR about building on it before we did anything.

Commissioner Mourdock: Uh-huh.

John Habermel: They have...you all approved the drainage plan for it some time ago that would alleviate some of those problems. I question on the map myself where that floodway is because it just...to me it doesn't look like it's that low. Especially that lot that fronts on St. Joe Avenue and the one immediately behind Casey's. Now the lots that lie farther west I can understand. We went through this with Mr. Lehman

and somebody else from the County Engineer's Office. He at that time indicated that there would be no problem building anything on it.

President Jerrel: Any other questions? Is there anyone in the audience that would like to speak to this? Is there a motion?

Commissioner Mourdock: I'll move approval of the rezoning from Ag to C-2, petition VC-19-99, R.E.I. Properties.

Commissioner Tuley: Second.

President Jerrel: So ordered.

John Habermel: Thank you.

President Jerrel: I'll call for a roll call vote now since this is a final reading. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: I have some concerns simply because it is a low property and I understand your comment, maybe the line isn't quite right on the map. You mentioned a moment ago, Mr. Habermel, about needing to get with DNR and I truly think you're going to have to do that in case you want to do something and I think you're going to find out that may be a real problem. I'll vote yes, but I do want you to be sure you talk to those folks because I really think there may be some problems out there, but I kind of look at this one with let the buyer beware here. In this case let the rezoner beware, I guess.

John Habermel: I spoke with Mike Wathen and we have a letter on file that we wouldn't develop more than X number of acres and he felt that if we followed that we would be okay.

Commissioner Mourdock: Okay. I vote yes.

President Jerrel: And I vote yes. Thank you.

John Habermel: Thank you.

Final reading	VC-3-2000	Tim J. Zeller
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President Jerrel: The next final reading is VC-3-2000.

Joe Harrison, Jr.: The petitioner is Tim J. Zeller, the address 5100 Upper Mount Vernon Road. The request is from R-3 to Ag. All those wishing to speak with respect to this petition please raise their right hand. Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Blaine Oliver: Tim Zeller is requesting to down zone this 1.12 acre site located at 5100 Upper Mount Vernon Road from R-3 to Ag. Mr. Zeller's property is located on the south side of Upper Mount Vernon Road between Red Bank and Boehne Camp. This petition was heard at the Area Plan Commission meeting on April 5th and was unanimously recommended for approval. The 1.12 acres is part of a five acre parcel which was rezoned to R-3 in 1979. The apartments were never developed on this site and the agricultural use has continued over the years. A .92 acre part of the site was rezoned by the petitioner in October 1999 and the current owner constructed an agricultural barn on that site. An addition is planned on the barn which will require additional land for expansion. This is a request that the zoning be changed back to the original Ag classification to allow this barn addition on the site. The surrounding area is predominately agricultural and residential. The Comprehensive Plan designates this area to remain residential and agricultural. The rezoning to agricultural is consistent with surrounding zonings and uses. The applicant is requesting to down zone a portion of the R-3 zoned site to allow for agricultural improvements to be constructed. The remainder of the site currently used for growing crops will remain R-3. Applicants have indicated that they farm or grow crops on this and on several other parcels in the immediate vicinity of this site. The agricultural district is appropriate and necessary to the addition to the existing agricultural barn.

President Jerrel: Is there anything you would like to say?

Tim Zeller: I have—

President Jerrel: Come up and give us your name please.

Tim Zeller: My name is Tim Zeller. I rezoned back in October, we built us just a 50 by 100 pole barn there to raise quarter horses and now we're going to build an indoor riding arena off the back of it if this goes through, but that's all we're wanting to do is build a three sided building with a dirt floor to ride horses indoors. It's presently R-3 and we bought it to keep the apartments out of it and we're farming it and will continue to farm it as long as it is ours. That's why we're doing what we are doing. Thank you.

President Jerrel: Is there anyone else that would like to speak to this? Hearing none, is there a motion?

Commissioner Mourdock: I'll move approval of the rezoning from R-3 to Ag for VC-3-2000, 5100 Upper Mount Vernon Road.

Commissioner Tuley: Second.

President Jerrel: So ordered and I'll have a roll call vote for the final. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Final reading	VC-4-2000	Keystone Development LLC
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President Jerrel: The third final reading is VC-4-2000.

Joe Harrison, Jr.: The petitioner is Keystone Development LLC. The address, 5900 North Green River Road. The request is from C-2 to R-1. All those wishing to speak with respect to this petition please raise their right hand. Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

Response: I do.

Blaine Oliver: Steve Bohleber is the representative for Keystone Development LLC in this request to down zone a 15.47 acre parcel located at 5900 North Green River Road from C-2 to R-1. This petition was heard at the Area Plan Commission meeting on April 5th and was recommended for approval with 12 yes votes, zero no votes and one abstention. This site will be combined with adjacent agriculturally zoned land and become part of the 80.88 acre Keystone Section 7 subdivision plat, a proposed 138 lot expansion of the Keystone Subdivision. The Comprehensive Plan designates this area for residential and agricultural uses, so this down zoning to R-1 is consistent with the overall plan for the area. The existing C-2 parcel is part of a 25 acre site which was zoned to C-2 in August of 1998. At that time plans indicated that the site would be utilized for commercial development to serve the Keystone residents. The petitioner is now requesting to down zone 15 acres of the commercial property to residential. A 5.42 acre C-2 lot remains at the southwest corner of the Heckel and Green River intersection and a portion of C-2 remains at the southernmost entrance into Keystone off Green River Road. The Area Plan Commission approved the Keystone Section 7 plat on April 5th subject to approval of this rezoning to residential. The developer has agreed to provide the local match should the intersection improvements planned at Green River Road and Heckel Road qualify for CMAQ federal funds.

Steve Bohleber: My name is Steve Bohleber. At the Plan Commission I had architects, engineers, the owners and everyone else. Tonight I am the lone ranger. Not hearing anything to the contrary it is my assumption they want to go forward and just were lulled by a four and a half hour wait at the Plan Commission and they will be here by 10:00! I have nothing to add. We seek approval.

President Jerrel: Is there anyone else that would like to speak to this issue? Seeing no one, is there a motion?

Commissioner Mourdock: I'll move approval of the rezoning from C-2 to R-1 for VC-4-2000, Keystone Development LLC, 5900 North Green River Road.

Commissioner Tuley: Second.

President Jerrel: And I'll call for a roll call vote. It is a final reading. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Steve Bohleber: Thank you.

Final reading

VC-1-2000

Baseline Properties, Inc.

President Jerrel: We're now ready for VC-1-2000.

Joe Harrison, Jr.: Wait a second, they wanted to be told.

President Jerrel: Okay. At this time we're ready for VC-1-2000.

Commissioner Mourdock: Before we get started I would make a request of counsel here and certainly anyone who wishes to speak. One of the problems with this room is just it's hard for everyone to see the same thing and I know you've got some posterboard and some maps here, so if you would when you refer those would you please put them on the easel over there and then because all of our notes are recorded verbatim you'll need to carry the microphone with you over to that spot.

Joe Harrison, Jr.: The attorney for the remonstrators, is she in here? Krista Lockyear. She was asked to be—

Unidentified: Let me go check on her again.

Joe Harrison, Jr.: Okay. I indicated I would tell her. I think Blaine just went to look for her.

Commissioner Mourdock: While we're waiting anyone who wishes to address the Commission as you go to the microphone please state your name and address please.

Unidentified: Pardon me, you want us to state our name and address now?

Commissioner Mourdock: No.

Commissioner Tuley: Just when you speak.

Commissioner Mourdock: Sorry about that.

Joe Harrison, Jr.: Again this is petition VC-1-2000, petitioner Baseline Properties, Inc. The address is 659 East Baseline Road. The request is from Ag to M-2 with a use and development commitment. All those who wish to speak concerning this rezoning petition please raise their right hand. Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Blaine Oliver: Attorney Tom Bodkin is the representative for Baseline Properties, Inc. in this request to rezone a 36.45 acre site on the south side of Baseline Road between US Highway 41 and Peck Road from agricultural to M-2. The common

address of the site is 659 East Baseline Road. This petition was heard at the Area Plan Commission meeting on April 5th and was recommended for approval with seven yes votes, four no votes and two abstentions. Previously this petition was heard at the March 1, 2000 Area Plan Commission meeting. The vote on the Plan Commission at that time was one yes and ten nos, a recommendation for denial. Applicants filed an amended petition and returned to the Area Plan for rehearing of the ordinance as a petition to rezone the 36 plus acre site to M-2 with a use and development commitment which addresses landscaping, buffering, right-of-way dedication and road improvements. The Commitment also limits access to Baseline Road only and addresses right-of-way and improvements to Baseline. Also, billboards and cellular towers and some other uses were limited in the Use Commitment. According to County Engineer John Stoll the obstacles to improving Baseline Road are that there is a lack of documentation of right-of-way on the south side of Baseline and there is a major SIGECO easement on the south side of the road. The developers have indicated a willingness to work with the county to widen Baseline. This site is adjacent east of the 38.8 acre 17 lot Baseline Park Industrial Subdivision. Rezoning this site will allow expansion of the industrial use east to Peck Road. Surrounding property north, south and east of the site remain agricultural. The agricultural classification is also considered a residential district in that it allows single family residential use. This area is identified on the Year 2015 Conceptual Land Use Map in the Comprehensive Plan as an area of industrial development. A narrow strip along Peck Road is designated for agricultural uses with scattered residences. This proposed use is consistent with the concept in the plan to establish an industrial corridor along US 41 in northern Vanderburgh County. Surrounding is a rural agricultural residential area experiencing a gradual transition to the long planned industrial development along the Highway 41 corridor. Quality site design and buffering techniques would be appropriate at this location to lessen the impact of the industrial development on adjacent residences. High intensity uses are generally considered incompatible with residential without this buffering.

Tom Bodkin: Madam President, gentlemen of the Commission. My name is Tom Bodkin, 100 Water Street, Newburgh; 700 Hulman Building, Evansville; counsel for the petitioner. Let me start if I could with some exhibits that were presented to the Plan Commission. The first of the exhibits are three small pages labeled as Exhibits 1, 2 and 3. Those come from our Master Plan book. Exhibits 1, 2 and 3 reflect the pages from the Master Plan that show us the projected land use for residential, commercial and industrial. Those become relevant, I think, as we deal with one of the concerns that the staff had with regard to buffering and that is exactly where is the Master Plan's limit for industrial use of this ground. These are three pages out of the plan. We also have, as you know, a large land use map in the back of the plan, the 2015 Land Use Plan, which is scaled and, the top one right there, is a drawing that I requested the engineers make for us and that is also reflected here on the larger board in front of you which I'll have him put up on the easel which reflects generally the zonings in the area now. It also reflects by the hatch marks where the large land use map in the back of the Master Plan would predict the end of the industrial property to be and it is our belief when that map when scaled as the one you have in front of you and on this board is scaled out it goes to Peck Road. Not to the other side of Peck Road necessarily, but to at least Peck Road. Lastly, the other map which is coming starting with Commissioner Tuley basically is a plot plan of the subdivision or the property at issue and we have the larger one here which shows you not only the parcel itself, but the adjoining parcels as well. I'll be talking about these as I go through my presentation and I'll see if I can get them up and down.

Commissioner Tuley: Since we have these would you rather they turn these around so the audience can see those?

Commissioner Mourdock: Yeah.

President Jerrel: That would be fine.

Commissioner Mourdock: Excuse me, Tom. The main point of this is so the audience can see what is being spoken of and, again, if you are speaking and you want to show us where your house is please keep it at such an angle so we can see that, too, but we just want everyone to see what is being said.

Tom Bodkin: The parcel issue is 36½ acres of real estate roughly. It's east of Highway 41 bound on the north by Baseline Road within the US 41 corridor. It adjoins a parcel of real estate currently zoned M-2 and known as the Baseline Industrial Park owned by my clients and they have developed that ground. Again, the parcel is bound on the west by the existing industrial park zoned M-2, on the north by Baseline Road, on the east by two undivided parcels, two homes if you will, but on the plot plan are in green, if you will, right on the corner of Peck Road and Baseline, the northeast corner. There are two homes there in that...two homes in that area. Then further south on Peck basically it is empty real estate that we own. Then we head to the south, there is a parcel of ground about ten acres where there is a green woods checked off. That's Mr. And Mrs. Epperson's home and then to the south of that and to the west is property to the west...property we own to the south, property owned by Heston Koch. We are seeking zoning to M-2 with use and development commitments. The current parcel is zoned Ag and the balance of the parcel around us except for the piece we own to the west is also zoned Ag. As the staff reported to you this process first began several months ago with the Plan Commission where there was a vote against this proposal. After that there was a meeting with the neighbors. The use and development commitment was developed. It does not satisfy them. It is my client's belief it is the best we can do with what we need to do here, so we proposed the UDC and then went through the Plan Commission and staff reported the Plan Commission's recommendation to you tonight is a recommendation in favor of this zoning seven to four. It is my client's belief and mine as their lawyer that this proposed zoning falls squarely within your Master Plan. The Comprehensive Plan was adopted by us as a recommendation from the Plan Commission and after public hearings by you and it is our belief that the maps reflect that this piece of real estate, this 36½ acres bound by Peck Road as you can see from your map and on the one here, it's right here, falls within the area that if you scale out the Comprehensive Plan Use Map contained in the back of the Comprehensive Plan all of that ground is proposed to go M for industrial. To the north...some of the remonstrators live south, some may live east and some live north. There is a subdivision immediately north on Baseline Road right across the road from this real estate. Within our Master Plan that real estate is projected and predicted to go industrial north of Baseline Road. So as you know, we've provided you with the maps, the big maps that you have in front of you plus the small ones out of our Master Plan. There was indication about step down zoning in the Staff Report and that's what led our desire to try to figure out exactly where the plan called for industrial to go and because of the issue of whether or not there needed to be some sort of buffering to the west of Peck Road or not. We submit the plan doesn't call for it. More importantly, wherever you stop, if you don't stop at the road, you're going to end up on the west side with industrial against residential. Peck Road logically is a breakpoint. It is a dedicated county road. It is a logical breakpoint to break apart industrial versus whatever the next use might be. As a part of the use and

development commitment my client will dedicate to Vanderburgh County real estate along Peck Road for the widening of Peck Road. That will happen upon the granting of the zoning on the part we own. Now, I can't dedicate up here because I don't own it, but certainly from the south end of our...I guess sort of the middle of our parcel to the south end of it we will dedicate real estate on Peck so that we have a 35 foot dedication from the center of what is now Peck to the west so Peck can be widened when it is time to widen Peck Road. In addition, my client will not access Peck Road from this development. All access to this development will occur only from Baseline Road. Further, my client will not only dedicate the land for Baseline, but up to the entrance of the subdivision we're going to widen Baseline to the county's standards. We will also then dedicate land on further across our frontage for further widening as becomes necessary with regard to Baseline Road. So Baseline, you may recall, basically we was widening it already for the subdivision we have and we're going to continue that to the point where we really run into the retention area. One of the issues that arose during discussions and during remonstrations time was the question of storm water and what effect it may have on parties to the north. This ground basically falls off to the north, so this site collects water from its south and allows it to go north across Baseline Road. Part of what we're going to do, and while this is drainage there is a purpose for this, not drainage per se, we're going to construct storm detention here that is going to capture the water that comes onto this site and we're going to hold it right here in this corner which will then, we hope and we believe, reduce any adverse effect that currently goes into Valley Estates Subdivision now. That doesn't exist today. There is on Peck Road a culvert, an existing culvert, that carries water through a natural swale. That remains, we're not removing that culvert and that water will also go into that retention lake and be held there so that it goes off at no greater rate than it does today no matter what we may do on the site. As you know, that is required by our ordinance, but I think it's important to the zoning that everyone understand that's what we're going to do. Around starting at the point where the retention lake is shown on the drawing and moving east to the end of our property line and then coming south and then turning east again to Peck and all the way down to the south end of our property line we're going to set aside a strip of ground 50 feet wide. The 50 feet of that real estate is going to be used for a combination of two things. One is a buffer for those people who may live in and around or drive by and look at it. Secondly, as a way to conduct the storm water up to that lake. So we'll have 50 feet here that is going to be both drainage swale and buffer in which we will plant plantings. The use and development commitment as I recall says there will be a minimum of either five feet of either plantings or berm or both, a minimum of five feet. Of course, to the extent they are plantings they will grow. Across the south part of our real estate, our south line which is the parcel or the part that abuts up against Mr. and Mrs. Epperson we will dedicate...we will commit a 25 foot buffer, which again will be a vegetated buffer, we're not going to dig anything up, we're going to plant things there just as we are going to do with regard to the 50 foot buffer here which is also storm drain, but we don't need as much here because the water flows across us. So we only need 25 feet to buffer them. I will note for you the buffer is going to go all the way across their parcel which means we are in essence going to be buffering trees for a portion of their real estate. The use and development commitment however says it is going to stop right here and I am not asking you to amend the use and development commitment. I don't want to go back and start all over again, but I can tell you my client is going to do that because we're going to carry it this far and we're going to take it all the way to there as well. Page 20-3 of our Comprehensive Plan tells us what development activities are appropriate for this location. It basically tells us that we need to look to the master plan as a guide and development activities in the location and we submit that the plan itself calls for and predicted in the cool light of

day without anger and remonstrance when you looked at the plan some time ago that this area was the area that you and the Plan Commission felt needed to go industrial to bring jobs and development to this county as opposed to having it scattered in lots of different places in the county. Secondly, our plan tells us that existing and future uses must be contemplated so as to protect against uses developing that are inconsistent with the plan. I submit to you that the Master Plan calls for this area to go industrial. It doesn't say M-1, 2 or 3, but it says industrial and therefore we are actually falling within the plan's projection of what the uses should be consistent with what we predicted the ground ought to be in the future. Our request meets both of these principles set forth at Page 20-3 of the plan. Further in Chapter 10 of the plan we address industrial development. Exhibit 3, which I gave you, is actually found at Page 10-6 of our Comprehensive Plan. The land at issue here, the 35½ or 36 acres is actually described in Area B of our Comprehensive Plan found at Page 10-3. Page 10-7 does set forth the framework for resolution of the issue by basically setting out three criteria, if you will, or three things that we are to look at as we approach zoning on rezoning of real estate. First, you set a goal in the Master Plan and you stated for industrial property you wanted the goal to be to promote clean industry which minimizes resource use and waste and contributes to our economy providing diverse employment opportunity. We submit this site will do exactly that. We've entered into use and development commitments. We have agreed that there will not be certain uses there and I would like to very briefly run those by you. We've indicated we will not allow a pawn shop to be there nor will there be any manufacture of fungicides or insecticides or industrial and household chemicals. There will be no manufacture of lead oxide. No concrete mixing or concrete batch plant. No scrap metal reduction. No feather processing. No adult entertainment centers of any kind. No bookstores or showplaces. No flea markets. No marine salvage yards. No petroleum bulk storage sites. No shipyards or dry docks, and while that is a little far fetched, it's kind of far from the river, it's still one that was contained in the M-2 uses. No slaughter houses. No foundries. No tobacco curing, amusement parks or theme parks. No animal or vehicle race tracks. No paper mill. No drive-in theaters and no permanent circuses or carnival grounds. There also will be no, no outdoor advertising signs. No billboards. The only signs that will go up are those that advertise whatever the business is on the site. There will also be no cell phone...no cell towers on this site. We are limiting them...not only limiting, we are prohibiting them. So billboards and cell towers will not be allowed on this site pursuant to the use and development commitment. When you as County Commissioners adopt the zoning code you set forth uses by category and you consider those in terms of what are the best kinds of industrial uses we want for Vanderburgh County and you put them in the code and those that you feel do not meet the goal of having clean industries that minimize resource use and waste are uses you did not put in the code, so I submit that the very fact that this parcel is predicted to go manufacturing clearly meets the goal set forth in the Master Plan. You also set out some objectives and policies you told us to look at as we approach zoning. You told us that the Comprehensive Plan calls for compact industrial development and I interpret that to mean as opposed to strip center type development and I submit to you that we are meeting that plan requirement here. If we look at the map that shows you kind of the general neighborhood, if you will, from Highway 41 down to...well, south of the road we're talking about here it is quite clear that we are continuing what has already been desired by the county of compactness in industrial development. To the west of us on the other side of 41 is all zoned M-2. We are zoned M-2 ourselves immediately adjacent to this parcel. We are simply extending that continuation of our subdivision, if you will. Directly south of us on our side of 41, if you will, is also zoned M-2. As we move north along Highway 41 we see again the continuation of the realization of our plan that we want

industrial development moving north along Highway 41 with 41 as the corridor. So I submit that our proposal does meet that objective and policy in terms of compact industrial development. You also told us to address adverse impact on the neighborhood and to deal with transportation and utilities. We submit that our use and development commitment addresses impact on the neighbors, not to their satisfaction, but to the best we believe we can do and still gain the benefit of the land for the industrial purposes which our plans calls for it to be. With regard to transportation we clearly are addressing that issue. We're going to widen Baseline Road at no cost to the county taxpayers which will then carry the traffic to and from our subdivision. We are only accessing our subdivision off Baseline Road thus not impacting by traffic anyone along either Peck or I might add Korff Road which runs north and south just a little bit to the east of Peck. That land, whenever that develops, is going to presumptively come down Baseline, so we're accommodating future growth to the north by the widening of Baseline. While we are not going to impact Peck Road with access we are also dedicating the road to the county along Peck Road so it can be widening if and when it is time to do so. As you gentlemen and lady know, that's one of the major problems you have in dealing with county roads is how much right-of-way do we have, when can we widen it? Gee, we can't widen it because we've not got enough land. So we are dealing with your objectives, we believe, by doing that as well. We have dealt with drainage. I have described to you what our plan is there. It's going to meet the county's ordinance with regard to drainage so we believe we have helped minimize some of the impact with regard to drainage in the neighborhood. Finally, water and sewer, gas and electric are there and coming. They get extended into this subdivision. Obviously, SIGECO has a large transmission line which runs right along the north boundary of our real estate and that is in part one of the things that controls how we go in and out of that piece because SIGECO does have a 69,000 volt line that runs along there and we are going to be entering as far down the road we can near the subdivision consistent with the need to create...this is the drainage retention facility here. That's really about the best place for us to go in and out consistent with where SIGECO controls the land as well. It is our belief that this proposed zoning meets the Vanderburgh County Comprehensive Plan. It is our belief that we meet the objectives, we meet the goals, and we meet the criteria for rezoning this ground. My client would request that you pass the ordinance and rezone this real estate to M-2 with the use and development commitment that we have proposed. Thank you.

President Jerrel: Do you want to defer until you hear questions? Alright, I don't know how to do this fairly except that everybody that raised their hand are more than welcome to speak. So you want to start on this side?

Commissioner Tuley: Don't they have representation?

Commissioner Mourdock: Krista Bonewitz is—

President Jerrel: Well, we found you. I'm sorry, I didn't see you.

Unidentified: Could we please turn the volume up a little because back here you're facing that way and we cannot understand exactly what is being said.

President Jerrel: Okay, that's a good point. Krista will speak up.

Joe Harrison, Jr.: Krista, can you raise your right hand?

Krista Lockyear: Certainly.

Joe Harrison, Jr.: You weren't in here earlier. Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

Krista Lockyear: I do.

Joe Harrison, Jr.: Thank you.

Krista Lockyear: Members of the Commission, my name for the record is Krista Lockyear. I represent ten of the landowners in this area. For the record I will go through their names: Stan and Kim Epperson; Doug and Linda Rickard; Andy and Janie Russell; Tim and Beth Ruston; Bud and Connie Cottingham—

Commissioner Mourdock: I'm sorry, Krista, what was the last name?

Krista Lockyear: Ruston.

Commissioner Mourdock: After that.

Krista Lockyear: Cottingham. Ira and Mary Edmondson; Sam and Regina Dempsey; Loren and Cindy Zeller; Steve and Gail Robertson; and Greg Hill. In addition, I have a petition here that is signed...I'm sorry, a petition here signed by the neighbors in the area opposing this that has 20 names on here I will pass out for your consideration.

Unidentified: There is 86 on there.

Krista Lockyear: Twenty on the first page, I'm sorry.

Unidentified: Three pages, there are 86 on there.

Krista Lockyear: For the record there are 86 names on this petition in opposition to this rezoning. I typically when I am approached by remonstrators I am a little leery. Remonstrators are often emotional. We're talking about their homes. They don't want development, the not in my backyard syndrome. These neighbors are the most reasonable people I have ever come across to remonstrate in a zoning. Maybe first of all we should take care of this Comprehensive Plan issue. It's easy to rely on the Comprehensive Plan and I don't want to make a mountain out of a molehill, but it is my understanding that there is a zone along Peck Road that may or may not be shown in the Comprehensive Plan to be industrial. It is most likely shown from our point of view to be a buffer area of agricultural and I might ask Blaine Oliver real quickly to address his thoughts when they were developing the Comprehensive Plan as to what this strip of property should have been shown.

Blaine Oliver: The concept for developing the plan was basically to provide an agricultural area with some scattered residential housing in it between the industrial corridor along 41 and the higher intensity residential use along the Old State Road corridor. The problem that you have when you overlay our map...overlay our land uses on top of, in this case I believe they used a USGA map, is that our map was digitized into AutoCad based on a hand drawn map, so it's not totally accurate or totally perfect. It's meant to be a conceptual land use map and this is hopefully one issue that we can maybe clear up if we get GIS, but basically our concept was to provide that agricultural strip and to have there be some of that on both sides of Peck Road. I believe the planometric maps which we have were flown in 1990 and those were the maps that we used to try figure out where the concentrations of

industrial and...not industrial, residential uses were. I believe along Peck Road from Baseline to Old State there was about nine houses on the west side of Peck Road in that stretch. So what we thought was we would take the industrial development from 41 up to basically the backyards of those properties to provide him some comfort that we wouldn't be basically changing the use on them in the future in that area, so that was the concept that we used and the reason why there is a discrepancy. Our map does have a scale on it. It probably should have said an approximate scale. When we overlaid our uses, our future uses, on the planometric maps in this area it also shows Baseline Road being off a little bit, but we're only talking about three to 400 feet which is about maybe an eighth of an inch or so on our Future Land Use Map at the scale that it is at.

Krista Lockyear: Thank you, Blaine. The point to be made, I think, is we may have a difference of opinion whether this is supposed to be industrial in the Comprehensive Plan. From these neighbors' point of view when they look at the Comprehensive Plan they were protected with an agricultural buffer. Anyone that moved into the area recently looked at that and believed that they would be protected and I think in general when doing the Comprehensive Plan you look at areas where they're populated, where there are homes, and you try not to move industrial right in on top of them. You give them a little bit of a buffer area. Going back to what I said about these neighbors being the most reasonable remonstrators I have ever spoken with they met with the petitioner earlier and indicated that they would accept an M-1 zoning with some restrictions, but that if they could get these minor restrictions in place M-1 was fine with them. The petitioner has indicated that they don't have a market for M-1, however we haven't seen any evidence as to why they don't have that market. There is a huge difference between M-1 and M-2. There are 54 manufacturing uses and 29 assembly, packaging and processing uses that can be held...that can be built in an M-2 industrial zone that could not be built in M-1. Some of these are extremely offensive in close proximity to a residence. Firearms, raw plastic manufacturing, roofing materials, rubber and rubber products just to name four that struck me as probably the most offensive if they were right next to my home. If not M-1 at a minimum the petitioners requested additional use restrictions in the M-2 zone and Mr. Bodkin read to you the use restrictions from the use and development commitment that they are willing to concede to. Again, there are 83 more uses other than those that he has taken out that are allowed M-2 that aren't in M-1. Some of the restrictions that the remonstrators particularly asked for that the petitioners have not removed include pest control, chemical packaging, experimental or testing research laboratory and pharmaceutical products compounding. I'm not sure what that means, but pharmaceutical products conjures up a picture of the Eli Lilly plant that we have up in Indiana, northern Indiana. I certainly wouldn't want something like that in my backyard. Imagine the smell, the smoke, the noise, the possible dangers associated with these M-2 uses that will be really in very close proximity to these neighbors. That brings up buffering. How do we address...how do we get manufacturing into this area without harming the quality of life and potentially endangering the lives of these remonstrators. There is no natural buffer on this property and I would like to pass out some pictures showing the real estate in question and it shows relation to most of the remonstrators' property. If you will look on the back of each of the pictures, I won't go through one by one, but it lists where the picture is taken from standing on the Baseline Road property and looking at the remonstrators' homes. Now we do understand that the petitioner has presented this use and development commitment that has some buffering. The neighbors requested the petitioners give them 100 foot green space at a height of ten feet from road level. That's certainly not in my opinion very extreme considering that the 50 feet that the petitioners have already agreed to most of that is within

right-of-way, drainage right-of-way, and green space that they're going to have to provide anyway. So they haven't given a whole lot to their detriment. These are easy buffers that they've given away. If I could point out on the map the 50 feet that is along the top of the detention pond. Again, a lot of that is drainage and doesn't offer any additional concessions from the petitioner. Running along this property to the...I guess we're running north/south here. This is not in the use and development commitment nor is this here. I understand petitioners to say that they will put in this buffer, but there are no commitments to do so and we did ask for a postponement to get something. We asked for something private in writing that would not have caused a postponement, but petitioners were unwilling to do this. The 50 foot buffer along Peck Road, a little questionable as to whether or not that includes the Peck Road right-of-way. I think Mr. Bodkin will probably agree it shouldn't. I have a little bit of concern that if they dedicate 30 feet of right-of-way or enough right-of-way to make Peck Road 30 feet and they go ahead and build 50 foot off of where Peck Road exists now what happens five years from now when we come in and their construction is already established, you pave Peck Road, widen it, you are shortened down to less than 50 feet green space, so that might be addressed by petitioners, but it's a concern I have that is not real clear in the use and development commitment. Likewise, along the south side of the property the use and development commitment only provides buffer on half of this green space area. The other half petitioners have verbally indicated that they would do so, but we don't have any legal requirements for them to do it now, five years from now, really or at all. They're asking us to go on their word. Another perhaps flaw or lack of concession in the use and development commitment that petitioners have provided it indicates that they will install and thereafter maintain naturalized plantings. That's pretty loose and I would ask that they could come up with some better commitments than that. That they would replace plantings at their expense within a reasonable amount of time. One of the problems that we have here is this is in favor of the Planning Commission and if trees die and we end up with some green space that has no visual shield, trees have died, bushes have died, it's up to Planning Commission to come out and enforce this. The neighbors could do so. There is no provision for attorney's fees, reimbursement of attorney's fees for them, so neighbors are looking at having to go into their pocket to get any kind of enforcement from these provisions at all. That would be a horrible feeling, if you live next to this and you knew that you were going to have an uphill battle to get any enforcement. Looking at those pictures I think it raises...it brings a quality of life issue to my mind picturing a factory right across the street from your house. There are no height commitments in this use and development commitment and there are no height commitments in the...restrictions in the code for M-2, so height on these buildings is unlimited. Again, you have concerns of smokestacks and how high can they go. Forgetting about quality of life and moving on to something a little more substantive, devaluation of the surrounding properties. These people have invested most of their earnings, I'm sure as all of us do, in their homes. Having a factory immediately adjacent to your home without adequate buffering is certainly going to incur some devaluation of property. I have two letters from realtors in the area. One is from DeAnne Naas with River Bend Realty. One is from Billy Lovelace with Flack Realty and Insurance in Gibson County. I picked them because they are pretty familiar with development, the industrial development recently. Both of these letters indicate that there would certainly be an devaluation of residential property if M-2 zoning is allowed to be passed immediately adjacent to these properties and I will hand these to council for the record. There is not a guarantee on property values, but to more adequately protect these people there could be expanded green space on this rezoning. There could be height limitations and though already provided by nuisance laws we could have noise restrictions and odor restrictions, additional

guarantees that petitioner really they haven't gone the extra mile to make assurances to these neighbors that they won't harm both their quality of life and their property values. These items may cost petitioners some money, but by not requiring petitioner to come to the table with these it is our belief you are taking money away from the remonstrators in the value of their home. As I indicated we asked the petitioner to postpone this to consider the additional requests that the neighbors were making. It's my understanding that they have property next to this real estate that they own and could be selling or marketing at this moment and they actually own this real estate so there is not an option that is about to expire. I'm not sure why time is more important than addressing concerns of the neighbors at this point. My fear is that the Plan Commission vote gave them some courage and some assurances that it was okay to move forward without finishing the negotiation with the neighbors. And, you know, history says that with a favorable APC vote you might be able to get it through Commission, but they have ignored additional requests that these remonstrators have made. Again, I just want to emphasize the word reasonable. They're not asking for the moon. They're asking for protections for their home. They're asking for things that will protect their health, safety and the value of their lives and their home. We ask you tonight not to pass this rezoning and it's unfortunate petitioners didn't consider a postponement of this, but in lack of that, again like I said, we ask that you deny this rezoning. Thank you.

President Jerrel: I'll start on this side now. Is there someone that had their hand up over here that would like to speak?

Kim Epperson: For the record my name is Kim Epperson.

President Jerrel: You can pull that down, Kim.

Kim Epperson: Whoops. My name is Kim Epperson and I reside at 15420 Peck Road, the property to the immediate south of the property in question here. Krista couldn't have said it any better. I don't want to belabor the point. I tearfully spilled my heart and soul at the Area Plan Commission meeting and I just want to go on record as saying that we bought our 100 year old home three years ago with the anticipation that, yes, there was going to be industrialization in the area, but that industrialization however would not encroach and entomb our land, our property and subsequently devalue what we have done since then to our home and what we anticipate doing to it in the future. My husband and I are both business owners. We certainly welcome business into the area, but I don't want it in my front yard. Thank you.

Stan Epperson: Stan Epperson, same address. I would just like to reiterate about my property being pretty much surrounded on three sides by Baseline Properties. This rezoning request is only on the one side, but they have promised that they will rezone in the future the other area. Of course, they are not a farming operation so I'm sure their plan is not to continue to be agriculture and I feel like any land use change should be...any land use change whether it be industrial or not should allow for reasonable buffer and anything that can be done to reduce the reduction of our property value and the property values of the neighbors.

President Jerrel: Could you point to the location? I've got a map here. Either this one or that one up there.

Commissioner Mourdock: Yeah, point at that one.

Stan Epperson: It would be this area.

President Jerrel: Okay.

Stan Epperson: This is our property. Baseline Properties own this and there is a 30 foot strip right through here that they own also.

President Jerrel: So let me be clear. They haven't rezoned that yet?

Stan Epperson: No.

President Jerrel: But they rezoned on this side that isn't shown?

Kim Epperson: Members of the Council, what they've rezoned at this point is nothing that surrounds our immediate property. They have rezoned or are requesting to rezone this. We have talked with the president of Baseline Properties and he has indicated that he will rezone this and there is a 30 foot strip here that abuts our property to the south that we have the deed as proof that indeed Baseline Properties does own that and as a Baseline Properties it too will be industrialized.

President Jerrel: And then they also own and have a building up on that section?

Commissioner Tuley: The west side.

Kim Epperson: They have one of the 17 lots sold, to the best of my knowledge. There is one building on the 17 M-2 lots.

President Jerrel: I'm just asking this because I'm not real clear. I can look at these, but it is easier...what kind of...well, maybe I ought to ask Mr. Bodkin. What is the buffering along this area?

Commissioner Mourdock: Now I can't see where you're pointing.

President Jerrel: Right here.

Commissioner Tuley: The southernmost edge.

Commissioner Mourdock: Okay.

President Jerrel: See, that's theirs. What is that area...what will be here to buffer this part?

Tom Bodkin: It's a strip of ground 25 foot wide on our property. Basically, it will be buffered...the easiest thing to do is just to read to you, Madam President, what it says if I can find it real quick for you. Here we go:

"Baseline Properties shall install private construction of any buildings on the real estate and thereafter maintain naturalized plantings of native and non-evasive, non-noxious ornamental trees and shrubs to be at least five feet in height."

We're not going to dig up anything there, we're going to plant stuff there in that 25 foot strip. The same thing is true around the other parts, by the way.

President Jerrel: And does that run along the entire border?

Tom Bodkin: Sorry, get away from this thing.

President Jerrel: Okay.

Tom Bodkin: The use and development commitment only calls for it to go to here.

President Jerrel: Uh-huh.

Tom Bodkin: And we have told Dr. and Mrs. Epperson that we are going to extend it to this property line, but to change the UDC at the time they came in on Friday before the Plan Commission meeting on Wednesday, I think that is when it was, would cost us another month to change it and tonight it does the same thing. They can either accept our word or not, but technically it stops there, but we are going to extend it across their woods as well.

President Jerrel: I don't know if I am overstepping. You stop me if I start talking about something...can you not enter into a private covenant with them?

Tom Bodkin: Yes, ma'am, and we would be pleased to do so if that will satisfy them.

President Jerrel: Well, it's not for me to say.

Tom Bodkin: I appreciate that, right. Yes, my client will give them a private covenant. We will pick up where the UDC stops and carry it along to the end of their property line. We go on further to the west, obviously, doing exactly what the UDC says it would do for the rest of that ground.

Commissioner Mourdock: Mr. Bodkin, would you clarify...Mrs. Bonewitz made the point...I'm sorry, it's not Bonewitz.

President Jerrel: Lockyear.

Krista Lockyear: That's okay.

Commissioner Mourdock: It better not be Ms. Bonewitz at this point.

Krista Lockyear: I still answer to that.

Commissioner Mourdock: Okay, sorry about that, Krista.

Tom Bodkin: You just dated yourself badly.

Commissioner Mourdock: Yeah, it's only been a couple of years. She raised the issue on Peck Road about there was some question as to what was being dedicated and what was being reserved for the buffer. Would you clarify that?

Tom Bodkin: Certainly. We are dedicating 50 feet outside the right-of-way of Peck and we will dedicate enough land so that Peck will be...from the center line of Peck over to the edge of the right-of-way will be 30 feet, so if you add the two together to the middle of Peck Road will be 80 feet. But the 50 feet we are dedicating is outside the right-of-way of Peck.

Commissioner Mourdock: Okay, I think you said before 35 feet.

Tom Bodkin: If I did I misspoke. It's 30 on the use and development commitment, I believe. Let me find it here. Thirty feet, Page 3 of the UDC:

"D. Baseline Properties will dedicate right-of-way along Peck Road so that there is 30 feet of right-of-way starting from the middle of Peck Road extending west into the real estate."

And then we'll pick the 50 foot buffer up from that point and go west with it. So technically—

Commissioner Mourdock: So it's a total of 80 feet?

Tom Bodkin: From the middle of the road and I'm not certain how wide Peck Road's dedication is going east. I don't know that. But one would hope it is at least 15 or 20 feet.

President Jerrel: And you'll have foliage on top of that?

Tom Bodkin: Yes, ma'am. The same description in terms of the kind of, again, non-evasive, non-noxious ornamental trees and shrubs. Land forms within the green space easement...cumulative height of land form and planting shall not be less than five feet above current grade. Again, part of it can be berm, part of it has got to be vegetation because again we are taking storm drains up that side as well.

President Jerrel: What is considered current grade? The grade of the property or the road?

Tom Bodkin: As it is grade...at its elevation today whatever that is and I don't know that elevation, but whatever it is today is the current grade so we start and go up from that. I don't know if the property is higher or lower than the road frankly.

Several responses from audience: Lower.

Tom Bodkin: So the road is higher than the property, I guess.

President Jerrel: So which are you going to—

Tom Bodkin: Our grade, from our current grade.

President Jerrel: Okay.

Unidentified: We wouldn't be able to see your bushes. It would be below the road.

Tom Bodkin: If you have any other questions otherwise I will sit down and let them have their time.

President Jerrel: And when these issues are raised—

Tom Bodkin: That's fine.

President Jerrel: —if you could come back.

Tom Bodkin: Sure, happy to do it.

President Jerrel: On this side we have a speaker?

Calvin Rickard: My name is Calvin Douglas Rickard. I live at 900 East Baseline Road. You have a picture of my house that I took. I took those pictures by the way with a \$7 35mm throwaway camera. There is no zoom involved there. Okay, that's actual shots.

Commissioner Tuley: Would you show us which one is yours so we get a feel for where you are at?

President Jerrel: Is this it right there? No.

Calvin Rickard: I'll get it real quick here. That's mine right there.

Commissioner Mourdock: And where are you?

Calvin Rickard: I'm standing about 20 feet into their land right...okay, I'm standing right here.

President Jerrel: Okay.

Calvin Rickard: I'm standing right here when I take this shot. Okay, so I'm standing right here. My house is right here.

Commissioner Tuley: Right there.

President Jerrel: Okay.

Calvin Rickard: I'm on that first lot.

Commissioner Tuley: Alright, thanks.

Calvin Rickard: First I would like to bring up the fact that two years ago I came before this council when there was an article put in the paper about this Comprehensive Plan. At that point in time I was told, well, nothing has happened yet, it's not a problem. Don't worry about it, you know. My argument was we don't want industrial in our residential area. They said, well, it hasn't been zoned yet, so there is not a problem there. So they were still planting corn over there, so I let it ride. Now I've been going through this madness for the last two and a half months trying to along with my neighbors trying to stop this thing. We're all taxpayers. We all are homeowners. We all thought we had a vote in what went on in our neighborhoods and in our residential areas. We do have a school within a half mile of the back of this property, Scott School. I know that has been pretty well disregarded, but I am sure there are a lot of parents out there that wouldn't. Someone has spoken with the fire department up there, the new fire department which I might add I really like and it's very close to the house now, but it will not...they do not have the equipment to handle a heavy industrial problem. So you're going to have to end...you know, you start building a lot of industry right there within two miles of that fire station you're going to have to expand your fire station also. At the Area Plan Commission meeting I got the impression that Baseline Properties was trying to blame the County Council and the Area Plan Commission for buying this land. I really don't think it is anybody's fault but their own. They could have asked, even knocked on a door and

said this is what we propose to do with this property what do you think? My first notice was 14 days before the first Area Plan meeting. That was my first notice. I didn't even know the property had been sold. I would also like to show you where the flood zone runs here. They're all along the backside of this valley it states the majority of all this land here on into this farm land here is in the flood zone. This water carries from the school in McCutchanville it carries down through here and, by the way that pond is not in the UDC it's just a picture. I didn't see anything written about it in there. All this water falls this way. All this water falls that way and it has to blast through a six foot by six foot culvert right here in this road. That's right at the corner of my property. I've seen this thing coming out of that culvert 40 miles an hour. It will literally try to come up over the top of that culvert. Luckily this area is just high enough that what it does is it spills out. Unluckily for some of my neighbors it spills over the road and then into their front yards. I've had it come out of this drainage ditch and cut through other people's homes. Okay, coming off this land that water moves really fast. It's all downhill. I would just like to say that most of us in this area are adamantly opposed to this. We thought we could bend without breaking by making some concession and we feel that all of our concessions have been ignored. Thank you.

President Jerrel: Is there somebody on this side now that would like to speak? Yes, ma'am.

Mary Edmondson: My name is Mary Edmondson and this is my husband, Ira, and we live at 15715 Peck Road. Our home is located directly across Peck Road from the Baseline Properties site. That's on the east side of the road. We've lived at this address for 36 years and we hope to spend many more years at this location. We don't want our property devalued and we are very unhappy at the prospect of having M-2 manufacturing in our front yard which is what it is going to be. We sincerely hope that you will vote no to M-2 zoning.

President Jerrel: Ms. Edmondson?

Mary Edmondson: Yes.

President Jerrel: Would you just point for our purposes?

Mary Edmondson: Right there.

President Jerrel: Okay.

Mary Edmondson: That's right across the road.

President Jerrel: Okay, thank you. This side? Sorry.

Greg Hill: I'm Greg Hill. I live at 1045 East Baseline Road. I'll show you the property on the map that I own. I own from Baseline Road back to the back of these properties here. All along the back of these houses. My lot is approximately 450 feet by whatever long it is. I've lived in the city. I moved out there about eight months before these people bought their property. I moved out of the city to get away from...I lived next to a business. We finally worked out a deal because, I don't want to say it, they had activities that went on during the daytime, but they didn't go around the clock. I mean, I didn't mind it and eventually they bought me and gave me a fair price for it because I didn't gripe about it. But I have a couple of questions. When was the Master Plan made?

Blaine Oliver: In 1996.

Greg Hill: 1996. Since 1996 there has been a lot go on in the area, it would be east of Peck Road. You approved a couple of subdivisions. This is a unique situation here. They're pushing back off of 41 wider than I think anywhere along there right now is back into the residential zone. No one has said, everybody is talking about the property along it, there is probably 30 to 50 houses that are there now established. We've got millions of dollars tied up in them. You know, new subdivisions, everybody has approved them on the other side. The Master Plan is not wrote in stone. It's to give you a guideline, I think, is what I understand it to be. On Peck Road they're saying that they are going to give an easement plus their 50 feet. Now they are not going to have access to Peck Road which is not wide enough. Is there something...you know, once they sell it to another company or whatever can they come back and petition whoever and use a road?

Commissioner Tuley: I think that's what their UDC calls for. I think everything transfers to whatever ownership there may be.

Greg Hill: So in other words whoever buys it can't use it?

Commissioner Tuley: Correct.

Greg Hill: Okay. Like I said, I moved out here and it's nice and quiet. I come out, it sounds funny, but I have three quarter acre pond on the property and I come out at night and listen to the frogs and crickets. It's dark. You know, I don't want a factory across the street where I'm going to have to listen to some guy come out there and squall for whoever in the middle of the night. Lights, everybody likes it out there. I mean, there is a few dusk to dawn lights, but if you come out there at night it's a nice rural setting and that's the way we would like to keep it. Thank you.

Calvin Rickard: Can I say one more thing?

President Jerrel: Sure.

Calvin Rickard: I'm Calvin Rickard again. Greg mentioned that the norm is not that deep, you know, off of Highway 41. If you'll look at this right here this is Koester, okay. This is the land that they now hold and you look at this line nobody seems to be coming back into our residential area at this point because this is all residential, you know. All this is residential. As a matter of fact, all of this is residential also. It seems to me like you've got a quarter of a mile here. That's a quarter of a mile. This is a half mile. Quarter of a mile is enough.

President Jerrel: Thank you. Somebody on this side that wishes to speak?

Loren Zeller: I'm Loren Zeller and I live at 15849 Peck Road. The question I have is we've got an awful lot of M-2 zoning already there that could be utilized and not much of it is really utilized yet, so what is the big hurry to put in the M-2 into these piece of parcel, you know, ground here to buffer it up against the residents when we've got all this other M-2 ground out there along the highway that is probably more suited for the heavy industrial uses anyway and let our neighborhoods stay the way they kind of were intended to be residential areas? One other question I have, if indeed our properties are devalued is Baseline Properties going to give us a check tonight for our properties? Hell, I'll move to Kentucky. Hell, they ain't doing that stupid stuff down there. I mean, I'll take a check tonight and I'll be out of there in the

morning, you know what I mean? That kind of stuff, you know, seems kind of odd and funny, but, you know, heck these are our homes. You know, we bought them with the intention of staying there. I bought mine 23 years ago. My brother-in-law up the road owns dairy cows. I go up there and help him milk, pitch hay and stuff like that. It's country. You don't believe it you should have been there last summer when he spread cow shit all over it. I mean, it's country. You know, we put up with a lot of flies, but that's what we moved there for. It was country, we didn't mind it. You know, we get along with Jim and, you know, the farmers and stuff. I buy hogs from Ralph Rexing and butcher them every year. You know, that is country. That's what you move out there for. It's not to, you know, have industrial right up in your backyard.

President Jerrel: Could you show us your property?

Loren Zeller: I live right here on the corner of Baseline and Peck. Thank you.

President Jerrel: Someone on this side now.

Andy Russell: My name is Andy Russell. I live at 910 East Baseline Road. I want to express my concern along with everybody else about the M-2 zoning in this area. The most striking and the perfect illustration of why we don't want this is the pictures that Doug took. If I could just point mine out?

President Jerrel: Sure. It'll be the last one.

Andy Russell: Probably. This picture right here shows that they could put a plastic plant where he is standing and there is absolutely nothing we can do about it. The bottom line is I feel unsafe with that. All my neighbors do. No matter the property value is a big concern, but if you put a plastic plant right here, if you allow this to go M-2, with other than their word saying they won't we have absolutely no protection and the only real way that we can stop it would be to get an attorney and hope...pool our resources. This is really a watershed hearing, really, because if you put a plastic plant right there who is to say they can't go right up the road and put it right next to the next development, residential area. So this is very...my concern, number one concern.

President Jerrel: Are you...let me make sure I'm looking at this correctly. You're here, this one?

Andy Russell: Yes.

President Jerrel: Okay, so you're right across from where this lake is going, this retention?

Andy Russell: (Inaudible.)

President Jerrel: Okay.

President Jerrel: Okay, anybody over here? How about...yes, sir.

Unidentified: Is the middle alright?

President Jerrel: That's alright, I'm working my way in.

Joel Gallant: I'll keep it short. My name is Joel Gallant. I am one of the petitioners who signed one of the petitions. I live currently at 1751 East Baseline. That's the corner of East Baseline and Old State and right across the road almost from the Scott Fire Department that we just built. I'm glad this is coming up now, to tell you the truth, because I just moved into this area and I'm looking at a house on Old State. It would be very well affected by this situation if it moves in. I won't buy there now. I have a wife and, well, five kids now at home. We home school so we really are in our home a lot. It's important to me. We come from a rural area back in Maine. We moved to Indiana to be near friends and because of the ruralness of it. We don't need smog right where we are at there. I lived for four years in California and I got my fill of that. I was kind of amused and not to put the gentleman down, but when he says there is no cost to the county taxpayers for widening the roads and making it sound like it's kind of a gem, so to speak, that shows it would be a good thing for them to do. I don't know about you, but these people here who live next door are going to lose the value of their property and it's not just going to be a small amount. There is no one that is going to want to buy their property with this plant or any of this other stuff going in like this. There is no one. I don't want to buy and I am thinking about buying within half a mile of the place and I am not interesting in buying if that is going in. So that's what...will the county lower, this is one of the questions I've got, will the county lower their taxes accordingly? How do you prorate something like that when these people are putting not just money into their properties, but they put their blood, sweat and tears into them. I don't understand. I drive by every morning on 57. An M-2 designated area, there is nothing happening. In fact, I found out the other day if nothing happens with it in the next year or so the county is going to buy it back. That's what I understood. This was the information that I got that there is some kind of stipulation when they went and agreed to put this land up for that situation. It's over by...well, it would be East Baseline Road and 57. Right in back is Kingsman or what is it call?

Commissioner Tuley: The old Shell.

Commissioner Mourdock: VIP.

Joel Gallant: There is an M-2 designated area over there that is pretty much an eyesore, at least as far as I am concerned. How long would this take to develop as well? I just don't think it's a wise decision or a wise use of the land and I think it's kind of sad on the people in the back. So that's all I've got to say. Thank you.

President Jerrel: Is there anyone else over on this side?

Connie Cottingham: My name is Connie Cottingham. I live at 15990 Valley Court. I'm here on behalf of all the children that are in the neighborhood and hopefully they're all tucked in their beds right now. This is their neighborhood. This is where they play. This is where they run. They ride their bicycles. Hide-in-seek. We have cookouts, bonfires and we have lots of fun. I have a six year the Lord truly blessed me with and we bought this property last year and we would just ask that you vote this down. Thank you.

President Jerrel: Yes, sir.

Sam Dempsey: Good evening this evening. First off I want to address—

Commissioner Mourdock: What is your name, please?

Sam Dempsey: Okay, Sam Dempsey. I live at 16041 Valley Court. First off I wanted to say their drawing here does not accurately illustrate all the houses that are here. There is a house right here. There is a house right here that fronts Baseline. A house here, here. There are no empty lots right along Baseline here. The reason I got up this evening my main concern I live on the house right here in the Valley Estate Subdivision on the very back. Our house, my wife and my house, is built up on a mound, okay. We have water problems which Baseline Properties in their initial building out here on 41 is divided into little plots, if you will, 17 of them and I think they've got one built for Farm Bureau Insurance or something. They've got a little retention lake out here and already...we haven't had any big rains to contend with and yet that retention lake has ran over on us already. Okay, and the gentleman, we addressed this with them, Baseline Properties on 41 North, and the gentleman we asked them were they aware that it had overflowed and they kind of looked at each other and nobody had knew that it had overflowed. My idea is this here retention lake there is no way that this can handle the water. I've got a map here, you might have that copy here. This is a floodplain here that I got from one of the offices down here. Right here, this section here, was four...hold on just a second. Okay, right here is 41. This is what Baseline has in their possession right now that they've developed and this is the land tonight before you all. Right here along Baseline it's in the floodplain. A lot of time the Sheriff has to block this road off east of Peck and we can't even get home this way. When floods happen you can see this floodplain all along right along the back of Baseline here. When that floods, my house is built on a mound, I can't even drive up to my house if I'm not already in the house. You can't drive down that's how deep the water is there. So I'm saying and anybody that has been out here, living out here and I've been out here five years, there is no way that a retention lake can handle water that is going to come over on us. One other point I wanted to make, the Area Plan Commission voted this down ten to one the first time that they brought it. The second time they brought it it passed seven, four, one, okay? The first time Mr. Shetler and Mr. Hatfield voted no and the second meeting they brought another attorney in and had some fancy drawings like this and both Shetler and Hatfield both voted yes and passed this as one of the seven votes, but yet in the first Area Plan Commission they both said no and there was discussion among the members, especially those two, saying...excuse me a second. You should have some water here. You get nervous up here.

Commissioner Mourdock: Hold on a second. Take a deep breath because we need to change tape anyway.

Sam Dempsey: Oh, okay, that's good timing.

Tape change

Sam Dempsey: Okay, we're ready? I apologize. The first time they voted no in that saying that we wanted Baseline Properties to tell us who is going to come in here, okay, and they don't have a buyer they're saying and yet Shetler and Hatfield both voted no and yet then they both voted yes and there was no discussion about them asking Baseline about who was coming in so it was kind of an ironic situation that, hey, you know, you're voting no the first month and the second month they come in and they're giving a yes vote and the reason they state that they're not voting for it the first meeting is because they're not telling us who is coming in here, you know, so what us as homeowners are saying, you know, yes M-1 but why put M-2 right across from us. That's all I've got. Thank you.

President Jerrel: Is there anyone else that would like to speak? Yes.

Stan Epperson: Stan Epperson, 15420 Peck Road. Could I show you my house?

President Jerrel: Sure. I think it was this one, yeah.

Stan Epperson: Yes. Remember, I'm the one who is surrounded by Baseline Properties. Project into the future if you would and if it is M-2 around me and if I would want to sell in the future, again in reference to the loss of property value, I would be surprised if anyone would want to buy it as a residential property being surrounded. Suppose I wanted to try to rezone to an equal zoning that is all around me. Would you rezone me M-2 with only access out onto Peck Road which is one lane in spots? Of course, we don't know what is going to happen with Peck Road, but I'm sure the neighbors would prefer it to remain a small country road. There is a lot of walkers along there and I'm sure that's what most people would prefer it to be. So then what would I do? I couldn't sell it as a residential property. I couldn't sell it as a manufacturing property with poor access out onto a narrow road. It seems to me that's what zoning laws are all about anyway is to try to protect those types of extreme, abrupt land use changes. I would also like to ask everyone that is against this petition to stand up if they would or at least raise their hands. Thank you.

President Jerrel: Yes, sir.

David Vella: My name is David Vella. I used to live at 15420 while my house was being built. My brother-in-law and sister-in-law allowed us to live there while our house was being built. I have a degree in packaging engineering. I have been working in the field for approximately 17 years. I have worked for IBM. I've worked for Lexmark. I currently work for a pharmaceutical company in this city which I will keep as nameless. I am observing quite a few of these potential companies that could easily be built on this property. As an engineer it surprises me that I have not heard anything regarding what environmental impact these companies will have on the landowners that live around this area. These companies can produce quite a few potential chemicals, quite a few potential industries that will produce things known as volatile organic compounds which as most of you are probably aware will have a drastic impact on the environment that these people live in. There is prevailing winds there that will bring that...the waste products produced by these companies into their area and it will affect their quality of life. The issues you talk about with runoff, it all depends on how that water goes and how it drains in the soil and what affect that has on the soil. There are marshlands in that area that would be affected by this. There is a whole degree of companies listed here that even though they mention certain things like a packing company won't be there you still have a lot of wood based product companies that have very similar industries and will produce quite a lot of environmentally not...how would you say it? Environmentally unfriendly byproducts. I have not heard anything mentioned about the environmental impact that will happen to this neighborhood and the surrounding area. Thank you.

Commissioner Mourdock: Mr...is it B?

David Vella: Vella.

Commissioner Mourdock: Spell it please.

David Vella: V-e-l-l-a.

Commissioner Mourdock: And what is your current address then?

David Vella: 2342 Waterstone Drive, Evansville.

Commissioner Mourdock: Thank you.

Greg Hill: This gentleman...I'm Greg Hill again. This gentleman is a lot smarter than I am on this stuff. 41 and Baseline Road, Azteca I'm sure you've all heard the problems we've had with it and how long it took us to get it resolved. I mean, there is no telling what there will be here. We know what that was. All the neighbors know. I mean, you could smell it for two miles around. That's what we're trying to avoid again. Thank you.

President Jerrel: Yes.

Ann Gryczon: Good evening. My name is Ann Gryczon. I am representing the National Trust for Historic Preservation and I just want to very briefly reiterate some of the points that were made this evening. The first thing I want to say as Ms. Lockyear said earlier is that this is by no means an unreasonable group. This is a very reasonable group. They're willing to concede to have M-1 zoning, which is again an industrial zoning, in an area and in a spot where they could actually try to have a much lower zoning available, but they have been very reasonable in this situation with their requests. There are three main points, I think, in this situation. Three main impacts that the neighbors would feel if this property were zoned M-2. The first as was mentioned a moment ago is the environmental impact. In fact, Mr. Bodkin himself stated that there really should be a very strong emphasis on the uses in each zoning category and we completely agree with that and that is why our concern is not to have the area zoned M-2 because the level of impact of M-2 is far, far greater than the level of impact on M-1 in the area as Ms. Lockyear stated and the gentleman speaking before stated as well. So our hope, again, is by no means to try to stop progress in the area. By no means to try to stop development in the area. Our concern is the health of our residents in our area. Again, one thing that has been mentioned as well is that, yes, we do need to have some development of the area and one of the concerns is with Toyota products and the Toyota plant and any Toyota related industries. We're not opposed to Toyota related industries. In fact, in M-1 there is the availability for auto parts to be constructed so therefore, again, in M-1 that would by no means hinder their use in their ability to have auto manufacture...excuse me, an auto parts manufacturing plant on the property. The second issue is the aesthetic or the visual issue and that is something, again, that my organization is very involved with around the whole country. We're very concerned about the impact of industry on rural areas and the rural character of America as well. Again, we're willing to concede to M-1 zoning, industrial zoning, but with some more provisions than Baseline Properties has offered and provisions which would include having a minimum height restriction on the buildings themselves as well as having far higher berms. As we heard this evening five foot berms will not help us very much especially considering the level of the land that we have there. The third impact, and what is very important to the area residents is the property...excuse me, are the property values of their homes, the homes that they have invested in. Some are new residents who have come here thinking they're escaping to the country. Other residents have been there for 20, 30 or over 40 years, so we're very concerned about their property values as well. Thank you very much.

President Jerrel: Maybe at this time, Mr. Bodkin, do you have anyone with you that

would be able to speak on some of the questions that have been raised about environmental issues? This is not a Drainage Board now. Obviously, we don't deal with the site or the drainage because that has to come at a different time in order for the property to be approved for a site with certain buildings.

Tom Bodkin: I'm not certain about that, Madam President, but I'll certainly try to address what I can and see if they have anything else that can help.

President Jerrel: Okay.

Tom Bodkin: You're absolutely correct that you're not sitting as the Drainage Board tonight, but drainage is an integral part of what the remonstrators were concerned with at least when the first meetings occurred and an attempt to deal with that problem Baseline Properties approached the issue of drainage. Number one, this area, not just this parcel, but this area is in an impacted drainage area. You declared it that way. That means that we have to design this drainage structure for a 100 year storm just as they had to design the structure that the gentleman said that has overflowed once. Well, if we have 102 year storm presumptuously the water is going to come out. But we are required by this county's ordinance to design the drainage off this site to hold the water that would be generated by a 100 year storm. A storm that occurs once every 100 years and not let it come off any more quickly than it goes off today. Now there is no question that this subdivision up here probably today couldn't get built because it is in the floodplain, but we have to accommodate that subdivision in dealing with the storm water on this parcel so that it does not create any more problem for them than they have now. We're not...we cannot solve all their problems, but we certainly can make sure that what we do will not exacerbate it and that's what we have to do by your ordinance.

Commissioner Mourdock: Mr. Bodkin, the detention basin that you're showing on that, and I realize a lot of engineering goes into those, is that drawn to scale on there?

Tom Bodkin: The engineer is here and he just nodded at me yes. This area to the north of it which abuts up to the south side of Baseline Road is the equivalent to a dam. Now there won't be any vegetation on that because you can't put vegetation on a dam, you lose the dam if you do that. But we'll have to build a dam in essence there to hold that water as a part of the retention. Is it retention, is it not? As a retention basin here. So to the extent that we're dealing with issues of storm water and their impact on the environment we are required by your ordinance to capture it and hold it and not let it go off at any greater rate than it does today no matter what we put there. So I think to that extent the people who live north are going to gain a benefit. They may not think so, but in fact it is true over what it is today from the standpoint of the tremendous amount of water that may sheet across that parcel today and it all ends up right here in one place. Again, we're capturing not only the water on our parcel, but we're capturing the water coming off of the land to the south and the east which flows through the culvert down this little ravine area and into that lake as well. So that is one item perhaps of interest to you. Secondly, the buffering is there number one to convey the storm water so we can route the water to that lake so we control the water. The buffering is there to provide some visual break, if you will, between Peck Road and this piece of real estate and also between these pieces of agricultural zoned real estate. I don't think any of this is zoned R-1, it's all Ag and we're providing a buffer there, again, to provide some buffering from our parcel against their parcel. The two gentlemen who live in these two parcels obviously have a vast amount of buffer available because the lake itself will provide a buffer.

A substantially greater buffer than most anything else we can do. With regard to other environmental issues our own...I'm not sure, our own EPA type person here in the county just announced just a few days ago with regard to prevailing winds that they come from all different directions in this county and that there isn't a particular direction, so I'm not certain that is a relevant concern other than, and I don't know where the other map went—

President Jerrel: It's behind it.

Tom Bodkin: Behind it? Okay, there we go. When the Planning Commission puts together maps and they hold public hearings and they bring them to you and you hold public hearings there are some things that they do and they do without reference to rezoning petitions which is a time for consideration and thought about issues like where should we have M zones based upon environmental considerations, based upon property value issues, based upon the very kinds of things that you always hear in every zoning that ever comes before you save a down zone and even then sometimes you'll hear people complain they lose their property value by going the other way. When you passed the Master Plan in 1996 you looked forward under the plan itself to the year 2015. That was your planning period. Now staff has now stated that they may have made an error on the map or the map doesn't mean what it says. I can't address that. All I can tell you is in the back of this book is a map which says it's the future land use to 2015 and it has got a scale on it. From that scale people who buy ground, people who develop ground, people who try to figure out what you want have to try to figure out what to come to you with. That scale and that map tells you a number things that you considered when you adopted that plan four years ago. Number one, you said that you're going to have residential development down Old State Road and that is what this shows right here and in fact is what is happening right down to Baseline and then you're coming across Baseline a distance back away from Peck Road and then it continues on down and that's again Old State Road coming on down this way. This area on the map you got is what you said you expected to be residential and that is in the drawing. You said in the drawing to the scale that this area in white was the buffer. You didn't know what it was going to be. Maybe Ag, maybe it will be residential and that buffer I submit under our map continues right on down just as you see it here about where Ms. Gryczon...Ms. Gryczon, I think, is a tenant of an adjoining parcel owner to the south. Probably where she lives is probably that white space, I suspect, but you showed in that map you wanted a undesignated area as a buffer. Then you showed us that you wanted residential down here to the south down below Darmstadt and then you told us that you wanted us to consider this area as manufacturing. I submit to you that when you do that with a master plan you consider without reference to a particular parcel, without reference to remonstrators or owners like my clients or the good folks here tonight the very kinds of emotional issues that always come up in every zoning. They are not avoidable any time you take ground that is basically not being used and put it to some use. We know what the market has told us. The market has told us it wants to look at the availability of M-2 ground not M-1 and you've noted that in the zonings you have granted along the corridor now with regard to M-2 real estate. You also considered, you see, the uses available in industrial zoning, M-1, M-2 and M-3, when you set forth in the Master Plan the area that we should consider available for growth in the future. One thing I find very, very difficult the good folks who live in the Valley Estates Subdivision lived there when the Master Plan was passed. Valley Estates Subdivision is right here. It's on the north side of Baseline Road right across the street from my client's real estate and there isn't any debate at all that we said that was an area that we expect to go manufacturing in the Master Plan. Now with regard to smoke, smell,

all the people in this room won't want to hear these four letters, but they are the four letters that in this state control those issues and that's IDEM and they can all hiss and boo because it took IDEM forever to solve the problem in their neighborhood with the smell from the corn processing plant, it's my understand they may have settled that problem now—

Unidentified: No.

Tom Bodkin: Maybe not, I can't answer that. But the Indiana Department of Environmental Management is charged by the law in this state to deal with issues of air and water pollution. We as developers are required to meet those rules just as all citizens are required to meet those rules. By the way, open burning is prohibited by IDEM, but I suspect a fair number of people may do that, too. With regard to issues of prevailing winds and winds blowing across M-2 zoned parcels and schools being located within a half a mile, none of that changed between 1996 and today. Scott School was today where it was then and these M zoned parcels some of them were there then as they are today. I submit to you that is an issue that you considered when you decided what you want this ground to be projected to be in the Master Plan. If we were here, lady and gentlemen, in real estate that was for five miles in every direction Ag zoned that you had not predicted to be industrial in your plan we would have a very different kind of question. The issues then of environmental, the issues then of value would be issues you didn't consider, but you did consider them. By definition you had to of considered them in the plan, but you did so in a way that didn't try to grind any particular axe, but did so with regard to the benefit of the entire county and all of the kinds of issues that come into play. I really don't know what else to tell you. It is our belief that your plan clearly delineates where you want the buffer, the Ag buffer. It's in the drawing and it's scaled. It exists right there today. One of the gentleman tells us that he lives here in that and doesn't want to see us here and I suspect he is probably not real happy about us being here just another quarter section away. But we are on Baseline Road. That's the property. We are going to widen it because we need to do so for the benefit of the county and for the benefit of our development. So the county does indeed gain that benefit without having to deal with that roadway in the future. If there are other points I'm not getting please let me know and I'll see if anybody can answer them for you.

Commissioner Mourdock: I have one question. I don't know that this is necessarily relevant to the zoning per se, but I noticed some reaction when either Mr. or Mrs. Epperson said something about being surrounded on three sides with a right-of-way or something that your client has and I know that question came up at APC.

Tom Bodkin: Correct.

Commissioner Mourdock: Is there in fact that right-of-way?

Tom Bodkin: Mr. Mourdock, all I can tell you is I asked the client that tonight and they called back to the people that we bought the land right here...let me put this one back up, it's probably better. Okay, we own this going that way toward 41. We do not believe we own anything south of the Eppersons. If there is something there and it's a 30 foot strip deeded to us in fee we are unaware of it and I'm not certain what you would do with a 30 foot wide strip of ground. I suspect it may have been an easement if there is something. They got to Peck Road from that parcel if there is something there. My client does not believe we have any ownership rights of ground south of the Eppersons. If we do and it's 30 feet wide I'm not certain what we would

ever do with it because you can't build on a 30 foot wide strip of ground. Again, we are not going to access Peck off our parcel anyway.

Commissioner Mourdock: That was going to be my question. If, in fact, such a right-of-way did exist you're still maintaining that you're not going to be accessing Peck Road off that street?

Tom Bodkin: That's correct. Could I have one second?

Commissioner Mourdock: Sure.

Tom Bodkin: In fact, if there is a 30 foot piece of real estate that is deeded to Baseline Properties, Inc. we'll prepare a deed tomorrow and deed it to the Eppersons. We have no intention of going to Baseline Road from this parcel or this parcel. It's not in our benefit to do that. Baseline Road is the ground we own, that's the road we're improving so we can go in and out. That's where the market, we believe, wants it. If it is an easement we'll be glad to vacate it. We don't think we have anything, but if whatever it is we'll get rid of it if that will satisfy anyone.

President Jerrel: Ms. Epperson, did you have something you wanted?

Kim Epperson: I have the deed.

Tom Bodkin: May I?

President Jerrel: Sure.

Commissioner Tuley: Whatever you want to do.

Kim Epperson: Thirty feet.

Tom Bodkin: It's a roadway easement 30 feet wide off the south side of the northeast quarter. That's an easement.

Kim Epperson: But that property is deeded to Baseline Properties.

Tom Bodkin: It preserved a road...well, this granted us an easement in the deed.

Commissioner Mourdock: That's not the same as a deed, ma'am. That doesn't mean they own it. That simply means they would have the right to use it.

Kim Epperson: Who owns it because our deed specifically says who—

Tom Bodkin: I think...I thought Kirk Heston. We will take care of that problem in the morning.

Commissioner Mourdock: Yeah, okay.

Tom Bodkin: I mean, we'll deed it back to whoever gave it to us if it's in fee. If it's an easement we'll vacate it. We have no interest in accessing Peck Road from the land south of the land at issue here.

President Jerrel: So what you're saying is it's your ground but he has an easement?

Kim Epperson: No, our deed specifically says we do not own that property.

Stan Epperson: Our property is excepting.

Kim Epperson: Excepting that 30 foot strip and here it says the Stecklers have deeded it to Baseline Properties.

Tom Bodkin: What the warranty deed does is warrant and convey the east half of the southeast quarter of the northeast quarter and the northeast quarter northwest of the northeast and a 30...and a roadway easement 30 feet in width off the south side of the northeast quarter of the southeast quarter. It deeded property and gave an easement with another piece. I do not believe that is in fee to us here. If it is we'll deed it to the Eppersons. If it is an easement we'll vacate it. It is not...we don't think we own anything south of their real estate and don't plan to develop it.

Unidentified: It's an easement because John (inaudible) used to live there and the guy owned it before Steckler used it to go back over—

Tom Bodkin: To Peck?

Unidentified: —back in there and he says you're going to have to build a bridge over that lake if you're going to go over it because that lake...you have to build a bridge if you're going to use it. There is a little lake out there.

President Jerrel: Okay, so that's an issue—

Tom Bodkin: Again, it would appear to be a private easement. We'll be glad to vacate that. That's not an issue. We don't plan to use it. Didn't think we owned it, quite frankly.

President Jerrel: And if you own it—

Tom Bodkin: We'll deed it to the Eppersons.

President Jerrel: Okay, did you want to ask that question? No, I didn't.

Tom Bodkin: For the record I would like to make one final comment and then I'll shut up and sit down.

President Jerrel: I think—

Tom Bodkin: Unless you have questions.

President Jerrel: —Commissioner Tuley has a question, so you can just maybe stay put.

Commissioner Tuley: After seven plus years of sitting up here it's fun to watch the attorneys come in. This is not a knock on the attorneys, but—

President Jerrel: Yes, it is.

Tom Bodkin: It's alright, go ahead.

Commissioner Tuley: To argue whatever side of the issue they're on that night.

We've seen some come in and argue one way in the first half of a meeting and have a different client and argue completely the opposite side in the latter half of the evening. So kind of take the attorneys out of it because they're doing the job that they're paid to do. Mrs. Lockyear said the remonstrators are a reasonable bunch of people that she is dealing and representing with. My question, I guess, is this. I don't really see the harm if this thing is extended for 30 days given the fact that you have that M-2 zoning directly to the west of you that has one building on it right now. I don't know if you've got the rest of them sold. Are the remonstrators and are the developer, proposed developers, of the same mind and agreement to be reasonable people that if the M-2 with some greater use restrictions, some higher buffers...obviously, giving five foot if the road is three feet above the ground that doesn't do anybody much good, height restrictions on the buildings and these kind of things can that be worked out in 30 days or are the reasonable people that live out there insisting only M-1 will do? That's a question that each of you need to talk to your clients you represent and try to—

President Jerrel: Do you want to take a five minute break? Okay, just take a five minute break.

(The meeting was recessed for five minutes.)

President Jerrel: Six minutes, okay.

Krista Lockyear: Members of the council...Commission, the neighbors would certainly appreciate the opportunity to get back with the petitioner in order to negotiate. We would like to see some good faith movement. We don't want another pawn shop deleted. You know, something that is substantive, but absolutely if we can come there and 30 days is a place to start so hopefully we can come up with some commitments this time that will really mean a lot.

Commissioner Tuley: I think what we're asking or at least what we've been advised is it would have to be without going through the whole process all over again. It would have to be through private covenants.

Krista Lockyear: A private covenant would be acceptable as long as we have legal compensation in there that the prevailing party would—

Commissioner Mourdock: Let's not negotiate at the microphone here. That's not going to be any value.

Krista Lockyear: Okay. Private covenant would be fine.

President Jerrel: There are two or three things. We're trying to come to some kind of negotiated settlement. If everything changes then it has to go back to the drawing board. We can't make any changes in this, but legal and private covenants can be entered into with the property owners. All we're asking here is that we've tried to list the things that we hear coming from everybody and if we can meet that then our plan will move on and the neighbors will have met some of their greatest concerns. What we want to know is do you think you want to try that, Mr. Bodkin?

Tom Bodkin: Madam President, my client of course is perfectly willing to do that so long as we understand number one, we will not propose to change the UDC because that puts us back to square one.

President Jerrel: We understand that.

Commissioner Tuley: We're not asking that.

President Jerrel: That we understand you don't want that delay.

Tom Bodkin: Right.

President Jerrel: And you would enter into to private—

Tom Bodkin: Private, and we'll be glad to negotiate in good faith, but everyone has to understand from my client's perspective basically going back to what was proposed in March is not starting...not the good starting place because we've already been through that one, so we both need to take a look at where we may be able to move and we're willing to do that, certainly.

President Jerrel: Okay, that would give...well, I think we've heard some things. This has been a reasonable group and you all have done a good job. I mean, it's a good lesson for everyone in government in action.

Tom Bodkin: Madam President, could I please have a...could I please request that the Commission continue this matter for one month so we may have the chance to meet with the remonstrators and see if we can solve some of the difficulties?

President Jerrel: Is there a motion to that?

Commissioner Mourdock: I'll move approval of that request.

Commissioner Tuley: And I'll second.

President Jerrel: And I'll say so ordered. We'll see you and we will have to—

Commissioner Tuley: Do we need a voice?

Joe Harrison, Jr.: Yeah.

Commissioner Tuley: I guess we need a voice.

President Jerrel: Okay, voice vote on that. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes. That will be...is it the third Monday?

Commissioner Tuley: The 15th.

Commissioner Mourdock: The third Monday, whatever day that is.

Commissioner Tuley: The 15th of May.

Tom Bodkin: We'll be back. Thank you very much.

Commissioner Mourdock: Mr. Zeller, you had a comment.

Loren Zeller: Yeah, I have one question. Could you explain exactly what is going on right now as far as what we're going to do is have 30 days to meet with them to come up with some kind of concession that we both think we can live with and they can develop their property and we can still live out there as human beings and then in 30 days we're going to come back in front of the Commission again?

President Jerrel: And tell us that you've reached those agreements.

Commissioner Tuley: But we won't—

Joe Harrison, Jr.: Or not.

President Jerrel: Or not reached them.

Commissioner Tuley: Basically, yeah, we won't...I hope we won't sit through two and a half hours of what we just went through tonight, but now we hear from you and from the developers areas that you are most concerned about and maybe in the next 30 days the group's representative or whoever and their attorneys can sit down and come in here and say maybe we didn't get everything we wanted but we got what we can live with and we can come in here and vote and move on.

Loren Zeller: Okay, I just wanted to make sure everybody understood this as clearly as possible.

President Jerrel: Right.

Commissioner Tuley: Okay.

Loren Zeller: It's kind of confusing.

Commissioner Tuley: I understand.

Loren Zeller: This is our first time for some of this stuff, too.

Commissioner Tuley: We understand. That's fine.

Commissioner Mourdock: It doesn't get better!

Loren Zeller: The way I understand it they're still going for M-2 and we're going to get together and negotiate what can be...we will accept or they want in M-2.

President Jerrel: Right. Okay, alright. Thank you all.

Commissioner Tuley: Thank you.

President Jerrel: Is there any further business to come before this board?

Commissioner Tuley: I don't think so.

Commissioner Mourdock: Motion to adjourn.

President Jerrel: Is there a motion to adjourn?

Commissioner Tuley: You so move, I second.

President Jerrel: And I say so ordered.

The meeting was adjourned at 8:52 p.m.

**Vanderburgh County
Rezoning Meeting
May 15, 2000**

The Rezoning Meeting was called to order at 6:48 p.m.

President Jerrel: I'd like to call the Board of Zoning to order and apologize to you for being late. We're working with people that are working on a compromise or an agreement together so we are giving them that time to have this discussion and so I'm going to start at least with the perfunctory business to move ahead so we can get to the other items.

Approval of minutes

President Jerrel: The first item on the agenda is the approval of the minutes of the previous meeting.

Commissioner Mourdock: I would move approval of the minutes of the April Rezoning Meeting as filed.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Request to delay VC-9-2000 Brad Sterchi
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President Jerrel: The next item on the agenda, we received a letter from Mr. Shively. Is he here tonight? I don't believe he is.

Commissioner Tuley: He is not here.

President Jerrel: Are you representing?

Unidentified: Yes.

President Jerrel: Would you want to verify the request that we have before us?

Chris Wischer: Chris Wischer with Fine & Hatfield. Mr. Shively is out of town this week and he and Mr. Sterchi, the petitioner, have requested that it be continued...their meeting on...the agenda be continued until the next County Commissioners' meeting.

President Jerrel: Okay, is there a motion?

Commissioner Tuley: I don't know if you meant County Commissioners.

Commissioner Mourdock: You don't mean...yeah, right.

President Jerrel: The next zoning meeting.

Commissioner Mourdock: You mean the next zoning meeting next month?

Chris Wischer: Right.

Commissioner Mourdock: In that case I would move postponement of the rezoning hearing for 900 East Mount Pleasant Road until the scheduled rezoning meeting in

the month of June.

Commissioner Tuley: Second.

President Jerrel: So ordered. Thank you.

First reading VC-10-2000 Civitas Bank, Trustee of Hirsch Trust

President Jerrel: The first item on the agenda, we will...they're still talking.

Commissioner Mourdock: No, we've got one before that.

Commissioner Tuley: Got a first reading.

President Jerrel: Okay. First reading.

Commissioner Mourdock: On first reading I would move approval of VC-10-2000, the petitioner Civitas Bank as Trustee of the Hirsch Trust located at 601 North Burkhardt Road. The request from AG to C-4 and on first reading I would move approval of that.

Commissioner Tuley: I'll second on first reading.

President Jerrel: So ordered.

Commissioner Mourdock: And less that seemed very perfunctory that simply puts it in the process to go forward with other hearings.

President Jerrel: What do you think?

Joe Harrison, Jr.: Hang on a second.

Commissioner Mourdock: Yeah, why don't you stop the recorder.

Joe Harrison, Jr.: If we can hang on one second.

Final reading VC-1-2000 Baseline Properties, Inc.
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President Jerrel: The next item on the agenda is the petitioner, Baseline Properties. Do we have a comment from the attorney, please?

Tom Bodkin: Thank you, Madam President. Tom Bodkin, 700 Hulman Building in Evansville, counsel for the petitioner. In conjunction with an agreement we have just reached with counsel for some of the remonstrators at least we would request that the County Commissioners postpone this matter until June 5th at 6:30.

Joe Harrison, Jr.: At 6:30 p.m.

Tom Bodkin: As a special meeting so that we have the opportunity to meet and attempt to resolve as many issues as we can and get it down to as few as we can get for you to have to choose. My clients are willing to do that with the understanding that we would like then at your meeting on that date to reach a

conclusion with regard to the matter. The petitioner...the remonstrators have agreed, I think, to our request that they limit their numbers to five so that we can have a working group as opposed to such a large group. We have requested that and they have agreed to that.

Commissioner Mourdock: I would move approval of deferring then the rezoning hearing for VC-1-2000 until we have a special meeting on June 5th at 6:30.

Commissioner Tuley: I will second and say thanks to both the petitioners and the neighbors.

President Jerrel: So ordered. Thank you very much.

Joe Harrison, Jr.: Richard, could you make a motion for Charlene to—

President Jerrel: Advertise?

Joe Harrison, Jr.: —put an advertisement in the paper for a special meeting specifically for that item?

Commissioner Mourdock: Okay, I move then that we advertise the special meeting for the rezoning on Baseline Road. The date?

Joe Harrison, Jr.: June 5th at 6:30.

Commissioner Mourdock: For June 5th at 6:30.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Joe Harrison, Jr.: Thanks.

Final reading VC-2-2000 Red Bank Development, LLC
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President Jerrel: The next item on the agenda is the Red Bank Road development. Is there a—

Barbara Cunningham: Chris Wischer.

President Jerrel: This is a final reading, is there a spokesman? We'll wait until they close the door.

Joe Harrison, Jr.: Hang on a second.

Barbara Cunningham: Does she want me to do this?

Joe Harrison, Jr.: I need to swear you in.

Barbara Cunningham: Oh, okay.

Joe Harrison, Jr.: This is VC-2-2000, petitioner Red Bank Development, LLC. The address for the rezoning petition is 525 South Boehne Camp Road. The request is

from AG to C-4. All those wishing to speak with respect to this petition please raise their right hand. Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Barbara Cunningham: She has forgotten. Does she want me...Mrs. Jerrel, do you want me to start?

President Jerrel: Yes.

Barbara Cunningham: I'm sorry. Chris Wischer is the representative for this rezoning for this property. The petition was initially filed as a request to rezone an 8.6 acre site located south and west of the Lloyd Expressway/Boehne Camp Road intersection. It was continued at the petitioner's request and has been amended in size to a request to rezone 6.02 acres. The western end of the site was limited in use by a severe slope has been eliminated and the two acres that were deleted from the petition was a wooded hillside. The site is south and west of the Boehne Camp/Lloyd Expressway intersection. County Engineer John Stoll states that INDOT has control over access to the site and the petitioner did install substantial transportation improvements with the adjacent Eagle Plaza Subdivision. As part of the approval process at that time the developer committed to construct off-site improvements as referenced in a traffic impact study, agreed to provide documentation of INDOT approval, agreed to construct additional southbound lane on Boehne Camp Road from Lloyd Expressway/Boehne Camp intersection to the access drive for the lot at the southwest corner of the intersection. However, additional improvements such as the southbound right turn lane from the existing commercial lot to the north may be necessary depending on the uses that would locate on this site. The proposed six plus acre C-4 site has the potential to generate significant traffic volumes. According to the Comprehensive Plan it is essential for development proposals along major arterials to be accompanied with commitments to construct the infrastructure improvements necessary to accommodate site generated traffic. The 1996 Comp Plan Future Land Use Map 2015 indicates that the south side of Lloyd Expressway is projected to be commercial. It projects the south side of Lloyd, Boehne Camp west to USI and the county line for residential development. The only deviation to date from this adopted plan was rezoning of the small three plus acre site at the southwest corner of Boehne Camp and Lloyd which was requested by the applicant to enable safe and efficient development of the Lloyd/Boehne Camp intersection eliminating a 30 foot visual obstruction which then existed on that site. The zoning classification requested is C-4. Due to the intensity of the potential uses C-4 adjacent to residential must utilize extensive buffering. The Park's 2001 Vision Plan proposes a greenway trail along the south side of the Lloyd Expressway from Carpenter Creek to USI. Developers are encouraged to talk with the Greenway Advisory Committee and to integrate the Greenway into their site design. The Area Plan Commission met on this...well, I've got the wrong thing. I'm trying to look for the action that was given on this one. Red Bank, okay. They met and recommended approval by a vote of seven yes, two no and one abstention.

Chris Wischer: Good evening. Chris Wischer here for the petitioner, Red Bank Development. Excuse me. Again, Mr. Shively sends his apologies. He couldn't be here this week and I am presenting this petition to you in his stead. Here with me as well is Mr. Gene Hahn, principal of Red Bank Development, and Jim Farney, of

Bernardin Lochmueller Associates who will be available for any questions specific to this property after I have finished with my, excuse me, presentation. As Ms. Cunningham stated, we are requesting that this property be zoned from agriculture to C-4. It did receive recommendation for approval by the Area Plan Commission at the last meeting. First of all I'm going to pass out a couple of maps which illustrate the location of the property.

President Jerrel: You want to move that so the audience...if you could go over by the door with it and kind of turn it so the audience can also see the map. Yeah, thank you.

Chris Wischer: I'm not sure I can see it now. Excuse me. As you can see from the maps first off it's a location map that we filed along with the petition. It has been color coded for your convenience. The yellow is the commercial property in the area and the orange is multi family just so you can see the extent of the development that is out in that area and where that is located. In particular is the C-4 property that you see adjacent to the subject property which is located in the upper corner of the map that I have on the easel and colored in yellow. On that property currently is being constructed a convenience store up on the north side on what is shown on that drawing as Pearl Court, which is the road there with the cul-de-sac. This property...on the other map you can see this property as it relates to the rest of the Eagle Plaza Subdivision development which is currently going on and it also demonstrates to you the size, relative smallness, if you will, of this particular property in relation to the area. This particular site, as was stated by Ms. Cunningham, we originally petitioned the entire site as you will see. Again, the yellow property as it is shown on the map is already zoned to C-4. The green in the far corner of that property was originally included in the legal description of the property. That was amended and taken off the legal description and will remain as it is. That's the area that if you've been out to the property you'll notice is currently covered in trees. The remainder of the property has been cleared. Also, I might add that Mr. Hahn, on behalf of Red Bank Development, has executed a restrictive covenant which I have a copy here and I will submit for the record of this restrictive covenant and I quote restricts the property:

"No part of the real estate shall be used for commercial or industrial purposes except this restrictive covenant shall not prohibit the use thereof for residential, single or multi family or office uses or any uses incidental to residential or offices uses."

This restrictive covenant has a duration of 20 years. So we've taken the property off the board from the zoning. We've added a restriction not to allow commercial or industrial development to that property. If there was residential, it's currently zoned AG, if there was a change in use it would have to come before this body for a change in use classification. Mr. Hahn feels and we feel that is significant protection for that property. Also, I might add, and Mr. Farney can illustrate this more effectively, but that property the way it is graded and the layout of that property really makes it unsuitable for development anyway, but as a compromise we understand that was a concern by many of the neighbors and West Side Improvement. We have taken that off the board. I might add also on the site plan there you'll see the brown area not to confuse you. That is part of this rezoning to C-4, but we've colored it in as brown because it too as demonstrated by the arrows on the...the lines on the drawing is undevelopable due to the grade. It's terraced. That's where the property drops off. You might ask why then are we including it in the rezoning if we can't use it, but that is because it will be usable, so to speak, by the commercial

lots as we illustrate on the lot there as a runoff and there is a storm retention basin on the bottom of that grading which will be utilized by those lots so it makes sense to include it in the rezoning even though we don't foresee it being developed per se. I might add also as to the improvements, Mr. Hahn has already made significant improvements to the Boehne Camp/Lloyd Expressway intersection including the traffic light there you see at that intersection. Boehne Camp Road has been widened and as we show on the (inaudible), I wish I could reach it to point it out, but I think you can tell that it is also shown on the drawing that there will be additional widening for this additional property as well as in addition to the cul-de-sac which is already there an extension of what is Pearl Drive on the south end of the property which will also access those lots. Basically, what you see there is one, two, three, four lots including a lot which is really three additional lots and one which will be increased in a little bit of size. You can see that we're really only talking about three additional lots to this current development as it sits on Boehne Camp Road. There were some issues, I think, addressing the Staff Field Report as to traffic. A traffic study and maybe some other issues that Mr. Farney could address if you have any questions. I think what I have outlined for you basically addresses the nature of our request and I'll open it up for any questions unless Mr. Hahn has any additional remarks. He doesn't at this time, so at this point I'll open it for any questions.

President Jerrel: Are there any questions?

Commissioner Tuley: I'm going to go to the map just to make sure I understand it.

President Jerrel: Sure.

Commissioner Tuley: Basically, your request even though it includes this area is for building on these lots and this is the terraced area that has the trees and the very steep slopes. Is that...okay, I see the retention pond down here and it's these trees that you've excluded.

Chris Wischer: Right. Actually, the terraced area that we show in brown does not have trees on it.

President Jerrel: No trees on there.

Commissioner Tuley: Okay, there are no trees on it.

Chris Wischer: We planted some trees. I might want to say it wasn't the original trees, right?

Commissioner Tuley: No, no. They're planted. They've been—

Chris Wischer: Up on the top of that terraced area I know there has been some things planted and down along it, but as far as what was taken off was the timber area that has always been there.

Commissioner Tuley: I just wanted to make sure I understood what we were doing.

Chris Wischer: Right.

Commissioner Tuley: Or what was requested.

Chris Wischer: As Mr. Farney said in the APC meeting, when this comes for

subdivision that could potentially be shown as an out lot or an undeveloped lot on the subdivision plat, but it would service to some extent those commercial lots as we show them.

Shirley James: Serve as what type?

Chris Wischer: What I was saying, I mean serve us from a commercial standpoint the commercial lots as they are shown on the drawing. The terraced portion will serve as runoff and because of the need maybe with the dirt and so on would need to part of that commercial zoning, but not serve us from a standpoint of being developed.

Shirley James: May I ask a question?

President Jerrel: Well, wait just a minute until they get through with their presentation and then everybody can speak. You don't have any questions? You want to ask him a question, Shirley?

Shirley James: My turn?

President Jerrel: Yes, go ahead, but you need to come up to the mike.

Joe Harrison, Jr.: Come up to the mike. State your name.

Shirley James: I was wondering...I'm Shirley James and I am representing my neighborhood. I was wondering why if you intended to leave that brown section for drainage why you removed the trees because the trees would have helped retain soil and erosion. Why in that case were they removed? That seems like an additional expense to me and it's detrimental to the whole drainage system.

Jim Farney: Let me explain what is being proposed and what has happened a little more, for a little more clarity.

Joe Harrison, Jr.: State your name, too.

Jim Farney: Jim Farney, with Bernardin Lochmueller.

President Jerrel: Could you turn those two mikes toward him, he's going to go over there.

Jim Farney: What we've got here is the yellow section is what was previously rezoned. It was the original Story property. At the time Gene first purchased the property that's all that he had purchased. At that time he had asked for permission to have a cul-de-sac and a drive cut into this piece of property to service it. That was asked for in a permit and granted. Then as time went on some other of the neighbors showed interest in selling their property to him. He obliged them and he then purchased the rest of...everything you see here which comprised of two more parcels. One owned by Orman, which is down here directly below the Story, and the one back here that was owned by Fisher. Okay, then once those properties were secured the intent was then to take a bunch of this dirt and move it on to the big project because it needed dirt to improve the site distance and also to end up with another area here, a small area here, that could be developed. So what he did is he filed an erosion control plan that addressed the removal of this dirt or the regarding of this dirt. Before he started this was a great big hill and a large valley in here with

a lot of ravines. In order to maximize without going to a great expenditure the amount of area that was usable what he had to do was this was like gullies and hills, so what he had to do was go down and clear to the woods and then create a straight slope up from this point in order to maximize this plateau area. So that's why it was necessary to remove those trees because the ground was full of ravines and holes and if he would have left those trees then he would have started here and virtually ended up with something only this big because this slope would have been moved into here and he would have only had a small piece like this. So what it was decided to do and what seemed to be the optimal use of the land would be to go to the creek and not any further because this hole is so large to fill this would be totally uneconomical on his standpoint, so what he did is he cleared to the creek or the ditch and he began to prepare this straight slope and create this flat area. Now during the process of doing that there was also a drainage plan that was presented to you and approved for this top area. It included two retention facilities. One which is shown at the top here which drains the south half and the other retention basin here which drains the north half. This basin is at the bottom of the hill. This slope has been cleared, has been graded, it has been reseeded. It's even terraced. It's got down drains in it. It just seemed practical since this has been improved to include it in the rezoning. There won't...it's not practical to build anything on here. There won't be anything built on here. It's going to remain as it is which is a grass slope with terraces on it. The only development...additional development that would occur if this zoning is approved would be this lighter orange area and as Chris pointed out there is potentially four sites at best. It could be that these are combined and you only end up with three sites. The intent is to utilize or make usable this section up here of which the yellow has already been used and is under construction. Now the other thing since I am up here real quickly, at the Area Plan when we went there were questions asked about a new traffic impact study to address access to this parcel. It was agreed on then and it's currently we're in the initial stages of it. We are amending the original traffic study that was prepared for the big subdivision. One thing we had showed at the rezoning ahead of that traffic study is what we believe will come out of it and that is the widening of Boehne Camp Road, which is this dark gray, and the interjection of this frontage road which was another earlier commitment that Gene said that originally the local government wanted this Pearl Drive to have the potential to run through to extend the frontage road system. So he agreed. He talked to EUTS and Area Plan and he agreed that he would be willing to make this commitment to serve this because there was some concerns about all this traffic going out this one drive. So I think I've tried to address drainage and how it pertains to this. I think I have addressed traffic. As Chris said, there are not plans to do anything with this. It is not being asked for rezoning. This is basically the ditch to give a point of reference to those who have seen the site.

Unidentified: Jim, how many acres in the brown area and how much in the orange area?

Jim Farney: The brown area has 2.4 acres in it. The orange area is about three and a half acres, roughly. That includes a little bit of this yellow. About three acres. There is about three acres of orange, about two and a half of brown. The green area back here, the wooded area, is about 2.6 acres. As pointed out earlier, these improvements have already been made. This turn lane has already been constructed. Boehne Camp Road has already been widened. A new signal was installed with Eagle Plaza Subdivision that is in place. Are there any other questions I can try to answer?

President Jerrel: Is there anyone else now that would like to speak to this issue?

Shirley James: Some of the neighbors who aren't here this evening couldn't because their homes had been damaged pretty badly in the West Terrace area. I'm Shirley James and I represent my neighborhood which is small but we like it. I would like to also give to the Commissioners this petition that is 852 signatures and I'm sure we could have gotten a couple of thousand. When we looked for those petitions and got those petitions only one person refused to sign. Most of the people who signed the petition as it is written and presented there signed it even before I got through the explanation that is written on the front. In regard to the posters here, I'll explain that this whole area is part of a vast watershed that starts along Koring Road, Kasson, New Harmony Way. It drains, and it drains all down into Carpenter Creek even effecting Burdette Park. Two creeks now drain the area. There is the one the that runs from behind my home and Carpenter Creek. These two creeks, this one here and this one here, Carpenter Creek is totally blocked and its mouth has no outlet to the river at all. It's made a vast wetland—

President Jerrel: Shirley, do you think you could get the mike? These are verbatim minutes, so if you could speak to the—

Shirley James: Sorry, excuse me. These two creeks have made a vast wetland out of large areas of the west side. Paul Kleinknecht's farm has been inundated time after time with water. The whole area along Carpenter Creek on the other side of Tekoppel opposite the wetlands is now a vast wetland. It really could be included in the wetland park. The other little creek is now also blocked with sediment and with debris and garbage. Lots of garbage. Also, these creeks are contaminated creeks. They carry a lot of (inaudible) because of illegal septic systems and a lot of garbage. Because of lack of enforcement of the law, I guess, or because we're an old city and since we are an old city we have some old ways of doing things that do need to be changed eventually. Anyway, I would like to say that the West Side Improvement Association and Vanderburgh County residents request the rezoning application submitted by Red Bank Development asking for a change in zoning from agricultural to C-4 be denied for the following reasons. The zoning request is in violation of the Comprehensive Plan. This plan was approved by the West Side Improvement Association, the general public, the Area Plan Commission board and the County Commissioners. The reasons for having a Comprehensive Plan are to prevent urban sprawl, preserve neighborhoods, preserve natural resources and prevent environmental problems caused by improper development. Presently existing west side commercial centers have land that is not fully developed or utilized. In fact West Side Improvement is concerned how this development will affect our West Franklin business district. We don't want to see West Franklin become another downtown. Also, we're concerned because we're seeing already some businesses going out. Taco John's has gone down. Kentucky Fried Chicken has gone down. We understand from Denny's that they have a lot less patronage, so some of the businesses that are already in that area are seeing some hard...some competition and some hard times. At the Area Plan Commission meeting Mr. Shively stated that the land in question was not good for anything but development. Well, in our opinion the opposite is true. The topography and the soil composition of this area is totally unsuited to this type of development. As you can see by the gentleman's description of the area, I mean, the hills, the ravines, the holes, that makes it unsuitable for a commercial development. The leveling of west side hills not only destroys the natural beauty of the area but also causes tremendous soil erosion difficulties and drainage problems. People in Howell and Union Township have increased flooding problems because of the water that is diverted into the blocked Carpenter Creek. This water is also contaminated with (inaudible) which I have already said. Now we had people down on Rollett Lane

take some of these petitions. The reason they did is because in the past two and three years they have not been able to mow their lawns because of the water. Reverend Schroeder stated that he now has a basement that is continually full of water. We know for a fact that Paul Kleinknecht's farm has been under water a good amount of time and other farms also have been affected. We also wanted to point out that when Mr. Hahn in doing his development...of course it was such a massive development probably nobody really realized the effect it would have upon our environment and I don't think we have totally all of the laws or ordinances in place that would deal with such a vast development, however, he did have...we do have this erosion and sediment control law now. I do want to point out that Mr. Hahn was in violation twice of this control...erosion and control...sediment control law. Also, what I would like to do is point out if you've read in the paper recently even Congress is moving against destruction of ecosystems. This is an ecosystem that sustains diverse plant and animal species as well as serves as a major watershed. The last development created such destructions animals with no place to go rampaged through people's yards, devastated gardens, and mine was one of them. Ate every rose bush. Ate every hydrangea. Ate every azalea that I had planted. Baby animals left without mothers were killed en masse in the road. Residents with respiratory problems ended up in the hospital because of the burning. We had several people from the Howell area whose children were asthmatic calling to complain of that. The mayor wants Evansville to be a tree city. The Greenway Advisory Board is trying to rebuild our forestry industries and resources by planting huge areas with trees indigenous to Indiana. We just planted 4,500 trees. It takes a long time to grow a tree. Each tree gives off five pounds of oxygen a day. With our poor health statistics and ozone difficulties which prevents new industry from coming in can we afford to lose these trees? The traffic conditions on Indiana 62 are already worsening and to add to them at this time will only repeat the poor planning that made Green River Road and the east Lloyd Expressway a disaster. Considering the adverse impact of development on the east and north sides of town it is time to learn from mistakes of the past and not continue to repeat them. The Pigeon Creek Greenway Passage has been planned, and that was covered by Barbara so I won't go into that, but I will go down and cite that this type of development adversely affects the quality of life of several west side neighborhoods and it lowers property values. According to this Mathews report that was done...I admit this report is old, but it was done and it's interesting to note that the conclusions of this report...by the way, David Mathews is a general certified appraiser. Based on this study it was their opinion that the market value of a single family home is always, almost always, diminished to some extent by the presence of developed or developing commercial properties abutting the residence. Eight of the nine properties studied suffered probable loss and market value. The impact ranged from no loss to an 18 percent loss with the average indicated loss of 6.4 percent. This type of development is 40 years outdated and contributes to urban sprawl. It's simply not done in progressive communities. West Side Improvement is not adverse to development, but feel it should be comparable to the landscape and environment and government should protect resident's property rights. We do not want another Green River, Burkhardt Road on the west side. We would like you to stick to your plan. I want to show you some developments. I could wish that we would have these kinds of developments here. This is a shopping center. This shopping center is open from 10:00 in the morning until 10:00 at night. It is constantly packed. You will note they built the shopping center around the existing trees. They shielded the road and the cars from the road with trees. They landscaped beautifully. The extent of their sign is on their building and yet this place was crowded. My husband and I went there every night for entertainment. Note how beautiful the old trees added to that shopping center. See the palm trees? Beautiful shopping center. Now I want to show you a Wal-Mart.

This is Wal-Mart. We have to peer through the trees to see the store. This was from the main highway. Note the crowded parking lot with the simple sign covered by trees. Note how beautifully the front of it is. Note also this beautiful drainage system. Do we have any drainage system like that here? Finally, people found it so enjoyable to come to this Wal-Mart store with its beautiful trees in the parking that they picnic under the trees in the parking lot of Wal-Mart. That's all I have to say.

President Jerrel: Thank you. Is there anyone else that would like to speak to this issue? Yes.

Paul Farmer: My name is Paul Farmer, President of the West Side Improvement Association, and I live at 3716 Koring Road on the west side of town. Shirley puts things into perspective and a history that are always intriguing to me so I always like to hear her make her presentations because she puts all the pieces together. I do want to say officially from the West Side Improvement Association that we have looked carefully and studied carefully the Area Plan Commission Staff Report, the Comprehensive Plan and know that you have over 800 neighborhood signatures opposing the rezoning of this property at this time and after a lot of study and discussion the Board of Directors have advised me that they are voting unanimously to oppose the rezoning of this property to C-4 status at this time. It also appears to those living in the immediate areas and even those visiting the areas that this land development request may be sort of kind of a game. I'll just show you what I can do and what I can't do. There has been no public meetings that we are aware of with the neighbors and no indications of the plans for the use of this particular piece of property. We have seen the three acres that adjoin the acreage that you're talking about this evening that have the high hill that you couldn't see over and now has a large one story building, thank goodness, that we hear by rumor will be a 24 hour convenience store with a gas station and fast food restaurant. There is no reason to believe that we won't have the same sort of thing in the rest of that property which butts up against the folks who live on Middle Mount Vernon Road and we think it's important that it does have a bearing on their quality of life. We ask that you deny the rezoning request at this time. Perhaps that would give time for the developer to complete the larger project that is going up on the Red Bank Road side. We also need to look at the quality of businesses that are being placed. At this particular point in time we see none. We see some restaurants. We will now on the west side the third Old National Bank which means at least one will be closed and maybe two. That's all we've seen other than restaurants at this particular point in time. We read in the paper that there are some other things happening, but we really are concerned about the quality. Some of the argument is that we have facilities on the west side of town and that people don't have to drive to the east side and for probably 90 percent of the time that's it. We still don't have the quality stores of a Lazarus, Kohl's and those kinds of things. I understand the problem in bringing those to this side of town, but I think it's important that we continue to work on that to see if we can get some quality in addition to the things that are there at this particular point in time. Also, I think that there is going to be some traffic problems. As we know, there may be some other directions in and out of USI that would help the situation on Highway 62. Perhaps we need to take a good hard look at what is necessary for some infrastructure before we go on and expand across to this address on Boehne Camp Road. It also could be kind of interesting and the developer may be interested there has been recently established a Dale Owen Land Trust and if some time in the future something happens on Middle Mount Vernon Road and places are purchased and condominiums are developed or whatever happens to be back in that area eventually would still be kind of nice to have an area that is kind of blocked off and can be sure that even 20 years, 30 years, 40 years, 50 years down the pike this area

of that two acres would be there as part of the land trust and would be there forever for people to enjoy and it would separate whatever happens in that area on both sides. So those are just some considerations that we would like for you to consider this evening. We thank you for your consideration of it and the consideration and desires of the neighbors and the quality of life that is included in that area and also, again, the West Side Improvement as an association agrees that we would like to see the rejection at this time. Thank you.

President Jerrel: Is there any comment from anyone else?

Chris Wischer: I have just two comments. We're being hailed in the city meeting. We have another one, but they're finished with everything except ours, so I'll keep my comment brief. I just wanted to respond to a couple of points made that actually pertain to this particular property. I think we can all share the feelings and opinions stated about the ecosystem out there and we all want to do what we can to preserve that. I think if you look at this map which I handed out in the beginning we can see that the extent of the creeks in the area there and then looking at the red portion we're asking to rezone and I think you can see that we're only talking about three acres in that ecosystem and I think the impact isn't going to be as dramatic as has been stated. Then one statement that Mr. Farmer suggested, he alluded to this property abutting the properties on Middle Mount Vernon Road and I think you'll also be able to see from that map that I don't believe that is exactly correct. This property does not exactly adjoin or abut those properties on Middle Mount Vernon Road. They're a little ways from there. I'll leave my comments to that and I think Mr. Hahn has some comments to make about the statement by Mr. Farmer.

Gene Hahn: Thanks. I'm Gene Hahn. I'm the developer on the west side. First of all let me say that I greatly resent the comments that it's a gain for me. I think that's horrible. A terrible thing to even say in a situation of this nature. When it's a personal attack on somebody it's something else. Attacking the project, that's one thing. When they attack me, that's something else. Secondly, I think it was brought up there was no public hearing, no public talk on this situation. I attended the West Side Improvement Association meeting. I stood up at that meeting and said I am here. Shirley James held up a petition against what was happening up there. I said I will be here after the meeting or during this meeting and talk about this whole situation as long as you want to. Commissioner Mourdock, did I not do that?

Commissioner Mourdock: Yes, sir, you did.

Gene Hahn: Thank you.

Commissioner Mourdock: The meeting that was about a month ago on a Wednesday night. I was going to mention that, Gene, but you beat me to it.

Gene Hahn: Thank you. They also mentioned we took down what they call a knoll in their letter here which was about a 30 foot hill that we took down. We had moved the building, the new construction of the Wendy's and convenience store 100 yards off of the interchange so it retains a good clear image or visibility for that interchange there. They mentioned Old National Bank, we're going to have some closed banks. Again, they don't know what they're talking about. They keep making comments that they know nothing about. Old National Bank has already sold their other location. They have to be out by December 1st, so there will not be a closed bank over there and they will have a new bank in our location. I think if you look at the quality of the things we have done out there they are first class. O'Charley's has done a great job.

Bob Evans is the nicest Bob Evans I have ever seen anywhere. So the things that we have done, except for two times when we had extensive rains, one time was a five inch rainfall, that when we had some erosion that ran off the property and Mike Wathen came out to see me and said, Gene, the law said if you put sediment on somebody else's property you get fined and I'm here to fine you because of that reason. You and I looked at it and I know you tried to do it right, but it didn't hold so you've got to be fined. I did not argue with him and we did that. It happened the second time. If you'll remember last year in December it rained the whole month of December and on the Boehne Camp Road it just broke down everything. That, again, now we have grass established and our holding pond is established. We have that done and I think we have that under control. So those things are items, I think, that you need to know about that we've done and we've done right. I am very proud of what we've done out there. The neighbors are...none of them...I don't think there is one neighbor here that doesn't like what we're doing. I don't think there are any neighbors here that are adjacent neighbors, close neighbors. Now if you go out a mile or two you can find people that don't like anything changing on the west side, but what we've done has been first class and I am very proud of it. Thank you.

Commissioner Tuley: Hey, Gene, before you leave. I'm trying to think in my mind, O'Charley's, Bob Evans—

Gene Hahn: Golden Corral.

Commissioner Tuley: I'm sorry, Golden Corral. None of those have tall pole signs like the development to the east of you, right?

Gene Hahn: No.

Commissioner Tuley: Is that by your requirement.

Gene Hahn: I restricted that out myself.

Commissioner Tuley: Okay. That's what I thought.

Gene Hahn: I restricted a lot of things out. I mean, (inaudible) showing. I mean, we've got a lot of restrictions on our people.

Commissioner Tuley: Yeah, I was just trying to think. I know there was a big old...I don't know if it's Taco Bell or Taco John's or something like that, a big sign, and several of the others have big signs, but I didn't notice on any of yours. They have buildings and I don't know if you call them monument, but they are low to the ground signs.

Gene Hahn: Yes. We did not restrict them on the south side of Pearl Drive because they are so far up the road the people out there cannot see who is back there, although the theater elected not to do anything I think Hacienda did put up a sign that is higher than normal, but that's the only one.

President Jerrel: Is there anyone else that would like to speak? The gentleman behind you asked to speak.

Unidentified: I've been holding my hand—

President Jerrel: Yeah, I see you.

Commissioner Tuley: He hasn't been sworn in is what he is saying.

President Jerrel: Oh, okay. You want to swear him in, Joe?

Joe Harrison, Jr.: Come on up, sir. Would you please state your name.

John Habermel: John Habermel.

Joe Harrison, Jr.: Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

John Habermel: I do.

Joe Harrison, Jr.: Thank you.

John Habermel: My name is John Habermel. I work with Hahn Realty so my opinion may be a bit tainted or prejudice, but I don't...I sincerely don't believe it is. I've watched what has gone on out there and I know what goes through Gene's mind when this project is done and he has two or three things that are uppermost in his mind and that is to do it right, to do what is best for the west side. Oftentimes decisions are made to keep the project first class that costs money to him. So I just...I kind of feel like he does. A personal attack is not...because the west side has been uppermost in his mind when he has done this. That's all I have to say.

President Jerrel: Thank you. Shirley.

Shirley James: I would like to say a couple of things. One is I really question whether that area just drains three acres because I live in that area and I watch these gully washers come down from the back, the creek that is in back of my house, and I have eight acres there and I'll tell you something, without those ravines and, uh, we would be in deep trouble. It washes out trees and everything else as it rushes down through there, so I really can't say that I think it just drains three acres. That's one thing. I'll also point out, I never attack anyone personally, but I will say one thing, Mr. Hahn came to the West Side Improvement Association and presented what he wanted to do there. We had no opposition with the 85 acres, none at all. That was already zoned and we also pointed out to him a survey that we had done years ago of 200...it was a sampling of 250 people. What we did is we are a coalition agency of about 33 different agencies. What we did was we sent this kind of sampling or a little survey to each of these agencies and they reported and we ended up with a sampling of about 250 people all toll. From that people said that they wanted a movie theater, which is there and we're happy to have. They wanted to have a bookstore. They wanted to have a Lazarus type store and they wanted a restaurant. They didn't feel that we needed any more fast foods because they were afraid it would take away from the West Franklin area. They wanted a large restaurant that could be utilized for weddings and brunches on Sunday and we pointed that out to Mr. Hahn that those were the things that we wanted. When it came to the pieces of property on the west side of Boehne Camp and we discovered that they were going to purchase that and cut down the hill we asked at that time why are you purchasing that because we knew that it was not in the Comprehensive Plan to develop west of Boehne Camp. Mr. Hahn at that time said that he only wanted to do it for visual reasons so people could see his property, that it was a block. He said nothing about developing that at that time and I feel that was a misrepresentation. I also rather resent the fact that one of my neighbors contacted me the other day and said I've asked Mr. Hahn what his plans are for the area. She

said his plans are to take these 12 houses, which of course includes mine, and have this entire area in condos in the next five to seven years. Now that was told to me by another individual. Now I think that is somewhat presumptuous, you know. Then also it has been indicated that they want development all of the way to the university. Do we want all of this type of development right up to the university? It's a beautiful university and half of the university campus is devoted to keeping a beautiful ecosystem in that campus. Do we want it surrounded by a bunch of fast food restaurants and things of that nature? That might be good for the students, but the students aren't the taxpayers.

President Jerrel: Is there anyone else that wishes to speak to this? Yes.

Gene Hahn: I need to address that. Let me say that's totally false what she just said again.

Shirley James: It's not.

Gene Hahn: It is totally false again. Richard Mourdock was there when I stood up and some lady asked me in theory what do you see else happening on the west side? Richard, you will recall I said it won't be by me, but the infrastructure is here to have commercial development from where we are out to USI because the utilities are there and the infrastructure is there. I said, it won't be by me so don't go jumping on me. Now if you remember I told them that that night.

Shirley James: I don't remember that.

Commissioner Mourdock: Let me clarify and we're all dealing from memory here, okay. My memory is not photographic and it is even harder to photograph words when they are hanging in the air, but I remember, Gene, you made the comment, and this is the way I remember it, I don't remember you saying whether it would be by you or someone else, but to me that is not really material. I do remember the comment though that you just said that you were saying that some day from Boehne Camp to USI it would be basically commercial because the infrastructure was there.

Gene Hahn: Then they said, what else do you see down the road and I said if I-69 comes down between here and Mount Vernon, remember, I also said around that interchange there would probably be commercial development. They asked me in theory what do you have? I probably should never talk in theory, but they asked me a honest question and I gave them an honest answer.

President Jerrel: Okay, is there anyone else that wishes to speak? Are there any questions from member of the board? Okay, is there a motion?

Commissioner Mourdock: I will move approval of VC-2000-...I'm looking at two different numbers. On here it is 2000-17, but we have it here as 2000-02. I'll move approval of VC-2-2000, the request from AG to C-4 for 525 South Boehne Camp Road.

Commissioner Tuley: Second.

President Jerrel: And this is a final reading and I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Being put in the position here of trying to remember everyone's words and to shift through all the comments that are made, you know, I understand when these petitions come before us people will make their argument sometimes verbally and it goes on both sides. As I said a moment ago, Mr. Hahn, if you had not mentioned the fact that you were at that meeting and did stand up and make those statements I was going to do it because I know I have seen you somewhere since that meeting and I took you aside then and I said I appreciated the fact you were there. That took guts because not many people, not many developers, do that. I was also there at the occasion you referred to, and I don't know if you remember this, when Mike Wathen was with you and he asked me to go out there and we both had six inches of mud on our boots as you were trying to address that issue and I think given the situation, I know the construction business, I know when you want to get a building project going time is money, you have to get going, and the season worked against you and you had to fight some heavy, heavy material there, heavy weather. But I also know that we have sat at this board before and spoken of plans and as Barb said at the beginning of this meeting the only exception west of Boehne Camp is that one small tract that is kind of the center of the donut here tonight. At said at the time when that came through that strategic plans, master plans don't loose in great battles, they loose in small skirmishes, and I thought that was one and I can't help but see even though this is a very small piece of acreage it's another small skirmish. I do agree with the Master Plan regarding that green zone, if you will, from Boehne Camp West and to be consistent with what I have done before which is what I always strive to do, I'm not voting against Gene Hahn here, I'm not voting against your project per se because I think you do a good job and I think you're an honorable person when you go about doing them, but I have to be consistent with what I see is the plan here so I vote no.

President Jerrel: Thank you. The part of the plan...do you mind moving that –

Gene Hahn: You going to vote?

President Jerrel: –front, yeah. The reason part of the acreage that is green is green because I think that's intended to be the end of development. The part that is brown is brown because it's going to be used as a drainage project. I don't see the orange portion, I don't see any one wishing to build a home on that. I don't think it's reasonable to expect anyone to build a home there. I do expect the advancement. I don't agree with you Gene that it will advance. I think the property that is brown and green will stop the advancement. I think that's the end of the commercialization at that point and I do vote yes.

Final reading VC-6-2000 Gorman, LLC
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President Jerrel: If you're ready to move to item number three that motion has passed.

Barbara Cunningham: Are you ready for me?

President Jerrel: Yes.

Barbara Cunningham: Greg Gorman is requesting a change in zoning for a 12 acre site located on North Green River Road. In addition to the petition Mr. Gorman also

has a subdivision that he brought to Plan Commission and that will be coming back to Plan Commission next month. The northern seven acres of this 12 acre site was rezoned in February of 1999. At that time there was no sewer to the property and the approval was conditioned upon a use and development commitment that limited commercial use of this site to the existing structures which were two houses and allowed the pest control business that was petitioning to rezone this site as the only commercial use to be permitted. The use and development commitment, as I said, was deemed necessary because the site was served only by septic. No sewers were available to the site at that time. Mr. Gorman has decided that he will be able to extend sewer to the site so he is petitioning to again rezone the seven acre site and an additional five acres south of the site and with that the use and development commitment will be removed because sewer will be extended to the site. This site is north of the designated commercial corridor identified on the Year 2015 Land Use Map of the Comprehensive Plan and the Comprehensive Plan does designate a limited strip of commercial development along the east side of Green River Road at this location. Adjacent to this location to the north is an apartment complex, Tall Timbers, I believe is what it is called. South and west is agricultural and residential and really undeveloped. I think part of the reason it has been undeveloped is because sewer has not been available to the site. The applicant has indicated the sewers will be extended and if this is passed we'll make sure that sewers will be extended to the site. A portion of the site lies within the flood plain and the flood boundary contours delineated on the subdivision plat. So what we were going to do is Richard wants us to do is add a note to the plat that notifies potential owners of the placement of fill materials on those sites where fill is utilized. Green River Road at this location has been widened to accommodate four lanes of traffic with a center turning lane. The plat that was submitted shows street access and no access onto Green River Road except by street access and all lots will access internally. A note will be added to the plat stating that. Both the County Engineer and EUTS indicate that a decel lane may possibly be warranted if there are no substantial obstructions to providing the lane and this will be determined at the time of street plan approval.

Joe Harrison, Jr.: All those wishing to speak with respect to this petition, VC-6-2000, please raise their right hand. Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

Response: Yes.

Joe Harrison, Jr.: Thank you.

Greg Gorman: My name is Greg Gorman. I'm the property owner. I'm really not a developer. I'm a property owner. I moved my business to this location last year and was before you and got a rezoning. It was AG, the northern seven acres. I was lucky enough to purchase the property next door which is five acres and at that time started beginning to think about well this is more land than I really could need or could use and maybe I could make a commercial development, a small business park, nicely done. Have a street with a cul-de-sac. Have a few lots. A few friends of mine were looking for business sites. It was a terrific east side location. We've worked with Mrs. Cunningham and her office in working out things with Mrs. Zigenfus, Rose Zigenfus, and the EUTS people on the interconnect. From what I understand it is really not in place and there is a meeting on it in June, but in the spirit of cooperation, yes, we want to do that. I understand the interconnect. It's a good thing and I think it originated with your body much like the one on Burkhardt Road and I think there is one on 41. Instead of going out to Green River and down a couple of blocks and coming back in, use the interconnect. It makes sense. I think

I like that as well. It is working well on Burkhardt. It is lessening the traffic there and we're doing that and meeting everything we need to do. We're putting in a road basically down the center, where the dotted line is down the center. There will be basically lots on each side. They will be roughly from a half an acre to an acre lots. There will be nine lots. I'm going to build a building on that site. My business will remain there, so I will be on the site. I have talked to the church across the street. Last year when I bought the property and rezoned it they had a little concern, well, what are you doing there and what is going on? I assured them that it's a family business and there is only three or four people. There won't be all kinds of traffic coming in and out. We're going to utilize the buildings that are there. We're not going to be demolishing anything at this time. We're going to use what is there. Well, when I purchased the property next door that has changed a little bit. I went across and talked to the Associate Pastor. I laid down...well, at that time I didn't have the subdivision plan, but I basically told him what we're going to do. He said, well, what's it going to look like, is it going to be well done? I said, yes, trust me, it will. I'm not a developer, I'm the business owner and I'm going to remain on the site so it will be well done. We have some prospective people now looking at lots. We have a sign up on Green River Road if you've been down there, you know, about the development. We were at the Area Plan Commission two weeks ago and we had a six, two, two vote, but there were three people missing and Mr. Mourdock abstained because he votes here first. So we'll be going back there in June and first we want to get the zoning and then get things passed and then go forward with our development. As you can see, it is commercial all around. The only residential is behind us and as you can see our property only comes to a point back there at that one spot. There is a buffer, a natural buffer, that is even there anyway. There is a six foot privacy fence all the way down the back of that subdivision. There is a tree stand and we are going to have a retention basin at that corner, at that point, so there will be nothing built back there that will interfere with any homeowner and there has never been any homeowner as far as demonstrators at any of the meetings. So everything as far as the residential is no problem and I've talked to Bill Spurling catty-corner the street. Greg, what's going in? What are you going to do? I said, well, I'm not competing with you. I said this is just going to be a small little commercial development. I have talked with an insurance person about putting an office in, so it is going to be very low key. It's not going to be a Super Target. It's just going to be my retirement and my business and a few other small businesses as well.

Commissioner Mourdock: If it was Super Target we could send you to the room down the hall.

Greg Gorman: Now, my engineer is here if you have any question of a technical nature.

President Jerrel: Okay, is there anyone that would like to ask a question of Mr. Gorman? Is there anyone else here that would like to speak to this? Hearing none, no questions?

Commissioner Mourdock: No.

President Jerrel: Is there a motion?

Commissioner Mourdock: I would then move on approval VC-6-2000, which has an address of 3016, 3020 and 3030 North Green River Road, Tracts 1 and 2 from C-4 with a use and development commitment and Tracts 3 and 4 from AG to C-4.

Commissioner Tuley: Second.

President Jerrel: This is a final, so I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes. Thank you.

Final reading VC-8-2000 Charleston Square, LLC

President Jerrel: The next item on the agenda is VC-8-2000.

Barbara Cunningham: Tom Bodkin and Doug Welp are representing Charleston Square, LLC in the request for the property located at 8300 East Lloyd Expressway. A previous petition to rezone this site to C-4 was withdrawn by the petitioner in January, 1999. This site was subsequently rezoned by Mercury Investment to R-4 in July of '99 for the stated proposed uses of an assisted living facility or apartments. This agricultural site is located on the east side of I-164 north of Lloyd Expressway and they are proposing to rezone this site to C-4 for unspecified commercial development. The proposed 50 plus acre commercial site has the potential to generate significant traffic volumes. There is no access available to the site from roads within Vanderburgh County. The only access available to the site is from Epworth Road in Warrick County to the western end of Stahl Road at the Vanderburgh County line. Development of the site will increase traffic at the Epworth Road/Lloyd Expressway intersection which is a high accident intersection. County Engineer John Stoll states that the petitioner will have to work with Warrick County to obtain access to Stahl Road since Stahl Road is maintained by Warrick County. INDOT states that any diversion of surface water or increase in the rate of runoff from this site into highway right-of-way will require INDOT review. INDOT requires that the 50 year developed property runoff rate shall not exceed the ten year undeveloped property runoff rate. Ms. Zigenfus is here to speak...to give the EUTS' remarks. This site is essentially cut off from any access to Vanderburgh County by the Expressway interchange. It contains a large, very large, borrow pit, a lake that was created with the construction of I-164. The Comprehensive Plan encourages development in those areas best suited for growth due to their location availability and adequacy of public facilities, services and utilities. According to the Comprehensive Plan development proposals along major arterials must be accompanied with commitments, but then we also said at the Area Plan Commission meeting that those commitments would need to be made with Warrick County since they would need to be road commitments and I believe Mr. Bodkin told us that the sewer was going to be coming from Warrick County also. I think that's all.

Joe Harrison, Jr.: All those who wish to speak concerning this rezoning petition please raise their right hand. Do you swear or affirm that the testimony that you are about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Tom Bodkin: Tom Bodkin, 700 Hulman Building, Evansville, counsel for the petitioner. Lady and gentlemen, you have on the easel here what I have marked as petitioner's exhibit...Commissioners' Exhibit, actually, D. I want to come back to that. There is a bit of an order I think we need to review this material in to make it clear. We have one controversy and only one and that is whether or not 30 feet, or 60 feet, or 200, or 300 feet off the north side of this parcel has to be dedicated to get it zoned to extend Columbia. I believe that is the only issue. Plan Commission vote, I believe, was six, two, two. As one gentleman indicated there were three folks not there and Commissioner Mourdock abstained, correctly I think because he has to vote here and I have forgotten who the other abstainer was. It doesn't matter, I guess, at this point. Let me first hand you what I have got three copies of which is a map that generally shows you, if you could, Mr. Tuley, there is one for each of you. Please, if you would sir. The purpose for this map is just to refresh your memory as if you probably needed it, but refresh your memory about what is going on from the interstate highway back to the west in terms of development and where we are and where things are along the Lloyd Expressway and Interstate 164. If you'll notice the parcel of real estate at issue here still says Koester Contracting. Koester does not own that, Mr. Mourdock.

Commissioner Mourdock: Thank you for clarifying that.

Tom Bodkin: That's the parcel at issue and on your Exhibit A it shows it, where it is, right up against the Vanderburgh/Warrick County line. The ground in Warrick County adjoining this parcel is zoned C-4, C-3 and M-1. The M-1 starts about half way up the line. This is a section line here, I believe. Actually, it is not. The section line is a little further north. The M-1 starts about here and goes up to this line and it is C-3 and C-4 along Stahl Road. The ground in Warrick County south of that is also zoned C-4, so it is a commercial area from Warrick County's standpoint right on your line and I think within our Master Plan we say this area can go commercial. We have water available to the site from two different sources, potentially three. City of Evansville has water on this side of the interstate can be reached by going under the interstate. The Town of Chandler has water sitting right outside the site. Indiana American Water Company has indicated it can extend water there as well. The sewer is available from either Newburgh or Evansville, for that matter. It could be brought under the interstate if that was the developer's desire. Newburgh has sewer just literally outside the front door. So the infrastructure issue with regard to the subdivision is, I think, not a big issue. The only road that serves the parcel as you can see from Exhibit A is indeed a road call Stahl Road. Stahl Road is a road built by the State of Indiana when Interstate 164 and the Lloyd Expressway were built. Over here in Warrick County just south of Stahl and east up a little ways is a small 10, 12, 14 lot subdivision that was built in the 1950s that accessed onto old Division Street and when they widened the Lloyd the cut its access off so the state came in and built Stahl Road to get that subdivision access plus the parcel at issue here was then cut off from its access from Division Street and instead of buying the 50 acres the state built Stahl Road and gave it that access, so from your perspective as a county you have no road currently that reaches this parcel that anybody can get off of onto the parcel. Interstate 164 is not accessible. It's not your road, but it is not accessible because it's a limited access highway. This parcel does not touch the Lloyd, but it is limited access as well, so it's only location to get to it is off Stahl Road and that is all in Warrick County. The issue as I indicated I believe that creates the issue is the question of whether or not Columbia on EUTS' map is required to be...right-of-way is required to be given on this parcel for an extension of Columbia Avenue. First let me hand you what we have marked as Commissioners' Exhibit B, and there is one each for you, which is a map that Mr. Morley acquired for me which

basically shows the area between Burkhardt Road and Green River Road with regard to that part of Columbia that has been acquired and dedicated. Not built, but that the land has been acquired or dedicated so that Columbia could be built pursuant to EUTS' desire. As you'll see there are two pieces in that entire stretch that have been acquired to date. One of them just immediately south of Carriage House Apartments, or immediately north of Normandy Arms, and by the way if Columbia extended to the west through Eastland Place to get to Green River it would go right through the Shoe Carnival. There are those who would probably cheer you if you made that happen, but that today is where it would have to go. The other parcel as you can see is over off Burkhardt Road just south of Waterford Place. It's where the Oncology Center is at on Burkhardt Road or was. That's the two sections of Columbia that have been dedicated to date. Columbia, as reflected by this map, lies on a quarter section line, at least these two parcels do. If you extend the quarter section line all the way to my client's parcel you'll find our north line is not the quarter section line, we're south of that. The quarter section line is north of us over into the other county. Secondly, with regard to where Columbia is or was supposed to be I'm sure Mrs. Zigenfus will have her map and show you where her lines were at, but there have been at least two iterations of it, I believe. The first one, which I'll give you, and there are several copies if we could, shows where Columbia first sort of fell on the map and it would appear initially it might well have fallen right across the north end of the borrow pit on this site. The current iteration, it's my understanding, which I am handing you now shows that it is north of that which, again, would be in keeping with it being on the quarter section line not necessarily across the north line of this parcel. The third issue that I think is important...I'm sorry.

Commissioner Mourdock: I'm lost on something, Tom. You're saying that the north line of this is not the quarter section line?

Tom Bodkin: No, the north line of where...not of my parcel is not, no. Correct, Jim?

Jim Morley: No, no. That, no...I'm sorry. No, you've got it backwards. The north line of the parcel is the quarter section line. The line of Columbia as drawn is not on the quarter section.

Tom Bodkin: I got it backwards. Our north line is the quarter line, but the Columbia line is north of the quarter line as reflected by the little pieces of paper not the big blue one I gave you. It becomes somewhat academic, but I think it is important to walk through this progression. If in fact Columbia were built on my client's real estate as you can see from what we've marked as Exhibit D, we are called Charlestown Square on the Lake on this exhibit, it would be right here and would stop at the interstate highway. It's got to go over the interstate, so the question becomes how do we get it there and how wide does it really have to be? At my request the engineers have taken a look at the only other overpass in this neck of the woods that's not a cloverleaf and that is Oak Grove Road, which you may recall is just north of this, that goes over Interstate 164 with Oak Grove coming into Burkhardt Road south of 62. That right-of-way for Oak Grove Road overpass is 350 feet wide, 350 feet wide. Now if in fact we're going to put an overpass over 164 here at my client's property logically we're going to have to give you 150...say 175 minimum, not 30 and arguably the whole 350. If we do that you basically come down to about the words Charlestown Square on this parcel. That's how much land, at least on this side, would be dedicated, if you would, for an overpass. You as County Commissioners to my understanding have no plan to build such an overpass. The engineers tell me that cost would be about \$4 million. We also were concerned with regard to...let me hand you what we have marked as Exhibit G which would

show you—

Commissioner Mourdock: While you're looking let me clarify, Jim Morley, is this one inch to 1000?

Jim Morley: Yes, is the scale not on there?

Commissioner Mourdock: No.

Jim Morley: Okay.

Commissioner Mourdock: Yes, it does. I'm sorry, it does show us.

Jim Morley: Okay.

Commissioner Mourdock: But it's showing it as one to five.

Tom Bodkin: Let me hand you Exhibit C which Mr. Morley has prepared for me which shows you the area that would be impacted by dedication for building an overpass at this location which is the contour lines you will see and we've again tailored that based upon the Oak Grove Road overpass which is a two lane overpass over the interstate for Oak Grove Road coming in to Vanderburgh County. The purpose for all this is to point out two or three points. Number one, we have in fact had development back to the west of this parcel that has not dedicated real estate for Columbia. From the first map you can see there are several C-4 parcels that exist that do not have a dedication for Columbia which would be sort of within the tract and I would suggest to you that they appear to be Ryan's Commercial Park, Carriage House Apartments, Vogel Road Commercial Park, Korressel Court. Those are all C-4 zoned pieces of real estate or R-3 in the case of Carriage House, who have not given any ground to anybody for the extension of Columbia between Burkhardt and Green River. With regard to Columbia Street as it may or may not ever exist from Burkhardt to the interstate there have been no dedications to my knowledge, and Rose can confirm that and if that's not correct I'm sure she'll tell us, for anyone...from anyone for Columbia. So the statement you'll hear is, well, that may be true, but we've got to start somewhere. The difficulty with the dedication on this parcel is finally shown to you by my last exhibit which actually is labeled E, echo. This is the piece of real estate, ladies and gentlemen, that I have marked as apartment complex right there, that's it on the other side of the interstate. That is physically under construction today. It's north line and our north line coincide. It has got a 20 foot green space setback to the first building, not 175 feet for the extension of Columbia. No dedication of any land for an overpass. Not 30 feet for widening of a road. It's a 20 foot green space setback. We have two buildings, Buildings 7 and 9, which if in fact you ever decided to condemn the land to extend Columbia you would have to take at a fairly good price, I suspect, in order to bring the road through here. This lake is currently under construction now and if you measure based on the scale on this map which is one to 50, if you measure 175 feet from the property line down you're in this lake, pretty close to being in that lake. So in fact on the west side of I-164 there is already a development which impedes and prevents Columbia from being extended into my client's parcel on the other side of the interstate. It's an apartment building and a lake. In fact, if we had to condemn it to build it in the future you conceivably would have to take seven buildings out of there depending on how wide you condemned. Then we have the issue of Warrick County. This is one of those unique pieces that lies on the county line. As we know the only access to this parcel currently is from Warrick County. The only access is likely to be from Warrick

County because that is where the dedicated roadway is called Stahl Road right here. In Warrick County a week ago tonight, right now, the Warrick County Commissioners approved the road plan for Charlestown Square Subdivision. It did not include a dedication for any land to extend Columbia into Warrick County. A week ago this coming Wednesday the Warrick County Area Plan Commission granted primary plat approval for that subdivision and it did not include dedication of any land for extension of Columbia Street in Warrick County. Two of the three Warrick County Commissioners have stated they have no intention of extending Columbia Street into Warrick County. One of them now says in writing, and you probably have, that he doesn't agree with that. That's fine. Two to one happens sometimes. But Warrick County has a brand new plan they just adopted a little over 40 days ago now, a roadway plan, that did not include an extension of Columbia in Warrick County, so my client when asked to dedicate real estate in Charlestown Square on the Lake to extend Columbia says why? It can't be built over here because we're now allowing apartments to be built right smack where the road would go if in fact it were ever built on my ground and it won't go to Warrick County because it can't. Warrick County doesn't plan to extend it. They have now approved a road plan in this subdivision and a plat, primary plat, which does not take the road into Warrick County at all. We would end up then if we dedicated 30 feet basically eliminating 30 feet of real estate for no purpose on the north line. If we dedicated 175 feet, which is what the engineers tell us we would have to dedicate at least here at the interstate in order to have the width necessary to put an overpass over it if we had a plan to build one, which we don't, then we're basically cutting out substantially more of this parcel and, again, it doesn't go anywhere. It stops at the county line. It doesn't provide access to this parcel or any other parcel by going over the interstate and it simply solves no problem. Consequently, my client declined to dedicate land on the north side of his ground for the extension of Columbia. It's become a cause celebre and I am sorry about that, but that is simply what happens sometimes with these. The Plan Commission vote was six, two, two. There were two abstainers, two against and six for. We were short three people that night. My client would request that you grant the zoning so that this development can move forward. You will, by the way, gain the benefit of this development because the development is in Vanderburgh County. The access road basically is in Warrick County and by the way the way the (inaudible) this is now going to be a public street in Warrick County and those lots will access that street, so you get the property taxes on the increased lot value, but you don't have to worry about the street itself. As the County Engineer indicated we have to deal with Warrick County and we have with the Commissioners in terms of what they want done to Stahl Road. They have already reached that agreement with the Commissioners in Warrick County as to what to do about Stahl Road and one final point, there was a traffic study done on this parcel last summer by Morley and Associates at the request of the current owner who is not doing anything with this ground any more. At the request of the current buyer, Mr. Biggerstaff and Mr. Bussing are the buyers, by the way in case you wanted to know that, we have requested that they update the traffic study that was done to tell us if there was anything further that we needed to do, and this is absolutely irrelevant to you because it's all got to be done in Warrick County, but I thought you might have to have it anyway, with regard to the traffic study done last summer. What they basically conclude as you'll see at the end is that one of the conclusions in the study done last summer is probably not valid anymore and that was with regard to, I think, Oak Grove Road and Epworth Road. There was some concern as to the quantity of traffic through that four way stop when this was conceivably going to be residential use, heavy residential. They have indicated that the balance of the conclusions in that study are still probably valid and the conclusion with regard to that study other than Oak Grove Road was that the intersection of Epworth and 66 needed another

turn lane and the State of Indiana is building that as part of widening I-60...State Road 66. I almost said 164. Now that's part of the project, I understand, that they are doing on Epworth Road. Epworth Road, obviously, is the parcel to which Stahl Road goes. More importantly, the Warrick County Commissioners have not required the developer to widen Epworth Road. I would suggest to you that this subdivision or this plat...I'll get it right yet, it is late. This rezoning request meets your master plan. We have all the utilities necessary to develop this ground, they are available to the site. We have access and the only access there is is in Warrick County. There is no purpose served in dedicating real estate for extension of a road that cannot be extended in your county or in Warrick County and we request that you vote yes to rezone the ground C-4.

Charlene Timmons: Can I change the tape, please.

Commissioner Tuley: Change the tape.

President Jerrel: Sure.

Tape change

President Jerrel: Rose, do you want...?

Rose Zigenfus: I'm Rose Zigenfus. I'm the Executive Director of EUTS. I do have a few comments. I have prepared some remarks that I have given to you earlier. The main issue is the extension of Columbia Street and I feel very strongly from a transportation perspective both in Vanderburgh and Warrick County that that is an artery that needs to be completed. It's not my plan. It's rather your plan that we are looking for you to adopt...to complete. I'm just here to remind you of that fact and to give you some basis for which that road is needed. When the plan was adopted there really wasn't any discussion of Columbia Street nor was there discussion of Cross Pointe Boulevard or a few other roads in that plan, but this one is important, I think, for a lot of reasons. Mr. Bodkin alluded to the fact...not alluded, but stated a fact that this was going to impact Warrick County's roads and that there is no plan over there, but I'll tell you if this road is not completed it's going to impact the Lloyd at Epworth, it's going to impact the Lloyd at Cross Pointe, it's going to impact the Lloyd at Burkhardt, Burkhardt and Virginia and a few other intersections that are in Vanderburgh County and that you need to be prepared to accommodate. Mr. Bodkin compared Columbia to Vogel...to Oak Grove. Just for comparison Oak Grove Road west of Epworth when we took a traffic count in 1996 there were 447 cars a...vehicles a day, trucks or cars. We took a count in 1998 and that number increased fourfold. There were 1,676 cars there. In 1999, keep in mind we had Burkhardt Road under construction and we had Lloyd under construction, there were 4,080 cars on Oak Grove Road. We don't see that dropping. We see that staying pretty high and continuing to increase as developments continue to occur in this whole area. Mr. Bodkin also says that east of Burkhardt Columbia doesn't go anywhere and he is right. From the plan it was never our intent for this road to intersect with Green River Road. It was the area between Epworth and Burkhardt that we were mainly concerned with and the vast amount of vacant land that is out there and what the impacts of development will do to the network in that area. Three hundred and fifty feet of right-of-way, as Mr. Bodkin referred to, for the Oak Grove Road overpass is probably...was probably built because there wasn't the restrictions of borrow pits and a few other things, but there are other overpasses that can be built and have been built with less right-of-way. There are earth filled support bridge supports and there are retaining walls and there are all sorts of engineering technics

that can be accomplished in less right-of-way than 350 feet. Not having dedicated right-of-way has not ever stopped us from doing a road project. We go and get the right-of-way. The alignment of Columbia can change. When we put it on the map and I guess it's on there in two different forms, but when we put it on a map we put it down as a conceptual plan, not a designed this is where it has to go. It's a concept. So we can shift the road, we can put an S curve in it. We can build an overpass with less right-of-way. It's necessary for traffic and it is necessary for the development of that whole area. There is property to the north to allow that shift in alignment to occur. Having right-of-way has never impeded us before so I hope it doesn't do that tonight. I think that we should get the right-of-way. Whether we do it in ten years or twenty years as that development out there continues to occur you're going to find that you need that and you're going to have to go back and buy it and then it is going to be even more costly. We talked about that same concept with Theatre Drive. We wanted to extend Theater Drive from Green River to Boonville-New...Old Boonville Highway and it was in our plan for 13 years. We first identified it in 1987. This week we finally reached an agreement with right-of-way being dedicated, people giving up right-of-way to allow the curve to tie into Old Boonville Highway. Planning doesn't happen overnight. If it takes five years, ten years or 20 years that's what planning is all about and that's what we're about. So we need the right-of-way for the extension. The other issue that we are concerned a little bit about is the traffic impact study. We're saying that the...and I'll read this because it gets a little cumbersome and I probably don't remember all of it.

"The additional improvements to the system may be warranted should the proposed rezoning be C-4. An addendum to the previous traffic impact study does not adequately address the impacts of C-4 zoning. The information submitted to date analyzes the impacts of a light industrial development. However, a commitment to restrict the development from containing a higher volume uses permitted in a C-4 zoning has not been provided. The applicant should provide a traffic impact study discussing the potential impacts of a C-4 and how the applicant might mitigate those impacts. An impact study was submitted when the property was rezoned from R-4 to assisted living. An addendum to the traffic impact study was received by EUTS on May 11, 2000 analyzing the impacts of a light industrial development on this site. However, the proposed C-4 rezoning permit uses that would generate significantly higher volumes of traffic the impacts of which could warrant improvements to Stahl Road and Epworth Road intersections with Stahl, 66 and Oak Grove. Without a commitment to restrict the development to light industrial uses only and addendum to the original impact study should consider the potential impacts of a C-4 or higher use development. Additionally, the addendum assumed the distribution of traffic for the proposed development would be the same as that for the assisted living. This would not necessarily be the case since residential distributions are determined based on employment opportunities. Residential driving to and from this site where commercial distributions are based on market area or the distribution of residential developments employees and customers driving to and from the site. So documentation supporting the trip distribution assumption should be included with the addendum and the addendum should also include updated capacity analysis for the intersections previously reviewed. A site plan submitted with the addendum, and I think you've seen that everywhere, shows how the site will be divided into 25 lots and it's not clear where access for lots one through nine will

be located.”

I would really like to know how they are going to access lots one to nine. That's all I have. If you have any questions.

Tom Bodkin: Let me start with the last one first because I think lots one through nine are the ones on the county line. They're going to access Citadel Circle which is on the county line in Warrick County. You don't have to maintain Citadel Circle. Warrick County does, but that is where the access for those lots will be. The traffic impact study was done by Morley and Associates and I'll let Jim address that if you want to hear it, but it is interesting. The traffic impact study that was done last summer was requested by EUTS, not the Warrick County Commissioners. Warrick County Commissioners didn't ask for the update, I did. Warrick County Commissioners have never asked for a traffic impact study with regard to that 50 acre site for any purpose. Now, if in fact we've now moved around where Columbia is going to be and I guess we're now going to move it north. Is it going to take a big dive right across the interstate to make sure it gets on my parcel? I don't understand this. If we wanted Columbia to be on this ground why didn't we make it get on this ground, too? In fact, I think Rose just indicated Columbia, the concept, is north of here, not on this site and more importantly why would you build a road that stops here at a \$4 million overpass if you have the money to build it? Which you don't, nor do you have a plan to do it. Your counsel will tell you that if you decided you wanted to condemn this ground to build that overpass you would have to have a current plan to do it. Not something in the next 30 years because the judge would never let you do that from a standpoint of condemning real estate. You have to have a current present use. Columbia is not in the Warrick County plan. They got a plan, they just don't have Columbia in it and they just adopted it about four or five weeks ago. That material has been the source of some debate over there I might add in the most recent Commissioners' meeting. Oak Grove Road is in fact a major east/west artery for Warrick County when it's not under water. Part of their plan is to improve Oak Grove Road, get it up above the flood plain so it is passable all year long. They spent almost \$700,000 on it year before last, it's my understanding from talking to two of the Commissioners and it's their plan to continue to do that so people can in fact use Oak Grove when it rains and floods. The farm fields along Oak Grove Road in Warrick County are higher than the road and when the side ditch fills up the road gets covered before the farm fields do, so they are working on it. It happens to be their plan, but that is their plan. There is no plan for an overpass at this site. We have allowed, we the county, Vanderburgh County, have issued building permits. They are building buildings right here today and dug up a lake for drainage which I presume you approved as the Drainage Board and there is not one dedication of real estate on this side of the interstate. I submit to you that if dedication is required in the future then those people north of here who are getting ready to develop can do that where you've got it on both sides of the road, but this 1,320 feet long and if it's 50 feet, 100 feet or 30 feet it doesn't really make much difference, it's useless to you as Commissioners to require it because you can't build it. It won't go anywhere. I would request that you vote yes on the rezoning. Mr. Morley might like to address the traffic impact issue if you would like to hear that briefly.

Jim Morley: I'll be very brief. I think as Rose said to you in a C-4 zoning there could be many uses there. You can imagine a C-4, you know, you could have like American General where you have a great number of employees. I mean, it's possible to have things. What we did on the traffic impact study that we submitted was take for instance Woodward's Burkhardt/Lynch Industrial Park, that kind of thing that you see. You see it's not right on a main heavily traveled thoroughfare so what

we assumed was that the kind of person that would locate there would be the person, Xerox, or some company that wants...you know, has these regional distributions. They want presence on an interstate, but they don't need a lot of traveling public and so it becomes not a real high traffic user. So that was our assumption and I would be the...you know, I'm certainly going to be the first to admit as Rose says, a C-4 allows other uses. It could allow it, we just didn't think it was reasonable. You know, we felt we had picked what would probably be there. This is not to say if they were to come in with a, you know, building that employed 1,000 people that it wouldn't have a significantly different traffic impact than we had judged. We took our best judgement.

Tom Bodkin: We need to remember that C-4 uses are allowed in M-1, so an industrial use like M-1 includes C-4, C-2, C-1, C-0, and there may be another one or two. So basically you pick the highest use beyond what this one could be used for which includes all the uses that a C-4 would allow.

Rose Zigenfus: I'm glad Mr. Bodkin brought up Warrick County again because I want to bring you up-to-date. Warrick County officials, Mr. Rector and I had a conversation after the Plan Commission meeting and he indicated to me that Warrick County was not...let me see if I can get this right. When I said to him that Mr. Bodkin stated that Warrick County had no intention of building Columbia Street he indicated to me that that was not the case. That they didn't know about it, but that they were willing to look at it. He also said that we would meet and I got a phone message from him today saying we'll meet next week to discuss it, so I don't really know exactly where Warrick County officials are with their plan. I haven't seen their transportation plan which I think is really too bad because they are in our study area. We have monthly meetings and I haven't seen it.

Commissioner Mourdock: Just to further muddle the issue I would make the point that at Area Plan Commission Mr. Bodkin gave us some what I presume are verbatim minutes from the Warrick County meeting and in that Mr. Rector said that the Warrick County Commissioners had no plans at this time, so whatever that means. I say that to muddle the issue for both sides. I don't know what that means either.

Rose Zigenfus: That was last August. They had no plans at that time. That was August (inaudible).

Commissioner Mourdock: Is that what the date was on the one you had?

Tom Bodkin: But the letter you have signed by the County Administrator says they currently have no plan. Jack Pike took great umbrage at that letter and sent you one, sent the Plan Commission one, pointing out that he had a plan even though the other two Commissioners didn't. Last I heard it still takes two of you in both counties to act as Commissioners and you know, whether Rose has seen their plan or not that is unfortunate, but they did something last week that tells you what their plan is, didn't they? They approved that subdivision by primary plat at the Plan Commission and they approved that road plan and drainage plan for that subdivision by the Commissioners. Now if they had a current plan to extend Columbia Street through there I don't think they would have approved the road plan unless Columbia Street was extended through there and they didn't do that. That vote was two to one, Jack Pike voting no, and Larry Barr and David Rector voting yes for whatever that is worth. So I submit to you that whatever Warrick County's future plan may be their current plan does not include extending Columbia at that location or requiring us to

dedicate the ground to do it because they approved the road plan without it and the Plan Commission approved the plat without it. That's a primary plan. All the developer has got to do now is either bond or build and he can record it. I would request that you grant approval of this zoning.

President Jerrel: Is there...are there any questions?

Commissioner Mourdock: I have just one question for Rose. Rose, you made the comment at the outset of your remarks that this isn't your plan, it's our plan. You are simply here tonight to remind us of what that plan is. How does that fit in with Mr. Bodkin's observation about the apartment complex that is out there right now? The one on the west side.

Rose Zigenfus: The one on the west side?

Commissioner Mourdock: Yeah, with the apartments.

Rose Zigenfus: We asked. We asked for right-of-way at that time as well and were unsuccessful in getting it. You know, I still think that Columbia Street can overpass the interstate. I think there is room to get it through those two borrow pits on the west...on the east side. I think there is federal money available to do that if you want to do it.

President Jerrel: What federal money?

Rose Zigenfus: The STP money that is available.

President Jerrel: That's something all of us...yeah, see I...that is not realistic.

Rose Zigenfus: You don't think so?

President Jerrel: I'm not going to say any more than that's not realistic.

Rose Zigenfus: Okay.

Commissioner Mourdock: How far north of the north line of this property does the borrow pit that is on further north extend? Does it show on this map?

Rose Zigenfus: I don't know.

Jim Morley: Isn't this at a scale of one inch equals 500 feet? That's about a quarter inch, so that would make it about 125 feet north of that quarter section line.

Commissioner Tuley: (Inaudible.)

Jim Morley: That's three-sixteenths, so a little less than a quarter of an inch so that would make it about 90 feet or so. You know, at the end of it that doesn't mean that you couldn't fill it in. You know, it isn't like it's a hundred feet deep. In fact, I guess the drawing that is available at the Plan Commission essentially shows that. It shows it coming into that borrow pit.

Tom Bodkin: We think that ground may be owned by the Buente Trust. We don't own it, we know that, but we think it may be the Buente Trust.

Barbara Cunningham: The Buente Trust on the other side?

Tom Bodkin: On the east side north of us. Yeah, Jim thinks it may be the Buente Trust as well.

Barbara Cunningham: That could be because they could have bisected, they were trying to get signs on both sides and we said it didn't count. That's right, it is.

Tom Bodkin: There is a City Council member gawking at us, waving at us, teasing us.

Commissioner Tuley: They come in later than us and are already going.

President Jerrel: Are there any other questions?

Commissioner Mourdock: I'll move on approval then VC-8-2000, Charlestown Square, address 8300 East Lloyd Expressway from R-4 to C-4.

Commissioner Tuley: Second.

President Jerrel: This is a final vote. I would like to call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: I got 29 more meetings to go.

President Jerrel: That isn't a vote.

Commissioner Tuley: That's not a vote, no, but it is setting up my vote. We don't have it in our plan. Warrick County obviously doesn't have it in their plan. They just voted to grant it on the other side. If we force them or ask them or make it appear that this thing is predicated on a dedication of right-of-way to me it is paramount to taking. I've only got 29 more meetings. I don't want to be sued between now and the time I get out of here. I haven't been sued here in eight years and I'm not going to start tonight, so I am voting yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: This one is a difficult one and, Pat, the reasoning that you just used has gone through my mind sitting here this evening. I also have the curse of consistency that I place on myself as far as sticking with our plans and sometimes that is a curse. Sometimes it's an easy excuse to do the controversial thing. As I look at this one I want to kick myself real hard for what is west of I-164. I believe passionately the plan that is on this map. In fact, most of it started off this pencil. It's hard to disagree with it for that reason. I look at that straight line that is a quarter section line for Columbia Street and I think that was the right thing to do. When I look to see though where that pond is on Buente and where the pond is that I know a little bit about south of there it's hard to imagine the road going anywhere other than on that. You're right, the Warrick County Commissioners just did something there that would seem to fly in the face of this. If we vote no to our road plan we never give them the chance to change their mind and join with us in putting that road in, but I have to say in dealing with Warrick County Commissioners I don't know that they're necessarily of the bent to change their mind much either. It sounds like I'm confused. Maybe that's the case because in the heart of me I want to vote no for this because it goes against our plan. But as I see common sense and logic here

I think I am forced to vote yes, but I will add this caveat to it. You've got 29 meetings and I've got 104 plus 29 and the next time anything comes in here on the north properties, Rose, I hope you come in here and remind us what our plan regardless of what the ponds are on the other side because we are going to have cross the interstate. Oak Grove is not going to be enough and the day will come if we all use just a little bit of vision to know that the city of Evansville and the city of Newburgh are all going to basically merge together and people are going to wonder why there wasn't enough planning to have that road go across there in more locations than just Oak Grove Road, so I still want to support the plan and whatever development comes down the road at us I hope we have the courage to muster or whoever is in these chairs has the courage to muster to stick with the plans and not let things sneak in behind us like this one apartment complex did that otherwise screwed up the plan. So with great hesitation, nothing to the builders and developers, please don't take it personally, but with great hesitation I will vote yes.

President Jerrel: I vote yes. I'm voting yes because I was not aware of Columbia. I'm not voting against our plan. I really wasn't aware of Columbia and its role. My feeling was to get this transportation going from Vanderburgh County into Warrick County we need to get something done with Telephone Road and build that interchange, get the interchange at the Lloyd and complete Morgan Avenue's improvements and that's what we're doing, but we have already seen Kimber Lane stopped and to try to go through a wall doesn't make any sense to me. I don't think you're going to see any STP money in the next 25 years devoted to a bridge for Columbia Street. If we're going to get the rest of this done it's going to take every nickel of that. But at any rate I vote yes (inaudible).

Tom Bodkin: Thank you ladies and gentlemen.

President Jerrel: is there a motion to adjourn?

Commissioner Mourdock: So moved.

Commissioner Tuley: Second.

President Jerrel: So ordered.

The meeting was adjourned at 8:45 p.m.

**Vanderburgh County
Rezoning Meeting
May 15, 2000**

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Those in attendance:

Betty Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Chris Wischer
Tom Bodkin
Barbara Cunningham
Shirley James
Jim Farney
Paul Farmer
Gene Hahn
John Habermel
Greg Gorman
Jim Morley
Rose Zigenfus

**Vanderburgh County
Board of Commissioners**

Betty Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

Recorded and transcribed by Charlene Timmons

**Vanderburgh County
Rezoning Meeting
June 5, 2000**

The Rezoning Meeting was called to order at 7:03 p.m.

President Jerrel: At this time, we are going to begin our special hearing on the Baseline Road rezoning. The two attorneys are here. Like to come forward? If you would, state your name because, if you were out of the room, we're going to have a new Recording Secretary next week and she won't know who you are.

Final Reading VC-1-2000 Baseline Properties, Inc.
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Tom Bodkin: Tom Bodkin, 700 Hulman Building. Partner with the Bamberger Firm. I am pleased to report that we have arrived at an agreement between Baseline Properties and, I think, all or almost all of the remonstrators. If we have any remonstrators, I'll ask them to tell me who they are because their name can't go on the private covenant. We've reached a private covenant that will be in addition to the use and development commitment that I believe reaches an accommodation between the needs of the developer, on the one hand, and the neighbors on the other from standpoint of providing them some protection from the development. If you're interested in what the particulars are, I would be glad to go through it. Perhaps it might be simpler if I simply inquired if we have anyone who wishes to remonstrate now and that may shorten this a whole lot since we've been at it (inaudible).

President Jerrel: We did receive copies of the information from Krista and from you.

Tom Bodkin: From what we both sent you we've tweaked it a little bit more.

President Jerrel: Okay. Well that's what it was all about. It was about you all doing it.

Tom Bodkin: I'd like to inquire of those present, if there are any persons who are going to remonstrate against this rezoning, I would like them to state their name so I can make sure they do not go in the covenant we are entering into with the other people.

President Jerrel: Is there anyone here that wishes to remonstrate?

Commissioner Mourdock: For the record, I see no hands in the air or no heads nodding. That's super.

President Jerrel: Okay. Mrs. Cunningham.

Tom Bodkin: I have to amend the UDC language for Mrs. Cunningham to meet the Plan Commission's format. We'll do that and I'll have it to her in the morning.

President Jerrel: Okay.

Barbara Cunningham: Just a couple comments to put on the record. The use and development commitment we enforce has not changed since the April 5th meeting at the Area Plan Commission meeting. Mr. Bodkin is right. He is going to amend ...he had an omission on the APC form and so that will be done. The other thing I wanted to say is that everybody understands that this is private and you are the one's that will...the private covenant...we have nothing to do with. We will not be

enforcing. So the new use limitations that are on there will have to be enforced also by you since they were not included in the original use and development commitment. If someone came in to our office and asked to have one of those uses by law; we would be required to allow that. That's when you would come in. I don't think that's going to be a problem or I don't think they would have given it to you. I want you to just be aware that is something that could happen.

Tom Bodkin: For the record, the UDC is an attachment to the private covenant as well.

Commissioner Mourdock: Okay. Ms. Lockyear, do you have anything to add since you were up there? Okay.

President Jerrel: Okay. Congratulations to all of you. We knew you were a good group and that you could do it. Is there a motion?

Commissioner Mourdock: I will make a motion. Just before I do that Commissioner Tuley can't be her, and for the record, I know Pat worked real hard to make sure everyone was communicating on this and he deserves a lot of credit for that. He's not very mobile and he called both Bettye Lou and I, and we actually put the County Attorney to work trying to find a way so he could participate tonight by telephone and, unfortunately, by statute that is not allowed.

President Jerrel: We're going to call him.

Commissioner Mourdock: We're going to call him as soon as we get done and pat him on the back for keeping this thing going. Having said all that, I will move on final hearing the approval of VC-1-2000 for Baseline Properties, address 659 Baseline Road, from AG to M-2. Again, I thank all the neighbors and attorneys for working together on this. This is the way the process should work.

Joe Harrison, Jr.: Also, there's a use and development commitment with that also.

Commissioner Mourdock: I will amend the motion to include the UDC.

President Jerrel: I will second and call for the voice vote. Commissioner Mourdock.

Commissioner Mourdock: Yes

President Jerrel: And I vote yes.

Tom Bodkin: Thank you. We were going to give Mr. Tuley the honorary fence for swimming pools tonight.

Commissioner Mourdock: The way some of this has gone, I wonder if his wound wasn't self inflicted just to miss some of these meetings.

Tom Bodkin: Like the first hour and a half tonight?

Commissioner Mourdock: Yes, yes.

President Jerrel: Thank you very much.

Commissioner Mourdock: I move adjournment.

President Jerrel: Second and so ordered.

The meeting was adjourned at 7:08 p.m.

Those in Attendance:

Betty Lou Jerrel
Richard E. Mourdock
Joe Harrison, Jr.
Charlene Timmons
Tom Bodkin
Barbara Cunningham

**Vanderburgh County
Board of Commissioners**

Betty Lou Jerrel, President

Richard E. Mourdock, Vice President

Recorded by Charlene Timmons
Transcribed by Jane Laib

**Vanderburgh County
Rezoning Meeting
June 19, 2000**

The Rezoning Meeting was called to order at 6:39 p.m.

Approval of Minutes

President Jerrel: I would like to call the Rezoning Board to order, please. At this time, I'd ask for approval of the minutes of the May 15th meeting and the June 5th special meeting, but we will take them separate. Is that right? May 15th?

Commissioner Mourdock: I'll move approval of the May 15th meeting of the Rezoning Board.

Commissioner Tuley: I'll second.

President Jerrel: So ordered.

Commissioner Mourdock: I'll move approval of the special meeting minutes of June 5th, 2000.

President Jerrel: I'll second and say so ordered.

First Reading VC-11-2000 Daughters of Charity
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President Jerrel: The first readings?

Commissioner Mourdock: On first readings this evening, we have three. First is VC-11-2000 the petitioner is Daughters of Charity, 9439 New Harmony Road. The request is C-4 to AG, and this is a public hearing on first reading. If there is anyone wishing to speak to that particular rezoning, please wave your hand. Seeing none, I would move approval of first reading of VC-11-2000.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First Reading VC-12-2000 Rebecca Bateman

Commissioner Mourdock: Again, VC-12-2000 petitioner Rebecca Bateman, 8300 Wolf Creek Drive. The request is from AG to R1 as to Parcel A and Parcel B would be from AG to R-3. Is there anyone here to address that rezoning? Seeing none, I would move approval of VC-12-2000 as submitted.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First Reading VC-13-2000 Place Collegiate Properties

Commissioner Mourdock: Our last first reading is VC-13-2000 petitioner is Place Collegiate Properties, 201 S. Eickhoff Road. The request is from AG to R-5. Anyone present—there is someone present to speak to that. Okay. No one here to speak to that one so I would move approval of VC-13-2000.

Commissioner Tuley: Second

President Jerrel: So ordered.

Final Reading VC-7-2000 The Durchholz Family Trust

President Jerrel: The final readings...the first on the agenda is VC-7-2000. Barbara, would you want to make the presentation?

Barbara Cunningham: I was daydreaming. The Durchholz Family Trust is petitioning to rezone their 47.28 acre site located at 3100 and 3400 North Burkhardt Road. It seeks to rezone 22.35 acres to M-1 and 23.76 acres north of the M-1 to C-4. There's a Use and Development Commitment which excludes all industrial uses except automobile painting and body work and automobile engine overhauling and rebuilding. The Use Commitment also prohibits any access to this site from Durre Lane or Colonial Garden Road. There is no mention of limiting access to Burkhardt Road nor are there any commitments for infrastructure improvements to Burkhardt Road at the entrance or entrances to this site. The 1996 Comp Plan Future Land Use Map 2015, identifies the west side of Burkhardt Road between Old Boonville Highway and Lynch Road as an area of residential development. The east side of Burkhardt to I-164 is identified as industrial. This 47 acre site is on the west side of Burkhardt. There are residential subdivisions both north and south of the proposed C-4 and M1 sites. Both the C-4 and M-1 allow use that is considered incompatible and inappropriate adjacent to residential development. The C-4 portion of this rezoning petition, and Mr. Bodkin, please bear with me, it wraps around two single family residences. Mr. Bodkin told us at Area Plan Commission hearings that both of these houses were moved onto these lots. Our address maps indicate that there was a ten acre parcel that was parcelized into two five acre parcels which is illegal parcelization. We issued the addresses for those two sites based on a legal parcelization of a 10 acre site into two five acre sites both with frontage on a road. This is the minimum limit to qualify for parcelization rather than subdividing. In 1991, the two .83 acre parcels, now each with a house and on septic systems, were divided off from the ten acre parcel. This division of land did not following the legal process of subdivision so the two .83 are on septic and I guess, they have been on septic. Probably, the septic was given at parcelization, but never less, they don't meet the minimum standards of two and a half acres in the subdivision ordinance. Sewers should be extended to those residences as part of the subdivision process, since they are .83 parcel. They probably, Tom...I know they're not part of your presentation, but they are part of the presentation. The reason I bring them up is because originally, take .83 times two away from ten acres and that's included in this. That's what makes them...makes this difficult. That's why I'm bringing it up because they really should, at that size, be on sewer. I think that should be—at a time later perhaps, I think those definitely should be, if this is approved, they should be subdivided. They should be platted, and they should be required to tap into sewer. So what I'm saying is, the remainder of the parent parcel was then

incorporated into the Durchholz Family Trust and part of that ten acre parcelization is included in the petition to rezone. The proposed rezoning wraps around these two residences resulting in the site being completely surrounded by commercial and industrial. You have, I can't remember, either AG or R-1, probably AG, let's look. These two residential sites have been omitted from the trust and, therefore, they are omitted from this rezoning petition and they create the potential of two future commercial curb cuts. That's another reason I bring this up. Should they perhaps petition to rezone independently? There have been no written provision made for access to these lots from the parent parcel for any future use. I think there is a possibility...I think some of the members of the Durchholz family have talked about a subdivision process which has not been filed. I don't believe allowing an access to these...What we are trying to get away from is, we do not want two small residential—they can be residential—but we don't want the possibility of two additional commercial cuts along Burkhardt Road. There have been no written provisions made for access to these two lots from the parent parcel, and until I have a written thing, it doesn't count with me. It is what it is. So development along Burkhardt Road must address shared access as the Comprehensive Plan calls for development that minimizes the number of curb cuts on major roadways. Provisions should be made for those two sites prior to rezoning the land that wraps around them. Part of which is the tract that was, in essence, illegally cut in 1991, since it didn't go through the subdivision process. Use and Development Commitments on infrastructure guarantee that the improvements needed will be constructed. We don't have any guarantee, in reality, that this land will be subdivided but rather, and that's why I bring this up also, it could be parcelized into larger lots for commercial or industrial use. There's no mention also of limiting access to Burkhardt Road included in the Use and Development Commitment. The industrial development along this street from this site was with frontage on I-164 and Burkhardt was limited to street access onto interior streets only. No individual cuts were allowed on Burkhardt Road. There are no commitments for any improvements on Burkhardt Road such as acceleration and deceleration lanes. Mr. Bodkin did tell us, at Area Plan Commission, that this would probably be done as part of the subdivision process. However, a subdivision has not been filed, and possibly may not be filed, if the land is developed into lots of over five acres with 60 foot frontage on a road. The other thing is that this side of the road in the comp plan is projected as an area of residential development. Area Plan Commission heard this petition at their June 7th meeting and sent the petition forward to the County Commissioners with a no recommendation vote of three/yes, four/no, and two/abstentions.

Joe Harrison, Jr.: All those wishing to speak concerning this rezoning petition, please raise their right hands. Is that everybody? Do you swear, affirm, attest that the testimony you are about to give is true and accurate so help you God?

Audience: I do

Joe Harrison, Jr.: Thank you.

Tom Bodkin: Good evening ladies and gentlemen. Tom Bodkin, 700 Hulman Building here in Evansville. Council for the petitioner. We have a potpourri of things to address. Let me start by reviewing the Use and Development Commitment that has been tendered and did go through the Area Planning Commission. We have a large map here. Let me slide this around because it's easier for you to see perhaps. The site itself is as you see it here. We are proposing the southern 22 acres be zoned M-1, but the only allowable uses for M-1 would be those few Barbara read to you. You may recall that your M-1 zoning allows certain use groups, and the

particular one that distinguishes M-1 from C-4 is use group 14. We're only allowing a limited amount of use in use group 14. Specifically, auto body repair and engine repair because the southern portion of this parcel is subject to a sale to the Ruxer family, out of Jasper, to put a facility here that would be selling tractors and trailers. For that, they felt that they needed to be sure they could repair them, if somebody brought them. You can't do that, it didn't appear, in a C-4 so we've sought M-1 for this 22 acres but have limited the M-1 uses to only that limited piece. The rest of the uses would be C-4 uses. The balance of the parcel here that's under consideration, the northern 23 acres we are requesting to go to C-4. The Trust actually owns land on the other side of the Crawford Brandeis that we are not seeking to rezone. That stays AG. This part we basically included because that's where we think the drainage structure is going to have to go. A portion of this land is in the 100 year flood plain, below it. The part up here along the road is not and that's the part that's, obviously, more valuable because you can build on it without having to fill it. The natural drainage goes north and back west to the Crawford Brandeis. Obviously, as you know, as a part of getting a building permit and/or subdivision, which will happen and I'll deal with that in a moment, we will have to deal with drainage. We will do that as part of your drainage code which requires us to take all the water that's there now, plus the water we generate and not let it go off any quicker than it does now. We will have to deal with that so we've left this piece of the flagpole, if you will, thinking that's where we will be able to put our drainage structure for this parcel. Ms. Cunningham commented about and let me deal with the two cutouts. The deeds were deeded in 1991 and they were not deeded from the Trust to anybody. A portion of the ten acres that was left over went into the Trust and that's fine. This land is all in the Trust. The Trust does not own these two and never did own those pieces of ground. It, therefore, has no power to do anything with them. As we indicated and represented to the Planning Commission, when this parcel gets rezoned, I'm sorry platted, it is not possible to parcelize it. It will have to be platted. We only have 269 foot of frontage. Our ordinance requires 60 feet of county road frontage for a lot. Five lots would require 300 feet of frontage, so it ain't possible to parcelize this into more than four lots. If you can parcelize it into four lots, you can do it in five acre parcels. In which case, there is no requirement under our ordinance to do anything. In fact, that could happen, I guess, on both pieces. This piece down here is the one that's going to be purchased by the Ruxer family. Yes, it is possible because it's long enough, 730 feet... in theory, you could get five bowling alleys out of that, I suppose, if you took 60 feet frontages on Burkhardt and then strung them out the length of the property. All I can tell you is, that's not going to happen. Have we committed it won't happen? No. This parcel is being bought by the Ruxer's because they want to put a tractor/trailer operation on eight acres of it. They are going to have to divide it and sell the rest of it. They have met with site review in the past and have discussed with site review, as I understand it, that there will only be two entrances to this 45 acres on Burkhardt. One for this parcel and one for this parcel.

Commissioner Mourdock: May I interrupt, Mr. Bodkin? Did I just hear you say that the piece that the Ruxer's are looking to acquire is only eight acres of that 22 acres?

Tom Bodkin: No, they are going to buy the whole 22, but they only need eight so they are going to subdivide and sell the rest.

Commissioner Mourdock: Okay but the M-1 that they're having is restrictive to all of that?

Tom Bodkin: Yes, that's right. So effectively, unless somebody else wants to repair trucks and do body work on the rest of that ground, the only uses for this ground then will be C-4...I'll miss that now...C-4, C-2? The city has one and the county doesn't. Is it C-3, Barbara? City has C-3 uses and the county doesn't? Okay so C-4, C-2 will be the only uses other than that one little limited M-1 use. So unless someone else wants to repair trucks, which I doubt is going to happen with us there, or cars—

Barbara Cunningham: In the Use and Development it says "are allowed". Shouldn't that be corrected to "are not allowed"?

Tom Bodkin: No, actually it's correct the way it is.

Barbara Cunningham: We did go through this at the Board meeting. That's right.

Tom Bodkin: Yes, yes. You almost trapped me with that. Not you, Kaplan's the one who almost trapped me with that at the Commission. Actually, the way it's written is correct because it allows all other uses listed in M-1, which are C-4 and C-2, except the only M-1 use group 14 use, is this very limited truck repair. So all other use group 14's, which is the thing that typically distinguishes M-1 from C-4 are excluded. They cannot be used on this parcel. As we indicated at the hearing before the Planning Commission, my clients, plural, both understand that when we come in for platting it will be necessary to plat streets in such a way that these two parcels will have access. It's my understanding, that they understand that and that's what they are going to have to do. There is not a commitment to do that, that is correct. That's going to happen at plat because this parcels has to be platted, unless we divide it into five acre chunks. I submit to you that I don't know many places that are zoned C-4 in our county that are five acre lots. They tend to be about one and a half acre lots when they sell. We are going to bring sewer across the road out of the development. Across the road was done by Mr. Woodward. Water is already here along Burkhardt. We'll bring the sewer over to the parcels. At that point, I don't know of any problem with these two parcels having access to it, once it's put in. I assume they are on septic. I don't know that they could get sewer any other place. Again, I reiterate, the Trust did not create this. The Trust got created by other property being put together into the Trust. The Trust understands that when it subdivides this, it's going to have to make access available on the interior road lots, and they understand, as do the Ruxer people, that they've been told there are only going to be two entrances on Burkhardt. That's all that is going to be allowed as a part of the subdivision plat process. That's what I've been advised occurred when they had meetings with the Site Review Committee. The parcel immediately to the north is an old subdivision which I think is still zoned AG. There is one house here. There are no other houses along this side of Fitzgerald Road. This gentleman will not be here to remonstrate even though he lives adjacent to the property. We have agreed, as part of the UDC, that we will not open Durre Lane so there will be no access to Fitzgerald. Therefore, no access to Burkhardt from Fitzgerald. We have also indicated that we have no access to these sites off Colonial Garden Road. Mr. Crabtree will be here to remonstrate. He and his wife and children are here this evening, and they live right here in the bottom corner, if you will, of this 22.3 acres. Colonial Garden Road goes on to Old State, and we are not going to allow any access down that road to Old State Road. Nor, conversely, any access into these subdivision—parcels—from Colonial Garden Road. The parcel immediately to the west is owner by Dr. Webber's Trust. As you can see from the map, the Crawford Brandeis, which is a legal drain, goes through this parcel. Obviously, that is not part of the zoning here although part of it does go through...the

little pieces of flagpole at the top...I apologize for the voice, it's fading quickly. Among the UDC's the client has committed to is there will be no billboards on these parcels. No outdoor advertising signs other than for signs of businesses conducted there on. They've agreed to that. As I indicated, no access to Durre up here or Colonial Garden. To the extent that any parcels along Burkhardt are two and a half acres are smaller, we have agreed—we've agreed that anything on Burkhardt Road will have no loading docks on the front side. Mr. Crabtree will tell you that concerns him because that means they are in the back and he can see them. Obviously, the reason that we've done that with any parcelization up here on Burkhardt Road is because we don't want any trucks coming off Burkhardt Road backing in to a loading dock. That's a safety hazard. Therefore, we said that any loading docks that get built up here will have to be on the side or rear of the building so as not to create that hazard. Obviously, with only one entrance coming in, the Site Review Committee is going to require it to match up with Loehrlein since that's what is across the street it eliminates that possibility too. The Use and Development Commitment does propose to deed to, or grant to the County perhaps is a better way to phrase it, the necessary real estate for widening Burkhardt Road up to 45 feet, which is the same thing that Mr. Woodward did on the other side of the street. This parcel, Richard you asked the question at the planning commission, this parcel is in the TFI district. TIF district, as you may recall, you created our first one in the county in 1995. The TIF district for the county runs from State Road 66, Lloyd Expressway, roughly to Lynch and so this is part of the TIF district. I can tell you that the parcel across the road, which you rezoned in 1998 as I recall somewhere around there, which is about 60 acres that went M-1 paid before you zoned it \$919.00 dollars worth of property taxes. Last year according to the county assessor, it paid over \$56,000 dollars in property taxes, and it's between 50 to 70 percent built out. That tells you what kind on tax increment you get from commercially zoned property for the widening of your roads, particularly Burkhardt Road which your engineer tells me is about a \$9 million dollar price tag for what you have to do. I believe that might be from Morgan north. You would know better than I how far that goes. John Stoll indicated it was \$9 million bucks. So the commercialization of this parcel, we submit to you, also gains benefit for Vanderburgh County because it is, in fact, in the TIF district which obviously was an area you assumed was going to develop to create an increment to pay off the bonds necessary to widen Burkhardt Road. Obviously, we are 1,000 to 1,500 feet south of the intersection of Burkhardt and Lynch which, of course, is a major—soon to be major—interchange for our county at the interstate highway. Now it's, obviously, a major east/west corridor for traffic moving from Burkhardt to US 41. Again as I indicated, the two parcels that were a concern about the carve out were deeded not by the Trust but were deeded to the owners in 1991. The Trust was created after that, but we believe that the concern that the Plan Commission folks have and the director has will be addressed at the time of platting because this parcel, unless somebody buys all 23 areas in which case they could do that anyway with a parcelization without going through a Plan Commission action other than rezoning. This parcel is going to have to be platted because we don't have enough frontage to do much with, unless again, you assume someone is going to create...let's see, that's 74 feet so I guess we'd theoretically have a 74 foot wide lot 1320 feet long which I submit to you is not commercially reasonable. We believe that this opportunity for the county to gain the increment to build Burkhardt Road is very real; it's there now today. I candidly admit that this side of the road, the master plan said, should stay residential. I always find it interesting that we say that residential is not compatible adjacent to commercial yet, we have commercial right here. If this is residential, it's adjacent. So if it's not compatible, why is that commercial? That's a philosophical question, I suppose. The plan says what it says. We also decided in 1995 that we needed to do a TIF district in order to widen

Burkhardt Road. I submit to you that what we've seen income wise off the 60 acres across the road, one assumes you are going to get the same thing over here. It's about the same size wise in developable property. Again, as I indicated, a portion of this is in the flood plain, quite a bit of it back in this direction is in the flood plain which makes it more difficult to develop residentially. It's less difficult to develop commercially because you can afford to fill or use parking areas in the flood plain where single family homes won't. Obviously, if this ground were turned into a residential subdivision of some 40 to 50 acres, 40 acres presumptively with 10 acres of road maybe, we're going to have substantial internal traffic. You're going to have lights to the extent that Mr. Crabtree will tell you that he's concerned about light. There's going to be light no matter what's developed there. I have to submit to you that it's not going to stay farm ground. Not when we put a nice big highway in front of it and another one up here. If you have other questions, I'd be glad to try and answer them for you. We have met with adjoining property owners. I've met with Mr. and Mrs. Crabtree. The clients had another meeting with neighbors who came in to the Engineer's office. We attempted to discuss issues that were of interest to them at those meetings. The parcel immediately south is currently on the market for sale. It's approximately nine acres roughly. It's undeveloped. It's AG, just a piece of farm ground at the moment. So we have farm ground here, farm ground here, two, three, four houses along here, platted lots that by the way have no sewer along Fitzgerald Road. To my knowledge, this house back here is on a septic. I don't think there is any sanitary sewer in this area for those houses to go to along Fitzgerald and Peacock Lane. If you have questions, I'd be glad to try and answer them for you. I apologize for the voice.

President Jerrel: Any questions now or do you want to wait? At this time...wonder if you would mind turning that map around so people can look at it that are in the audience.

Tom Bodkin: About 2/3 of your audience knows what it looks like.

President Jerrel: I don't care how you want to start. I saw a lot of hands so is there someone that would like to speak against this? Or for it? Yes sir?

Unidentified: I would like to speak against it.

President Jerrel: Do you want to come up and give your name to the microphone. You have a little visitor with you.

Barry Crabtree: My name is Barry Crabtree and I live on the...right down here on the map on the southwest part of the property at 3028 Colonial Garden Road. I have several problems with this development to go in here. We bought this house eight years ago and when we bought it, it was all county out here. We have six children that we're raising. We have an acre on a dead end street. It's been an ideal location for us. For this development to come in here will cause us all kinds of problems. I wish you guys could come over one night and see the difference between the lights of the neighborhood that's just south of this development because there are no street lights. It's county property. There are no street lights. It's a quiet, nice neighborhood. Then if you look across the field to the Woodward Development, which is quite a ways away from our house, all the buildings have lights about six feet apart and 30 feet up and just all around the buildings. It lights up the whole area but that's across Burkhardt. Now they want to bring that to this side of Burkhardt into my front yard. He said it won't bother us, that it would be the same as residential property. There's no comparison. I wish we could all go out there tonight and look

at the difference. It's light night and day. Another problem ...they are talking about the loading docks being put on the opposite side of Burkhardt. When you have loading docks, the trucks have to pull past the loading docks, which is right towards my house, to back in. There are no restrictions on hours so this could happen all through the night, early in the morning, just anytime and all the time. I have six kids. I don't want to be woke up at four in the morning because a semi-truck is backing up to one of these warehouses. The noise is going to be a lot different than what residential noise is. A car and a semi, there is no comparison. In that neighborhood, they don't drive around in semi's, they have automobiles. There are going to be semi's coming and going all night and day. Another problem, not so much for me but the city of Evansville, if we approve this without Burkhardt being widened first, the two lanes can not take all this new traffic. When you close the lanes down to eventually, however many years it takes them to widen Burkhardt, there is no back entry. That will be the only entry into these properties. When you close one lane down to widen the other lane, you are going to have traffic backed up past Morgan probably.

Commissioner Mourdock: What are you referring to as the back entry, Mr. Crabtree?
The Colonial—

Barry Crabtree: There is no back entrance.

Commissioner Mourdock: You just said they would use the back entrance.

Barry Crabtree: No, I said there would be no back entrance.

Commissioner Mourdock: I misunderstood you.

Barry Crabtree: When you have Burkhardt Road—

Commissioner Mourdock: You need to pick up the microphone and carry it with you if you're going to point.

Barry Crabtree: When you have Burkhardt Road here, they say they are going to have two entrances going into this property. Well, Lynch Road is not connected to 164 nor do I think they even have the money to do this, so there's no timetable even being talked about when Lynch Road will be connected to 164. There's been no money for Burkhardt. I read the paper everyday and I haven't seen where they said they have the money to widen Burkhardt.

Commissioner Mourdock: You're talking to the "they". So Bettye Lou give him the update there.

President Jerrel: John, would you like to come up and tell him what our timetable is? This is our County Engineer. That is not accurate what you're—

Barry Crabtree: The money for Lynch Road already?

President Jerrel: Already.

Barry Crabtree: Okay, well how long?

John Stoll: As is stands right now, INDOT telling us we should be on the September bid letting for the Interchange project so the funding has been set aside. We just

hope they keep us on the letting like they told us. That project would start sometime in October, probably, if they keep it on the September bid letting. Like you said, it would continue throughout next year on construction. Same thing on Burkhardt. County Council approved a 3.5 million dollar appropriation request at their last meeting for the widening of Burkhardt between Interchange Road and Lynch Road. We are projecting that would be out for bid in October as well with construction throughout 2001 as well.

Barry Crabtree: Can I ask you one more question? How long did it take them to complete Lynch Road from Oak Hill to Burkhardt? From the time they got the money until it was actually opened? Eight years?

John Stoll: About five years.

President Jerrel: The money is in place for this.

John Stoll: The thing about the section between Oak Hill and Burkhardt was it was built in two phases. There was a bridge and earth work contract and then there was a paving contract. Unlike that, being split into two phases, the interchange is all one. The paving and dirt work will all be done in the same project so we won't have a time lag between pavement versus the dirt work.

President Jerrel: I thought that we might as well address it as long as you had asked the question.

Barry Crabtree: Fair enough. Okay. My main concern, like I said, are the lights, the noise, the value of my property. That's another big problem. For most of us our home is our biggest investment. That's my case; it's my biggest investment. Once this goes in, I'm going to loose quite a bit. There are two homes on my street for sale right now. I've talked to a couple of Realtors and they said that this would just kill the value of my property. If I put it up to sell, who's gonna buy a house with a truck sales lot in the front yard? So, I'll be stuck, and I don't want it to be stuck in the middle of a commercial development like this. At the same time, I can't afford to sell it because my house will lose all its worth. I'll have no equity left in my house. I don't think that its fair that a multi-million dollar company can come in and buy this and people are making millions of dollars, while I'm losing thousands of dollars all at the same time.

President Jerrel: Questions? Thank you.

Barry Crabtree: I have one more thing. Mr. Bodkin said we met with him in his office. There was no discussion on, you know, they just said they could bring the sewer line down to us, but there was no discussion on what they could do. They keep talking about protecting Burkhardt Road, but what are they going to do to protect us? There has been no answers to that.

President Jerrel: Is there anyone else that would like to speak to this issue? Yes, ma'am.

Kristy Crabtree: I'm Kristy, Barry's wife. I don't know what I can add to this because I probably heard half trying to keep Shane still. My other four kids are at camp right now. It just kind of makes me sick to...for us to come up here and tell you what we

know because we have not researched this as much as a lot of people could. We don't have time. I work full-time; he works full-time, and we have six kids that are very active in soccer, softball, basketball, everything. So to sit here and hear them laugh at the things we don't know about as far as Lynch going through and M-1 and zoning—

President Jerrel: I didn't ask him to come up and explain that to any way embarrass you, but I think it's important that this body is developing the road structure out there and we don't want to surprise you. It's going to be starting this fall.

Kristy Crabtree: I think the point he was trying to get across, at that time, was that I've lived on Old Boonville Highway my whole life. I've lived there from the time I was two or three until I moved away out of high school. Now I'm back because I like that area. I've heard about Lynch Road since I was a kid and it did take forever, it seems, for it to come through. Anyway, the noise and the lights that Mr. Bodkin said we were going to talk about does make a difference between the industrial and residential. The residential area that's by us has no street lights. None. It's just as dark there as it is on our street. There is a 24 hour gas station that just opened up right across the street which could be in our front yard, if this goes through. It doesn't say anything about not allowing a 24 hour gas station. If I understand that right. Is that right?

President Jerrel: That's right.

Kristy Crabtree: So there is a difference in the lighting. There is a difference in the noise, as he said. There is a difference between working on your car with kids and dogs yelling and screaming and a diesel that continuously runs in your front yard. There's plenty of room across the street that's already zoned M-1 for this kind of stuff. When the road is widened later on, it's all right. The two houses that you keep talking about here, I understand that they are not in the Trust, but they are owned by Durchholz—members of the Durchholz family, so it's not like they are going to dispute this. The family that lives back here, that Mr. Bodkin said wouldn't come, I spoke with the lady this afternoon because my oldest daughter babysits, and she had to work and her husband would be like we are with his three kids and himself. We can't win against this stuff, but we can come and tell you how we feel and how it's going to effect our lives.

President Jerrel: Could you go back just a minute and say—what did you say about after the road is widened? After Burkhardt has been widened?

Kristy Crabtree: After the road is widened and there is more access to get back there, it would make more sense. Not that we would like it then, but it may give us more time to find somewhere else to go. We can't live there with this, but we can't sell either. As Barry said, Mr. Gray's house and Mr. Brown's house are both for sale and the land. It's not been sold. We have friends in the neighborhood, right by us, their house sold in ten days because the neighborhood has no idea what's going in M-1 zoning. They don't know about the zoning. There's a big difference. It's a desirable area, if you don't know what's going in. I said before, my husband and I both work hard for our money. We've not been given anything, and we have equity built up in our house that we will lose. You know better than we do how it's going to effect us financially. The flooding that he talked about—he may not make the water go off any faster but like when Miller Truck, who just recently moved across from Eagles County Club, they started their trailers there and Mr. Holt's yard has filled up even more. It may not be running off any faster, but it's still going to the same ditch

and all the water is still going to the same place. If you put concrete over dirt, it's gonna, naturally have more water roll off of it than if you had houses or other businesses there that could soak into the ground more. I'm not an expert on that either and may have said something stupid, I don't know. That's all I have to say.

President Jerrel: Thank you. Is there anyone else that would like to speak to this issue? Yes, ma'am.

Doris Gray: My name is Doris Gray and my mother, Ethyl Golden, owns the nine acres south of the Durchholz Trust. I only have three comments. One comment is that Mrs. Crabtree said something about we have our house for sale. We only have our house for sale because we are moving out of town. We didn't put our house up for sale because of our rezoning. Mr. Brown has his house up for sale because he died. His children are selling his home. The only concern I have and the only question I have about the whole thing is, will there be any kind of screening put on the west end of the property for lights? Like, will there be trees or what will be planted along that area? That's my only question.

President Jerrel: I ask that question today. I don't know, Mr. Bodkin, you may want to speak to that about any kind of landscaping or something that would help deflect noise and lights.

Doris Gray: That was my only question in regards to the rezoning. If they do, are they going to put any kind of big trees back there or something like that? As far as the selling of the property and my mother's property, the only reason she has it for sale is because she needs the money. So that's the only reason the property is up for sale.

Commissioner Mourdock: So Mrs. Gray, if you would, would you point...maybe you can turn that around a little bit so Commissioner Tuley can see as well. I need to know...

Doris Gray: Okay, this is my mother's property and we live right next door to the Crabtree's, right here. My mother owns more property back here. She's got that for sale because she needs the money. I'm talking about the buffer right along this area to protect the lights and things from our house, if we don't move.

President Jerrel: Anybody else? Did you want to respond to that?

Tom Bodkin: Yes ma'am, please if I could very briefly. When I had the meeting with Mr. and Mrs. Crabtree in my office—I've done this awhile and expected to hear, gee, build me a wall, put up trees and that will help me deal with light. I was told that the only thing that would satisfy them is just buy them out so we didn't get very far about talking about buffering. When we had the meeting at the engineer's office, we invited all the neighbors in and I expected again to hear about build us a buffer and we'll be happy. No one talked anything about buffers so the Use and Development Commitment does not address that. My client has indicated that they are willing to put buffering along here in a private covenant with the neighbors. I'm not going to change the UDC because that goes back to Plan Commission, and I understand that you can't vote based on that. Now that someone has raised the issue, we will be glad to address it. We are simply trying in our meetings to find out what we need to address with regard to issues that we could. Buffering would be required to, I believe, under the code. If we are adjacent to a residence, we have to buffer with green space as a M. Do we not, Barbara?

Barbara Cunningham: (Inaudible.) would have to buffer if you had parking lots, that's all.

Tom Bodkin: Parking lots, okay.

Barbara Cunningham: Buffered parking lots, but you only need to keep 20 feet from residential.

Tom Bodkin: I will tell the lady that was here, and Mr. and Mrs. Crabtree for their purposes, that the client has indicated that we will indeed be glad to put a berm and some trees here. Probably five foot berm and five foot trees, but that's not part of the UDC, and I'm not asking to amend it because that sends us back to the beginning again. We had the meetings over the last three months to try to address those issues, so I didn't get caught in front of you on this very issue. That's the best I can tell you. We will address it with a private covenant. As I indicated to you--and it's not relevant to you, I appreciate that--we cannot let water go off quicker than it goes off now. That is your ordinance and we have to deal with it. If somebody's not doing that, then I suspect that someone needs to go look at that problem. We cannot do that; we have to deal with flooding. As I indicated before that there was discussion with Mr. and Mrs. Crabtree about these areas and they indicated that they wanted to be bought out, and my client cannot do that. That was really the only thing that might have satisfied. I'm not a real estate appraiser but every time I do one of these--when I'm on the other side I argue the decline of value and on this side I argue it doesn't. I've heard David Matthews say it goes from zero to five percent depending on which house where, but he only studied nine houses. You've all heard that argument too, time and time again. Burkhardt Road, as Mr. Stoll has now indicated, is going to be started soon. It's gonna have to get built. We now have the interchange here, but even without the interchange at the interstate, we have lots and lots of people moving in this part of the county, driving in this part of the county. You've already committed to build the road; you have no choice because of the traffic problem. We have the opportunity to help here by dedicating the ground to the county and creating the opportunity to pay for those bonds through the tax increment that will come off of this ground. I submit to you that as either residential real estate or, more importantly, as AG ground it generates no increment for you at all. There's a cap on what can be assessed for agricultural ground and legislature won't let it go very high. It's of little help to us as we try to pay for the bonds to build these roads and pay for our shares of the overpasses. It's all going to be done in the next couple of years, I guess, whatever the time line would be. Mr. Stoll knows and you know better than I what that time line will be. Can I tell you that someone won't put a gas station back here in this corner? I can't tell you that, but I submit that if they did, they won't stay in business very long. Gas stations want frontage. They want up where the traffic is, not in the back of a piece of real estate. We have a commitment saying that there will be no gas stations that sell fuel for trucks. That's in the UDC. There won't be a Busler's kind of operation here at all. That's prohibited by the UDC because we don't want that kind of operation. We are going to sell tractors and trailers here, but we're not going to operate a gas station for tractors and trailers. Could somebody put a gas station back here legally? Yes. Are they going to do that? I submit to you that your own common sense tells you they aren't going to do it back here in a corner where you can't get to it or in and out of it. In fact, if you look down Burkhardt Road, where do we see the gas stations? Right on Burkhardt Road which is the problem of access again in terms of traffic. While Vanderburgh County does not put street lights in subdivisions, I know you would if you could afford it, but you can't. If this is one big, massive residential subdivision, I have two final observations. It will have lights and noise because

residential subdivision create light and noise. Secondly, if the presence of a commercially zoned parcel causes a decline in the value of the property, then I submit to you that this will never develop because it has a commercial subdivision right across the street from it. In fact, it has an "M" zone right across the street from it. Therefore, presumptively our master plan would have been incorrect in projecting it to go residential adjacent to commercial if, in fact, property values decline because of it. I would request that you vote yes on this zoning so we can get this dedication to the county done quickly and move along and get Burkhardt Road built. If you have questions, I would be glad to answer them.

President Jerrel: I saw a hand in the back.

Norris Gray: I'm Norris Gray and my only question is, Mr. Bodkin...you may not remember but I was at the meeting at the Engineer's office, and I did question about screening and stuff. You told me at that time that it would be handled in a subdivision meeting, so I did ask you about it. I'm not against a project that's beneficial to people, if the proper project is done with good screening and stuff.

Tom Bodkin: He's absolutely correct. He and I talked about that separately about screening along this edge. I told him that indeed, we would handle it because of his parcel here and the plat. That's right and I stand corrected.

President Jerrel: Is there anyone else that wishes to speak to this? First of all, do you have any questions, Commissioners, that you want to ask? I want to ask Barbara one. I did a good bit of research this week on the plan, and I found that there were probably two people or three that draw the plan. Then it's presented to different people for their approval. This issue of commercial on one side and AG or residential on the other side, is that good planning?

Barbara Cunningham: I would say yes because of the Comprehensive Plan, but I would say yes because on the east side you are abutting I-164. You have operations that want visibility although they don't have access. They have visibility and they will have access, in this instance, to Lynch when it's done. When the plan was drawn that was determined to be—I don't know if it was as much industrial, Mrs. Jerrel, as it was commercial and industrial mixed at that time. It's like the Lloyd; one side of the street was suppose to be commercial and the other side of the Lloyd was proposed to be residential. That's changed somewhat but that was the proposal. The plan is developed in-house by the Area Plan Commission staff, but it goes through extensive hearings. It goes through a lot of public hearings where we have neighborhood input; it comes to the County Commissioners a couple of times.

President Jerrel: I read that input and there were seven people recorded on the back of the Comprehensive Plan. One was with an improvement—

Barbara Cunningham: We use to have it in all 16 townships. I'd sit on the steps and no one would show up.

President Jerrel: I testified. My testimony is in the back of that. Maybe there were only six people that testified. We keep talking about the Comprehensive Plan as if it was a document that had more than two or three in-house planners doing it. That it was a document created and approved by...then I went to the minutes of the Commissioners and all those people listed. What I'm saying to you is, if we're going to have this sort of situation where we have commercial on one side, AG on another and we are to have a wide, new Burkhardt Road; when the review, which I think is

2002, is done the next time, I think we need to find some way to get more input—

Barbara Cunningham: I'd love more input.

President Jerrel: I'm serious. The input is needed.

Barbara Cunningham: We send it to the Universities, the hospitals, the agencies. It's not completely rewritten every two years to four years. This is built on many, many years of the Plan. It's suppose to be a guide. The rationale to change what they're saying is suppose to be as strong as the rationale to keep it. I would love more input. It's not that we don't try because we try to get as much as we can. You need community interest. Unless you have an area where they specifically want something, and Pat's been on the board so he knows, no one shows up for that.

Commissioner Tuley: It's like a budget hearing.

Barbara Cunningham: Yeah, it's like a budget hearing. I'd compare it to that.

Commissioner Tuley: Nobody shows up for that either, but look out after the budget goes through.

Barbara Cunningham: That has a big impact on the community.

President Jerrel: I'm just saying that I've read it from cover to cover the other day, and I made a lot of notes about issues like this that change has happened and we keep referring to the approval and who approved it. Then when I go through and read that, I don't find those people.

Barbara Cunningham: It's been over a period of years too. It just didn't happen the last time. We are so glad that you're going to be there to tell us all the things...I hope everyone in this room comes to the Comprehensive Plan hearing.

President Jerrel: I read it because I wanted to see just exactly how it did happen.

Commissioner Mourdock: Without question and in fairness to the Plan, as we were telling Mr. Crabtree a couple of minutes ago, I can fully understand why you would look at Burkhardt Road and think it's not going to develop. The people who were reviewing the Plan and making the Plan back in 90, when ever it was last made,--

Barbara Cunningham: '96 was the last time.

Commissioner Mourdock: Saw a narrow, two lane road. They didn't envision, I would guess, that it would change as quickly as it's changed. It's obviously a dynamic document.

Barbara Cunningham: It wasn't just the people in the Plan Commission that looked at it. It was also City Council, County Commissioners, Town Board of Darmstadt, Area Planning Commission.

President Jerrel: Those minutes are interesting to read. Everyone should go back and read those because I did.

(Inaudible.)

Jim Morley: My name is Jim Morley and, as you know, I've designed a lot of residential subdivisions. Part of the problem with the planning process is that when we do have a piece of ground and have a major roadway, a high traffic roadway, it's so difficult to have a good design for a residential subdivision on high traffic roadways. If we go and look at some instances in town. We go up First Avenue out by Central High School and we see Guthrie May's subdivision. You come along there and you try to face the houses in, and all the traffic travels along the backyards so everybody tries to put up 6 foot privacy fences. It's a problem. The idea that a major roadway is a buffer between industrial and residential is wrong. That doesn't really work. What is really more appropriate is some other kind of use next to all of that traffic in a way that allows residential not to be faced...since they can't go directly out onto the road, they can't have their nice looking front yard. It does always become a problem. We never, in any Comprehensive Plan, actually plan buffers. We don't draw those buffers. Perhaps that's something we should think about.

Barbara Cunningham: We asked for that. Jim is right, and he'll agree with me. What is best is to have your step zoning. Go from your highest zoning and adjacent to residential have the apartments, which is residential also and your small offices and stuff. It makes more sense, but in Evansville we do C-4 and M-1 right adjacent to residential. As Mr. Morley said, we should not be doing that. We should be doing a step type zoning in a buffer leaving drain areas between those things. I disagree, a little bit, that you can't do high quality development along busy streets. You see this when you go out of town in Washington, D.C., Indianapolis and every place. They have good design and they keep a little bit set back. We are in a good time now, where there is a lot of good economics in Evansville and Vanderburgh County, and we should take advantage of that and do some quality of life things like that.

President Jerrel: Is there anyone else wishing to speak to this issue? Is there a motion?

Commissioner Mourdock: I'll move approval on final reading of VC-7-2000 for 3100 and 3400 North Burkhardt to rezone from AG to C-4 and M-1 with Use and Development Commitment.

Commissioner Tuley: Second.

President Jerrel: I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Mr. Bodkin made a lot of good arguments from the county's standpoint as to why this should go through; the TIF, the road right-of-way dedication, all those kinds of things, but it does go against the Plan. We just had a discussion about the Plan, but the Plan is a plan and guideline that we should try to follow whenever we can. This lies, not really developed yet, to one in the north and a subdivision to the south and you take this to the bank, that piece of ground that is buffering that subdivision to the south and this if it's rezoned, Mrs. Gray already said her mother is trying to sell it because she needs the money, it's going to sell for a whole lot more if it's rezoned industrial or commercial. Tonight we had one remonstrator and a couple of people with concerns, but we rezone this and you take away the argument to say well, that's got to remain within the plan and stay AG when you just voted for these two, if we vote for these two, and you're going to have all these people up in this subdivision, although they aren't here tonight and I truly don't know why.

(Technical difficulties with the tape.)
(The following is not verbatim.)

President Jerrel: I am going to take a roll call vote.

Commissioner Tuley: I vote no.

Commissioner Mourdock: I vote no.

President Jerrel: And I vote no.

(Tape was changed - the following is verbatim)

Final Reading VC-10-2000 William Hirsch Trust
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Barbara Cunningham: Civitas Bank, Trustee of William Hirsch Trust, is requesting a change in zoning from Agricultural to C-4 for the 36.22 acres located at 601 North Burkhardt Road. The Comprehensive Plan projects a Burkhardt Road corridor between Morgan and Lloyd as an area of commercial development. While the rezoning of the site is not inconsistent with the Land Use Plan, it is important to note that there are many C-4 uses which have the potential of creating heavy traffic volumes. As was stated in the newspaper and on your drawing, there is a possibility of a SAM's Superstore occupying the land between Virginia and Columbia Street. Columbia Street is not in and the developer has indicated that the proposed 36 acre C-4 rezoning does not include the complete right-of-way for the extension of Columbia Street. We said before, Steve, 300 feet, but I think on the site plan on the subdivision it looks like 241 feet of installation of Columbia connecting to the north/south frontage road. Virginia Street to the south of this site was installed by the county at a cost of about \$272,000 dollars. Don't keep me to that figure, but that's a figure that I kind of remember of taxpayer money after Wal-mart, the developer to the south, rezoned land just short of the proposed location of Virginia Street. According to the Comprehensive Plan, development proposals along major arterials must be accompanied with commitments to construct the necessary infrastructure improvements to accommodate site generated traffic safely. A development of this size as shown by the seven proposed lots, you can see those on the plat that has just been filed by Mr. Bohleber, will require two access points. Those access points should be from Virginia and Columbia Street. The 11 acre parcel shown as lot seven will not have the full 60 foot right-of-way to provide for extending Columbia. Without this lot seven you would only have access to Virginia Street. The Comprehensive Plan calls for road improvements needed to accommodate development traffic to be constructed with the development. Other developers seeking commercial and industrial rezonings of the area have committed to substantial improvements both on site and off site to facilitate the county's adopted Burkhardt Road traffic master plan. The developers of Cross Road extended Virginia Street east of Burkhardt; K-mart, west of the Burkhardt/Lloyd intersection and installed Virginia Street north of their development. Numerous developers have committed to major street and intersection developments, participating in the cost of stop lights and street widening projects, accel and decel lanes, sewer extensions, and a number of infrastructure improvements adjacent to their projects. All in the interest of safety and good planned development. There are no written commitments for any infrastructure improvements included with this rezoning request. There are verbal commitments for right-of-way and for participation in a new light at Columbia, a possible new light. Access and safety are

serious concerns that must be addressed. The applicant's petition does not address the potential traffic problems. According to the Comprehensive Plan, development proposals along major arterials that are not accompanied with commitments to construct the necessary infrastructure improvements to accommodate site-generated traffic should be denied. The road improvements necessary to accommodate growth must be in place when needed for our community to meet the goal, in the Plan, of developing a transportation system that moves people and goods safely and in an efficient manner. On June 12, the year 2000, the primary plat for Walton Subdivision was filed which will be heard at the July Subdivision Review Committee meeting and the August Area Plan Commission meeting. The plat shows a north/south frontage road as a private ingress/egress easement through the property that varies in width from 35 feet to 42 feet. It also dedicates a variable width right-of-way from zero to 30 feet which is about half the right-of-way needed to extend Columbia Street east of the frontage road along the north boundary of the property. The remainder of right-of-way necessary for Columbia is labeled as future right-of-way dedication by others. This 60 foot future right-of-way dedication by others is necessary to allow any extension of Columbia. In a boundary outside of the plat, there is a reference to the western 241 feet of Columbia right-of-way. That's the section that's in yellow on your thing. It connects to Burkhardt. Is there any recorded commitment to both dedication and recording of right-of-way and installation of the road? I'm sure Mr. Bohleber and Mr. Farney will address this. Where the yellow intersects the frontage road, which is the pink up on the thing, the total right-of-way needed for the extension of Columbia is in the area shown in green which is called future right-of-way dedication by others. Perhaps some of these questions can be answered.

Joe Harrison, Jr.: All those wishing to speak with respect to this petition, please raise your right hand. Do you swear, affirm the testimony you are about to give is true and accurate, so help you God?

Unidentified: I do.

Steve Bohleber: My name is Steve Bohleber and I represent Wal-mart Stores, Inc., the developer in this project. The project is owned by the William S. Hirsh Trust. With me this evening from CEI Engineering Associates in Bentonville, Arkansas is Tim Martin who's the Project Engineer for this Wal-mart development. Also, Jim Farney from Bernardin-Lochmueller has done some engineering and survey work. As Mrs. Cunningham pointed out, the request to develop this commercial is consistent with the Comprehensive Plan and consistent with the Land Use Plan in place. What we are doing is holding and conforming to the Comprehensive Plan, and all of our planners' concepts in terms of where this part of the county is going. There are a variety of comments made about the need for infrastructure improvements, and I just want to go over with you what my client, Wal-mart Stores, will commit to by private covenant. Let's take those one at a time. First, there was concern from both John Stoll, your Engineer, and Area Plan Commission about an access for frontage road. That's shown in pink, fuchsia, magenta. Being male, I'm genuinely color blind so whatever it is... This is the frontage road or access road. That's part of the plat, part of the private covenant, and my clients are willing to execute to guarantee that will be done at the developer expense. Other concerns were addressed in terms of access to the overall site of the entire subdivision from Burkhardt. There's already access from Virginia Street to the south. To accommodate the concerns with this development, my client will commit to whatever infrastructure improvements are needed along Virginia to allow easy access to that

access road and the entire site. That's shown in turquoise at the bottom. The covenant that we presented to you here this evening says that prior to any business or any component part of the business being open or accessible to the public, the access road shall be constructed and installed in accordance with county standards and run parallel to Burkhardt Road. In addition, a second entrance on Columbia Street will be provided, in yellow here. Again, county standards. This will require the cooperation and the grant of right-of-way from the property owners to the north. They've indicated they will do the same to accommodate the concerns of the planners concerning the extension of Columbia when that becomes necessary. I think that Mrs. Cunningham will agree that in order to service these out lots and the big lot in the center, the extension of Columbia is necessary. Immediately, before opening this or these out lots, Columbia will be extended at the client's, Wal-mart, expense. Improvements will be made on Virginia and an access road will be in place. To accommodate the concerns for future development my client, by private covenant, will also dedicate a 30 foot right-of-way shown on the blue on their side of the property line which would represent one half the extension of Columbia prior to the development of the far lot, which quite frankly is lot six on the covenant but lot seven on the subdivision.

Commissioner Mourdock: Put your finger on that, Steve, cause I'm confused by that. Which is the six, seven?

Steve Bohleber: It's called (Inaudible.)

Commissioner Mourdock: But that's also seven?

Steve Bohleber: It's six on the covenant. It's seven on the sub-plat. Those numbers will be brought into conformity. A different numbering system was employed. Before this is open to the public, my client will agree to pay for all the infrastructure improvements needed on it's side of the property line.

Commissioner Mourdock: But that's pertinent only to partial lot one, lot six, lot seven?

Steve Bohleber: That's right. That will occur before this lot develops.

Commissioner Mourdock: But the whole distance will occur before that lot is developed?

Steve Bohleber: In essence, that would be the case. The whole distance from the access road.

Commissioner Mourdock: Just to be sure I understand—what you're calling lot—the big lot?

Steve Bohleber: The eastern lot of 11 point some odd acres.

Commissioner Mourdock: Okay, the second lot then, the lot right there. You're not committing to do the blue line easement or dedication when that lot is developed. You wouldn't do that until one, six or seven is done?

Steve Bohleber: That's correct, the right-of-way would be dedicated immediately, but we see no functional use nor does, I think, Mrs. Cunningham to immediately improving that just to access this lot. Is that correct, Barbara?

Barbara Cunningham: (Inaudible.) Tell me what's your comment?

Steve Bohleber: At the Plan Commission meeting, the discussion was basically that this roadway did not need to be improved beyond the access road until such time as this lot was developed. Access to the large lot five can be gained from the 60 foot Columbia right-of-way, the existing Virginia Street, and the access road.

Barbara Cunningham: I think you're correct. What the Plan Commission was concerned with was that the 11 acres on the other side of SAM's was being rezoned. They were concerned about having the possibility of and when Columbia Street would be placed to do that and how it would be done without the 60 foot of right-of-way.

Steve Bohleber: Well, my clients said at the Plan Commission, and they will say again this evening, they are willing to do everything within their power to improve the infrastructure on their property to accommodate the concerns of every plan. They cannot, however, commit to improve something over which there is no grant of right-of-way over which they will not own and do not have title to.

Commissioner Mourdock: If I may, Steve, just to make sure everyone on this side of the table is clear of it, the area in yellow and what you're referring to in this covenant that you delivered today, your item number 2 has to be executed by some party other than the William S. Hirsch Trust?

Steve Bohleber: That is correct. That entity has committed to do that but nothing more.

Commissioner Mourdock: Okay, committed to...

Steve Bohleber: Grant the right-of-way to allow a second access.

Commissioner Mourdock: And the construction that you're saying would be done off that access would then be done by your client?

Steve Bohleber: Yes, that's in the covenant. It will all be paid for by Wal-mart. They will pave all this and all of this, do these improvements, grant the right-of-way on their side of the property for the ultimate extension of Columbia, and agree to pay for the pavement of that, once the eastern lot sold but before it's developed.

Commissioner Mourdock: Okay.

Barbara Cunningham: Steve, would they have the area in the green...they would not have that right-of-way.

Steve Bohleber: They have no title to that, no contract to purchase it, and no control over it.

Barbara Cunningham: (Inaudible.)

Commissioner Mourdock: It's the same situation there as with the yellow, basically. The same party owns the green as owns the yellow. At this time, the party that owns both of those is agreeing that the yellow would be made available immediately and the green would be made available immediately upon something else happening down in lot eleven.

Steve Bohleber: Let me allow someone other than myself to speak to that. I cannot speak for the owners to the north. Mr. Fuchs can address that.

Don Fuchs: My name is Don Fuchs. I'm here as legal counsel for Fifth Third Bank which is the Trustee for the William S. Hirsch Trust. A distinction needs to be made. The property that is sought to be rezoned is owned by the William S. Hirsch Trust. The real estate which is shown in yellow here and in green here, is owned by a different entity by the name of the Hirsch Family Partnership. The Hirsch Family Partnership and the Hirsch Trust have different owners and different beneficiaries. They are not one in the same although there are some common elements—some common family members. I've had discussions with the principles of the Hirsch Family Partnership that own the yellow and green. Their position is that they are dedicating what is here in yellow to make this project work at no cost or expense to Wal-mart. SAM's is paying absolutely zero to them. They are dedicating that. Their position is until such time as there is some development on the northern parcel here or there is some development to the east, that for them to dedicate this right-of-way is somewhat unnecessary because we don't know what that road is going to service. We don't know if that road is ever going to need to be constructed. Their position is very plain and clear; they feel that it's premature at this point in time. Again, they are willing to make this project go and dedicate what's in yellow here. At some future date, I want to make it very clear to you, they are willing to discuss, sit down, talk about that, and what's in the best interest of their property and county. They're willing to address the issue at that time. As we sit here today, they think it's premature.

President Jerrel: So, if it becomes in their best interest and they decide to do something with that property that you've just described up there or at the other end that they have, then they would consider that right-of-way granted.

Steve Fuchs: Exactly. Just as they have considered what is in yellow here necessary for this project to work and are willing to do that. So, in the future they are willing to work with that at that point in time. Again, we don't have anything to look at today.

Commissioner Mourdock: Mr. Fuchs, I asked you the question at Area Plan, so you know what's coming here. What you said, that there is some overlapping ownership between the Hirsch Trust and the Hirsch Partnership. As a percentage, what are we talking about? Is it 50 percent or 80 percent—how can you break that out for me?

Don Fuchs: Let me give you the breakdown. The Hirsch Trust, William S. Hirsch Trust, was passed on to his five brothers and sisters. One of the brothers is deceased and his interest is now passed to his three children. So there is basically five brothers and sisters absent one that is deceased and his share is now passed on to his three children. In the Hirsch Family Partnership, what I have been advised is that those five brothers and sisters are also owners in that, however, each of those four brothers and sisters that are living, their children also have an interest in that. To my understanding that of them has a five percent interest. I did not get, Mr. Mourdock, the specifics of how many children there are, but I do know that it's in excess of five.

Commissioner Mourdock: With the one that is deceased, again, with property to the north as to the south, that's gone to the same three descendants?

Don Fuchs: That's right.

Commissioner Mourdock: Okay, thank you.

Steve Bohleber: Again, my client is willing to do everything in their power to see that the infrastructure improvements are completed at the appropriate time; Pay for the right-of-way at Columbia Street that they have control over; Pay to pave it when the eastern portion is developed or the property to the north when that's needed. They will immediately pay all cost associated with the extension of Columbia off Burkhardt. They will pay for the access road, and pay for improvements on Virginia. They'll agree, in this covenant in front of you, that they aren't going to seek another cut on Burkhardt. It goes without saying, of course, that all the other infrastructure improvements needed to service the site will be done at my client's expense. For your information, the principle occupant of this Wal-mart property once it's acquired will be The SAM's Club. It will occupy the large lot in the center, I think it's five in the covenant. They will then, in the future, parcel out and develop these other parcels once the subdivision is approved. We have a covenant that has been approved by Wal-mart in front of you. We will submit and (Inaudible.) It has not been executed by the parties at this time. We will commit to place that in record, if this rezoning is passed, in the next ten business days. That will guarantee the infrastructure improvements that Wal-mart has control over. Does anyone have any questions?

Commissioner Mourdock: Just to clarify one more time. What we have is a document though we do not have anything, at this time, from the Hirsch Partnership dedicating the area in yellow?

Steve Bohleber: If the commissioners would feel more comfortable, perhaps we can vacate that and revisit the issue (Inaudible.)

Don Fuchs: Mr. Mourdock, if I hear your question correctly, your desire is to seek a commitment on behalf of the Hirsch Trust dedicating what is shown in yellow here on this drawing, I can tell you, for the record, that the Hirsch Trust, excuse me, Partnership is willing—has agreed and is going to dedicate what's shown in yellow. There is no uncertainty about that. If this project goes through, they understand and agree that they will do that.

Commissioner Mourdock: Thank you. I appreciate that.

Steve Bohleber: When the Wal-mart Stores executes the covenant then the Hirsch Trust will execute the covenant as well. Again, if there is any hesitation or discomfort here, my client would not object to continuing this matter until an executed document (Inaudible.).

President Jerrel: I trust you all. I do.

Commissioner Mourdock: Mr. Fuchs has made the comment for the record, and I'll try not to make a cynical comment here. As you all know, I'm not an attorney but it strikes me as an unusual situation, as we talked about at APC, where we have a third party dedicating something, and I understand there is the overlap of ownership and maybe I'm getting too conservative in my old age, but I want to make sure we do this correctly and that everybody knows what's going to happen. I heard Mr. Fuchs say that he is going on the record saying that would happen, however, I

accept that a little cautiously because as you clarified at APC, you don't represent the Hirsch Partnership just Civitas on behalf of the Hirsch Trust.

Don Fuchs: Let me address that. I have spoken with the principles of the Hirsch Family Partnership who have given me authorization to come here this evening and advise this group that they are willing to dedicate, and are going to dedicate what is shown in yellow.

Commissioner Mourdock: And that was with all the five percent interests? I'm sure there's a lot of parties there to talk to.

Barbara Cunningham: Steve, maybe I missed it. At Plan Commission you also, and I'm not a proponent of stop lights, but you also said that if one was warranted, your client would be willing to pay the cost of that. Is that correct?

Steve Bohleber: Yes, but again, that's not included in the covenant because you, on several occasions, mentioned it wasn't necessary.

Barbara Cunningham: I'm not the traffic light person.

Steve Bohleber: It's not in the covenant but that's the consensus. My client will do that as well. That's not part of this covenant. Again, we were moved into consideration because many folks thought it was a self serving instrument that would only benefit SAM's and not the community to simply add another stop light on Burkhardt.

Barbara Cunningham: That maybe true, but if it isn't, we don't want to pay.

Steve Bohleber: If you want a commitment for...it's going to be speculative on my clients part because trying to factor in the cost of a stop light today as opposed to five years from now, that's a big consideration on their part. The cost increases. Also, other people develop in there because of the stop light--

President Jerrel: Are you talking about a stop light at Columbia?

Steve Bohleber: Yes.

President Jerrel: We have one at Virginia.

Joe Harrison, Jr.: I think the issue is, if I could add something, if it's ever warranted at some point down the road--it would be a covenant running with the land--that if it's ever warranted and the county wants it, they would be willing to pay for that stop light. I don't see where that harms the county in any way, if they are willing to commit to that. It may never happen, but if it does happen and the county wants it, we have someone that would be willing to pay for that cost.

Steve Bohleber: That's what Wal-mart has indicated but it's not included because we left the Plan Commission meeting and other meetings with the impression that it wasn't wanted. We didn't see any reason to incur the expense of something that wasn't wanted.

Barbara Cunningham: I certainly don't want to be the one asking for a light.

Joe Harrison, Jr.: I don't think that's the issue. I think, if the light is ever needed, no one's saying it's needed at this point, I don't think I've heard that this evening from anybody, but if it is ever needed, they are willing to commit for that cost.

Commissioner Mourdock: Let me just define the word for a minute. John Stoll, am I not correct that when we are talking about traffic lights, it's not so much needed as mandated? Is that right?

John Stoll: Right. The Indiana manual on uniform traffic control devices spells out the warrants for traffic signal installation. So once you hit certain traffic volumes, one has to be installed. (Inaudible.)

Joe Harrison, Jr.: The bottom line is, if someone is offering to pay for a light, in your opinion, would that be an unreasonable acceptance in a covenant?

John Stoll: If it's warranted, it would be better for the developer who created the warrant to be paying for the signal as opposed to the county paying for the signal.

Joe Harrison, Jr.: We may find out someday that it's warranted.

Commissioner Tuley: That's why I'm trying to get you a raise.

Steve Bohleber: It puts my client in an unusual situation. Right now, we have an estimate that the cost of the light would be \$70,000 dollars. Ten years, twenty years from now after everyone else develops out here and they ask my client to put a light in, it might cost \$250,000 dollars. If you want it now, we'll put it in now, up to \$100,000 dollars, but it puts my client in a peculiar situation. Perhaps you feel, as well, with the uncertainty of the future as to when the light may be required by the county.

Commissioner Tuley: Why don't we put it in a way that you're committed tonight to pay up to \$70,000 dollars in the future if, in fact, that light is dictated by the state. If it's \$150,000 dollars then you're committed to \$70,000 dollars of it, if that's the going cost now.

Tim Martin: Yes, I'm Tim Martin with CEI. We are the consulting engineers for Wal-mart and SAM's. I think once we get into a lot more of the technical part of it, with the city staff and looking at the traffic force that we deal with, we can definitely look at doing this. Wal-mart is willing to commit today to that signal to better the traffic flow and everything in that vicinity. This is going to allow easy access to their site. That would be a definite plus for SAM's and the Wal-mart development. Contributing down the line would be an excellent plan if the county, at this time, does not want to put in. If further studies, traffic counts, warrant it five years from now, we would commit to contribute up to \$70,000.

Commissioner Mourdock: I heard Mr. Bohleber say \$100,000 a minute ago.

Tim Martin: Is inflation going to be that much?

Steve Bohleber: I said we would work up to that point. Mr. Tuley said \$70,000 dollars. Right now that is the actual cost—\$70,000.

Tim Martin: We don't mind contributing, say up to \$100,000 dollars. We can make

that today.

President Jerrel: Okay. Are there any other questions or comments.

Commissioner Tuley: Did you say \$100,000?

Steve Bohleber: We can place that in this covenant as well. It's not in there now and the covenants are not signed. If the commission feels more comfortable, we have no problem getting these signed and ready to be filed simultaneously with the execution.

Joe Harrison, Jr.: This is a private covenant, not a use and development commitment and they are indicating that they will, on the record, file this within ten business days. They've also indicated that they would also include the provision for the stop light should it ever be necessary up to \$100,000 dollars.

Commissioner Mourdock: I do have the question, strictly on our side of the table. Having heard the offer that was made by Mr. Fuchs and Mr. Bohleber regarding that property in yellow on the map without having something in hand from that tonight, can we proceed with this conditional upon receiving that from a third party? We've never done something like that before. I want to make sure where not legally out of bounds.

Joe Harrison, Jr.: I understand what you're saying, Mr. Mourdock, but there have been private covenants issued and executed in the past and there have been times where they haven't been executed on the evening of the Commission meeting. You'll just have to take these people for their word at this point.

President Jerrel: I'm ready to call for the motion with the understanding that...if you're comfortable with—

Barbara Cunningham: I only have one question. I was going to ask Richard if he remembered at the Area Plan Commission meeting when they were talking about lot seven, were they not talking about when that was developed, if that was developed, at that time, they would do the extension? Do you remember that?

Commissioner Mourdock: Yes, and that's what I've heard Mr. Bohleber say. If—

Steve Bohleber: That's what I've been saying. Only to the extent that it's on property of the owner. We cannot commit to the extension on other properties.

Commissioner Mourdock: That's right. That's what I understood before. That if a big box development or any kind of development—

Steve Bohleber: Anything is what we are saying. We'll put up the money to do our half at that point.

Commissioner Mourdock: And convey that real estate that's in blue on that map along both the north parts of tract six and seven dash 1, plus whatever the blue one is on there.

Steve Bohleber: Conceptually, we understand what we've got here and we shall bring all these numbers together before the subdivision is put in.

Tim Martin: If I could just address that one point. The subdivision plat...we have a

little piece down here, that's a leased piece of ground. It's not for sale so we were going to put that not as part of the plat, but I think we are going to put that as part of the plat just for tax purposes. That's why we increased from six to seven lots now. We will have that correct.

Commissioner Mourdock: I'll move approval of VC-10-2000, 601 North Burkhardt Road, The Hirsch Trust property to rezone from AG to C-4.

Commissioner Tuley: Second.

President Jerrel: I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: We act on faith in here at times, so I certainly hope that everything comes together on this with the third party as we discussed. With that having been said, I vote yes.

President Jerrel: I vote yes.

Commissioner Mourdock: Wasn't that hard, was it, Steve?

Steve Bohleber: It's been a long day!

Commissioner Mourdock: Motion to adjourn.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Meeting Adjourned at 8:22 p.m.

Those in attendance:

Bettye Lou Jerrel	Barry Crabtree
Richard E. Mourdock	Kristy Crabtree
Patrick Tuley	Doris Gray
Joe Harrison, Jr.	Norris Gray
Jane Laib	Tom Bodkin
Barbara Cunningham	Jim Morley
John Stoll	
Jim Farney	
Steve Bohleber	
Tim Martin	
Don Fuchs	

Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

Recorded and transcribed by Jane Laib

**Vanderburgh County
Rezoning Meeting
July 17, 2000**

The Rezoning meeting was called to order at 6:30 p.m.

Approval of Minutes

President Jerrel: I'd like to call the Vanderburgh County Area Plan Rezoning meeting to order. The first item on the agenda is the approval of the minutes of June 19th.

Commissioner Mourdock: I will make a motion of approval.

Commissioner Tuley: I have to stop and think.

President Jerrel: I don't believe you were here. No, I don't believe you were. I'll second and say so ordered. The next item on the agenda is first readings and there are none.

Commissioner Tuley: I was here.

Jane Laib: You were here. I just looked in the minutes.

President Jerrel: Let's back up and do that again.

Commissioner Mourdock: I'll move for approval of the minutes of the June 19th rezoning meeting.

Commissioner Tuley: I'll second.

President Jerrel: I'll say so ordered.

900 East Mt. Pleasant Road VC-9-2000 Final Reading

President Jerrel: There are no first readings, so we will go directly to the final readings.

Commissioner Mourdock: Sterchi is first, right?

Joe Harrison, Jr.: Why don't we go ahead here first. The first one is VC-9-2000. The petitioner is Brad Sterchi, 900 East Mt. Pleasant Road. The rezoning request is from AG to C-4. All those wishing to speak with respect to this rezoning petition, please raise your right hands. Do you swear, affirm that the testimony you are about to give is true and accurate so help you God?

Les Shively: I do.

Barbara Cunningham: Les Shively is the representative for Brad Sterchi in this request for rezoning of his property located at 900 E. Mt. Pleasant from AG to C-4. It's an 11.8 acre site located at the northwest corner of Mt. Pleasant and Highway 41. The petition was heard at the May 3rd Area Plan Commission meeting and was sent forward to County Commissioners with a no action or no recommendation vote. With five affirmative votes, five negative votes, and two abstentions. The Special Flood Hazard information report on Little Pigeon and Locust Creeks that was prepared by the Army Corp. of Engineers indicates that almost all of this site lies within the floodway of Little Pigeon Creek. It appears that up to four feet of fill will

need to be placed on this site to meet flood protection grade requirements and DNR approval is required prior to any changes to the site. The Comprehensive Plan encourages an agricultural and recreational use of flood plain land. The road improvements necessary to accommodate growth must be in place when needed for our community to meet the goals and comprehensive plan of developing a transportation system which moves people and goods safely and in an efficient manner. If this commercial project develops, there could be a significant increase in traffic on this rural/residential road. Mr. Sterchi's residential development to the west is proposed to be about 360 single family residence homes when completed. A commercial development must be designed to minimize the number of access points on Mt. Pleasant Road and also to take care of any mitigation caused by any off-site traffic impacts. County Engineer, John Stoll, stated that Vanderburgh County plans to reconstruct Mt. Pleasant between Old State Road and US 41 this fall. The project is currently being designed. Additional right-of-way will be needed from this parcel of land for this widening project. I don't know if that was addressed or not, Les, maybe you can address that. The project has not been designed—widening project—has not been designed to accommodate commercial access to this tract of land. Any additional lanes needed to handle this commercial development will have to be developed at the developer's expense. The 11.8 acre site is identified in the future land use map of the Comprehensive Plan as an area of industrial development. The northern most extension of one of the large industrial corridors along 41. The site is located at the edge of a lot of new residential development. Along Highway 41, east of the site, is a M-2 zoned area which has been, and is being, developed as a mix of commercial and retail uses. The application filed states that the use is only commercial development. While the rezoning of the site is not inconsistent with the Land Use Plan, it is important to note that there are many C-4 uses which have the potential of creating heavy traffic volumes. According to the Comprehensive Plan, development proposals along major arterials must be accompanied by commitments to construct the necessary infrastructure improvements to accommodate site generated traffic. The Comprehensive Plan calls for road improvements needed to accommodate development traffic to be constructed with the development. I don't believe any commitments have been submitted with this rezoning petition.

Les Shively: Let me start out by giving you a copy of a report prepared by Darryl Helfert, Morley and Associates, at the request of Mr. Mourdock following the Plan Commission meeting. I guess the June meeting. First of all, I think it's important to note a couple of things that are important for your consideration here this evening. I'm going to start in the opposite direction...Mr. Mourdock some photographs of the subject property and the surrounding area. What we're proposing here is not, I repeat not, inconsistent with the Comprehensive Plan. In fact, what we are requesting to do here is less intense. The Comprehensive Plan calls for this area to be an industrial site. In fact, the property on the other side of Mt. Pleasant, just immediately south, is zoned M-2. If I can take you back a few years ago regarding Mr. Sterchi's investment in this area. Mr. Sterchi purchased the land which has been developed as Clear Creek Subdivision, three hundred and sixty-four actual lots. At that time, Mr. Sterchi, as part of the subdivision approval process committed to granting right-of-way for the then proposed improvements to Mt. Pleasant that were in the planning stages then. Also, I believe, committed money up to about \$25,000 dollars for those improvements that were planned at that particular point in time. I don't want to confuse the issue, we aren't talking about the improvements that are planned now or in process now. Mr. Sterchi through his Engineer, Mr. Morley, who will speak in a moment, has worked very closely with the County Engineer, John Stoll. I was hoping that John would still be here this evening. We are already talking

with John about certain things John wants to do in that area. The donation of right-of-way. We've always worked with the County before. It's usually been official to grant the necessary right-of-way off of our frontage in order to accommodate the improvements necessary for Mt. Pleasant and also to provide for appropriate, safe, and marketable ingress and egress of this property. We will continue that. Mr. Morley, here in a moment, will bring you specifically up to date where those discussions are today. Regarding the floodway, following the meeting in June when this first came up with the Planning Commission, Mr. Mourdock had requested that we give some more definitive information of what is involved in making property that is in the floodway usable. What was going to have to be done. Mr. Mourdock, I think...several things, not the least of which is, what's the maximum number of acres that could be made available in this area. Where will that acreage be located in relationship to the residential properties to the west. As you can see by the handout I've given you, the maximum number of acres that could be made usable is four and that is all concentrated at the southeast corner of the property. A considerable distance from the creek and actuarials will be undisturbed that forms the buffer between this tract of land and the property that Mr. Sterchi has already developed and platted as single family lots. I'd also note that Mr. Sterchi also has in that part of Clear Creek, a substantial number of lots that remain unsold. Just like the neighbors out here, he is equally concerned with regard of maintaining the integrity of that subdivision and not do anything that would be detrimental.

Commissioner Mourdock: May I ask a question at this point, Les?

Les Shively: Yes, sure.

Commissioner Mourdock: Obviously I'm trying to read this and listen at the same time. So of the 11.8 acres that would be dealt with is only 4 acres?

Les Shively: Yes, and Jim is going to detail a little bit. Yes. Once all of the...he will explain everything. All the stuff they have to go through.

Commissioner Mourdock: Okay. I just want to put that in position for my notes from the other meeting you are referring to. I had typed in that night that, and this is you speaking, Les, "Of the five acres that might be filled, one of those acres is above the flood plain. The filling of the other four is the issue". Does that mean instead of the five initially there is only four and one of those is above?

Les Shively: It's really slightly...If you'll look...I think Jim will get more detailed. Actually, the amount that is at the right elevation, if I'm using the right term, is actually less than an acre. After the studies are done that are outlined in Mr. Helfert's letter and all the proper permits are obtained and the work is done, the total acreage that will be available will be approximately four acres.

Commissioner Mourdock: And the other seven acres of the eleven then?

Les Shively: Has to remain as it is.

Jim Morley: Cannot fill. No fill. It's in the floodway.

Commissioner Tuley: Floodway not plain.

Jim Morley: Floodway not flood plain, it's floodway. Cannot fill it, essentially.

Commissioner Mourdock: So if that was to be used for anything other than it's use right now as AG, it would just be a parking lot or—

Jim Morley: I don't think you could even put a parking lot four foot below the hundred year flood level. Can't fill it at all.

Les Shively: If I could just pick up on that a moment. Because of that, that's why we are seeking to see if we can change the zoning classification. Obviously, as you can see from the outline of steps we are going to have to go through, that's a substantial expenditure of resources, and it makes little sense to do that if, in fact, you can't do commercial. What prevents it, as Mr. Morley just explained, the balance of the property, the seven some odd acres, despite the fact that it would be under C-4 classification cannot be used for anything. It will have to remain as it is, basically. Again, what will be used is what's identified in that drawing that's attached to Mr. Helfert's letter. At this time, I would like to have Jim go into detail. Again, I read the minutes from the June meeting and the residents present really had no objections to commercial. What they were concerned with was the impact upon surface water. The impact upon what would happen if we do bring some of the land out of the floodway. What impact that would have on the drainage facilities that are already in place to serve, which you all have approved, that subdivision. That's why I wanted Mr. Morley here this evening to explain, in more detail, Mr. Helfert's letter and answer any questions.

Commissioner Mourdock: There was one person, Chris Pike, who did raise the issue of commercial traffic going into that facility. I do agree, the rest were about the water issue.

Jim Morley: I think, given my preference, I probably would have just drawn this line on the thing ahead of time and said approximately four acres. It's always been just that corner. It's always...and Mr. Sterchi did know that, but he had a deed separately. He will not be able to fill it. He can't fill it for a parking lot. I don't think you'd want to park on it that low. The additional right-of-way was raised earlier by Les, and I've talked with Brad. These are evolved with the County road plans for Mt. Pleasant Road and Brad is donating whatever...right now it stands at 50 foot going out to 60. Whatever it takes. There is a possibility back in this area to be rezoned to the north that's outside the approximate four acres. We still have to go through a whole submittal. That will cost about \$10,000 dollars to run that through. That's how come Brad didn't want to do it in detail before bringing it in for zoning. It's a possibility that we might use a borrow pit there for Mt. Pleasant Road. I've suggested that to him. That if he took a look at it, he might find something mutually advantageous there for use of property. You can excavate, you just can't fill. So he could actually create a lake on the seven acres.

Barbara Cunningham: The neighbors were worried about the tree line and is there anything in there?

Jim Morley: No. There's a field.

Barbara Cunningham: So if they excavate would that get rid of that?

Jim Morley: None of the trees. None of the trees. None of the trees. Wouldn't touch a tree. Wouldn't touch a tree, but—

Barbara Cunningham: He's home writing the tree ordinance.

Jim Morley: Mr. Sterchi has been very cooperative in anything that we've talked about on this. Like I said, the only thing we can do in the other portion is make an excavation. So that is a possibility.

Commissioner Mourdock: Does going to C-4 cause any problems in doing that though? In putting in a borrow pit? You could do it in AG, that's what I'm saying. If you do it in C-4 does it take away your right to do a borrow pit?

Les Shively: I think they've created borrow pits on all kinds of property.

Jim Morley: This industrially zoned property to the south of there, we've already asked those owners about donation of that right-of-way and they've indicated that... They got about...They've had that sign up for years. You know 75 acres, but every time somebody calls, I tell them that there is over 1/3 that can't be filled at all. It's in the same situation as this. They basically only got about 2/3 of the property there next to the railroad that they can do anything with, and the other they have to leave alone.

Barbara Cunningham: Do you pay higher taxes if the whole 11 acres is zoned C-4? Does that make any difference?

Jim Morley: I don't know. There's a possibility, if that winds up being a problem for him once you go into DNR and actually do a detail study and they approve it, he may want to come back and rezone it back down if taxing is a problem.

President Jerrel: Let me make a suggestion. I wouldn't worry about this until the reassessment and the new rules are written because there is no guarantee which one will be the most expensive or the cheapest.

Barbara Cunningham: Borrow pits may be the highest.

Jim Morley: If it's going to cost him a lot of money, you can bet he'll be back saying, "Get me out of this".

Barbara Cunningham: That's what Gene Hahn did over on Mill Road, remember? He had that whole section in the floodway and he finally took it out and came back and zoned what part he could use because it was insurance problems.

President Jerrel: Insurance and it is in the reassessment, in the new mix...the new bills.

Jim Morley: If we already had the DNR study and had the line defined, we really should have just used that line, but since we didn't already have it, we just did it this way.

President Jerrel: Are there any other questions?

Commissioner Mourdock: Let the record show that there are no remonstrators.

President Jerrel: Is there a motion?

Commissioner Mourdock: On final reading, I'll move approval from AG to C-4 for the 900 E. Mt. Pleasant Road. From AG to C-4 on final approval on 900 E. Mt. Pleasant Road.

Commissioner Tuley: VC-9-2000. I'll second.

President Jerrel: And I'll say so ordered and call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Les Shively: Thank you very much.

Daughters of Charity VC-11-2000 Final Reading
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President Jerrel: The next is VC-11-2000.

Joe Harrison, Jr.: The petitioner is, is it Daughters of Charity or Daughter or Charity?

Unidentified: Daughters of Charity.

Joe Harrison, Jr.: Daughters of Charity, the address 9439 New Harmony Road, the request is from C-4 to AG. All those wishing to speak with respect to this petition, please raise their right hand. Do you swear, affirm that the testimony you are about to give is true and accurate so help you God?

Unidentified: I do.

Barbara Cunningham: The petition was recommend for approval by the Area Plan Commission at this month's meeting with ten affirmative votes and one abstention. The residence on this site was constructed in 1991 as a caretaker's residence for the Daughters of Charity Compound located south of the (Inaudible) across New Harmony. The down zoning of the residence to agricultural will bring the current legal, non-conforming use of the site into conformance with the zoning code.

Commissioner Mourdock: The most simple zoning I think I've ever seen here.

Marv Kemper: Members of the Board, Ms. Cunningham. Good evening, my name is Marv Kemper. I'm the Administrator of the Daughters of Charity Provincial Complex located on New Harmony Road. The subject parcel property was part of the initial 104 parcel of property purchased by the Daughters in 1971 when they established their provincial headquarters here in Evansville. As noted, there was no improvements on that site until 1991 when a three bedroom residence was built as an on-site caretaker's residence. In February of this year, the Daughters elected to sell the residence to the employee or caretaker, Mr. Roy Manzi, who had been an 18 year employee of the Daughters. A very talented maintenance technician and very solid employee. He was very interested in the acquisition. We retained Andy Easley Engineering to go through the process of a minor subdivision which was approved and recorded on June 29th. At the time of the recording, we received a notice that of the 2 ½ acre parcel there was this 1.49 acres showing up on the county plat as a C-4. The Daughters of Charity never knew they owned any

commercial property until that time. There was an old aerial photograph that we have of a one room, brick school house that sat in that corner at one time. Maybe, at one time, prior to the Daughters acquisition, somebody had intentions of doing something with it. We can only assume that maybe is how that ended up being C-4. There is no record in Area Plan other than the recorded plat. We were told that we could proceed with the sell but if the property or house ever burned or was destroyed, it could not be rebuilt under the C-4 zoning. Obviously, that's an insurance matter for Mr. Manzi, if he is to be the homeowner. Plus, the Daughters have no interest in seeing commercial development right in front of their provincial facilities. So today we are requesting approval to down zone from C-4 to Agricultural. Only 1.49 acre portion of the Manzi acres.

President Jerrel: Are there any questions?

Commissioner Mourdock: I'll move approval on final reading, the rezoning from C-4 to AG for VC-11-2000.

Commissioner Tuley: Second.

President Jerrel: And I'll say so ordered and call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Marv Kemper: Thank you.

Barbara Cunningham - SAM's Club Update

Barbara Cunningham: Can I just report on something that we've looked at today in site review. Sam's is still coming in, getting ready to come in. However, that 241 feet dedicated right-of-way that they proposed for Columbia Street. They have not, as of today, recorded that or given that to you. However, Jim Farney is still working on it as is Steve Bohleber, the Attorney for them. Today, Mr. Farney told him...me that they were going to try and even it up so we can possibly get the rest, at least their part of Columbia, where it evens up. Where they had it now, if you remember, went to a point and didn't touch that 241. What I wanted to tell you is that we are still on it. It's coming to Plan Commission as a subdivision. They still have some drainage problems that they will be coming back to you all. Before anything gets built, it will be coming back to you as a final drainage plan. They've added another lot. Today they added a lot across Virginia Street which was no big problem. That's coming to Plan Commission. But we still don't have the 241 feet is what I wanted to say. They said they would record in ten days.

Joe Harrison, Jr.: But we will before you all do anything.

Barbara Cunningham: You sure will.

Commissioner Mourdock: For the record, I still have concerns about that.

Barbara Cunningham: I do too.

Commissioner Mourdock: Just the way the property came together, and we had that unusual situation where they were getting the agreement with the party that was part of the party, but not really a party of the same party and they didn't quite make it all happen.

Barbara Cunningham: And those same parties are what's holding it up.

Commissioner Mourdock: Exactly. Traditionally, they've been very slow to act.

Joe Harrison, Jr.: But again, you're not going to do anything at site review until that's resolved.

Barbara Cunningham: Except the property is zoned, so if something would fall through on Columbia, we do not have Columbia Street.

Joe Harrison, Jr.: But they need approval. They need subdivision approval and they need your approval.

Barbara Cunningham: The subdivision approval should really take in Columbia Street also. It really should. We need Columbia Street.

President Jerrel: Is there a motion to adjourn?

Commissioner Mourdock: So moved.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Meeting was adjourned at 6:55 p.m.

Those in attendance:

Betty Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Jane Laib
Barbara Cunningham
Marv Kemper
Les Shively

**Vanderburgh County
Rezoning Meeting
July 17, 2000**

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Jim Morley

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

Recorded and transcribed by Jane Laib

**Vanderburgh County
Rezoning Meeting
August 21, 2000**

The Rezoning meeting was called to order at 6:30 p.m.

Approval of Minutes

President Jerrel: I'd like to call the Rezoning meeting to order, please. At this time, I'd like to welcome all of you and tell you a little bit about how the process works. We do have a relatively long agenda but most of you are here for one particular issue so what will happen is, we will go through most of them probably pretty quickly. When we begin, we've been given a list of people who wish to speak. We also have the petitioner and their legal counsel and anyone else who wishes to speak. It would be nice if we could, if you could, keep your comments so we get them in a concise manner and they're not repetitious because the lady on the end, Charlene Timmons, has to do verbatim minutes. Sometimes we've had verbatim minutes that would go for 30 minutes on one person, and that would just be forever to get finished with them. If you could keep your comments to three to five minutes, something in that, unless there's something urgent that needs to be said. We're not unreasonable, just try to keep it moving. At this time, I'd like to introduce to you the people before you. On the far right is Barbara Cunningham, the Director of Area Plan; County Attorney, Joe Harrison, Jr.; Commissioner Pat Tuley; and Charlene Timmons, our Recording Secretary; Commissioner Richard Mourdock; and my name is Bettye Lou Jerrel and I'm the President of this Board. At this time, I'd like to have approval of the minutes of the July 17th meeting.

Commissioner Mourdock: I'll move approval of the minutes of July 17th as filed.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Rebecca Bateman VC-12-2000 Postponement
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President Jerrel: The next item on the agenda is a request to postpone final hearing. Is there anyone here who wishes to make a comment about that?

Commissioner Mourdock: That would be VC-12-2000, petitioner is Rebecca Bateman. Anyone present on that issue? For the record there is none, and I would formally move then that we grant the requested postponement for a period of one month for VC-12-2000.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Byron & Rhonda Cooper VC-14-2000 First Reading

President Jerrel: The next items are one through four are all first hearings.

Commissioner Mourdock: So all of you understand, what this is are first hearings that must come to us before it then goes on to the Area Planning Commission the first of next month. So the first of the first readings is VC-14-2000. The petitioner

is Byron and Rhonda Cooper, 7700 Boonville Highway. They request a change from AG to C-4. I would move approval on first reading.

Commissioner Tuley: Second.

President Jerrel: So ordered.

BSH Development Co., LLC VC-15-2000 First Reading

Commissioner Mourdock: Second is VC-15-2000. Petitioner is BSH Development, Co., LLC. The address is 2018 - 2248 Championship Drive and 2040 - 2140 Bunker Lane with the request from R-2 with UDC.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Karm Corporation d/b/a Promark VC-16-2000 First Reading

Commissioner Mourdock: Third is VC-16-2000. Petitioner is Karm Corporation d/b/a Promark. The address is 3001 Kansas Road. They are requesting a change from AG to C-2 and I'll move approval.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Windemere Development LLC VC-17-2000 First Reading

Commissioner Mourdock: Fourth is VC-17-2000. The petitioner is Windemere Development LLC. The address 8900 State Road 57. They're requesting AG to R-1 on Parcel 1 and Parcel 2 from AG to C-4. I would move approval on first reading.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Place Collegiate Properties VC-13-2000 Final Reading

President Jerrel: We're now ready for the final readings and we have only one and that is Place Collegiate Properties.

Karm Corporation d/b/a Promark VC-16-2000 Revision

Barbara Cunningham: I'm sorry, you probably didn't know this but on the Karm Corporation, that has been changed to AG to M-1.

President Jerrel: Okay, we need to go back to that motion.

Commissioner Mourdock: Let me revise on first reading VC-16-2000, petitioner is

Karm Corporation d/b/a Promark, 3001 Kansas Road. The corrected request is from AG to an M-1 zoning. For the purpose of first reading, I'll move approval.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Place Collegiate Properties VC-13-2000 Continued

President Jerrel: At this time, I'll turn the final reading over to the attorney.

Joe Harrison, Jr.: Yes, again, this is VC-13-2000. Petitioner, Place Collegiate Properties. The address is 201 S. Eickhoff Road and the rezoning request is from AG to R-5. All those in the audience who wish to speak concerning this petition to rezone the property, please raise your right hand. Do you swear, affirm the testimony you are about to give is true and accurate so help you God?

Audience: I do.

Joe Harrison, Jr.: Thank you.

Barbara Cunningham: Place Collegiate Properties is requesting a change in zoning from AG to R-5 with UDC for the property located at 201 S. Eickhoff Road. The 22 acre site is located west of Eickhoff between Hogue and West Terrace Drive. This petition was heard at the August 2nd Area Plan Commission meeting and was recommended for denial with four yes, seven no, and two abstentions. Place Collegiate states this change in zoning to R-5 will allow construction of student housing to serve the students at the University of Southern Indiana. This is a private enterprise, not a university project. Information submitted by Place Collegiate indicates 11 residential buildings, a clubhouse, pool and recreational facilities are planned on this site. The proposal includes 108 four bedroom apartments and 24 two bedroom apartments for a total of 480 bedrooms. The number of units is not addressed in the Use and Development Commitment. A Use and Development Commitment is included in the petition which addresses the dedication of right-of-way for construction of an east/west road along the south property line to access both existing and proposed Eickhoff Road and construction of intersection improvements. The Use and Development Commitment includes additional infrastructure improvements including payment for a lift station and sewer line extension. This will bring sewer into the area. The Commitment additionally addresses screening, maintaining the trees along the south property line, and planting a row of pine trees along the west property line, lighting, drainage, and erosion control. At the Area Plan Commission meeting, the developer was agreeable to a density criteria, six units per acre. A single family subdivision with sewer with six to seven lots could be put in with six to seven lots per acre could be built at this density criteria of six units per acre. It needs to be placed on the record that the Area Plan Commission is unable to enforce Commitment number ten, the trash and dumpster, and number five, the screening. Those are enforceable by the owners of the property. It also, although the developer was agreeable to the density criteria, this was not part of the Use and Development Commitment, this was just a statement at the meeting. The site is located west and adjacent to the proposed new Eickhoff/Koressel extension. Applicants are planning construction of a new dedicated roadway along the south property line of the site to provide access to the facility. The comments from EUTS on this petition were amended prior to the Area

Plan Commission meeting. They have not been amended again although we do have a memorandum from Ms. Zigenfus on Place Collegiate rezoning that talks about the number of vehicles per hour and trip generation, etc. I've got a couple extra one's that I just got today, and I'd be glad to hand them to anybody who's interested in those. The comments have been amended and they did speak to an emergency vehicle access on Roesner Road. The Area Plan Commission members were concerned about that possible connection to Roesner as Roesner is a substandard road, and they were concerned about that. The area is identified on the Year 2015 Conceptual Land Use Map in the Comprehensive Plan as an area of residential development. Apartments are considered residential development. Compliance with all code requirements will be addressed by site review and subdivision review committee upon submission of plans for any development of the site. Apartment development that consists of more than eight units will require both site review and subdivision review and a drainage plan would be required at that time. Do you want me to?

President Jerrel: I have the...here. To begin Place Collegiate as spokesperson.

Stephanie Denny: Hi, my name is Stephanie Denny and I'm the representative for Place Collegiate Properties today. Is there any way we could turn the lights off?

President Jerrel: Sure.

Stephanie Denny: (Inaudible.) (Laughter.) Okay, can you all hear?

President Jerrel: You can take that with you, if you want.

Stephanie Denny: Okay, great. I promise not to leave with it.

Commissioner Mourdock: Excuse me, Ms. Denny, before you start that does make a good point. Any of you who wish to speak need to come to the microphone because, as Bettye Lou said before, all the notes are verbatim so if you are going to walk away from the podium, take the mike with you.

Stephanie Denny: Okay, today we are here to talk about a proposed development, USI Place, luxury living for college students. Place Collegiate Properties is headquartered in Atlanta, Georgia. Place's exclusive business is designing and developing luxury student housing for college students throughout the country. The principle's of Place have developed more than 8,000 beds of on-campus and off-campus housing over nine years. Place will complete 14 new properties by August 2000. Two of those are very close to here: Murray Place which is to service the students at Murray State University, and Hilltopper Place which services the students of Western Kentucky and Bowling Green, Kentucky. Just to give ya... Our communities are unique and have been designed especially for students. They are fully furnished and in the living rooms we have sofas, oversized chairs, tables and entertainment centers. There's a luxury kitchen with a microwave, a dishwasher, a full size refrigerator, ice maker, oven, garbage disposal, pantry, and a dining counter with bar stools. This is actually a complex in Carrollton, Georgia. They also have fully furnished bedrooms. There's a full size bed, dresser, desk, shelves, a chair that even rocks back so that when the students lean back the back of the chair won't break. It's been designed especially for college students. There are nine foot ceilings throughout with ceiling fans in all the bedrooms and living room, mini blinds and wall to wall carpeting as well as ceramic tile at the front door. They've been designed for privacy. College students like their privacy. We have a private full

bathroom off every bedroom designed for total student privacy. We also have private keys that unlock each bedroom door so your room is always secure. Your bedrooms are wired for private telephones, cable TV, and various highspeed internet connections on our local area network which is similar to what they connect to in the – on campus. There are designed for safety. We have panic alarm buttons in each bedroom and at the foyer which are monitored 24 hours a day. We also have fire safety which has sprinklers in every room, and smoke detectors in every bedroom and the living room. They are also designed for college living. There's a full size washer and dryer in every apartment. The clubhouse has a fitness center with exercise equipment, pool table, ping-pong, fusbball, stereo, and TV. There's also recreation. There's a swimming pool, tennis courts, sand volleyball, and outdoor grills. This is an example of the four bedroom, four bath floor plan. You can see on each corner of the bedrooms, and they have their own private bedroom with their private bathroom with their individual doors. In the middle, they have their sense of community so the college students have what they like: privacy and community. They have their living room and their kitchen and laundry which is what they share, but then they've got their private stuff so they can play their music in their room or be on their computer and study and do what they want to do in their own room. This is the example of the two bedroom, two bath floor plan. It's very similar to the four bedroom, four bath. You can see the two bedrooms and then they have the common share area. Our residents have individual leases for each student so that there not responsible for their roommate's rent. We also have 12 month leases which need to be co-signed by their parents, and we are typically full before the beginning—before they are even open. Also, a little tidbit of information, about 70 percent of our residents are females. We think this is because they prefer the features and also because they act a lot faster than males do about housing so they get it before it's gone. Property management. Place intends to own our properties for the long term so we want to protect our investment by managing our own properties. We have our own management company. We have full time, on site property managers and assistant managers and also full time, on site maintenance people. Our managers and maintenance people go into every apartment monthly and have a palm pilot, a little hand held computer that they go around and if they see any problem, they note it immediately. The repairs are made within 24 hours, and the student/parent is billed for that. That way, we keep it up and we don't require—take it out of their security deposit so they don't take that for granted. A lot of times people will just say, “That will come out of my security deposit.” Well, no, we go around and look at it and if it's broken, they pay for it. That keeps it up and looking nice and also lets the students know the level of behavior we expect and so they respect it. We also, daily, clean up on our grounds litter by student employees. So we hire...They work three hours here and there and go clean up the grounds in the mornings and afternoons. We also have courtesy police officers that live on some of our sites. This is a police officer that lives with us and, you know, drives his car or his uniform so it's just kind of added stuff. The clubhouse is open until 9:00 p.m. so there's someone in there available if there's a problem. Also, they are there to monitor and make sure nothing's going on. Once they leave at 9:00, the clubhouse is closed down, the swimming pool is locked up. You know, no one can come into that facility. There's also 24 hour emergency service so if you pick up the phone and call our office, it will ring to an answering service and someone will be there to answer any questions, or if you have an overflow of something or whatever. If needed, we do courtesy patrols through the site, and we do let our staff live on site. I've been asked that question so. Why USI? Well, USI expects Fall 2000 enrollment to be approximately 6,525 full time students. Total enrollment is about 9,000 with their part time and commuters. USI expects to grow three to five percent annually. USI will have a total of 3,008 beds for Fall of 2001. That's after they build the next

phase that they are thinking of building. That only covers 46 percent of the projected fall full time enrollment for the full time students. So where is everybody else going to live? They are going to have to go down Lloyd Expressway and go to the apartments that are down there and create more traffic that way. USI could grow quicker if they could support the demand both academically and with housing. The location we are proposing is right off Eickhoff Road, and like I said, it could reduce student traffic on Lloyd Expressway. It's adjacent to the future University Parkway. The University Parkway is the highlighted yellow line up on the screen that's a little bit kind of hard to see, but the bright yellow line in the middle, and the proposed development is the black box. I'll get a little closer in a minute. Like we stated earlier, we are going to build six units per acre or less, and we are going to limit our height to 55 feet. Our buildings are only 43 feet and that's because of the tower that's in the middle. That's an architectural feature to make it look a bit nicer, but it does count. That's why we have to go for R-5 and, you know, we said in our Use and Development Commitment that we wouldn't go over 55 feet. We also want our preserved green space which you don't always hear a developer come up here and say or do for that matter. Place is going to save almost the entire existing forest along the creek as a nature area. That's an asset to us to have those big oak trees as a part of our community. We love that to be there. That's all the green area to the right. Our site plan is just going to utilize the existing open farm fields so we don't have to tear down trees or disturb the lake. We also, down in the bottom right corner, that's where the clubhouse and pool are. That's where activity would congregate, and that's the furthest away from any of the residence of Roesner or the people up Eickhoff now. Also, we have two buildings that are two bedroom, two bath and those are up on Roesner. No, south is down here. I don't know if I can walk over here. Here we go. This is the pool and clubhouse right down here. So this is the closest to Eickhoff right here. Then these are the two bedroom, two bath buildings. Typically, that's where our graduate students and older students live, and these are some people that are on Roesner here that have been commenting so as you can see, we are keeping the green space, the lake. We trying to make our site plan fit in to what's going on in the neighborhood. I know no one believes me. Green buffers. Place will preserve the existing tree line along the southern border of our property plus plant a thick buffer of pine trees along Roesner Road. This is where I'm talking. We'll preserve this tree line and then plant another buffer along here. We're also willing to donate infrastructure to the county. We are going to donate the right-of-way and construct, at our cost, a county road along the southern border of our property, and we're going to pay for a sewer pump station that will service area homeowners as well as our community. We'll also sell the right-of-way for the new expressway at the agricultural value determined by the county's appraiser. That right-of-way is for the new University Parkway. We think this is a good land use. It fits into your Comprehensive Plan. It provides a good buffer between a busy future highway and single family subdivision that won't wish to border the highway. It creates a precedent for low six unit acre density for multi-family housing in the university area. It increases the quality and variety of housing for USI students allowing USI to continue to grow. This is from the Evansville Courier and Press, the university officials say they embrace the apartment building plan for it's potential to help grown with the university and future housing needs. This is the site plan if anybody has any questions or wants me to point anything out. The road that I was talking about that we're going to construct to county standards. Everything connects...this is the existing Eickhoff right here. This is the University Parkway. This is the road that we would build to your County Engineer's specs to make sure that it fits it with your University Parkway. This is where we would plant the buffer over on that side. I don't know if any of you have any questions for me. I'd be happy to answer anything.

President Jerrel: If you don't have any, we'll just wait until some of the issues come up and you can come back and respond.

Stephanie Denny: Okay, that's great. Thank you so much.

President Jerrel: Okay, is there someone now that wishes to speak as a remonstrator?

Gary Mitchell: Yes, ma'am. Gary Mitchell, 46 years at number 5 Roesner Road. All neighbors on Eickhoff/Roesner who are against this project or if you're standing, raise your hand or stand up. It's amazing, Ms. Denny indicated that this development is being made to fit the growth in the Eickhoff/Roesner Road area. There's currently no growth in the Eickhoff/Roesner Road area so this is a nothing project. With regard to the staff report the Area Plan Commission of July the 20th. It's amazing, USI Place, still using USI Place. Both the President and Vice President of Housing do not endorse this particular project. In fact, they indicate that logistics are in place to support 110 percent of on campus housing. By Christmas, traditionally, campus housing is at 80 to 85 percent because of students transferring or quitting college who are resident on campus. USI Place, extremely misleading. Collegiate Properties is a private developer, developing private property. It is in no way tied to USI. Anyone who can afford the rent, and otherwise meets the lease application requirements can rent an apartment. It is illegal to discriminate in equal housing. Again, the President of USI, Vice President of Student Housing have not endorsed this development. The article that Ms. Denny referred to earlier was her interview with a reporter for the Courier and Press. There was no collaboration from the Courier and Press. With regard to the amended Use and Development Commitment letter dated in July, page four, paragraph nine, addresses sewer lift station and extension. The issues and concerns that we have in the neighborhood...We met with Ms. Denny on July 24th and she indicated the lift station with extension would be ran on Roesner Road with the actual lift station placed on the north side of Hogue Road in the SIGECO utility acreage. More recently, we've heard that it's going to be placed across Roesner Road from the development. Page four, paragraph 10, Trash Areas/Dumpsters: No mention about how the trash haulers will access the development. If you noticed on the site plan from the developer, it's a very narrow access road back to the development. There should not be an access road onto Roesner Road. Roesner Road should not become a service access road for the development of vendors, service, or utility personnel. Who is to enforce all these provisions? The staff report...amended Use and Development Commitment says that the neighborhood will enforce those commitments. We have six individuals on Roesner Road who can afford an attorney. We have four individuals who are retired and disabled. Wow, students like their privacy! That's an exact quote. What about the privacy of residents who have been on Roesner Road for 70 to 100 years? Mrs. Edna Roesner lives at the top of Roesner Road. She's been there for 92 years. She will be facing directly diagonal to the development. A couple other issues and concerns that we have...I've cut my presentation down quite a bit. There are no commitments relative to extending city water to the development and how far it would be extended and where it will terminate. There's no commitment to installing storm drains. We have 11 buildings, three stories, 639 space asphalt/concrete parking lot. The watershed is directly due north down Roesner Road. When you add 11 buildings and 639 space asphalt/concrete parking lot, it's gonna be terrible. We need an EPA impact study. No one's mentioned anything about an EPA impact study. It's an agriculture area. There's a large stance of woods still standing. There are endangered species in that large stance of woods and around the neighborhood. We've seen bobcats, great

horned owls, and I saw a funny looking lizard this afternoon out at the house at 5 Roesner Road. So, it had horns on it. I understand there was a memo, and it was shared just recently here. I guess we could have gotten it, but there's a memo from the developer, Place, saying with regard to the access road that will be used only for emergency access vehicles and something about a chain. Now, we know how people go around chains and just go off into the field onto Roesner Road. Thank you very much.

Commissioner Mourdock: Mr. Mitchell, just to add one comment, you don't have to come back, that's alright. You've raised the issue about who enforces it, I just wanted to state for the record, in the Use and Development Commitment it has in here the effect of the commitment by everyone within one mile and then the legal fees would be paid for by the party that is basically responsible for whatever the action is.

Barbara Cunningham: (Inaudible.)

Commissioner Mourdock: Just want to make that point.

Richard Krocher: Good evening, my name is Richard Krocher. I live at 100 S. Eickhoff Road, and if I could take a moment, I'd like to pass out some additional information that's come available. I'm going to address some of the flooding issues and various other issues. The staff report indicates that part of this property lies within the flood plain. The comprehensive drainage plan has not been submitted for this site. I understand that comes later. I have submitted for you review prior to this, the FEMA flood hazard map along with the DNR map which shows where the drainage all goes. So a four hundred acre site and it all floods to point A on that site which is all towards Roesner and Hogue Road. The FEMA map I submitted, I have inserted the proposed developments which will adversely impact an already bad situation as you've seen by pictures. I live at 100 S. Eickhoff Road, like I've mentioned, and have noticed a significant increase in the water levels the creek carries as the recently developed subdivisions have caused more water to flow into the creeks as my previously submitted pictures indicate. The picture of me under the bridge illustrates the tremendous amount of water required to overflow the banks. It would take over 5,700 hundred gallons just to fill this area. Fifty-seven hundred gallons of water would fill a 12x12x4 foot pool. Just imagine how much water it takes to bring the water over the banks and keep it at that level. I got a little tidbit of information: one inch of water on one acre is equal to 27,400 gallons of runoff. That's a huge impact when you're talking about 400 acres all draining into one small creek. As you can see from the dry creek pictures, the erosion is doing a considerable amount of damage. When I moved here seven years ago the creek wall encompassed these trees totally. They were not hanging out in the middle of the creek. The additional runoff from the development of 200/201 S. Eickhoff Road will intensify and compound the water problems that are already evident in this area. I remind you, again, according to county codes 17 through 16.190, this property can only be used for agricultural, forestry, wildlife, nature preserves, parks or recreational areas. Place has stated that they will not build more than 11 apartment building on this site and that all the other properties are built the same. I've submitted information to the contrary. As you can see by the information off their website, they put whatever will fit on the property. One of 14 buildings and another of 47 and so on. I've also taken the liberty of searching for a roommate through their website at Murray State University. If you've looked at the questionnaires, you can see just by their format what type of individuals will inhabit this facility. As you can see, I've been matched up with several roommates with the same interest already. It is also

difficult to analyze the developers future integrity as at least ten of the developments are just opening this August. They say 14 now. I'm going to skip over a few pages and go through the crime stats. USI employs 13 security officers who have responded to the following calls in 1999. Four sex offenses, two burglaries, two motor theft, one arson, 226 thefts, 610 misdemeanor offenses. These 610 misdemeanor offenses were not called into the sheriff. They consist of telephone harassment, neighbor disputes, and fights which the university typically takes care of. The actual arrests made by the sheriff includes 26 drug related, 72 liquor violations, and 4 weapons possessions. The university, for disciplinary action, handled the following: 120 drug violations, 1179 liquor violations, and 18 weapons violations. Now think about the impact of what the sheriff, fire department, and neighbors will have to put up to and respond to when you add between 480 and 1000 students living or visiting the campus without on site security. My questions is, will the taxes collected be enough to pay for these services? That's all I've got. I'd like to introduce Gene. Thank you for your time.

Gene Pfeffer: Madam President, ladies and gentlemen of the Council. My name is Gene Pfeffer. I live at 635 S. Eickhoff on approximately 200 acres bordering on the south side and on the west side of this proposed development. I've taken the liberty to put a map here. I think it's self explanatory, but if you have questions as I go through, I'd be happy to answer particular questions. As you all know, we submitted in written form to each of you our concerns in the spirit of being expeditious and allow you to objectively make a decision on this matter prior to coming to the meeting. However, the magnitude of some of the effects of this project are just so great that in the spirit of brevity I would still like to touch on a few of those concerns. I guess the number one concern I have no matter how you shake it, it's a project designed to operate outside of the constraints and controls of the University of Southern Indiana. No matter how you shake it, it's one that's going to allow for the creation of a party atmosphere with 500 students on 20 acres 1/2 to 3/4 of a mile away from campus. It's obvious, if you look at history, university planners had no thoughts of putting university infrastructure north of Highway 62. We don't have athletic facilities; We don't have convenience stores; We don't have resource centers. There is no student infrastructure north of Highway 62. On our property immediately south, if you would refer to my map, you will see that we have an eight acre lake. Immediately to the west you'll see a 3.3 acre lake. Sprinkled around there are a number of wooded areas, wood locks. In addition, there's between two and three, depending on the year, two to three miles of farm roads. We already have terrible problems, if you'll drive along you'll see the signs on my road, with uninvited trespassers. I can only imagine what it's going to be like when we have 500 people isolated on this parcel unable to go to the east because the University Parkway, and unable to go north because of the residential area. What's going to happen is that I'm going to become, or my family and I, are going to become the bad people if we try to stop that trespassing. Now, I'd like to take you back now for a moment to your university days. I'd like to paint the picture that we get up this morning and it's nice outside, or wow, it's end of the week and I don't have money for gas, or the car won't run, or my girlfriend has the car...are these students going to walk a half a mile south, pardon me, a quarter of a mile south, a quarter of a mile east and then 3/8 of a mile south again just to get to the university? You remember when you were on campus and there was this beautiful new building built and all the planners figured where all the sidewalks should be, but guess what? Thirty days after the building was built they put in a new sidewalk because the students found a new way to get there. I'm going to be that new way to get there. It's the shortest point between—shortest distance between two points. Okay, we've heard indicated that there is willingness to agree to a certain density, but, Stephanie, if you would

pass it out, at this point, that's verbal. In the amended use contract there is nothing that speaks to that. It takes very little effort to see that with this zoning and with the agreements in place, as they are in place right now, that can be increased to 1000 in very, very short order. The binding agreement doesn't speak to it. They also speak very nicely about preserving green area, preserving the existing forest, enhancing the existing pond, but it's real interesting that when we get to the amended Use and Development Commitment, they are totally silent on everything. Out of the clear blue sky, we are going to plant pine trees down Roesner Road where there's only one resident. Nobody lives down Roesner Road. If you come from Roesner Road on the south, and we want to block those with a 53 foot building and change in typography, we have to put in pine trees over 100 feet tall. I don't think it's going to happen. The lake can be filled, the mature forest can find the fate of the bulldozer, and we are helpless. If this zoning is approved, they do not have to come to this group of neighbors again and address their desires. It is in place, and they can do it. The current plans for the acquisition of property for the Eickhoff extension, the University Parkway extension, are now in place, but let's be realistic, best case scenario it will be two to three years before we can acquire that property. When I say we can, the County can acquire that property. Hopefully I'm wrong. Add to that the additional time that's going to be required to get the actual construction completed. Maybe another two to three years. Then, if we're very honest, look at all the delays we've had right now. We're talking about completion on this project that's going to be done in August of 2001. We're going to add another 480 cars, and they aren't going to make one trip a day. They are going to be going for classes, for social events, for groceries, for soft drinks, for all kinds of student activities, and it's gonna add a tremendous amount of traffic. It's going to make a major free for all at the intersection with the off ramp from Highway 62. Add to this the current West Terrace traffic. It's not a pretty picture. These people, right now, time their departures on Eickhoff Road so that they don't have to hit class times because the students are anxious to get to their class and it's just a matter of who's braver at the intersection. It's only going to get worse. As you can see by the bold line on this ariel photo here, with the Eickhoff extension I was only given one access to my property all along Eickhoff Road. Now this access would be taken away and the only choice I would have is to come in on the new road. Somehow, I don't cherish the thought of driving into my property through a university housing project. I conclude by saying that all the concerned residents that we have here tonight are proud of the outstanding growth and development of the University of Southern Indiana. Yet, unlike the sellers and developers, we live in it. We do more than hold property in this town. We support our community by our everyday actions, our commitments, our contributions, and our deeds. There is an appropriate place for a project of this nature, and that's on the university side of Highway 62. We've shown that this location will be disruptive to a very tranquil community, will create traffic problems and safety hazards, and adversely affect responsible development on the west side. Your decision on this matter will forever affect the future of this area. Inappropriate zoning will permeate great distances. We ask that you weigh this information that we have provided and deny the request for R-5 zoning in this area. Thank you for your time.

Jeff Wigington: Good evening. My name is Jeff Wigington. I live at 350 S. Roesner. I live in the area just south where no residents live. I live right here, close to the party house. I have a passionate plea on a personal basis. I realize that maybe the facts are not—are more important weighed in the sense of flooding and crime and everything else, but I live on a street now that it takes a flashlight now to go up and down the street. As a matter of fact it's so small, if I may pass these out, sorry about the quality. The street is so narrow and so substandard. You can see a

picture of the bridge there. I've placed my old Ford on that brick bridge so you could get a good idea of it. There's a color photograph there. It is so small that the garbage truck has to back down it. That's how small it is. We've got some concerns about that but we've bought that property out there about four years ago. Surrounding us is Mr. Pfeffer's property. He has not spoken on this, but in the times past, I've heard and seen him develop his property with beautiful lakes and rolling hills out there. Possibly to sustain some development that may come later on in the form of R-1. Right now, you can go out and see the stars at night. If we put this project right beside my house, I won't be able to see the stars anymore, and I like seeing stars at night. Right now, I can smell the county. I'm afraid six months or a year from now, I won't be able to smell anything but garbage and beer. It's 2:00 o'clock in the morning and right now there's a lot of crickets that almost keep me awake, but I've finally managed to fall asleep with them. Panic buttons will bring Sheriff Ellsworth and his crew out there at 2:00 o'clock in the morning. If I know college kids like I use to be one, we use to play a few pranks now and then. I liked hitting the panic button just to see who would get in trouble with it, but I'm one of the residents out there now. Besides that, one of the things that you mentioned, Ms. Denny, tonight's the first time I've heard it, that some of the properties have live on security. I did not hear her say that this one did. It may have, and if it does, that's great. We use to start partying at 9:00 o'clock at night not go home at 9:00 o'clock. So I know what's going to happen from that point forward is going to be unauthorized as far as Place Collegiate goes. One of the things I am concerned about as a tax payer is that we are going to have enough coverage out there to allow Sheriff Ellsworth and his men and police force to come out there. It's going to cost us a lot of tax dollars to do that, and I think I pay enough taxes. One really important thing, I am a pastor of a small church here in town, but I also work at a supplier of building materials, and we make our living in the Tri-State area. One of the things that I want you to understand is that I'm not opposed to development. I don't think anyone here is really opposed to development. We are just opposed to the wrong kind of development in the wrong place, and we believe that this is the wrong type of development. We wouldn't be concerned about R-1 out there. We know it's coming. We bought that property out there anticipating exclusive subdivisions out there on Roesner Road and beautiful lakes on two to three acre lots, and that's the rumor I've heard out there. As far as college kids living next door. I want to ask you that, if this was your house located right there just south of the parking lot, how would you vote? So that's where my passion comes from on this. Not to mention, Mrs. Roesner 92 years old right directly across where he is pointing, she's been there all her life and I don't know what is going to do to her if it does pass. One of the concerns I have as far as the local supplier is that since most of these buildings are kind of a pre-drawn, they are existing and they just bring in the truckloads of material, what about all those materials and all that labor that was used around our area for USI housing? What's going to happen there? We haven't been assured of anything like that. Am I going to be able to sell my product? Where of right now I do furnish some of the product out there on USI Place. Who's going to build it? Are they going to bring in labor crews who can really just splash it up in just an overnight situation. After all, they want to build in September of this year. They want to start clearing land and start building so they can open it up next year. I know that the unemployment rate here is very low in Indiana, but I'd kind of like to keep it low with our labor instead of somebody else's labor. One of the major issues as far as I'm concerned is absolutely safety. My goodness, in the news just this morning, the sexual attacks on campus. That is related with college life where the majority, masses, of students are. I've got a beautiful 16 year old daughter, I've got a 12 year old son, I've got a 4 year old son, and I have an 8 year old daughter, and I really do have concerns when it comes to that. Some of the statistics that Rich shared with you, they are...I

would have concerns with anybody living in that area on a basis because of all the drug related and weapons related charges that were there. What about the college kids driving around through that area after attending a party or leaving from a party out there? Again, place yourself out there, please, we ask you to do that. We implore you to place yourself in our shoes. The school, West Terrace, is located right off Eickhoff. Yeah, we know that there's a large road that's in the planning and eventually will probably go through there, but right now you come over that road and if your heading south on Eickhoff Road, you just pray that somebody else is not pulling out in front of you because it is a deadly intersection at that point. We have also a couple statements from school bus drivers that I'll hand you here in just a minute. I forgot to do that. School bus drivers that are—tell how dangerous it is already on that hill going across through West Terrace Subdivision. We also have joggers and bicycle riders that go down through there. You're talking about increasing the traffic on that road a tremendous amount. My kids...when it comes to Roesner Road and really this is not on Eickhoff this is on Roesner, that's Roesner right there immediately to the west of it. You have a picture of that in front of you. There are two deadly hills there. We use to call them thrill hills in college where we tried to hit them about 70 miles an hour and leave the ground. Well I'm afraid that's what some of these college kids might do, and my kids ride their bicycles up and down that road. I've got pets on that road. My understanding is that they are talking about putting a road through there that reaches all the way to Roesner. Well, if there's an access, it's going to be used. Let's see. One other thing and then I'll close. What I would like to see...if I had a choice of what we'd have out there, and I think this is a reasonable assumption from anyone. I would love to see, if anything is going to get built out there which we all know we need agricultural land still, if anything else is going to be built out there, let's let it be homes. Let's let it be something that's going to match the surrounding communities. Let's not close anybody out. The natural progression it seems like to me on a common sense basis is from an AG to R-5 and immediately to a C-5. I understand development, as it goes. I appreciate development, but not on my property, not right next door to me. That's my plea to you. One good thing that I would like to tell you that's come out of this whole thing, and for that I really appreciate what has happened here. If you remember back a few years ago, Hurricane Andrew came through Central Florida and wiped out tremendous amounts of homes down there. One of the things that was said, the good thing that came out of that situation, and the good thing that has come out of this situation is the fact that it took a tragedy to knock the walls down between the people so the people could come to know each other. If there's one thing I want to say to these folks here is, I appreciate everyone of you. I've gotten to know and really care for all these people here so that's what I want to say and leave you with that. I appreciate it, and we just ask that you vote against this. Put it somewhere else. Thank you.

Paul Farmer: My name is Paul Farmer. I live at 3716 Koring Road. I'm President of the West Side Improvement Association, and I'm not going to tell you anything about my college days because with Sheriff Ellsworth sitting back there, I'm not sure that the statute of limitations is over. The West Side Improvement Association wants to go on record as opposing the Place Collegiate Properties proposed development of 201 Eickhoff Road. Prior to the August 2nd Area Planning Commission meeting, the West Side Improvement Association Board of Directors listened to a fine presentation by Ms. Stephanie Denny regarding this project. The board was impressed with the presented site plan. We were told that the University of Southern Indiana enthusiastically supported the project and allowed their logo to be placed on the Place Collegiate Properties promotional materials. Also that the university had no on campus property to sell or provide for this proposed project, and that they

welcomed the project. A major concern of the West Side Improvement Board was the acceptance by the neighbors of the project. The board was assured that the neighbors were accepting of the project, and that they had all been contacted personally and were supportive. We found out later that the neighbors were not in favor of the project and, in fact, were preparing a formal protest against the project being the 201 S. Eickhoff Road location. The other concern of the board was traffic on the narrow two lane Eickhoff Road. In addition, that there would be no entrance or exit on Roesner Road for any reason. We were assured that both concerns would be resolved. Based upon the information and assurances that were given the board, the board voted to endorse the project. However, the university support was not given as the board had been told, an exit onto Roesner Road is currently in the plan, no widening of Eickhoff is in place to handle the traffic volume, safety and also the neighbors are adamantly opposed to this project at this location. Therefore, the West Side Improvement Association goes on record as opposing the Collegiate Place Properties project at 201 S. Eickhoff Road, and we ask that you deny this request. Thank you for your consideration.

Brad Ellsworth: Good evening. Sheriff Brad Ellsworth. I was trying to get Jeff's last name because I don't think the statute of limitations has run out on alarm pulling or thrill hilling, so we'll have to talk after the meeting. It's very obvious, I was called today by some of the neighbors asking me to come and comment on this. It's fairly obvious that they've done more homework than I have, and I appreciate that. I've learned a lot at this meeting. Some of the concerns that the Sheriff's office would have, and we appreciate them concerned about us and the increased traffic that we'd have, and some of the stats that the gentleman had back there is a little bit alarming to me between us and the university. Some of the concerns the Sheriff's office would have is obviously safety is our number one concern and traffic safety is a big concern. The increased number on Hogue, Roesner, and Eickhoff with the curves and hilly, and I know you all have driven those roads numerous times, you know what kind of shape those roads are in. Roesner, like he said, you can't get turned around unless you're all the way into a driveway. That road can not handle an increase in traffic. I think what you see, like they said, with 480 homes or units whatever the number is, it's not just that many people and one trip a day. It's numerous in and out. I went to that university. I made lots of trips in a day in and out of there from the east side. I see what goes on out there now living about a ½ a mile from the university, I see the traffic that's increased on Schutte and Broadway with the ever increasing numbers on those streets which don't even have direct access to the university. You also have to, like I said, take into account that's just the live in traffic. Now you take in this 500 residents and you bring them in having a party or bringing in friends and that happens quite frequently. Many runs we make to the current university housing there are many non-residents in the apartments. That would be a concern too so you basically triple the amount of cars going to and from there. We also have a concern at the university right now of non-campus and non-student interruptions and the trouble they cause on the campus. Like one of the gentlemen said, anytime you have that many, a concentration of that age student, and they say it's 70 percent women, I hate to say it, but that's going to increase the problems even more. (Laughter) It's kind of like ladies night at the local bars. That's what brings the guys in, and it wouldn't be any different for a complex like that. You know, we hate to say it, but it's true. So you have the traffic coming from the city and non-residents. We see an increase in numbers in thefts, accidents on those roads, and sexual assaults. I hate to admit it, but it's true. Another concern of mine would be that it's not patrolled by campus security. Campus security is probably—they do a good job on campus, but the idea of the off duty police officer patrolling, Ms. Jerrel, we learned at Burdette Park that sometimes that's not the most effective, and that

officer works usually two or three different jobs and the time they spent actually in the apartment complex cannot be relied upon as full time security. I know a lot of apartment complexes do that, and we still have to make those runs. Usually the officer is contacted and a lot of times the first thing he does is hit 911 and get back up which expect him to do and ask him to do. So it would put an actual strain on our office. With an average of between five and eight cars in the evening on the road for all of Vanderburgh County, I see that as increasing it. I again am no opponent of growth, but maybe from what I hear tonight, this maybe something we want to stop and look at awhile and look at all the things before we move on. That's all I'd like to say tonight, and I thank them for inviting me. Thank you.

Sharlett Gillard: Hi, my name is Sharlett Gillard. I teach at the university and I live at the corner of Eickhoff and West Terrace. I have only three short comments. First of all, as the gentleman, Mr. Pfeffer I believe it is, indicated we do time when we can go to the intersection leading over the expressway to school. Me teaching there, I definitely time when I can go to classes. If I miss it by five minutes, I could currently be sitting at the intersection for 20 minutes easy, 20 to 30 minutes actually, before I could get across that intersection onto the campus. So that is a major, major concern when we are looking at the possibility of increasing the traffic there by exponential numbers to what we currently have. Secondly, in today's faculty and staff meeting at the university, Dr. Hoops gave our opening comments, of course. In those comments he made two statements: one that our new hall, Governor's Hall, that is opening this fall for approximately 220 students and next fall for another hall that is to house approximately 300, I don't remember the exact numbers, but his comment was that those two openings would fully accommodate all of the necessary housing for USI students. So I know that from his mouth, he feels that we have sufficient housing already to accommodate the USI students. Third, we have a volunteer fire department in our neighborhood and according to the department their trucks cannot get down Roesner Road. They do have the equipment, the height requirement, etc. to take care of the building, but they cannot get down Roesner Road. Thank you.

Don Fuchs: Good evening, my name is Don Fuchs. I'm an attorney practicing here in Evansville, Indiana. I'm not here speaking as legal counsel for any of these folks that are remonstrating, but I'm here also as a land owner. I live at 809 Big Sky Lane which is as the crow flies, approximately a mile from this site. I intentionally asked to speak last and so for the remonstrators will be the clean up man, and I'll keep my points brief. Two points that I'd like to make to you and then I'd like to go on to my large point. First of all, noticeably absent is the fact that you have no representative from USI here this evening or do you have any type letter of endorsement. At least I haven't been shown or see anybody here on behalf of USI. Yes, I understand USI needs housing. One of the top ten universities in the United States on growth, but it is very, very interesting to me folks that you have no endorsement whatsoever on behalf of USI. They are not here against it, but more importantly, they are not here for it. This issue of security and what is going to happen on this facility, I think, is extremely important. The young lady here on behalf of the proposed development glossed over the fact that there may be a security officer—they have some security officers at their site. I would like to hear a commitment from these folks, if there going to have a security officer when that officer would be on the site. In our family, we have some college students and it's been 25 years since I've been in college, but in today's world college students, as the gentleman said earlier, they start about 9-10 o'clock at night. You see all these fine people out here, these are single family residential homeowners. How would you like it if a party starts cranking up at 9-10 o'clock a night. And they don't stop, folks, at 10:30-11:00 o'clock. These parties will

go on. The other thing I pose to you is, if you're a USI student where would you rather be at? Would you rather be on USI campus where you are closely regulated by security police or would you rather be on private property that is not regulated by campus police where your parties...the only people you're regulated by are the law enforcement officials? I'm gonna tell you this, it's going to be natural inclination, this will be the party place. Right here on this campus. Let's go over to where those people live at. They can have parties. They have free rain of what they do. They are not under the tight regulation of USI. I think that's extremely important that we keep that in focus. One other point that I want to make to you is the fact that they've made mention of the lakes here. They have a lake on their development, Mr. Pfeffer has a lake. Gene, your lake is how large?

Gene Pfeffer: 3.3 and 2.8.

Don Fuchs: Immediately south of this. If you've ever been around lakes and see how they carry noise; I invite you to see that. That's an experience. I own 15 acres and I have an approximately 1 acre lake on my site which is about 100 yards from my house. If someone is standing on the banks of my lake talking at a tone that I'm talking at, I can almost hear them from my balcony on the back end of my property. Now, you magnify that sound and all these fine people are going to have a tremendous amount of noise. It may be that these college students could be at very reasonable levels, but I'm going to tell you folks, we've got some built in magnifiers, amplifiers out there and that's these lakes. Last point I want to make to you is this, this issue you have before you tonight, in my opinion, is one of the most important zoning issues that will come before this commission. That a fundamental question is this, What is this commission going to allow immediately north of USI and north of the highway in so far as a non-single family residential development? Now, these folks have come forward for the highest density of residential use. If you allow that, what message are you sending to the developers. I can tell you this, and I've told these people here in this room. This won't end here this evening. These folks are going to get to know you folks very well because this is going to continue to come up and up and up again because you know what's next? If this 21 acre site gets developed, guess what's next? It will be the 24 hour service station/food mart. Then next it will be the fast food people developers will come in and say, you know what? I think that would make an excellent site out there. The county and state are going to invest millions of dollars putting in this University Parkway and we're going to have traffic going up and down here, a tremendous flow of traffic, and you know what? I think we could support a fast food place out there and I think we could support a restaurant and other things that developers naturally when you've got that many residents here, they are going to go to the residents. So what's going to happen then is instead of driving east to Gene Hahn's development in University Place and using those accommodations, guess what? The developer is going to say, well let's just put a development immediately north of this place so all of a sudden the traffic flow starts moving north. Instead of having a single family residential development, we now have a new Burkhardt Road in our backyard. I'm extremely concerned about that. I grew up on the east side of town in a house where you could reach out and touch the neighbors house. My wife and I 15 years ago made a conscious decision to move to the west side because, as the gentleman said here this evening, it is the country, and there is a great pleasure for the people who live out there and want to continue to have that. I implore you, please don't take it away from these people. The last point I want to make is this, I very much respect this commission. I was before this commission in this room, I wasn't a part of that, but you had the Durchholz family here about two months ago. Durchholz family. Very, very fine family. Very good farmers in this community. Excellent members of this community,

but you know what? They had some land that they wanted to sell and you all looked at that and you said...took a hard stance. I know it was hard to look at the Durchholtz's and tell them no you can't have it, but you did. It was a difficult decision, and I think here this evening it's the same thing. What is proper for this? Is this a proper development for this type of area and all these people that live around here in single family homes? Folks, I don't think that it is. I think the timing on this is extremely poor on their part. You're talking about putting in the University Parkway here. That's years away. You're talking about coming on to Eickhoff Road to carry this traffic. Eickhoff Road can't carry the traffic. EUTS has a report that's 1995. I'd love to see what a 2000 traffic count would be on Eickhoff Road right now. So, again, much respect for this commission. It has tackled tough issues before. This is a tough issue tonight, but it's just one of the many issues that you're going to continue to deal with this area. We respectfully request that you deny this requested rezoning.

Jeff Korb: Good evening, my name is Jeff Korb. I live at 300 Keywest Drive. I was not going to speak tonight, but none of my points got addressed so I have to. One of the things that I find curious about this whole situation is in front of the Area Planning Commission the representative for this organization, Ms. Denny, made it clear that USI was not interested in giving them land for this project because they wanted to reserve that land for the development of classroom space. I've spoken to two individuals in this room who have spoken to the President, Dr. Hoops, in the past ten days, since the last meeting, and Dr. Hoops made it clear, and said to those people with a very straight face, we have offered them land to build this on our campus and they have denied that. My question would be why? It make sense to stick student housing closer to the campus. That's my first point. The second point is, with all due respect, I understand that the Plan through 2015 allows this type of development. My response is that we still have 15 years to determine really how we want to develop that. We do not have to make that commitment tonight. The reason why that's important to understand, at least from my standpoint, not only as a taxpayers and someone who lives in the area but now as a political candidate who's trying to think okay, what we do is plan better. You stick this type of development in this field and it's like Mr. Fuch's said, you open this up to who knows what. That is not, I believe, what that 2015 plan includes. What we need to do tonight is to say, folks no, this is not going to work. This is in our plan maybe later but because we've have several people say that Dr. Hoops has indicated that they have plenty of housing, and I've indicated to you that Dr. Hoops has said that these people can have land on our property to build this facility, and they have said no. Say no to this tonight but charge these people sitting behind me with okay folks, you come up with what you think would be a great Comprehensive Plan for the development of this which would be successful for the city of Evansville. The last thing that we need is another Burkhardt Road, Jr. period. Let me tell you why. It's not because it's backwards planning. It's because it's costing us thousands, hundreds of thousands of tax dollars to fix the problem that people did not take the long term look and say okay, where do we want this to be ten years from now - fifteen years from now? That's where we, as a community, struggle. Tonight you have the perfect opportunity to lay that road map. The next thing is, my greatest concern is, there is zero infrastructure in place. My understanding of the Eickhoff Road extension, whatever the name of it is, was to be a limited access road. Now, as I see this and at a meeting that Ms. Denny was at also, she said with kind of a...she was very discrete about it and I appreciated that because throughout this whole thing, I would not want to be this woman. She has been very, very congenial. She has done the best job she can carrying this thing. She's to be commended for that, but this does not indicate to me that we are talking about keeping that promise to the public.

We're going to build this Eickhoff Road extension and it's going to be limited access. You know, I love Rose Zigenfus to death, but I really have never seen a stop light she didn't love.

Commissioner Mourdock: Excuse me, Jeff, let me make a technical correction.

Jeff Korb: Sure.

Commissioner Mourdock: It's never been the point to have the Eickhoff/Koressel Road be a limited access road. A limited access road is like I-64, an interstate highway where there's never a stoplight simply on ramps and off ramps. What the plan for Eickhoff/Koressel or University Parkway has been is to have a restricted access so that we didn't have road cuts every 100 or 200 feet, so there's a difference between a limited access and restricted access. What the plan has been for Eickhoff is restricted access.

Jeff Korb: So restricted access would mean?

Commissioner Mourdock: Well, let me go back to the original definition. Limited access is like an interstate highway where there are no stop lights. The only way you get on and off is off a ramp—on ramps and off ramps.

Jeff Korb: Okay.

Commissioner Mourdock: Restricted access means that there could be stop lights but there would not be access from every property adjacent to to come on like the new Lynch Road extension is a restricted access.

Jeff Korb: Okay. I appreciate that correction because I still think that restricted access means restricted access. The last point that I want to make is—

Commissioner Mourdock: (Inaudible.)

Jeff Korb: This is your lucky night, Richard. Please, use your heads. Do not allow this to become the debacle that the east side is experiencing. That all of us have heard about and felt the heat of and crossed our arms and said, "What were those idiots thinking?" The infrastructure's not there. These people want to break ground in less than a month. Does that make you nervous? It does me. It's kinda like a wedding relationship. Folks, if this is a good idea today, it will be a good idea three to five years from now. That gives us time to plan properly to best utilize the tax dollars of these people in this community. To me, that is the most critical point. We don't need this development today. It's not a great use of the land. Thank you.

President Jerrel: Shirley?

Shirley James: I'm Shirley James and I live at 6521 Middle Mt. Vernon Road. You as Commissioners know my thoughts on drainage and transportation so I won't go into that. I'm just going to tell you about a personal experience that happened a couple months back. I live at the top of a hill. At the bottom of my hill are apartment complexes in which there are students living there. One night, a few months back, and sheriff's records will show this, I had an experience very late in the evening about 1:00 in the morning. I believe that was the time; I'm a late person. My lights were on in the kitchen and I heard this screeching of car tires. I heard rapping on my door and I went to the door a little bit worried because I saw these lights flashing.

There was a young man with a fraternity t-shirt on. I don't remember the name of the fraternity. He was crying and said, "Their after me, there after me." Two cars drove up and blocked both the entrance and exit of my drive. All these students leaped out and started yelling obscenities and started advancing into my yard. I didn't know whether to leave this young man outside because I didn't know if this was a ruse or what to do, but he was terrified and I could tell that. I said I would call the sheriff. He said that he didn't know why they were chasing me; they just started chasing me. The obscenities and awful words that they were yelling out you couldn't believe. I ran in and yelled, "I'm going to call the sheriff." I ran in and called the sheriff. I then yelled that I had called the sheriff. The policeman on duty came out right a way. Finally, they left after about ten minutes. I told him to stay right here, don't go until their gone. I said then when they leave in one direction, you go in the opposite direction, but you know, that was an extremely unsettling event. I also took petitions around for another thing and I have a lot of these same, similar comments given to me when I took petitions around Cherry Hill Drive, Coffee Tree Lane, and Eickhoff Road. The neighbors there were concerned about similar incidents so I just wanted to relay that to you since security issues did come up.

President Jerrel: Are there any specific questions that any members of the commission would like to ask? Is there anything you haven't had addressed that you would like to have?

Commissioner Mourdock: Certainly there were a lot of questions posed thus far this evening, and it's only appropriate that Ms. Denny or counsel respond to those so feel free to do that.

Marco DeLucio: Thank you. My name is Marco DeLucio and I'm here this evening on behalf of Place Properties. I have a rather daunting task, I think, of addressing a lot of the issues and questions that have been raised this evening but will try to do that as briefly as I possibly can, and Stephanie will help me, I'm sure, with some facts and figures that we may need. I do agree, as I've sat through the last hour of so, I did hear one thing that I agreed with this evening that my colleague, Don, indicated and that is you do have a very tough decision this evening. That decision is what to do with the north side from the Lloyd Expressway. Place believes that this site is appropriate for the development of this project. It's near USI; It's residential development; It's within the Comprehensive Plan that calls for residential development in that area. We don't believe that it's going to lead to a domino effect of commercial development in that area. Any commercial development that's proposed in that area has to come back before this commission and would also at that time be pointed out by Ms. Cunningham and others, I'm sure, and probably by Place Collegiate itself as a resident of that area, that the Comprehensive Plan does not call for commercial development in that area. I think this commission has been fairly steadfast, at least in my experience, in looking at the Comprehensive Plan and staying with the Comprehensive Plan so in that respect, I think there has been planning out there and I think the commission has followed that plan. I think to try to group the issues which I've heard this evening, those would include safety issues, I think primarily would have been one broad topic. Traffic issues which I think are somewhat tied into safety. Place's use of the property, and the infrastructure of the area. Let me just try to track down or discuss each of those. First of all with infrastructure improvements. True that the sewer is not out there yet, but that's one of the benefits that Place is proposing to make for the county out there. That's to assist in locating the sewer lift station to provide service, sewer service, for that area of the county. Contrary to a couple of the comments I heard this evening, it's not been decided where that sewer lift station is going to go. The covenant that's with

the zoning petition this evening indicates that will be placed in a location that's mutually acceptable to the water and sewer utility and to Place Collegiate as well, so it's going to have to be in a location that the water and sewer utility want it to be. Whether that's down Roesner or down Eickhoff or some other location, I'm not sure, but we're willing to work with local officials to put that in the proper location. Traffic. Again, all I have in front of me this evening, and Mrs. Cunningham handed it to me before I sat down, is the memo that you received from Rose Zigenfus. I think the bottom line conclusion on that memorandum, at least as I read it, was that even with the worse case scenario as to the amount of traffic which would be generated by the development, the current Eickhoff Road is sufficient to handle that traffic. No mention was even made, and this commission has talked about and I'm sure is going to be built, the Eickhoff extension in the very near future and that road will be, I'm sure, more than adequate to handle the traffic, the additional traffic, that's generated as a result of this development. From a safety standpoint...That's a very difficult issue for me to address and maybe Stephanie could help me. They have a lot more experience with it but what I've heard tonight are college students are very, very evil people. I was a college student, and I think a lot of people in this room were college students, and there were things that we did that maybe we're not proud of, but I think it was a learning experience. Place Collegiate has security available on it's projects. Whether or not it needs a full time security person at this project, we don't know yet. It's difficult for us to say that we're going to have two or three police officers living on site 24 hours a day, at this time. What I can tell you is, if that's necessary, that's what Place will do, but I don't think it will be necessary. Part of this project is for married students. There are going to be a lot of women there, and I won't say that women don't attract men, but from full time basis women will make up 70 percent of that housing project, if their statistics hold true that they have now across the county. We think that they are generally better and well behaved than most male students are. Place has told you, and Stephanie again may jump in if I'm not covering it correctly, but they do have staff on site. They have rules and regulations that are similar to the university's rules and regulations that they make the students sign when they execute the lease. They want to maintain their properties. They want these properties to be leased year in and year out. Quite frankly, having wild parties at these locations would do a lot of damage to the property so they are going to do their best to stop that. Clubhouse closes at 9:00. It closes at 9:00 because that's the gathering spot and they don't want students gathering there. This isn't going to increase, in and of itself, the number of students that attend the University of Southern Indiana. Those students are going to be there whether this project is built or not. They're going to have to live somewhere whether this project is there or not. If there is going to be any misdemeanors or other types of crimes, those are probably going to occur whether this project is built or not. They're going to have to travel on the Lloyd Expressway to get wherever their going to go. We all know the Lloyd Expressway is a very congested road right now, and it's going to get more congested as the university develops and that area of town continues to develop. With respect to the site plan, it's correct that you won't find in our Use and Development Commitment a restriction as to the number of units that were going to be built out there. At the Area Plan Commission, we stated on the record that we would only build eleven. The reason we don't have it, we can't put it in our Use and Development Commitment because we are on a tight time frame and I apologize for that, but that's the fact. If we went back and amended our Use and Development Commitment we couldn't come back until September. What we do know is that when we have to go through site review and sub reviews as Mrs. Cunningham has indicated, we've gone on record in front of news media. We gone on record in front of this commission and in front of Area Plan that 11 units will be built. All I can tell you is that if we try to do more than that, I suspect that we are going to meet with a

lot of resistance at the sub review and site review if we try to do more than we've indicated we're going to do. I don't think these are land use issues, but I'll just touch on a couple of them. Whether or not we are going to use local contractors and suppliers? Of course we will. We're not going to buss people in from Atlanta to build this. Supplies are easier to get locally. I don't think these are prefabs so it's not like these hotel units that you see going up where the product is shipped in and they're just built one on top of another. Roesner Road was another issue. I think there's a misconception that Place...that we believe residents of Place Properties are going to utilize Roesner Road as an exit. That's not our intention. We put that road through there as, I think, an accommodation to the county, more or less, as an access down Roesner so there was another access for those people that live on Roesner. If it's the desire of the county when we go through site review or sub review, that we not build that road that far, that's perfectly okay with us. We don't intend for our residents to use Roesner Road to access whatsoever. I don't think our plan calls for, I think I heard Mr. Pfeffer indicate that our plan would call for the elimination of access to his property. I don't think that's anywhere in the commitment. Place has never said that. What I think this does is allow another means of access, and alternate means of access to Mr. Pfeffer's property if and when he wants to use that. He won't have to drive through the apartment complex to get there. The road abuts his property and he'll be able to access the road there without ever accessing the apartment property. I heard drainage is an issue early on, I think. Mrs. Cunningham indicated and correctly so that a drainage plan will have to be submitted as part of this, and we'll have to comply with all the county requirements concerning drainage. We don't have a drainage plan yet. It's usually not done at this time as you well know, but we know that we're going to have to do that. If the property is developed as single family residential, I would expect that any developer that develops that property is going to use more land than we're going to use so there's going to be more homes built out there. Granted, there probably won't be 480 apartment units there, but there won't be trees there as well. Whether or not there's a lake there, I don't know, but there will be additional traffic and there will be additional people out there eventually. No land in our county is probably going to be vacant anymore. The county continues to grow and it should continue to grow, in my estimation. Again, we would ask, as we know it's a tough decision for you this evening. We would ask your favorable consideration of this request and grant the petition to rezone the property. Stephanie, do you have anything else you'd like to add? We are here to answer any questions you may have.

Commissioner Mourdock: Okay and before anything else is said, we need to change tapes.

TAPE CHANGE:

Marco LeLucio: One other thing I would add. Stephanie indicated to me that a question has come up about why...What we've heard is it's not a bad project just don't build it here, build it over, presumably, over on USI's property. The two things I can tell you about that, I don't think we said...I was at the meeting last week and never heard Stephanie say that the university has never offered that property. In fact, I think what I heard them say was that they had talked to the university about developing on the property. That's an option. The problem with that is twofold. One is the timing of it. This is public property and there are steps which have to be gone through in order for a private developer to develop on that property or to buy the property and that takes time. It's our understanding, based on the facts and figures which we got which came from the university, that there's a housing shortage out there now, and they need housing units now. They may need housing units a couple

of years from now, but they need housing units now so it's a timing issue. The second aspect of it is it's probably not as economically beneficial to develop on public property as it would be on private property. There's no question about that. What the county is getting in return for that though is if it's built out there, there probably won't be private funds going to develop infrastructure in that area. That's one of the benefits that we see with the roads that are proposed to be built out there with the dedication of the right-of-way for the Eickhoff/Koressel extension and with the sewer lift station we are proposing to build. So that would be our response to why not build at USI.

President Jerrel: Are there any questions?

Commissioner Mourdock: Yeah, I have several which let me just start through them. These are somewhat covered by your previous answers, Mr. DeLucio, but between you and Ms. Denny perhaps you can answer them. On the subject of did USI offer to work with you, I heard you say a moment ago that Ms. Denny did not specifically say you didn't have the conversation, but just to set the record straight, was there a discussion about possibly building this property or this development of USI property?

Stephanie Denny: Yes. When we first came here, we did meet with the university and talk with them about that.

Commissioner Mourdock: Okay, and for whatever reasons, and that's fine, economic reasons or whatever you decided to do it the other way.

Stephanie Denny: Timing and economic reasons where the two.

Commissioner Mourdock: Would you clarify one more time, the question of security people. It was asked twice during the presentation. I heard Mr. DeLucio say he doesn't know yet. That you wouldn't make the commitment—

Stephanie Denny: Right. Right now we definitely...We have credibility to uphold. We build these all over the country, and if there's a problem that arises there, we are going to have security there. We want the people who live with us to be safe and whatnot. Now there's on some of our properties there the security—policeman—that live there. We do have a couple that have patrols from like 12:00 at night to 6:00 in the morning. It's just as needed. You know, if it arises that we need it, we get it.

Commissioner Mourdock: On any of your other properties, the Hilltopper property or the Eraser property or whatever the one in West Kentucky is—

Stephanie Denny: Murray.

Commissioner Mourdock: Did you ever go into those with security up front or was it something that you always brought in after the fact?

Stephanie Denny: After the fact because we can't, I mean, judge that from the beginning. We don't want the negative from the very beginning.

Commissioner Mourdock: This question wasn't asked directly but it was kind of hinted at a couple of times. It's been said that you wanted to get started on this, Mr. DeLucio in his last answers talked about one of the reasons you may not want to do it on USI's property is because it would take more time. You said early on that you wanted to get started even as soon as next month with this. I'm curious, if there's

no excess or access off Roesner Road and currently there's no access to Eickhoff, why would you look to do the property before you had access from either direction?

Stephanie Denny: We have to get—It's my understanding that we have to get the approval from here in order to get the approval for the—

Commissioner Mourdock: That's right but as far as beyond the statement of—

Stephanie Denny: If we don't get that then we can't go ahead.

Commissioner Mourdock: Even if you did get that, your time to construction, I'm guessing, is 12 to 14 months?

Stephanie Denny: Twelve months.

Commissioner Mourdock: Okay so if you started in September that means you'd be ready to go next September. You're saying you would not have access on Roesner Road, and our current plans to do Eickhoff/Koressel are at least, on the optimistic side, 24 months before we have any construction going on, so it looks to me like you build a development with no access.

Stephanie Denny: Our county road goes all the way to the existing Eickhoff Road. We would build the road all the way from there that's the existing Eickhoff through the new Eickhoff.

Commissioner Mourdock: Okay, so then once the new Eickhoff Road is in progress then you're going to, obviously, again be isolating or at least be very congestive, if that's a word.

Stephanie Denny: Right, and again, that's why we came and met with the engineer that's working on University Parkway because we want the two things to mesh together. The road that we're building and they'll do that as well so that way there is a plan for that.

Commissioner Mourdock: Just to set the record straight. And, again, Mr. DeLucio mentioned this briefly, but I want everyone to understand it. The original plan was not to connect to Roesner Road but that was done, basically, at the suggestion of the county engineer who was not making a statement of whether it was good zoning or bad zoning, he was simply saying if this property happened, if this project happened that the people on Roesner Road ought to have another access out, and you all were providing that.

Stephanie Denny: Yes, sir. I mean we don't care if it just stops right at our entrance, but he suggested that we build it on the Roesner so we said okay. I don't know if we did say about the gate—that we would put the gate up if you all wanted us to.

Commissioner Mourdock: Which gate?

Stephanie Denny: A gate onto Roesner so it would just be for emergency access.

President Jerrel: Any other questions? Our process now since this is a final zoning would be for a roll call vote and at that time, if the commissioners have any comments they want to make concerning their personal feelings about it, then that's the appropriate time to do it. Is there a motion?

Commissioner Mourdock: I will make the motion and before I do that though I do want to add the comment, since I know there are times when people read the minutes and read the records of these meetings and cross their arms and say, "What were those idiots thinking?" Pat Tuley tonight was not at our regular commission meeting - that was said in jest, Jeff, that was a joke. It didn't go over very well. Pat Tuley was not at our regular commission meeting tonight, to put it real simply, he's got some pins coming out of his leg that he needs to have operated on. I just want to make the point that if Pat had not been here tonight and there were a split vote, that would cause this thing to go another month at least. So I just want to recognize Pat for taking the time to sit here when I know he probably doesn't feel like sitting here just to make this decision. Even if we act like idiots at times, at least we're dedicated to this job.

President Jerrel: Dedicated idiots.

Commissioner Mourdock: So having said that, we have to make motions in the affirmative, of course, so I would move on final reading of the approval of VC13-2000 for Place Collegiate Properties for the address of 201 S. Eickhoff Road.

Commissioner Tuley: Second.

President Jerrel: At this time then I will call for the roll call vote on that motion so that your all clear. All of our motions are in the affirmative. Commissioner Tuley?

Commissioner Tuley: First off, just to let everybody know, I met with the developers last week. I've met with several of the people who live in the area around that area out there either by phone or in person. To paraphrase some of Richard's grandmother's comments. I know when we have a development like this, I can't say it exactly right, Richard, so you can correct me, but the worse fears of the neighbors are never going to been seen. The project is probably never going to be totally as good for the neighbors as the developers would present it to be. Trying to weed through the facts versus emotional feelings, the common denominator that seems to keep coming up was the people that live in the area concern for traffic in terms of safely moving people along Eickhoff/Koressel. I think it's a valid concern. We talk about the timing being able to not do it on the university because of timing yet your timing couldn't be worse in terms of getting a safe road to travel. If I read the minutes correctly, I think, Richard, you said at Area Plan you thought it might be two to three years out maybe before we actually see the construction starting at this point. With that in mind, I don't think in good conscience, I can vote for this at this time, so tonight I'm going to vote no.

President Jerrel: Commissioner Mourdock.

Commissioner Mourdock: My wife and I, as we always do, we go out to these zonings and drive through them on the Saturday before the Monday night. I commented to Marilyn as we were driving through the area, this is one of those zoning meetings that people are going to refer to in the minutes for the next 15 to 20 years. As someone, I think Mr. Fuchs, said tonight, this is a precedent setting move. You don't know how tired those of us on this side of the desk get of hearing words like Burkhardt and Green River used as if they were profanity. I say that because how we cast each one of these votes is so critical in setting the precedence for an area of this community. We can question why others have done what they've done, but we still have the responsibility of doing the best job we can do. I strive, always, I don't know that I'm always successful, but I strive to be consistent as I look at the

long term interest of this community. I think what we have at USI is something that's important to the community, but it can be contained at USI. A part of student life is living on campus not a mile and a half from it. I know there will be changes north of 62. I'm not sure that R-1 is always the perfect answer but when we have something that on one hand says it's trying to be part of the university but on the other hand it's trying to be totally something different to the surrounding neighbors, I don't think that's consistent. So, again, realizing that people are going to read these notes 15 and 20 years from now, I hope they maintain the same level of consistency that we are trying to do by maintaining residential out in this area, so I will vote no.

President Jerrel: Well, my vote may be an afterthought because two votes has stopped the project, but I think it's important to say to all of you that this commission is committed to moving traffic very seriously from the Lloyd to Diamond. That's our first goal, and then all the way to I-164 or I-64 when possible. We do have money put away. This is not something that's on the shelf that isn't going to happen. I would like to see it completed in the next four years, and we are going to work toward that. We are buying right-of-way now, the design is ready, and this is Vanderburgh County's project, and I think a very significant one. This zoning would forever define that area, and I think that is what's motivated me, more than anything, it would forever define the west side of Eickhoff Road. I think the appropriate thing to do is strive for less density. We're going to try to get you the road in a reasonable amount of time, so I also vote no.

(Applause)

President Jerrel: At this time, if there's no further business, I'll entertain a motion to adjourn.

Commissioner Mourdock: So moved.

Commissioner Tuley: Second.

President Jerrel: So ordered.

(Applause)

Meeting was adjourned at 8:15 p.m.

Those in attendance:

Betty Lou Jerrel
Joe Harrison, Jr.
Stephanie Denny
Gene Pfeffer
Brad Ellsworth
Jeff Korb

Richard E. Mourdock
Charlene Timmons
Marco DeLucio
Jeff Wigington
Sharlett Gillard
Shirley James

Patrick Tuley
Barbara Cunningham
Gary Mitchell
Paul Farmer
Don Fuchs
Others Unidentified

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

Recorded by Charlene Timmons and transcribed by Jane Laib

**Vanderburgh County
Rezoning Meeting
September 18, 2000**

The Rezoning meeting was called to order at 6:54 p.m.

Approval of Minutes

President Jerrel: The Vanderburgh County Commissioners' are back in order and we have about two minutes to finish up our items. The next items are the department head reports.

Joe Harrison, Jr.: No, no, no.

Commissioner Mourdock: It's rezoning.

President Jerrel: Oh, we are going to do the rezonings first. Excuse me.

Commissioner Mourdock: I'll call for approval of the August 21, 2000 minutes from the rezoning meeting.

President Jerrel: I'll move approval.

Commissioner Tuley: And I will second. I had to stop and think. I was here because I went in on the 23rd.

Commissioner Mourdock: Okay.

President Jerrel: What?

Commissioner Mourdock: That was a kind of an unusual order. I moved it. You approved it, and he seconded it. Good thing we were all going the same way there.

President Jerrel: Well, who knows after a meeting like this.

Requests to Postpone Final Hearing - VC-12-2000 Rebecca Bateman
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President Jerrel: Requests to postpone final hearings, is there a motion regarding these two?

Commissioner Mourdock: We have two of them. I'll move VC-12-2000 petitioner Rebecca Bateman for 8300 Wolf Creek Drive request VC–

Joe Harrison, Jr.: That's wrong.

Commissioner Mourdock: That's wrong, yeah. I'll move that we defer VC-12-2000 for one month.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Requests to Postpone Final Hearing - VC-14-2000 Byron & Ronda Cooper

Commissioner Mourdock: And also move that we defer VC-14-2000 petitioner Byron and Ronda Cooper 7700 Morgan Avenue from AG to C-4. I move that be deferred one month.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Commissioner Mourdock: Before we leave that one, John Stoll, if you would on that particular one would you please check, in the staff report there's a comment there that the frontage road, as I read it, says the frontage road proposed by the state does not meet county standards. You don't need to do anything with that right now, but if you would check it prior to next month.

John Stoll: I'll give you a quick update. It's one of those little roads that the state typically builds that goes to the right-of-way fence, makes a quick 90 degree turn and runs out into the property line. Kind of like what we had in front of Builder's Square, in front of the old Wal-Mart building, out in front of Busler's out on North 41 and 64. It's current width, I believe, is 24 feet so about the largest truck it could handle would be a dump truck or a panel truck not WB50 semi's or anything like that.

Commissioner Mourdock: So, in doing that in the past, I don't know that any of those happened while I've been here, perhaps they have. I don't recall them. I'm curious, do we ever get back to the state and tell them that they've got to do their right-of-way or access roads to our standards.

John Stoll: Back when they first set the plans down, we took a look at it. That's after, I don't recall but I spoke with each of you about it. There was a...because the geometrics don't work because the problems we've experienced with them in the past, I sent them a letter saying that the county wouldn't be interested in accepting the relinquishment whenever they get the project finished and try to turn that road over back to us. They only commitments they were willing to make were making some drainage improvements but no geometric changes to the road. They put some line in there that is was unfortunate that we were trying to force design changes on them or something. I gave you a copy of their response. It doesn't work for large trucks.

Commissioner Mourdock: So in effect, the state is potentially involved with the takings of property here, at least, and diminishing potential long term value for a property that we are going to rezone. Because if certain trucks can't get in there, there's—

John Stoll: It will work fine until the state goes out and widens 62 and then they are creating the problem.

Commissioner Mourdock: Right. Okay.

President Jerrel: There are no—

Joe Harrison, Jr.: There are no first readings. Those are final readings.

President Jerrel: Well, look what I've done, I've hidden my agenda. Under final readings, do you want to swear in anybody?

BSH Development Co., LLC - VC-15-2000 - Final Reading
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Joe Harrison, Jr.: Yes. The first one is VC-15-2000 the petitioner is BSH Development Co., LLC. The address is 2018 - 2248 Championship Drive and 2040 - 2140 Bunker Lane. The request is from R-1 to R2 with a Use and Development Commitment. All those who wish to speak in connection to this petition, please raise your right hand. Do you swear, affirm the testimony you are about to give is true and accurate so help you God?

Joe Harrison, Jr.: Thanks. Go ahead.

Beverly Behme: BSH Development Company is requesting a step up in zoning from R-1 to R-2 for their properties at Championship Drive and Bunker Lane. A use and development commitment is included as part of the petition which limits use of the lots to single family homes only. The 17.32 acre site is comprised of 89 residential lots within Eagle Crossing North Subdivision. The petition was heard at the September 6th Area Plan Commission Hearing and was recommended for approval with ten affirmative votes and one abstention. The effect of the rezoning is to allow 40 percent lot coverage instead of the 30 percent lot coverage permitted in the R-1 district. These lots range in size from .14 acre to .34 acre. Currently, with the R-1 classification, the smaller lots would be limited to a maximum of 1,800 square feet for all buildings with structures under roof. The R-2 district which allows 40 percent coverage would allow 2,400 square feet of structures under roof. To date, Eagle Crossing has recorded 266 lots. The current trend in residential housing has been to construct larger homes on smaller lots. This section of Eagle Crossing, Eagle Crossing North, consists of smaller lots. The 40 percent lot coverage permitted with the R-2 zoning classification would substantially reduce the need for lot coverage variances for these 89 lots. This site is in an area designated by the Comprehensive Plan as an area of residential development. This step up in zoning to R-2 is consistent with the overall plan for the area.

Keith Poff: My name is Keith Poff. I'm with Sitecon, Inc. representing BSH Development. I believe the staff reports summarizes the purpose for this request. If you have any questions, I'd be more than happy to try to answer them.

President Jerrel: Are there any questions?

Commissioner Mourdock: This one appears to be as close to a slam dunk as they get.

Commissioner Tuley: I don't know why it took him so long to describe what he wanted.

President Jerrel: Is there a motion?

Commissioner Mourdock: I'll move approval on final reading of VC-15-2000 BSH Development for 2018-2248 Championship Drive and 2040-2140 Bunker Lane from R-1 to R-2 with the use and development commitment.

Commissioner Tuley: Second.

President Jerrel: And I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Keith Poff: Thank you.

President Jerrel: Is there a motion to adjourn?

Commissioner Mourdock: So moved.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Meeting was adjourned at 7:00 p.m.

Those in attendance:

Bettye Lou Jerrel	Beverly Behme
Richard E. Mourdock	Keith Poff
Patrick Tuley	
Joe Harrison, Jr.	
Jane Laib	

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

Recorded and transcribed by Jane Laib

**Vanderburgh County
Rezoning Meeting
October 16, 2000**

The Rezoning meeting was called to order at 6:45 p.m.

Approval of Minutes

President Jerrel: I'd like to call the Vanderburgh County Rezoning Board to order. The first item on the agenda is the approval of the minutes of the September 18th meeting.

Commissioner Mourdock: I'll move approval of those minutes as submitted.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Rebecca Bateman Continuance

President Jerrel: We have no first readings and we have two final readings.

Commissioner Mourdock: Before we go to the final readings though, we do have a letter from Jerry Atkinson on behalf of his client, Petitioner Rebecca Bateman, for a change from AG to R1 and R3 for 8300 Wolf Creek Drive. I'll read the letter into the record. The undersigned represents the petitioner, Rebecca Bateman, and the developer, Haas Development, of certain real estate which is the subject of the pending petition to rezone. The petitioner respectfully requests that the public meeting on this rezoning petition currently scheduled for October 16, 2000, be vacated and continued due to the petitioner having filed an amended petition to rezone which will be heard by the Area Plan Commission on November 1, 2000. Thank you for your consideration of this request. We shall notify individuals who are known remonstrators of this request. So, if there's anyone here tonight on 8300 Wolf Creek Drive, we will not be hearing that.

Barbara Cunningham: It has already...a use and development commitment has been filed which would amend this petition. In fact, even an amended use and development commitment has been filed on this petition. So, it is advertised and proposed to be heard at the November 1st Area Plan Commission meeting.

President Jerrel: Did you want to make a comment?

Unidentified: Yes, I would, please.

Commissioner Mourdock: Since this will be coming back for us, I don't mean to insult you, please don't take this wrong, if you make your comments tonight we won't necessarily need to hear them again. You won't necessarily need to be here, you're certainly free to be here when this does come back to us, but our action will be pending on what Area Plan does on November 1st.

Unidentified: I understand that and for the record my name is Rich Krock. I live at 100 South Eickhoff Road. First of all, I'd like to read a portion of the county code here, Section 17.36.060. It reads, "Within 30 days after the hearing on the proposed ordinance for amendment or repeal of the zoning code, the secretary of the Area Plan Commission shall provide to the County Commission a written report that indicates recommendation of the commission concerning the ordinance. Within 90

days after receiving the report of the commission concerning the proposed ordinance, the County Commission shall vote on the proposed ordinance without further amendment. If no vote is taken within 90 days after the commission's recommendations, the action of the commission is final." I don't believe the amendment that was filed is legal according to this. It also says in here that an amendment must be filed 21 days prior to the first reading of the County Commission.

Joe Harrison, Jr.: It's my understanding that that's not what the code says. Anytime there's an amendment, it has to go back to Area Plan Commission and that's exactly what happened.

Rich Krock: Well, may I show you this?

Joe Harrison, Jr.: You can show me whatever you want, but anytime there's an amendment to the plan, it has to go back to Area Plan and then they have to come back to this board after their meeting.

Rich Krock: That's not how it reads.

Barbara Cunningham: The amendment serves as an action in essence.

Joe Harrison, Jr.: Yes, that's correct. The amendment took it out of this body's hands to consider it within 90 days.

Barbara Cunningham: And they will have to renotify.

Rich Krock: That's not the way I read that. Also, what about the part about the 21 days?

Barbara Cunningham: They've already had the first reading on it by the County Commissioners.

Joe Harrison, Jr.: That was done, probably, in June or July.

Rich Krock: It hasn't been amended until just now before this meeting?

Joe Harrison, Jr.: No, I think it was done last month sometime.

Rich Krock: I don't believe that's true.

Barbara Cunningham: The first reading was done in this body. It always is done (inaudible - mike not on) Plan Commission. It's not a (Inaudible) public hearing. It's recommending it go. That is as soon as it's filed. The information is sent here and the first reading happens.

Joe Harrison, Jr.: The first reading, I believe, was in July.

Commissioner Mourdock: I'll tell you in just a minute.

Joe Harrison, Jr.: It had to be June or July.

Barbara Cunningham: You will also be renotified. When (inaudible) is filed and the

use and development commitment is filed, then they must renotify prior to the meeting also.

Rich Krock: I understand that, but my understanding of this is they need to...the process needs to go forth with all amendments—

Joe Harrison, Jr.: That's simply not the law. You can amend after this goes to Area Plan Commission and that's exactly what they did before it came to this body on a second reading.

Rich Krock: I don't happen to agree with that.

Joe Harrison, Jr.: That's fine.

Rich Krock: That's not the way it reads.

President Jerrel: So it will be heard at the November 1st and then it will be?

Barbara Cunningham: The time starts again, the 90 days.

Joe Harrison, Jr.: The 90 days starts again. It will probably be heard here on the 3rd Monday in November.

Commissioner Mourdock: It was not in August.

Joe Harrison, Jr.: Which is what?

Rich Krock: Is there any action we can take to apply the way the code reads and appeal the decision to go back to Area Plan?

President Jerrel: Do you have an attorney?

Rich Krock: I don't yet, no.

President Jerrel: I meant, you might have somebody read it and let them understand. You can have a copy of our letter, if you like. This is the letter delaying the...you can show them that and ask them if an amendment constitutes an action. Then that would answer your question, I think.

Commissioner Mourdock: This came to Area Plan Commission on August 2nd is when we heard it at APC. So that means on first reading, we would have heard it at the zoning meeting in July of the County Commission on First Reading which would have been, looks like, July 17th, I believe.

Barbara Cunningham: (Inaudible.) we always do that that same week or by the next week. So they were notified.

Rich Krock: Right. And at the Area Plan Commission, which we were at, was a no vote.

Barbara Cunningham: That's right, it was denied.

Rich Krock: What I'm trying to say is that I think that's what they are trying to do, to skirt the issue and buy more time to run it all the way back through the system

again. The way I read the code, it doesn't read that way. I'm just asking for your help, really.

Barbara Cunningham: This is always the way it is. This is the way this is done and it follows the code and their procedure. They do have a right to amend and that's what they are doing and they did it in the 90 day time limit.

Rich Krock: However, they didn't do it 21 days prior to the first reading.

Barbara Cunningham: That was the first reading. We're not doing first reading again.

Commissioner Mourdock: First reading was June 19th.

Barbara Cunningham: Yes, June 19th.

Joe Harrison, Jr.: The first reading is done.

Commissioner Mourdock: Then they deferred it one month apparently at Area Plan in July, and it came back on whatever date I said previously in August, yeah, August.

Joe Harrison, Jr.: They amended it before 90 days which would have been before today.

Barbara Cunningham: I think they had to file by last Monday. Have you seen the use and development commitment?

Rich Krock: No.

Barbara Cunningham: Why don't you...If you want to call, we'd be glad to send you a copy if you want to call the office tomorrow.

Rich Krock: The other part of the code stated that they can amend the use and development commitment, however, there was no use and development commitment provided with this to begin with. I have the—

Barbara Cunningham: They filed a use and development commitment and it's on file at the Area Plan Commission. If you'd like, we'd be glad to send you a copy of it.

Rich Krock: Yes, I'd like that because what I've got is the—

Barbara Cunningham: No, I don't think it originally had a use and development commitment. No, it had just a straight rezoning. They have gone to a use and development commitment that mostly speaks, I believe, to the number of units is what it mostly is.

Rich Krock: Right, but they can amend a use and development commitment but they didn't have one to begin with is what I'm trying to say so this—

Barbara Cunningham: But you're allowed to amend and put in a use and development commitment. That's what they are talking about, to amend your petition to include a use and development commitment. That's what they did. It really, Mr. Krock, is well within the procedure and the law as our attorney sees it.

Rich Krock: I don't know about that, that's not really the way I read it. I mean--

Barbara Cunningham: We're going to have a public hearing.

Joe Harrison, Jr.: This happens frequently.

Barbara Cunningham: The public hearing is set for November 1st.

President Jerrel: Would you write your name and address to give to Barbara for her to get that to you so you can have a copy and then keep that letter and you will be notified when it does come.

Barbara Cunningham: You will be notified by the petitioner because when you file a use and development commitment, you must notify all the adjacent property owners.

Rich Krock: Okay, anyone else?

Jeff Korb: I'm sorry, I walked in late. I apologize for that. My name is Jeff Korb, 300 Keywest Drive. I just want to be sure that I understand this. So now it kicks back to the Area Planning Commission and the whole process starts back over again?

Barbara Cunningham: That's right.

Commissioner Mourdock: Not the whole process in the sense that they've already had their first reading.

Barbara Cunningham: They've already had their first reading, but the Area Plan Commission will vote and then it comes to County Commissioners. That's right.

Jeff Korb: So they will be given the opportunity to vote again?

Barbara Cunningham: That's right.

Jeff Korb: So, for a lack of an easier way to put it, we've got to fight this thing all over again?

Barbara Cunningham: What I'm upset with is that the petitioner did not notify you of this. We usually ask them, and perhaps we did not this time, so you do not appear at a meeting. It's a common courtesy. It's not required by the code but it should be a courteous thing that you all would have been notified that this was amended.

Jeff Korb: And that's our concern because this is the third time that this particular meeting has been postponed for us as neighbors, and they have not notified us other than we don't have the FEMA report yet. We postponed the County Commissioners and this is the third time that's happened. Now, all of a sudden, it gets kicked back to Area Planning, and no offense, I'm thinking that this doesn't smell quite right. This smells like the developers is--

Barbara Cunningham: It smells right. It's fine. They are following the regulations. This is how it is commonly done, and there's nothing to do with it. This is why we have a continuance fee now so we don't have people that consistently do this. We charge half the price of the original filing fee so we don't have this happen all the time. It use to be that there were times where you felt like they were just continuing

so you got tired of it. That's not the instance now. I don't think that this is like that.

Jeff Korb: Just so I understand this, Barbara. We are really starting back at square one, again.

Barbara Cunningham: You're starting back to square two because you've already had the first reading.

Jeff Korb: But that did not pass here at Planning Commission and obvious from what you're telling me—

Barbara Cunningham: (Everyone talking at once, inaudible.) First reading was here so you've already had that. That's done. To file a use and development commitment, unfortunately, is not uncommon.

Jeff Korb: Can APC reverse their original decision?

Commissioner Tuley: Sure.

Barbara Cunningham: Based on the use and development commitment.

President Jerrel: You will want to come there and they should have let you know that this meeting...that this wasn't going to be heard this evening.

Jeff Korb: And they did not.

Commissioner Mourdock: And the letter I read before you came into the room stated October 13th that they sent out requesting that this be deferred.

Barbara Cunningham: That's fine, I'll send it to everyone.

Jeff Korb: Then, Barb, can we find out what they are redoing it for because we don't know what that is?

Barbara Cunningham: You want to know what the use and development commitment is? Sure.

Jeff Korb: Because we have no idea what that is.

Barbara Cunningham: It deals mostly with, as I recall, it deals mostly with the number of units is what its done. They had some other things in it originally that we could not enforce and we told them that so they amended to take those things out. They might be coming up with a private covenant. They should be contacting you. I'm sorry.

Jeff Korb: I understand. Is it easier if I come to your office and pick that information up?

Barbara Cunningham: I can fax it to you, send it to you, do whatever you want, just give me what you need.

Jeff Korb: Great. Thanks. I appreciate it. Thank you all.

Barbara Cunningham: Tell me who wants what.

President Jerrel: We apologize, but we didn't know. You didn't know and we just found out today.

Jeff Korb: So we gotta come back, and we will. Area Planning first. Circle the wagons.

Byron & Ronda Cooper - Final Reading VC-14-2000
--

President Jerrel: The final readings now. You want to go to VC-14-2000?

Barbara Cunningham: I think some of the questions that have been on this issue, I'd like to reserve my right to give my own spiel like I always do. (Inaudible - mike not on.) If we can hear Mr. Stoll the County Attorney first because the things we wanted to talk about were the INDOT questions and what was going on. John can talk first and (inaudible).

President Jerrel: You need to swear him in.

Commissioner Mourdock: Just for the record, we are still talking about 7700 Boonville Highway, Byron and Ronda L. Cooper.

Joe Harrison, Jr.: Hang on one second, everyone who wishes to speak with respect to VC-14-2000, Petitioner Byron N. and Ronda L. Cooper, is that correct? Please raise their right hands. Do you swear, affirm that the testimony you are about to give is true and accurate so help you God?

Unidentified: Yes.

Commissioner Mourdock: I can give your speech for you, if you'd like?

John Stoll: You already said I was the county attorney, so I don't know.

Barbara Cunningham: The question that we had and (inaudible - mike not on) dealt with INDOT and the Frontage road that they will be putting in. When I got into it a little bit more on this today, I called John and talked to him about it and I asked about it. EUTS brought up some questions about the Frontage road. They said that it was currently designed, the proposed Frontage road, is inadequate for large trucks. I asked John if he had any information on the Frontage road or any information that he could present? John led me to believe that they probably will not accept the Frontage road and John can talk for himself on that. He also told me about what is there now will probably work but with the state design that's coming in, it's not as workable and we are doing some changes in there.

John Stoll: Right, as it stands now, I haven't seen a specific site plan for this proposed rezoning, but if the state would grant access to 62 as it stands right now, from what I understand, it should work. It's just when the state comes in at a later date and builds a Frontage road comparable to the ones they've built out in front of Builder's Square and out by Busler's on Ruffian Way. Then the problems will exist with the trucks turning into the site. They will basically take up the entire pavement the state is proposing to place. Back a couple of years ago this design...the flaws with this design were pointed out by EUTS and by me, and the state has chosen not

to change the geometric's of the intersection to the best of my knowledge. What's being proposed, the way I understand it, right now would work fine, but once that Frontage road was built, that's when the problems would come about. The county is not building the Frontage road, the state is. In regards to Barbara's comment about acceptance of the relinquishment of the road, if it was submitted the way it is right now, just like my letter said a couple of years ago, I would end up here and recommend the county not accept it because we've seen the problems that they've caused out in front of Builder's Square. We've seen them out Ruffian Way out in front of Busler's. The city had one in front of the old Wal-mart building and the geometric's just don't work.

Commissioner Mourdock: So who would like to give the speech here?

Barbara Cunningham: (Inaudible - mike not on.)

Commissioner Mourdock: Let me just clarify. The developers, the Cooper's, nothing that's under question here is a result of their plan or their action and, in fact, as I understand your use for the property, you don't see any problems with this plan because you don't see any large trucks necessarily coming into your place that would be a problem?

Unidentified: Actually, we do.

Commissioner Mourdock: You need to come to the microphone. State your name and address.

Ronda Cooper: Ronda Cooper.

Commissioner Mourdock: And address.

Ronda Cooper: 1450 Fuquay Road, Evansville.

Commissioner Mourdock: So you do have some large trucks? Were you there the night this was at APC because I raised the same question then. That's when I got the impression that it really wasn't a problem for you.

Barbara Cunningham: I think it's reflected in the minutes that they did say that.

Larry Cooper: Larry Cooper, 1450 Fuquay Road. Basically, we said that with the carpet company, they would have semi's coming in. We may, on occasion, have a semi come in because we are wanting to build a landscape material business on this property. We also believe that a lot of the deliveries will be on the large dump trucks that you see running around town. As far as weight? The answer is yes, there will be heavy trucks. As far as the size? There will be a combination of sizes. Since the APC meeting, it's great to hear the county stand up and say that they wouldn't approve that and I believe that. One of the things that we're in the process of doing too is talking to INDOT and saying that if we get zoning, we are going to put two business' here and would ask that you rethink that. So our process is to make sure that we have safe roads also because we want to be good neighbors and not see anybody hurt with the roads. Plus, some of the neighbors that are potential neighbors of us, we met with them on Friday and they were complaining that large trucks use Telephone Road and that road keeps getting torn up. They keep fixing it and we don't want that to happen.

Barbara Cunningham: May I address the rest of it?

Commissioner Mourdock: Sure.

Barbara Cunningham: What I'm passing out are two site plans that were submitted and I have a problem with this because all the site plans are different. The transmission line is in different places, and the access points are in different places, and we need to know exactly what is correct? That was one of the things, and then tonight we got another site plan which is even different too. So I think we need to address this. What they're asking for is, the Cooper's are requesting to go from AG and C-4 to C-4. They did have a small portion of it that was already C-4 on the plat which the state has probably purchased. That made the difference between what we said it was 12.6 and the 1.9 that was purchased makes it down to 10.7 is really what they are doing. The 1.9 has already been purchased by the state. So, they have included a use and development commitment as part of their petition which limits the use of the site to only their proposed landscape material and a retail carpet and tile business warehouse. They've restricted billboards on this site and it's just east of the I-164 on-ramp. It was heard at the September 6th Area Plan Commission and was recommended with approval with eight affirmative, two negative, and one abstention. Information submitted says that all utilities are available except sewers. It's served by a septic system. The Comp Plan stresses the need to encourage development in those areas with availability and adequacy of public facilities services and utilities. We believe that commercial development should be served by sewer. To address this issue, the petitioners have included the use and development commitment which limits the use of the site to two business only until such time as the city extends sewer and water, the county extends sewer and water to the site. The commitment states that the landscape material business and the carpet and tile will each have an independent well and septic system. I also got a report from the state health department on the application, not the application, it was on the initial...they were telling you what needs to be done.

Joe Harrison, Jr.: Criteria sheet.

Barbara Cunningham: Criteria sheet. So I just got that back and I asked Dwayne from the health department to interpret it for me. What he said was in the permit to put the system in that we got back. It was just a request for drawings and to file an application. The reason I am wondering about the site, the three different site plans is we had the one that was presented with the rezoning that was drawn by Easley, the Surveyor, if you notice, they have the big transmission line that is in this vicinity. Depending on what site plan you look at where is the transmission line? That, I think, is a problem on that instance. Because if you look at those, it depends on where the—not only depends on where the different uses will be because the first site plan looks like you could not have a use on the one side of it because there's not enough room, and that's the survey. The second site plan that you sent with the health department shows the use on both sides of the transmission, but it also shows two proposed curb cuts onto Morgan Avenue which has never been. You know, that's never been addressed. That is so close to the interchange that is a concern to have two cuts both on Morgan as it is now or when the frontage road gets in to have two cuts on the frontage road. John explained INDOT's widening plans and I did call Rose at EUTS to ask her if the propose frontage road is still inadequate for large trucks. She said that their statements still stand. What this is, is a limited strip along the north side of Morgan, east of I-164 for commercial and the surrounding area to the north is agricultural and residential and to the east is an agriculturally zoned golf driving range. I think what we need to make sure is if the

transportation issues will work and if the septic will work and what really is the correct site plan? We don't want to stipulate to a site plan, but we certainly need to know if it's build able and the commissioners would want to know if you want two cuts on to Morgan which is kind of a safety issue in that area.

Byron Cooper: It's a great lead in to what we've done because from the city planning commission until now, we've done more homework especially about the concerns that were brought up in that meeting. If I could, I would just like to give an overview—

Barbara Cunningham: Can I do one more thing? We talked about the transmission and the survey and everything being different, I did also check with the surveyor's office and although you are not adjacent to a legal drain, you do impact anything that you do in that area will impact on the legal drain and you will need a drainage plan.

Byron Cooper: Right.

Ronda Cooper: I'd also like to give a little bit of history on why you have so many different drawings. When we first submitted our drawing, it was for the landscape business only and then a commitment was mentioned because it was agricultural and residential there. So, in that process, we had committed to various different uses for C-4. Feeling that was not going to work, not knowing any different (inaudible) we committed to do different uses. The plan that you have in front of you this evening are the two different uses and where they would be laid out, pretty close to what's going on.

Barbara Cunningham: But how can a transmission line change is what I want to know?

Ronda Cooper: It hasn't, it's there.

Barbara Cunningham: No, but it's in two different places on these.

Ronda Cooper: Really?

Barbara Cunningham: It's in different places. That's what I want to know? This is the zoning and as you see, the transmission is right there and so this only leaves this much area according to the survey. Now the transmission is scooted over a little bit.

Unidentified: This is the drawing that I did. What it is, is a totally different scale than this. I'm actually larger here than they are. They are on like a 200 scale. This easement deal, I met with...my name is Eugene Hunt. I live at 10144 Kimberly Lane, Newburgh. Anyway, I met with Williams Gas and Pipeline and they marked all the lines out there. They probed for depth, so I know exactly from the current contours where the top of the pipelines are, both the 12 and the 20. Basically, what I need to do is, I have to submit to them a site drawing for their approval, modification or denial based on what I want to do. They will let me cross their gas line except I have to have a build up for bridging over it. The entry is just one and it's on the west side of the gas line. It does encroach a little bit into the easement. I didn't draw the gas lines on the drawing, I drew an entry drawing.

Barbara Cunningham: Where is the entry drawing? On this one, look I've got two.

Eugene Hunt: I've never seen that one.

Unidentified: That's the one I did.

Eugene Hunt: This is my drawing.

Barbara Cunningham: So you're saying one drive?

Eugene Hunt: Yes, it's just one drive is all I'm asking. I don't know where this drawing came from.

Byron Cooper: That was a drawing we put in with, I believe, the original statements that we turned in.

Barbara Cunningham: That went with the state health department.

Commissioner Mourdock: For the record now, forget the drawing. As far as the road entrances there is only one entry way onto the new frontage road?

Byron Cooper: Right. Right where the one is right now. It would run, just like Eugene said, to the west of the western gas line. What we have do is we had, quite frankly, never done this before and so we probably were not as prepared as we should have been for the city planning rezoning as we should have been. They are gracious enough to see that we are rookies at this. However, we took everything that was said at that commission meeting and we seriously looked at it and we've done our homework. Even though we don't have a true engineering drawing with all the layouts. The reason for that is because we are in the process of buying this property and part of the purchase of the property is to get rezoning. So, when we go to build and everything and go before the Area Plan Commission for the permits and everything for that, we will have the proper drawings and engineering for the drainage and everything. We believe that...we have sat down last Friday with the Ubelhor's, Liv Ubelhor, Tom Ubelhor, and Steve Ubelhor, who live just to the north of the property. Steven Ubelhor was the person who had the concern about the drainage that we would block the drainage off and flood it with them. So we sat down with the Ubelhor's at their table and explained to them that we are wanting to take the ditch out to the center and replace it with a storm drainage system with beehive storm drains and the possibility of two detention ponds. We will have at least one detention pond and then beehive drains all the way down and a 12 inch pipe to carry it out. That's what we feel is necessary, however, whatever the engineer who does the flow studies recommends we put in, that's what we're going to put in. We don't want, if the water backs up on the Ubelhor's, we're a little bit lower than they are, we will flood also and we don't want to flood. It wouldn't be good for business and it wouldn't help us out. We have committed to that. We've also talked to Tee Time to kind of get an idea of where their water drains from and how it would encroach upon our property so we can make sure that's even taken off the properties. With the meeting with the Ubelhor's, they aren't here tonight because they feel that we are going to get that taken care of and we do want to be good neighbors. We're not like the other people who didn't contact anybody.

Commissioner Mourdock: Let me speculate, Mr. Cooper, and I am speculating. I have a hunch from the point of view of the board here, having sat through more than a few of these meetings, I don't think the drainage issue is going to be a problem. I'm not sure that the zoning issue, even on it's own, is going to be a problem going from AG to C-4. The question comes back though, the major question from me, is what our options are on the roadway? I am absolutely furious at the state of Indiana, and this isn't reflecting on you guys, I'm furious that the state of Indiana is basically

through a series of letter that the county engineer has telling us to pound sand on this one. They're indicating that they think we are trying to hold them hostage by simply having a road that meets our own standards. If this road was being proposed by a developer, I don't think there's any question as to what this board would do, we'd say forget it because we've taken a lot of time and had public meetings, and have said how we want roads designed to work with the development that occurs in the county. Even if, and I apologize for my mistake in memory, even if what the state is proposing here worked perfectly for you, there will be other properties up and down this frontage road that will be developed that certainly will have big trucks and we're back to the same situation where the good old state of Indiana is screwing up our traffic flow. I don't know what our options are, John, maybe you can address that if we have any other than I get tired of writing nasty letters.

John Stoll: Just based on what they said in one of those letters, they felt that there was no need to change the design. If they are out buying right-of-way that would make it that much more difficult to make changes at this stage of the game.

President Jerrel: That's interesting. Are they buying right-of-way?

Byron Cooper: The state has bought the right-of-way. The Ubelhor's are telling us that the state bought the right-of-way and that gave them permission to use it. Quite honestly, I don't have any facts on that. We are taking the next 30 days to investigate that and make sure that we do have that access because if we don't then that whole property is landlocked. Then I'm not sure if the state of Indiana would allow property to be landlocked.

Commissioner Mourdock: Let me just read this into the record. This is from their letter of August 5th to John, August 5th of '98, when this issue first came up. Finally, it is disheartening to hear that the Vanderburgh County Commissioners have basically issued an ultimatum to INDOT that they will not accept our relinquishment of LSRI if we do not alter our design to accommodate their proposal.

Barbara Cunningham: That's from the state?

Commissioner Mourdock: Yeah, that's from the state. We issue them an ultimatum by putting together a good road plan. Imagine that.

Ronda Cooper: (Inaudible) it's current use of agricultural. I don't know if that would be an asset to you or not. They went off the current zoning of agricultural. If the zoning were to change, would that change?

John Stoll: I still think it's a short sighted design because just like you're here requesting a rezoning, somebody else would at a later date and ultimately it would be an obsolete road regardless. One thing Mr. Hunt just said was he had spoken to INDOT today and they were discussing the possibility of making changes to the road. I've not spoken to anyone about that, but if they are that's a plus.

Eugene Hunt: Bill Cotter was who I spoke to over in Vincennes at INDOT. We were discussing the whole situation of their right-of-way and one of the things he came up with was the safety issue. Apparently, there's a lot of tweaks about this road. They are still talking about it up there. I have no idea when they are going to build it but the tweak here is he indicated that there was a safety concern on that road and that they were going to modify it. That's all he discussed on the service road is what he called it.

Barbara Cunningham: The Cooper's have been up front in telling us that there's going to be a trucks coming in there, and you have to have something to take care of that.

Commissioner Mourdock: The day will come, very shortly, when the traffic we see on State Route 62 will be very similar to what you see on (inaudible) street. There's going to be more and more traffic on that road and having this kind of design on that road is crazy.

Byron Cooper: If it helps any, we've been calling INDOT. They know who we are because of our concern about it. We want to make sure that we have a road that's not going to fall apart—

Commissioner Mourdock: Or decrease your property value.

Byron Cooper: Well, it's going to help them and it's going to help us.

President Jerrel: I can only ask you to continue that.

Byron Cooper: We will. I'll even go so far as if we get a meeting with them, we'll call your office and we'll take you up there with us. All we really want to do, as Ronda said, is get a patch of ground so we can open up our landscaping business and sell rocks and sticks and driftwood and niceties for people's yards. That's what we want to do. Just a couple other little notes, we've done some research and we've found that sewer is available across the street. So we will bring the sewage—

Barbara Cunningham: Who's across the street?

Byron Cooper: Woodward is doing two developments over there so our commitment is...the cost of doing two mound systems and bringing the sewer over is such that we're going to commit to bringing the sewer over. We still have some homework to do on that though. Instead of digging a well, city water has told us that they will bring us a line to the property line from Telephone Road. We are going to go city utilities for both facilities.

Commissioner Mourdock: You're going to bore underneath the road there?

Byron Cooper: We are going to bore under 62 and underneath the railroad. We have to get permission for that. So that's what were doing.

Commissioner Mourdock: On final reading, I will move approval of VC-14-2000 from AG to C-4 for 7700 Boonville Highway. Again, just for the record, I appreciate your efforts in trying to get the state to do the right thing. None of my comments are meant in any way to dissuade you from what your doing.

President Jerrel: You're just being thorough. We just wished we could do something about that and we can't.

Byron Cooper: We appreciate that and like we said in the other meeting, we will work...it's to our benefit as well as to everybody else's so we'll work to help get things done.

President Jerrel: Is there a second then?

Commissioner Tuley: Second.

President Jerrel: And I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Windemere Development, LLC - Final Reading VC-17-2000
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President Jerrel: The next petitioner is Windemere Development.

Commissioner Mourdock: Do you have two copies of Windemere by chance because I had two copies of the last one?

President Jerrel: No, I just have one.

Barbara Cunningham: Windemere Development—

Commissioner Tuley: Isn't this the original ordinance?

President Jerrel: Yeah.

Commissioner Tuley: How did it get in my folder?

Commissioner Mourdock: I got two copies of the Cooper one and I don't have any copies of Windemere's.

Commissioner Tuley: And I've got the one for the signature folder.

Barbara Cunningham: Two of Cooper and none of Windemere?

Commissioner Mourdock: Go ahead, Barbara.

Joe Harrison, Jr.: If I may, this is VC-17-2000, Windemere Development, LLC, address is 8900 State Road 57. The request is from AG to R-1 for parcel 1 and from AG to C-4 on parcel two. Is that correct?

Barbara Cunningham: Yes.

Joe Harrison, Jr.: All those who wish to speak concerning this rezoning petition, please raise your right hands. Do you swear, affirm that the testimony you are about to give is true and accurate so help you God?

Unidentified: I do.

Barbara Cunningham: I can shorten this since you're the only one here. This was heard at the October 4th Area Plan Commission Hearing recommended for approval. I think it's really smart to go from AG to R-1 because we get so many complaints, not

so many but we do get complaints quite often, about AG uses in a subdivision and if it's still zoned AG, they are acceptable. So, I think it's really smart. As far as the C-4, it's just an addition to the existing C-4. We hope that they do a buffer, and I'm sure the developer owns both spots so they'll probably do a buffer in both areas because C-4 could allow many uses not compatible adjacent to residential. There's a church that's going to go to the south of this and was approved of BZA on September 21st. Probably, the church owned this parcel before. Is that right? Did that church own this parcel and they've just moved down?

Keith Poff: No, ma'am, that actually was another church.

Barbara Cunningham: Unless the commissioners have anything to say, Keith and I are going to keep it short, aren't we, Keith?

Keith Poff: Definitely. Keith Poff, Sitecom representing Windemere. I believe the only thing I wanted to add was the commercial portion is about .8 acres that's being asked to be rezoned. We are going to build a new street coming off of State Road 57 to serve the church as well as the residential subdivision. We'd like to access the commercial off of the street rather than going out to State Road 57.

Commissioner Mourdock: So you'll have one less road cut on State Road 57?

Keith Poff: Yeah, we'll have only the one new cut.

Commissioner Mourdock: On final reading, I'll move approval to rezone from AG to R-1 and C-4 for VC-17-2000, 8900 State Road 57.

Commissioner Tuley: Second.

President Jerrel: And I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Keith Poff: Thank you.

Commissioner Mourdock: Did you get an original?

President Jerrel: No, I didn't get it but we are going to use this one. Okay, is there any further business to come before this body?

Barbara Cunningham: I can't believe you're going to D.C. without me.

President Jerrel: Well go, go with me. I haven't made any travel arrangements. I hadn't thought about it until—

Barbara Cunningham: (Inaudible - mike off.)

President Jerrel: I'm the featured speaker. They had the Governor of Oklahoma last

year and they are going to have me this year.

Barbara Cunningham: That's wonderful.

President Jerrel: I hadn't thought about it yet. I'm going to be thinking about it.

Commissioner Mourdock: Motion to adjourn.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Meeting was adjourned at 7:30 p.m.

**Vanderburgh County
Rezoning Meeting
October 16, 2000**

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Those in attendance:

Bettye Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Jane Laib
Barbara Cunningham
Keith Poff
Byron Cooper
Ronda Cooper
Eugene Hunt
John Stoll
Richard Krockner
Jeff Korb

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

Recorded and transcribed by Jane Laib

**Vanderburgh County
Rezoning Meeting
November 20, 2000**

The Rezoning meeting was called to order at 6:35 p.m.

Approval of Minutes

President Jerrel: I'd like to call the Vanderburgh County Rezoning Board to order. The first item on the agenda is the approval of the minutes of the October 16th meeting.

Commissioner Mourdock: I'll move approval of the minutes as submitted.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Jerry Wirth - VC-18-2000 First Reading
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President Jerrel: Under first readings, do you have any questions about VC-18-2000?

Commissioner Mourdock: I'll just read it into the record. VC-18-2000, the petitioner is Jerry Wirth. The address is 2251 Commercial Court. The requested rezoning change is from C-4 to M-2. Anyone here to speak to that one? Seeing none, I would move approval of that on first reading.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Three I Properties, LLC - VC-19-2000 First Reading
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Commissioner Mourdock: Second one is VC-19-2000. The petitioner is Three I Properties, LLC. The address is 515 E. Boonville-New Harmony Road with the request from AG to C-4 with a use and development commitment. I see no one in the audience to address that issue, so I'll move approval on first reading.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Three I Properties, LLC - VC-20-2000 First Reading
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Commissioner Mourdock: Third, VC-20-2000, the petitioner is Three I Properties, LLC. The address is 500 through 526 E. Boonville-New Harmony Road. Requested change is from AG and R-1 to C-4. I see no one in the audience to address that one, so I'll move approval on the first reading.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Karm Corporation d/b/a/ Promark - VC-16-2000 Final Reading

Commissioner Mourdock: Moving on to final readings. Barbara, do you want to proceed?

Barbara Cunningham: Sure. 3001 Kansas Road. Karm Corporation is requesting a change in zoning for the property located at 3001 Kansas Road. It's a ten acre, ten plus, acre site located at the southwest corner of Highway 57 and Kansas. They want to go from agricultural to C-4 with a use and development commitment. If approved, of course, quality site design and buffering must be utilized adjacent to the residential use. The use and development commitment included as part of the rezoning petition addresses both buffering and exterior lighting. It was heard at the November Area Plan Commission hearing and recommended for approval with ten affirmative and one abstention. We all know that Furlick Creek bisects this site. Furlick Creek floodway has been established by DNR and a permit must be obtained from DNR prior to any construction activities in this area. The majority of the remainder of the site lies within the floodplain and floor elevations of all structures in the floodplain must be at least two feet above the 100 year flood elevation. West of Furlick Creek, the portion of the site outside of the floodway is minimal. The petitioner should address whether or not this area is feasible to develop without a DNR floodway construction permit. No information has been submitted regarding the plans for development of the site. If it is approved and commercial development is to occur, access should be from Kansas Road to minimize the number of driveways on Highway 57. Any work within the Highway 57 right-of-way will require INDOT approval and to accommodate traffic generated by this site capacity, safety and/or operational improvements at the entrance to the development may be required. This site is located on the eastern edge of an area designated for residential use in the Comprehensive Plan. In general, State Road 57 corridor just northeast of the site is planned for a mix of predominately industrial and commercial uses. A portion of the area to the north of Kansas is designated in the Plan for commercial use and some commercial development has occurred. A 5.9 acre site adjacent south of this proposed C-4 was rezoned in October of the year 2000 for speculative commercial development. The C-4 zoning classification allows many uses considered incompatible adjacent to residential development and Krista will explain to us the buffering and the use and development commitment that is proposed to minimize the impacts on residential development adjacent to the west.

Joe Harrison, Jr.: All those wishing to speak with respect to this petition, please raise your right hand. Do you swear and affirm that the testimony you are about to give is true and accurate so help you God?

Krista Lockyear: I do.

Joe Harrison, Jr.: Again, this is VC-16-2000. The address is 3001 Kansas Road. It's rezoning petition request from AG to C-4 with a use and development commitment. Is that correct?

Krista Lockyear: That's correct. Good evening. My name is Krista Lockyear. I'm here tonight on behalf of Karm Corporation. Karm Corporation is locally owned by Roger Campbell and his family. Mr. Campbell is here tonight to address any questions that I cannot adequately answer for you. Mr. Campbell is seeking to rezone this property for future commercial development. If you would look at your location map that you have on your packet. I think it's pretty clear to see why it's

suitable for C-4 zoning. There's C-4 to the south and abutting this property. There's C-4 to the north on both sides of Seib Road, and across Highway 57 all the property is zoned industrial. Accordingly, the surrounding properties in this area are predominately commercial and industrial. More importantly, from a public relations perspective prior to filing this amended petition, my client met with several neighbors from the Camden Farms residential area and discussed their concerns about the property and the rezoning. This meeting resulted in the use and development commitment that is filed with this rezoning. The commitment is designed to ensure adequate buffering between the commercial and the residential properties. As you may have seen from the minutes, Mr. Jesse Storey, a resident from Camden Farms did go on record at planning commission approving this rezoning. Mr. Bill Weinert of Rexam Corporation also called my client to welcome him to the area and approve of this rezoning. In summation, we believe this rezoning is appropriate to the area and has no opposition from the neighborhood. Therefore, we request your approval tonight.

President Jerrel: I just drove out there today and that Rexam is really an attractive operation. This is how far from Rexam?

Commissioner Tuley: Right across.

Barbara Cunningham: Could I just put on the record that I don't maintain pine trees? I just want to put that on the record, that we don't do maintenance of pine trees in the Plan Commission.

Commissioner Mourdock: Also, Krista mentioned this but, Jesse Storey did appear at the APC meeting and his quote then was, "We've been assured there will be adequate buffering between the commercial and residential sides." I appreciate anytime that a developer works with the nearby residents. With that, I will move approval on the final reading of VC-16-2000 for the address of 3001 Kansas Road from C-4 or C-4 with a use and development commitment.

Joe Harrison, Jr.: From AG.

Commissioner Mourdock: From AG to C-4 with use and development commitment.

Commissioner Tuley: Second.

President Jerrel: I'll call for a roll call vote.

President Jerrel: Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Krista Lockyear: Thank you very much.

Commissioner Mourdock: Motion to adjourn.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Meeting was adjourned at 7:47 p.m.

Those in attendance:

Bettye Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Jane Laib
Barbara Cunningham
Krista Lockyear

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

Recorded and transcribed by Jane Laib

**Vanderburgh County
Rezoning Meeting
December 18, 2000**

The Rezoning meeting was called to order at 7:03 p.m.

Approval of Minutes

President Jerrel: I would like to call the Vanderburgh County Rezoning meeting to order at this time. The first item on our agenda is the approval of the minutes of the November 20th meeting.

Vice President Mourdock: I'll move approval of those minutes as filed.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Jerry Wirth VC-18-2000 - Final Reading

President Jerrel: We have no first readings and under final readings the first item is VC-18-2000. Barbara, would you want to review that for us?

Barbara Cunningham: Jerry Wirth is requesting a change in zoning from C-4 to M-2 for the property located at 2251 Commercial Court. This is 100 x 200 foot lot located on the north side of Commercial Court, east of St. Joe Avenue. The rezoning was heard at the Area Plan Commission at their meeting on December 6, the year 2000, and was recommended for approval with eight affirmative votes and one abstention. The site is located in an area of very mixed zonings and uses. This is a request to step up the zoning on this lot from C-4 to M-2. The applicant obtained remodeling permits to allow conversion of 1,000 square foot of office and storage area to open storage warehouse in anticipation of a change of use of the site to a machine shop. The applicant is aware of the need to rezone prior to the establishment of the machine shop and is proceeding with (Inaudible) remodeling. The remodeling permit does not allow occupancy of the building. If the site is rezoned to M-2, site review approval is required to allow change of use to a machine shop. The 1996 Comprehensive Plan future land use map 2015 indicates Commercial Court as an area of commercial strip development. The commercial strip was rezoned from agricultural to C-4 in 1976 and was platted as a 19 lot commercial subdivision. The site was built out as predominantly office and warehouse uses. In the 80's three of the sites were rezoned to M-1, two for body shops and one for the manufacturer of plastic products. The machine shop proposed by this applicant would require M-2 zoning. In the area, as we said at Area Plan Commission, we've had some complaints about noise and some of the uses that have been. Mr. Wirth very clearly explained how he would handle the noise issue and that his would not be. He will probably tell you about that now, too.

Joe Harrison, Jr.: All those wishing to speak concerning this rezoning petition, again it's VC-18-2000, Jerry Wirth. The address is 2251 Commercial Court. The request from C-4 to M-2, please raise their right hand. Do you swear and affirm that the testimony you are about to give is true and accurate, so help you God?

Jerry Wirth: Yes, I do.

Joe Harrison, Jr.: Thank you.

Jerry Wirth: My name is Jerry Wirth and I'm President of Wirth Machine,

Incorporated currently operating at 3141 Broadway. We began business in 1974 at 3609 Broadway. At that time, we had that property rezoned to M-2. We are currently operating as in a residential area. We have a M-2 zoning with that with a use and development commitment attached to it. Our operation, we are beginning to get into the manufacturing of after market automotive parts for hot rods and that sort of thing. The cars you see at the Frog Follies. We're needing to improve our facilities and some of the conditions of the building and stuff. It became necessary for us to relocate. Concerning the noise that Ms. Cunningham brought up. That's complaints against one company that moved into the area without securing the proper permits or zoning or anything. They are currently operating a large punch press and large punch presses will literally shake the ground sometimes. I've talked to the neighbors about this and that seems to be their complaint. Our operation really is a quiet operation. We run computerized equipment so noise and vibration in those machines is really our enemy. It will cause us to have trouble holding the quality of work that we need to hold. Actually, noise is something that we don't produce any now, so we're already in a residential area. We probably do not make as much noise as the body shops or the construction companies and plastic company in that area would. Thank you.

President Jerrel: Is there anyone else that would like to speak to this at this time?

Commissioner Mourdock: Seeing none, I'll move approval on final reading for VC-18-2000, 2251 Commercial Court from C-4 to M-2.

Commissioner Tuley: Second.

President Jerrel: And I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Jerry Wirth: Thank you.

Three I Properties VC-19-2000 & VC-20-2000 - Final Reading

President Jerrel: The next item on the agenda is VC-19-2000, Three I Properties.

Barbara Cunningham: For expediency, we've kind of done both of them together. They are right across the street from each other. There are different stories on each one, but it's the same petitioner. Both VC-19 and VC-20, Three I Properties, LLC is requesting a change in zoning from AG and R-1 to C-4 with a use and development commitment for the properties located 515, 500-526 East Boonville-New Harmony Road. These are two separate petitions. One for the plus two acres at the southeast corner of Highway 41 North and Boonville-New Harmony Road and the second for the eight plus acres located on the northeast corner. Because both petitions are requesting a same classification and both include identical use and development commitments, we discussed them together at the December 6, year 2000, Area Plan Commission hearing. As I said, the two sites will require separate

votes. The two acre site on the south side of Boonville-New Harmony went forward with a no recommendation with six affirmative votes, two negative votes and one abstention. The eight acre site on the north side of Boonville-New Harmony went forward with a recommendation for approval with seven affirmative votes, one negative vote and one abstention. Highway 41 is a primary arterial controlled access thoroughfare leaving the only access available to this site from Boonville-New Harmony. The entrances to these sites should be as far to the east as possible. The controlled intersection, at times, experiences heavy traffic congestion especially at special events at the nearby 4-H Center and will experience increased traffic as the commercial project adjacent to the 4-H Center, to the west, develops. The Comprehensive Plan calls for the road improvements needed to accommodate development traffic to be constructed with the development. According to the Comprehensive Plan, it is essential for development proposals along major arterials to be accompanied with commitments to construct the infrastructure improvements necessary to accommodate site generated traffic. The use and development commitment included as part of this petition commits to a traffic impact study and implementation of all required or recommendations of that study. The commercial property across the highway on the southwest corner of Boonville-New Harmony and U.S. Highway 41 was partially rezoned in 1997, and again in 1999, and was platted as Northfield Commercial Subdivision and recorded on November 1, 2000. Review of recent development for the 16 plus acre Northfield site, the developers were required to pay the full cost of an upgraded signal at the intersection and construct a southbound right turn lane, accel and decel lanes, and lengthen the northbound left turn lane on U.S. Highway 41, as well as additional improvements on Boonville-New Harmony. The County Engineer, John Stoll, states the development of the site will necessitate improvements to Boonville-New Harmony Road. The developer will need to construct these improvements. That's what is called for in their traffic impact study. That's what will determine that. The extent of the improvements may be controlled by the right-of-way that currently exists on Boonville-New Harmony. The developer's engineer will need to verify how much right-of-way exists on Boonville-New Harmony, and they will have to prepare the road widening plans accordingly. If possible, four lanes should be constructed between U.S. 41 and the entrance to this development. These sites are located along the Highway 41 North corridor. It's an area planned for commercial and industrial area - industrial development. The areas adjacent east of these sites are residential. Quality site design and buffering must be utilized if commercial development is to occur in or adjacent to any residential land. The Comprehensive Plan recommends more landscape green area than is required by code to protect the adjacent single-family residences. A use and development commitment is included as part of the rezoning petition which prohibits billboards and some commercial, recreational, service, and storage areas. Excuse me. It addresses lighting, buffering and road improvements. The area—would you do that? It just wore out.

Joe Harrison, Jr.: I'll read this.

Barbara Cunningham: Just start right there.

Joe Harrison, Jr.: This area is identified on the year 2015 conceptual land use map and the comprehensive plan as an area of predominately commercial development. This proposed use is consistent with the concept in the plan to establish a commercial and industrial corridor on U.S. 41 in northern Vanderburgh County. Surrounding is a rural, agricultural/residential area experiencing a gradual transition to long planned industrial development along the Highway 41 corridor. I guess that's

it. All those wishing to speak with respect to this petition, please raise your right hands. Do you swear, affirm that the testimony you are about to give is true and accurate so help you God?

Unanimous: I do.

Les Shively: Members of the Commission, my name is Les Shively representing the petitioner. Really, the review of the staff field report says it all. Let me just hit some highlights that I think are relevant to this request. First, before I do that, I want to bring to your attention the aerial photos that were brought today shows the south parcel and the northern parcel and also identifies the parcel that was rezoned several years ago on the other side of Highway 41 which is where the Buehler's Buylow development is going. Presently construction is underway. This area, according to the Comprehensive Plan is planned to go commercial and industrial. With that, as Ms. Cunningham noted, we've made a very extensive use and development commitment. Let me tell you how that evolved. First of all we initially found the rezoning request. It was subject to a use and development commitment. We then met with the surrounding landowners and following that meeting, received input from them that resulted in the expansion of this use and development commitment. In fact, the elimination of 39 specific uses under the C-4 category, the elimination of billboards, and also to make sure that it's emphatically clear about truck stops and semi-truck type facilities, we specifically, in addition to the 39 uses, put specific representation that no truck stops or rentals or repairs of semi-truck activity would occur on any of the properties within these two parcels. Also, specific of very detailed representations and commitments were made with regard to buffering and how that buffering would be done, set backs, materials to be used and such, as well as lighting to prevent lighting from bleeding over to surrounding properties. The most important thing, I think, however is the condition that any use established out there, we will first have to conduct a traffic impact study, cooperate with not only the county engineer and the Evansville Urban Transportation Study with that impact study. We'll also have to include input from the Indiana Department of Transportation, given the location here. That study and it's results will dictate how the ingress and egress traffic movement, the improvements to Boonville-New Harmony Road, you name it, that will occur as well. We've also put in an additional requirement here. As you know, Vanderburgh County has a county drainage ordinance. We are making it a stipulation and condition that before we can pull any permits, in addition to the traffic impact study, we'll have to come back to the Drainage Board for drainage approval—any drainage plans whether we plat it or not, will still have to go through the drainage approval process just like in a subdivision. Again, whether it's platted or not. We've made that particular commitment. Really, that's pretty well consistent with the ordinance which, I believe, requires a drainage plan anytime you're working with five or more acres. At the meeting of the Plan Commission earlier this month, the main concerns voiced by those landowners that were adjacent to the southern parcel, smaller parcel. We were requested...the request was made of us by the Plan Commission to meet with those landowners again. We did and one of those commitments which is maybe somewhat moot now, I'll tell you why in a second. One of the concerns had to do with impact upon well water and such. We agreed with the landowner most affected, the Richardt's, that we would, at our expense, connect them to city water. City water is out there and we are going to need it for our development. We will connect their home to city water. It's their choice whether they wanted to use it or not. Subsequent to that commitment which alleviates some of their concerns, it's my understanding according to Mr. Habermel, who's one of the principles of Three I, that the Richardt's and Three I have entered into an agreement whereby Three I will be purchasing the

Richardt property which probably explains why the Richardt's aren't here this evening. None the less, we've worked out the water situation with them which seems to alleviate some of their major concerns. Again, I think to explain the difference between the vote on the south parcel and north parcel, again, the Richardt's were very outspoken about their concerns, and I think that's what resulted in the six to one vote there. The Richardt's seem to be satisfied with regards to the terms they've entered into with Three I. So essentially that's where we are. Mr. Jim Farney with Bernardin Lochmueller here this evening as well to answer any engineering questions you may have with regard to this particular project. I think we've covered all the bases, and again, I'd be more than happy to answer any questions.

Commissioner Mourdock: Just one quick question.

Les Shively: Yes, sir.

Commissioner Mourdock: With the Richardt's you mentioned that you have a deal now, but let's forget that for a minute, since I presume that it's not rightfully completed. The other agreement that you had as far as providing city water. The discussion at APC, at least, started down the line of "if you caused a problem with the ground water," you would do that. You're saying now that agreement is in place regardless?

Les Shively: Yes, and I would like the record to reflect that's a commitment we are making this evening which you would then be relying upon in your decision here this evening. That is, we simply said to them...rather than sitting back and saying, "Well, if there is a problem...maybe there is a problem"...it made more sense since we're out there just to connect them at our expense. Then we've taken care of that situation. It's up to them whether they want to use city water or not. They seem to be satisfied with that.

Commissioner Mourdock: Okay.

President Jerrel: Is there anyone else that would like to speak to this issue at this time?

Commissioner Mourdock: As Barbara said, we need two separate motions here and two separate votes. I'll move on final reading approval of VC-19-2000 for Three I Properties, 515 E. Boonville-New Harmony Road from Ag to C-4.

Commissioner Tuley: Second.

President Jerrel: And I'll call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Commissioner Mourdock: And I will call on final reading approval of VC-20-2000 for Three I Properties, 500-526 E. Boonville-New Harmony Road from Ag and R-1 to C-4 with the fore stated use and development commitment.

Commissioner Tuley: Second.

President Jerrel: And I'll call for a roll call vote on this also. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Les Shively: Before I leave the podium I would just like to say briefly, you've already been honored this evening for your service to the community. I'd just like to say a personal note starting with Patrick. I went kindergarten through high school with Patrick and not only Patrick but the Tuley family are living examples of what hard work will get you in this world. That's one of the hardest working families we have in Vanderburgh County. Pat Tuley has been an excellent public servant. We always don't see eye to eye from the political perspective, but you certainly can't argue with hard work. It's paid off and I'm proud to have known him all these years and see his service to the community. Mrs. Jerrel, you're the one who got me interested in government back when I was a senior in high school, Harrison High School. You got me involved with my first campaign and the bug bit me then and stayed with me all this time. You've certainly set a wonderful example for all of us in terms of government service and having the enthusiasm to be involved in the process. Thank you for your service and I hope you'll find other ways to serve the people.

President Jerrel: Oh, I will. Thank you, Les.

Commissioner Tuley: Thanks, Les.

Commissioner Mourdock: All these kind words being said, I'm beginning to feel the need to quit just to have people say nice things about me.

Barbara Cunningham: Inaudible.

Unidentified: I just wanted to say two things. You'll both be missed, all of you. I guess we'll miss him later.

Barbara Cunningham: No more zoning.

President Jerrel: No more zoning.

Commissioner Mourdock: I will move adjournment of our rezoning meeting.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Meeting was adjourned at 7:22 p.m.

**Vanderburgh County
Rezoning Meeting
December 18, 2000**

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Those in attendance:

Bettye Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Jane Laib
Barbara Cunningham
Les Shively
Jerry Wirth

**Vanderburgh County
Board of Commissioners**

Not in office at time of approval
Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Not in office at time of approval
Patrick Tuley, Member

Recorded and transcribed by Jane Laib