

**Vanderburgh County
Rezoning Board
January 28, 2002**

The Vanderburgh County Rezoning Board met in session this 28th day of January, 2002, at 8:30 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order the Rezoning meeting for Commissioners.

Approval of Minutes

President Fanello: I need approval of the minutes of the previous meeting.

Commissioner Mourdock: So moved.

President Fanello: Second and so ordered.

First Readings: VC-4-2002

President Fanello: First readings.

Commissioner Mourdock: On first reading tonight, I would move approval of VC-4-2002, petitioner, John Elpers Contracting for the addresses of 2525 through 2636 Heard Street. Then also the address which, I believe, is 11743 through 11816 New Gate Court, and also 11740 through 11811 Waverly Court and 2500 Heard Street. The request is for the Ag, the current Ag zoning to be changed to R-3 with a UD commitment. Is there anyone here to speak to that one on first reading? Seeing none, I would move approval on first reading.

President Fanello: I will second and so order.

Final Readings: VC-3-2002, VC-1-2002 & VC-2-2002

President Fanello: Final rezonings.

Commissioner Mourdock: We have, first of all, to jump to item D, I understand the petitioner for VC-3-2001, Catherine Elbert and Linda Kay Elbert have withdrawn that. So, I would move that we take that one off our agenda.

President Fanello: Second and so ordered.

Commissioner Mourdock: That will take us to VC-1-2002, the petitioner is University Shopping Center, Inc. with the address of 111 North Bank, I'm sorry, North Red Bank Road, request a change from Ag to C-4.

Madelyn Grayson: That was the one that Steve Bohleber—

President Fanello: That was the the one, I believe—

Commissioner Mourdock: That was the one that the request that...the petitioner has requested we delay that one month. So, I will so move.

President Fanello: Second and so ordered.

Commissioner Mourdock: So, our final item of business for rezoning is VC-2-2002, the petitioner is Grace-Whitney Properties, address 401 North Elm, request is R-1 changing to R-3. Anyone hear to speak to that particular rezoning tonight? For the record, we see none. Bev, do you have any comments to make.

Beverly Behme: (Inaudible. Not at mike.) They were here a moment ago.

Commissioner Mourdock: Do you want to go ahead and state for the record? Or, Brad, do you want to state for the record the specifications?

Beverly Behme: This...there is no one here from Elm? Okay. I just saw them out there. This was approved in the city. Beverly Behme, Area Plan Commission. This is one of the two zonings that were on the agenda tonight that part of the property was in the city, and part of the property was in the county. The city part was heard by City Council and it was unanimously approved. The portion that is in the county is what's on...you can continue this until next month, or if you want to just go ahead—

Commissioner Mourdock: Is there a reason we should continue?

Beverly Behme: No, no.

Commissioner Mourdock: Okay, alright.

Beverly Behme: If I can answer any questions you may have.

Commissioner Mourdock: Sure, I'm just looking here to see what the vote was out of APC for this one. What was the vote at APC, Brad?

Brad Mills: They voted seven affirmative, two negative and one abstention.

Commissioner Mourdock: Alright. I just wanted that in the record. I would move approval on final reading VC-2-2002 for 401 North Elm from R-1 to R-3.

President Fanello: And I'll second and so ordered.

Commissioner Mourdock: This will need a roll call, because it's—

President Fanello: Oh, I'm sorry. Roll call vote. We're on item C.

Commissioner Mosby: C?

President Fanello: Commissioner Mourdock?

Commissioner Mourdock: Yes.

Commissioner Mosby: Aye.

President Fanello: And I vote yes, and this passes.

Beverly Behme: Thank you very much.

Commissioner Mourdock: I would move we adjourn the Rezoning session.

President Fanello: Do I have a second?

Commissioner Mosby: Second.

President Fanello: So ordered.

The meeting was adjourned at 8:35 p.m.

Those in Attendance:

Catherine Fanello

David W. Mosby

Richard E. Mourdock

Brad Mills

Beverly Behme

Madelyn Grayson

Philip Hayes

**VANDERBURGH COUNTY
REZONING BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
February 25, 2002**

The Vanderburgh County Rezoning Board met in session this 25th day of February, 2002 at 7:05 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Approval of Minutes

President Fanello: Do I need to start over?

Madelyn Grayson: Probably.

President Fanello: Approve minutes of previous meeting.

Commissioner Mosby: So moved.

Commissioner Mourdock: Second.

President Fanello: So ordered.

First Readings: VC-5-2002: Petitioner SC Bodner Company, Inc. Request: C-4 to R-5 VC-6-2002: Petitioner: Allen Gries Request: Ag to M-2
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President Fanello: First readings. VC-5-2002, petitioner SC Bodner Company, Incorporated, address, 6900 East Virginia Street, request is C-4 change to R-5.

Commissioner Mourdock: On first reading I'll move approval.

Commissioner Mosby: What about the other one? B?

President Fanello: I was going to take it separately. It's a separate.

Commissioner Mosby: Oh. Second.

President Fanello: So ordered. Second, item B, VC-6-2002, petitioner, Allen Gries, address, 4612 North St. Joe Avenue, request is Ag change to M-2.

Commissioner Mourdock: On first reading, I'll move approval.

Commissioner Mosby: Second.

President Fanello: So ordered.

Final Readings: VC-1-2002: Petitioner: University Shopping Center, Inc. Address: 111 North Red Bank Request: Ag to C-4

President Fanello: Final rezonings, item C, VC-1-2002, petitioner is University Shopping Center, Incorporated.

Steve Bohleber: Well, I was just next door. I'm Steve Bohleber on that particular

matter. The City Council on their own motion continued this matter for two additional weeks, and asked me to speak to the Board of Directors of University Shopping Center concerning restriction of access on Red Bank Road. That being the case, since they did continue that, and I'm reporting to the board, I'm not in a position to respond (Inaudible) for two additional weeks. It seems logical to do something similar in front of the County Commissioners.

Commissioner Mourdock: I would move that, since we don't meet in two weeks, but we meet a month from now, I would move that we carry this issue forward to our next monthly zoning meeting.

Commissioner Mosby: Can we not hear a zoning outside of a regular night?

Commissioner Mourdock: We could certainly schedule a regular zoning meeting.

Commissioner Mosby: I mean, if they're going to come back in two weeks to the City Council, I would say that we concur with that and we do it the same night so that it would all be done at once.

Steve Bohleber: You're by no means controlled by their actions—

Commissioner Mourdock: Right.

Steve Bohleber: —but it would make it more convenient for both my client and the remonstrators—

Commissioner Mosby: Yeah.

Steve Bohleber: —if it were in a single night.

Commissioner Mourdock: Well, we would pay the cost of advertising for that special zoning meeting.

Steve Bohleber: I—

Commissioner Mosby: Do we have to advertise that? We don't have to advertise that. No.

Steve Bohleber: I think it—

Beverly Behme: (Inaudible. Mike not on.) You would continue (Inaudible).

Commissioner Mosby: It's a continuation, so you don't have to advertise it.

Steve Bohleber: It's my understanding, Commissioner Mourdock, that any action taken in a public meeting eliminates the need for either direct mail notice or advertised notice. Is that your understanding?

Commissioner Mourdock: Well, the key words there is, if it's a continuation, I think. So, I'll rescind my prior motion then, and move that we have a special zoning meeting, what would the date be the 11th?

President Fanello: Yes.

Commissioner Mourdock: On Monday, March 11th at 7:00 p.m.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mourdock: And that meeting is formally a continuation of this meeting.

Steve Bohleber: Thank you all, and I'm sorry for the confusion.

President Fanello: That's okay.

Steve Bohleber: I'm sure you wanted to hear this tonight.

President Fanello: We were dying to.

Commissioner Mourdock: Immediately following.

**VC-4-2002: Petitioner: John J. Elpers Contracting, Inc.
Address(es): 2525-2636 Heard Street, 11743-11816 Newgate Court &
11740-11811 Waverly Court & 2500 Heard Street
Request Ag to R-3**

President Fanello: Next item, which was postponed from the last meeting, is VC-4-2002, petitioner, John Elpers Contracting, Incorporated. Is there anyone here to speak to this rezoning? State your name please.

Keith Poff: My name is Keith Poff. I'm with Sitecon, Incorporated. Representing the petitioners in this rezoning matter. They are asking to have their property changed from the Agricultural zoning to an R-3 zone with a use and development commitment. The commitment will restrict everything except for single family homes in this area. I believe in the staff report you can see that this is a portion of ground that part of it has be platted for a residential subdivision. The remainder of the property has to come back for another primary approval, but the objective is to have the single family lots approved with what would be patio homes. The size of the homes would, probably, exceed the Ag and R-1 lot coverage of 30%, therefore, they would like to have the R-3 zone to allow them to have 40% lot coverage for the total structure. It also does provide some set back changes. Do you have any questions?

President Fanello: Are there any questions?

Commissioner Mourdock: No, I just ask Mr. Mills and staff if they have anything that they want to add to this?

Brad Mills: No, we don't have any problem with that. No comment.

Commissioner Mourdock: Okay.

Commissioner Mosby: Any remonstrators?

President Fanello: Any remonstrators?

Commissioner Mourdock: Seeing none, I'll move on final rezoning approval of the 2525 through 2636 Heard Street, and then the property that I believe is 11743 to 11816 Newgate Court, and 11740 through 11811 Waverly Court, and 2500 Heard Street, from R-3, or I'm sorry, from Ag to R-3 with the use and development commitment as reported.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mourdock: We need a...that's an ordinance. We need a roll call vote.

President Fanello: Oh, roll call vote please. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Fanello: Commissioner Mosby?

Commissioner Mosby: Aye.

President Fanello: And I vote yes.

Keith Poff: Thank you.

President Fanello: Passes.

Commissioner Mourdock: I move adjournment of our rezoning meeting.

Commissioner Mosby: Second.

President Fanello: So ordered.

The meeting was adjourned at 7:12 p.m.

Those in attendance:

Catherine Fanello	David W. Mosby	Richard E. Mourdock
Philip Hayes	Brad Mills	Beverly Behme
Madelyn Grayson	Steve Bohleber	Keith Poff
Others Unidentified	Members of Media	

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
March 18, 2002**

The Vanderburgh County Rezoning Board met in session this 18th day of March, 2002, at 7:35 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Rezoning meeting, March 18th.

Approval of Minutes

President Fanello: Approve minutes of previous meeting.

Commissioner Mourdock: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

**First Readings
VC-7-2002: Petitioner: James A. Adler
5522 N. St. Joe Avenue
Request: Ag to C-4**

President Fanello: First reading.

Commissioner Mourdock: For first reading tonight I would move approval for VC-7-2002, petitioner James Adler, address 5522 North St. Joe Avenue, requesting a change from Ag to C-4.

Commissioner Mosby: Second.

President Fanello: So ordered. There are no final rezonings. I'll take a motion to adjourn.

Commissioner Mourdock: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

The meeting was adjourned at 7:37 p.m.

Those in attendance:

Catherine Fanello	David W. Mosby	Richard E. Mourdock
Philip Hayes	Madelyn Grayson	Others Unidentified
Members of Media		

**VANDERBURGH COUNTY
REZONING BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
April 15, 2002**

The Vanderburgh County Rezoning Board met in session this 15th day of April, 2002 at 6:35 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Rezoning meeting for April 15th.

Approval of Minutes

President Fanello: Approval of the minutes from the previous meeting.

Commissioner Mosby: Motion to approve.

Commissioner Mourdock: Second.

President Fanello: So ordered.

First Readings

President Fanello: There are no first readings.

**Final Readings: VC-5-2002: Petitioner: SC Bodner Company, Inc.
Address: 6900 East Virginia Street
Request: C-4 to R-5**

President Fanello: We do have a final rezoning, VC-5-2002, petitioner, SC Bodner Company, address 6900 East Virginia, request C-4 change to R-5.

Krista Lockyear: Good evening, my name is Krista Lockyear. I'm here on behalf of SC Bodner Company. My client is going to be sorry he missed the show. He should show up any minute, and, hopefully, we'll be done by then. We had a unanimous, favorable vote for this from Area Plan Commission. We are requesting you to approve a down zoning, from C-4 to R-5, on property that's located on, excuse me, Virginia Street behind the new Sam's Club. Sam's Club, also known as Wal-Mart, when they developed their subdivision plans, that included this parcel of property we're seeking to rezone, and to purchase from them, committed to put Columbia Street through to the next street back. What is that next street back there? I guess, it's just back to the existing property line so that Columbia can be used for ingress and egress to this real estate. We are currently working with Sam's and, John has been in contact with their engineers. I think we still have some glitches with Columbia, but they do have a letter of credit on record for the installation, a letter of credit on record for the installation of Columbia. As well as my client, in his purchase agreement, has money being withheld in escrow in the event there is additional funds that are necessary. Obviously, Columbia Street is very important to him. I believe that's the only issue with regard to this zoning. It is a down zoning. The concept is for an upscale one, two and three bedroom apartment complex. There will be 204 apartment units. The idea behind these units...my client showed up. Sorry, Steve, we jumped the gun on you.

Steve Bodner: Great.

Krista Lockyear: This is Steve Bodner of SC Bodner. The idea behind this design is the feel of home. The units have a lot of amenities you would expect in the home; outside entrances, washers and dryers, enclosed garages available. So, it's a beautiful apartment complex, and I hope will be a very nice attraction for Evansville. I think you've all seen the site plan. I have three maps that I will pass out, and you can look at them real quickly here while we're speaking.

Madelyn Grayson: Krista, do you have one for the record?

Krista Lockyear: Absolutely. This does, as you can see, show ingress and egress from Virginia and Columbia. Nice traffic pattern right through the middle of the complex. We really don't expect to need any sort of variances with regard to this. It is designed to meet all of the county code requirements with regard to parking and set back. We've had pre-planning meetings with EUTS, and, obviously, have been discussing this with John Stoll. We've received a lot of compliments on having something that will be this attractive in an area where right now we've got the back of Home Depot. So, hopefully, this will add some aesthetically pleasing scenery to this area, as well as bring some need for some upscale apartments into Evansville.

President Fanello: Are there any questions from the Commissioners?

Commissioner Mourdock: The current street plan, or at least the street plan that we are showing, it does have Columbia going all the way across on the northern property from east, and continuing on to the east, and the same is true for Virginia on the south, correct?

Krista Lockyear: That is correct. Virginia is currently installed all the way.

Commissioner Mourdock: Right.

Krista Lockyear: Columbia must be done as a condition of this subdivision plat for Wal-Mart to even be able to sell this property to my client.

Commissioner Mourdock: Right. Okay, so, and once this property is developed, will the road go all the way to the east line?

Krista Lockyear: Yes.

Commissioner Mourdock: Okay, but no further at that point?

Krista Lockyear: We don't, I don't believe John has conditioned a replat that they need to go any further.

John Stoll: Just the current plan it goes to the east line of this property. I believe Morley and Associates has been working on some plans where Jim McKinney would extend it further, but that was all tentative. Nothing is definite on that extension yet.

Commissioner Mourdock: Alright.

President Fanello: Are there any other questions from Commissioners? Or is there anyone in the audience, remonstrators, who would like to speak?

Commissioner Mourdock: Motion to approve.

President Fanello: I don't think I see any.

Commissioner Mosby: Second.

President Fanello: So ordered. Roll call vote. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Fanello: Commissioner Mosby?

Commissioner Mosby: Yes.

President Fanello: And I vote yes. Rezoning passes.

Krista Lockyear: Thank you.

Commissioner Mosby: I told you it would be quick.

Commissioner Mourdock: Motion to adjourn.

Krista Lockyear: We appreciate that.

Commissioner Mosby: It's not a problem.

President Fanello: Second.

Meeting was adjourned at 6:42 p.m.

Those in Attendance:

Catherine Fanello

Philip Hayes

Krista Lockyear

Members of Media

David W. Mosby

Kevin Winternheimer

Steve Bodner

Richard E. Mourdock

Madelyn Grayson

Others Unidentified

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
May 20, 2002**

The Vanderburgh County Rezoning Board met in session this 20th day of May, 2002, at 7:08 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Rezoning meeting, May 20, 2002.

Approval of Minutes

President Fanello: Do I have approval of the minutes of the previous meeting?

Commissioner Mosby: So moved.

President Fanello: Second, and so ordered.

First Readings: VC-8-2002

President Fanello: First readings, VC-8-2002, petitioner, J.J. Brodi, LLC, address, 4510 Heckel Road, request is R-3 to C-4.

Commissioner Mosby: Motion to accept rezoning on first reading.

President Fanello: Second, and so ordered.

**Final Readings:
VC-1-2002, VC-6-2002 & VC-7-2002**

President Fanello: Final rezonings. VC-1-2002, petitioner, University Shopping Center, address, 111 North Red Bank Road, request A change to C-4.

Beverly Behme: Mr. Bohleber is in the city, and I think he's going to be there awhile. If there is anything I can answer, I will be glad to.

Commissioner Mosby: I would just say that I had conversation with Mr. Bohleber on Friday or Saturday. This has been worked out with the Westside Improvement Association, and also with the City Council. I think they are hearing the same petition tonight that we're hearing. If there is no remonstrators present, is there any remonstrators present? Seeing none. I would make a motion to approve. Call the roll.

President Fanello: Second. Roll call. Commissioner Mosby?

Commissioner Mosby: Aye.

President Fanello: And I vote yes. Ordinance passes. Rezoning passes. Next rezoning VC-6-2002, petitioner Allen Gries, address 4612 North St. Joe Avenue, request is Ag change to M-2. Anyone wishing to speak to that rezoning?

Justin Shofstall: Justin Shofstall with Easley Engineering. What we're proposing here is, essentially, a proposal for a four lot industrial subdivision. One of the oddities on this subdivision is the fact that the developer himself will be occupying, at least, one of the lots, and, at this time, possibly two. The intention is to at least occupy for Mr. Gries and his business, being Allen Gries Disposal, and the construction of an office and storage facilities for his trucks. Also as far as the possibility, as far as, having recycling bin areas, such as, similar to BFI and Onyx has, but there will be no garbage or waste disposal on site. Also, as far as with other businesses that Mr. Gries is associated with through colleagues of his would be a possibility of a small machine shop, very similar to some of the other operations, and, also, as far as the first one I can think of would be something similar to the Lloyd's Machine Shop, which is directly across from this property in St. Joe Industrial Park. Then a water distribution facility, something similar to like Hinckley Springs or Cameron Springs (Inaudible) Springs, of that sort. As far as a storage warehouse facility, and truck deliveries.

President Fanello: Are there any questions from Commissioner Mosby?

Commissioner Mosby: I just know you had conversation with one of the neighbors out there. Have you signed a private covenant with that neighbor?

Allen Gries: He decided that there was no need for it. He didn't feel that he had any need for the agreement.

Madelyn Grayson: Can you please come to microphone, sir?

Allen Gries: I'm sorry?

Madelyn Grayson: Speak in the microphone, please.

Allen Gries: Okay, yeah, Joe Gatewood was talking about a use and development type thing, and then he decided that since I was going to be occupying a large area in this subdivision myself, it was going to be right next to his property, that he decided he didn't need that use and development agreement. So, therefore, he decided to just go ahead and give me his blessing on it, and didn't even go to the last meeting. He said he didn't feel like he needed to.

Commissioner Mosby: Okay, I understand that on use and development, but it's my understanding you were signing a private covenant, so that you didn't have to take this back to Area Plan.

Allen Gries: Private covenant?

Commissioner Mosby: Yes.

Allen Gries: He, uh, Mr. Gatewood said, he just said just go ahead and don't worry about it. He said he's fine with it. That's what Joe told me. We talked, sit down and talked for awhile, and he said, you know, he said he don't want to hold me up anymore. He said he knows I'll be a good neighbor, and do the right thing. Since

I'm going to be occupying, you know, a large area myself, he don't think he ought to do anything to decrease the value of my property anymore than I would his.

Madelyn Grayson: Would you state your name for the record, sir?

Allen Gries: It's Allen Gries.

Justin Shofstall: On that, is, are we talking about, as far as a private covenant, are we talking about as far as a private covenant between Mr. Gries and Mr. Gatewood himself? Or something that would be applying to the subdivision with covenants and restrictions?

Commissioner Mosby: A private covenant is between two property owners. A use and development follows the properties filed through Area Plan. Now, the last conversation I had with Mr. Gatewood, and also with Mr. Gries is that they were not going to do a use and development, because it would require going back to APC, but the last understanding I had, there was going to be a private covenant between them two. Which would also follow the property, and he would have the right to sue Mr. Gries at any point in time if he violated the covenant.

Allen Gries: I'm not understanding. I don't know anything about that. Do you?

Justin Shofstall: He never mentioned anything to me.

Allen Gries: He never mentioned anything to me about it.

Commissioner Mosby: Okay. I don't have anymore questions.

President Fanello: Well, I'm uncomfortable with that, because of what I had understood was going to happen. I know you say you've talked, and I'm a believer that things are better in writing than in words. I would rather see that you had some type of private covenant. That's my thought.

Commissioner Mosby: With a private...well, we don't have a meeting next Monday. With a private covenant, we can come back here—

Beverly Behme: (Inaudible. Mike not on.)

Commissioner Mosby: —that's what I say, it doesn't involve APC—

Beverly Behme: Right.

Commissioner Mosby: —so, we can hold this until the week after Memorial Day, and still come back without going back to APC.

Beverly Behme: (Inaudible. Mike not on.) It was just heard (Inaudible.)

Madelyn Grayson: Bev, can you turn your mike on?

Commissioner Mosby: It's on.

President Fanello: Bev.

Commissioner Mosby: Oh.

Beverly Behme: I'm sorry. There's time.

Commissioner Mosby: The advertisement is fine.

Beverly Behme: Yeah.

Commissioner Mosby: Okay.

Beverly Behme: I mean, we're not involved, I mean, if you want to wait.

Kevin Winternheimer: Yeah, what she's saying is your 90 days is (Inaudible).

Beverly Behme: We're fine.

Kevin Winternheimer: Plus, if, what, to save readvertising, and all that, if you want to continue it, continue it to a specific time and date, then you don't have to readvertise it. It's just a continuation of this consideration.

Beverly Behme: Right.

Kevin Winternheimer: So, you can do that, if you want to.

Commissioner Mosby: I would continue, well, I mean, unless he wants to go forward, but, I mean, I would say we continue it until June the 3rd.

Beverly Behme: Okay. I'll be here.

Justin Shofstall: At that point, having at least (Inaudible. Talking over each other.)

Commissioner Mosby: It has no affect on the advertisement. You don't have to wait and go back to Area Plan—

Beverly Behme: No.

Commissioner Mosby: —come all the way back here, because then you would be the end of June. We can specifically put it off till June the 3rd, and there's no problem. I mean, it's not rezoning night, but we could hear this one petition, if we want.

Justin Shofstall: At that point, then, the Commissioners would be expecting to see, at least, some sort of signed paperwork between Mr. Gries and Mr. Gatewood regarding the private covenant?

Commissioner Mosby: The last conversation I had with Mr. Gatewood there was going to be a private covenant. I know the use and development was not going to happen, but there was going to be a private covenant. He's saying he didn't know anything about a private covenant. So—

Allen Gries: You're right, Joe never said anything to me about it.

Commissioner Mosby: Well, I talked to you about it on the phone.

Allen Gries: I haven't talked to you since I talked to Joe, Dave.

Commissioner Mosby: I talked to you back on, I don't even recall the date, but I told you then you could sign a private covenant, because he had said something to me about it. So, I mentioned it to you at that point in time.

Allen Gries: Well, at that time, I was going to get together with him and do this use and development thing, is the best of my understanding.

Commissioner Mosby: And I told you—

Allen Gries: And Joe said, don't worry about it. He said, I don't feel like I need it. I feel like I trust you, and I feel like you are going to be a good neighbor to me.

Justin Shofstall: On that, then, with what the conversation was beforehand, if you were willing to go ahead and continue this to June 3rd, allowing us time to at least where Mr. Gries and Mr. Gatewood can definitely get at least something down on paper.

Commissioner Mosby: If Mr. Gatewood, I mean, I'm doing this to clear my mind, because I have had conversation with Mr. Gatewood—

Justin Shofstall: Right.

Commissioner Mosby: —on three or four occasions. You know, if he tells me that he doesn't want it, that's fine.

Kevin Winterheimer: I was going to suggest that if he doesn't want the use and development, he doesn't want the covenant, just give you a letter in writing. Something signed in writing to indicate that's what he's desiring.

Justin Shofstall: As long as this is definitely for paperwork to go into the file.

Commissioner Mosby: But I don't feel comfortable voting on it tonight, after the conversation I've had with him, so.

President Fanello: So, I guess, you need to make a motion to continue—

Commissioner Mosby: I will make a motion to continue this until June the 3rd.

President Fanello: At our regularly scheduled 5:30 meeting.

Commissioner Mosby: Right.

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

Madelyn Grayson: Kevin, that will fall under the guidelines of what we discussed in the Commission meeting, where no advertising is required?

Kevin Winterheimer: Right. Because they continued the matter till a specific date and time, that no further advertisement is needed. No further notices to anybody else. If they wanted to be here with a concern, they should have been here tonight. So, it can just be brought up.

Justin Shofstall: June 3rd, 5:30?

Commissioner Mosby: June 3rd.

President Fanello: Yes.

Commissioner Mosby: Regular meeting, yeah, because it's not zoning night. We're just going to hear this one special.

President Fanello: Alright, thank you. Next rezoning we have is VC-7-2002, petitioner, James Adler, address, 5522 North St. Joe Avenue, request Ag change to C-4. Is there anyone wanting to speak to this rezoning?

James Adler: My name is James Adler. If you've got any questions, I'm just here to answer them. If not, I don't have anything to add to the request.

President Fanello: Are there any questions by the Commission?

Commissioner Mosby: I guess, the one question I have, and it's under the staff report. It says that this is a shallow, triangular lot which makes it difficult to meet minimum code requirements for commercial development. The plan discourages the use of variances as a means of permitting substandard parking. How do you intend to meet with the parking requirements?

James Adler: Well, our intended use here is a contractor's shop. Just a pole barn building to store some equipment and seasonal materials in. Whatever size we can get on there within the code, is what we'll put on there. If we can't, we won't, but we weren't going to do anything as far as developing a complete plan for the lot until we knew we could put a building on it. I mean, we're just, we can't put a contractor's shop on there with Ag, with it's present zoning. So, we need to get it changed to put a building on it.

Beverly Behme: He's going to be limited to the size of his building.

James Adler: Yeah. We, our intended size was like a 60' X 80', but the set back we were told out there was like 50', but we come to find out at the last meeting that it's 70'. So, we may have to cut down the size of the building.

Commissioner Mosby: So, you really don't have a plan?

James Adler: Yeah, we plan to put a contractor's shop up. Mr. Jeffers brought up the point that it's in a flood plan, or flood plain there, or something.

Bill Jeffers: (Inaudible. Not at mike.)

James Adler: There's some drainage issues out there, and if we reach a certain level of (Inaudible. Stepped away from mike.) We may have to build a smaller building than what we originally intended, is the only.

Beverly Behme: The 70' set back that you were talking about, that's a thoroughfare setback from the center line to St. Joe. So, he has to stay 70' back from that. Then that is going to limit him to his size, plus he has concerns about the flood area. So, he's going to be limited to a smaller building than what he's got shown here.

Commissioner Mosby: Well, how big is your present building?

James Adler: We don't have a building yet.

Beverly Behme: He doesn't have one.

Commissioner Mosby: So, you have no building whatsoever?

James Adler: No.

Commissioner Mosby: You don't operate out of anywhere?

James Adler: Oh, we've got a building we're renting on Maxwell Avenue, but—

Commissioner Mosby: Okay, well, how big is it?

James Adler: It's 40' X 60'.

Commissioner Mosby: So—

James Adler: But we, basically, just store materials in there, and you can't pull trucks in it. It's just a building we can store inventory in during the season.

Commissioner Mosby: Okay.

James Adler: All the trucks we have are, like the truck I drive, my sons drive, that's our whole fleet. We drive our trucks home, you see. It's not a customer oriented site. There would never be anybody there except us working. That's just where we pick, drop off, you know, store our equipment overnight, or in between jobs. Plastic pipe inside the building, and irrigation parts.

Commissioner Mosby: Well, how many people do you have working for you?

James Adler: I work for myself. My son owns a business that we would have in there. Or, he and I are together, actually, we just, it's just me and my two sons, is all it is.

Commissioner Mosby: Okay.

James Adler: So, counting owners, I guess, we'd never have more, than at the very most, four employees. Pick up a guy in the Summertime, once in awhile, but, it's just a small, family business. Has been for 25 years.

Commissioner Mosby: Okay.

President Fanello: Are there any (Turned mike on) Excuse me, are there any remonstrators in the public who would like to speak? Please come forward.

Commissioner Mosby: Oh, okay.

President Fanello: If you would, go ahead and state your name, for the record.

Ola Garland: My name is Ola Garland, and I own a property in close proximity to this. I would like to object to the spot zoning. It's an area that's agriculture, and it's residential. I feel like the property devaluation of the farms and the country homes would occur here, because it's located approximately 3 ½ miles out of the city limits,

so it is Ag country. I believe the property is far too small for the proposed purpose, to house large backhoes and dump trucks, and other large equipment. For parking, and also the right-of-way lessens the space for this type of business. I fear it will open the door for damage to my property and others by unlawful parking of such large equipment, that, if it's passed, it would be detrimental to the surrounding area. The property could be rezoned, and then after it was rezoned it could be sold and used for something else. I also feel that with the BFI, and the county trucks, and the farm equipment, and the traffic, it would add a burden to the outer St. Joe Avenue, which is only a narrow road. It is not the wide lane, after it passes Mill Road, which is where this property is. I feel it would be an added burden to include large construction equipment to that narrow road. Like I said, I feel that the overspill from this large equipment is going to enter into, possibly, my property and others, because there's not, this isn't large enough. It really isn't large enough for him to build a building on, and it sure isn't for large equipment, such as that. I just don't want any damage to my own. I think you can see this is too small, really, for it to be put on. So, I would respectfully ask the Commission to consider and refrain from changing the zoning, at this time, at least, until possibly that area...the road is widened, and things are a little more susceptible to his type of business. So, I thank you.

President Fanello: Thank you, Ola. Does the Commission have any questions for her?

Commissioner Mosby: No, I was looking at some pictures she gave me. I guess, my question to the petitioner would be, the buildings that are presently on the property, are you tearing them down? Or what are you doing?

James Adler: There are no buildings. Let me see what you are looking at. That's on a neighbor's property. There's 66' of railroad right-of-way that runs behind the property behind—

Beverly Behme: Here's an aerial.

James Adler: Yeah. These are the buildings you see right there in that picture. Here's Ms. Garland's property back here. She has a 20' easement off here to get to that 10 acres, and there's 66' of railroad property in between.

Commissioner Mosby: So, this, is this your truck?

James Adler: Yeah. That's my truck, yeah.

Commissioner Mosby: Okay.

James Adler: (Inaudible. Not at mike.) Now those are concrete tile. Here's some pipe sitting over here, and a couple pieces of equipment.

Commissioner Mosby: Okay. I was going to say, I had that aerial view somewhere. It's right here.

Madelyn Grayson: Beverly, can we have copies of those pictures for the record?

Commissioner Mosby: Yeah, because I've got a copy of the aerial view. I looked at it already.

President Fanello: Do you want a copy of her comments?

Commissioner Mosby: How much equipment do you have?

James Adler: Equipment?

Commissioner Mosby: Yeah.

James Adler: We've got a mini excavator, and a pipe file, and a tractor with a front end loader on it.

Commissioner Mosby: No dump trucks, pick ups trucks, no other equipment?

James Adler: We've got pick up trucks that we drive home. That, in there, is a flat bed truck that you see on that picture. The only, that would be the only truck that would sit on the site, probably. It would be in the building. If we could get a building up, if we can put a building up, obviously.

Beverly Behme: Mr. Bohleber, you're finished.

James Adler: There's a recycling place across the street. Then there's manufacturing across the street from this also. You can look in that aerial photo. (Inaudible. Stepped away from mike.) Here's the manufacturing, here's recycling.

Commissioner Mosby: So, Beverly, you say they would have to go to site review and get a variance.

Beverly Behme: They would have to go to site review for any building that they put on there, for approval. If he builds anything. His problem, if you look at this, it shows 60' for this size building. So, he will have to have 70'. So, he's going to have to cut the building off. This is just an example. This isn't, I mean, he has not gone to site review. He will go to site review. He'll show parking, and they'll have to determine the access on St. Joe also. So, he's got a couple of steps to go before he's ready to open shop. If this is approved.

James Adler: We just trying, at this point, we're trying to find out if we can even, I mean, we're proposing to put that size building on there. If because right-of-way, it's got to be smaller, then if that smaller size, if it's not suitable for what we need, then we're just not going to do it, but—

Commissioner Mosby: Okay, that answered my question.

James Adler: I mean, site review will take care of size and everything. I mean, if we can't get it in there, we just go somewhere else.

Ola Garland: Aren't there too many unknowns though?

Commissioner Mosby: Well—

Ola Garland: He doesn't know what he's going to put on it. He doesn't know—

Madelyn Grayson: Ms. Garland—

President Fanello: I need for you to come to the microphone please.

Ola Garland: Are there not several unknowns there, though? He doesn't know what he's going to put on it. He doesn't know what he's going to park on it. He doesn't...there's too many unknowns. That's what I said, if it is rezoned, then he can do whatever, you know?

Beverly Behme: (Inaudible. Mike not on.)

James Adler: I think, to Ms. Garland, I would just like to say that the rezoning is not going to permit me to put anything I want on that site. The rezoning only means I have the opportunity to put a building on there, you know, and use it in a C-4 classification. If I can't get a building on there like that, it's a dead issue. I mean, it's a vacant lot, at that point.

Commissioner Mosby: Well—

Ola Gardner: (Inaudible. Not at mike.)

Commissioner Mosby: —I was going to say, no, it's a C-4 vacant lot, which what is it, 227 uses?

James Adler: Right, but if I can't get a building on it. I mean, my use is for a contractor shop. If I can't put a shop on it, we've just got to go find another piece of ground.

Commissioner Mosby: I understand that, but then you have a piece of property that is zoned C-4 that somebody can come along and put anything on it they want. I mean, that's—

James Adler: If it will fit. I mean, if it will fit, yeah.

Commissioner Mosby: I have no more questions.

President Fanello: Okay. The board would entertain a motion.

Commissioner Mosby: Is there any other remonstrators—

President Fanello: Oh, I'm sorry.

Commissioner Mosby: —present? Or anybody that wants to speak?

President Fanello: Any other remonstrators? Or anyone else who would like to speak to this rezoning?

Commissioner Mosby: I'll make a motion to adopt VC-7-2002, and call the roll.

President Fanello: Second to the motion. Roll call vote. Commissioner Mosby?

Commissioner Mosby: I have a problem with this rezoning due to the fact that I don't think the piece of ground is big enough to do what the petitioner is wanting to do. Once we rezone this piece of ground to C-4, it's going to be a commercial piece of property, which, in turn, will allow any of the 200 plus uses that could be used on this piece of property. It doesn't necessarily have to be a property that you are going to put a building on, you could put a go cart track, you could put anything else you

wanted on there. Due to the fact that I don't think it's big enough to house what the petitioner is wanting to do, for his contractor's shop, I'm going to vote no.

President Fanello: And I vote no. Zoning does not pass. Is there any other business to be brought before the Rezoning Board?

Beverly Behme: And, Kevin, you've met Brad? Okay.

President Fanello: Entertain a motion to adjourn.

Commissioner Mosby: There being no further business to come before the Zoning Board, I make a motion to adjourn.

President Fanello: Second. We will start Drainage in about five minutes then.

The meeting was adjourned at 7:33 p.m.

Those in Attendance:

Catherine Fanello	David W. Mosby	Kevin Winternheimer
Beverly Behme	Madelyn Grayson	Allen Gries
Justin Shofstall	James Adler	Ola Garland
Others Unidentified	Members of Media	

**VANDERBURGH COUNTY
REZONING BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
June 17, 2002**

The Vanderburgh County Rezoning Board met in session this 17th day of June, 2002 at 8:00 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding,

Call to Order

President Fanello: Call to order Vanderburgh County Board of Commissioners Rezoning, June 17th.

Approval of Minutes

President Fanello: Do I have a motion to approve the minutes from the previous meeting?

Commissioner Mosby: So moved.

President Fanello: I'll say second, and so ordered. I don't believe we have any other business.

Commissioner Mourdock: Motion to adjourn.

Commissioner Mosby: Second.

President Fanello: So ordered.

The meeting was adjourned at 8:01 pm.

**VANDERBURGH COUNTY
REZONING BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
July 15, 2002**

The Vanderburgh County Rezoning Board met in session this 15th day of July, 2002 at 7:27 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Approval of Minutes

President Fanello: Are we all ready? We'll call to order Board of Rezoning. Thank you. I need approval of the minutes of the previous meeting. Did we—

Commissioner Mosby: So moved.

Commissioner Mourdock: Were we all here?

President Fanello: I was going to say, were we?

Commissioner Mourdock: Second.

President Fanello: So ordered.

First Readings

President Fanello: No first readings.

**Final Reading
VC-8-2002: JJ Brodi , LLC
4510 Heckel Road
Request: R-3 to C-4**

President Fanello: We do have one final rezoning this evening, VC-8-2002, 4510 Heckel Road, R-3 to C-4.

Commissioner Mosby: We're listening, Mike. Go ahead.

Brad Mills: Go ahead? This is, has received ten affirmative votes from APC. It's to rezone area off of Heckel Road, west of Greenriver from R-3 to C-4.

Mike Shopmeyer: My name is Mike Shopmeyer with Kahn Dees Donovan and Kahn, here on behalf of the petitioner. Also with me is Keith Poff from Sitecon, the engineer involved with this. As you heard it was a 10-0 vote. I won't take a lot of your time. The commitment at that hearing was to provide a protective covenant. That's what I've given to you, the protective covenant. It protects the three remonstrating neighbors from billboards, and from a screening of trees to be planted that are consistent with the trees on the commercial zoned area in the subdivision they live in. This is necessitated by the Greenriver corridor plan that provides for a frontage road. So, that moves this property back, and, of course, the road takes a good portion of the previous commercial property that was in this residential development. This is an R-3, versus an R-1 development. So, in many cases it

mirrors what is next door in the subdivision that has a mixed C/R use. I'll be happy to answer any questions. Jackie and Jim Johnston, our clients, with J.J. Brodi are principals in the company are here to answer any questions as well.

President Fanello: Does anyone have any questions?

Commissioner Mourdock: Mike, this is heavily labeled a draft protective covenant agreement. Have you gotten response back from the people who would be the benefactors of this?

Mike Shopmeyer: I think I'll let one of the gentleman speak here. The other two I know Monica's talked to today, and I think they're comfortable with it. We will certainly sign it, and as I committed at the Plan Commission, and as we commit in this letter, and I'll commit today, we will sign and see that it's recorded. They will, of course, have to sign it as well.

Commissioner Mourdock: Right.

Mike Shopmeyer: Okay.

James Ehram: Good evening. My name is James Ehram. I live at 5901 Winnett Drive, Evansville. I'm in the Keystone Subdivision. I moved down here a year ago from Indianapolis. As I stated in the meeting on the 3rd, I seriously looked at the surrounding area, and to the Keystone Subdivision. Yes, I knew the, knew there was something in that corner. I didn't know what it was, but now it's a C-2. Doing research, with the C-4 zoning, that allows for a lot more heavier industrial type warehousing and such. There are nice houses to the north in the Greenriver Estates, as well as the Keystone Subdivision. I don't see that having this zoned as a C-4 is prevalent to the neighborhood setting that is there. I could see a C-2, keeping it, that would restrict the zoning down to more of a, a standard that would meet the surrounding area. I hope that you may send this back and have them rezone C-2. At that point, I wouldn't have any problem with that. I know there is already a section already zoned C-4, and if I was down here, living down here at that point when that came up, I would have stood up and tried not to have that. The area is totally residential. North on Greenriver, about a mile or so, they have the C-4, the industrial sites, and there is other sites on Lynch off Mills Road, between Lynch and Mills Road that's for that type of business. So, I'm just stating that I would rather see a less, a lower zone than C-4. The lists between C-2 and C-4 is just a little bit extensive. Thank you.

President Fanello: Thank you.

Commissioner Mourdock: Mr. Ehram? A couple of questions for you. Have you seen, then, this draft covenant?

James Ehram: Yes, I have read it, and there is a couple of things that I'm not too fond of. One, that if just one of the three residents move from that area, for whatever reason, within that 30 year time frame, that covenant is null and void. So, that means once we three move out of the Keystone Subdivision, they can throw that covenant away, and put in there the large billboards, or other things like that. That would be a disservice to the people that would move into that subdivision with the streets or the houses that haven't even been built yet. That whole section that is in reference, there aren't any, there aren't even any houses there yet. So, those people that may buy that will be affected by it. Yes, there's a small section, but you

have, you would have to look, you can look from your backyard in these lots, to both ways, and you see that commercial building. I suggest, asked if they could line the whole section with landscaping to hide whatever, you know, to make it appealing to the eye, because it is a country setting. Similar to, you know, Keystone they did the whole street of Greenriver down through Heckel, and landscaped that with pine trees, and did a very good job. As keeping the, in that aspect, traveling Heckel Road, you want to see a country, residential setting, and not a heavy commercial, as they're requesting. Thank you.

Commissioner Mourdock: At Area Plan you asked the question what was going to be built on this property, and I don't know that there was an answer given that night. I don't know that you had an answer, but do you, Mike?

James Ehram: The response, I asked that question today of Monica Edwards, who is with the attorneys, and they said that the owners are just wanting it C-4, so they can sell it later. You know, they are not planning on developing it themselves, they are planning on selling it. So, they want to get it C-4 so they can sell it. To me, if that's the situation, why not, for that situation, why not leave it as it is, and let whoever buys it deal with that, or whatever they want to do with it at that point.

Commissioner Mosby: Mike, I would give you a chance to answer that question.

Mike Shopmeyer: Yeah, I would like to. First of all, right now, and I mentioned this at Plan Commission, it's zoned R-3. So, do understand, in most circles, certainly in my neighborhood, I would rather be next to C than an R-3. There is little difference between C-2 and C-4. The C-2 is in the subdivision. His own developers have C-2 in their sub. This is C-4. A billboard can go there right now. We are offering, on all the property, okay, all of it, not just what we are rezoning today, but on all of it, to put this restriction in place on the billboard. On the buffer there is a sewage treatment lift station, excuse me, there is a lift station there in this very area. So, their own developers put the lift station and have commercial there. The reason we are C-4 is because our property that is being taken by the frontage road as part of the corridor plan is C-4. So, we're staying consistent with the zoning we have in the area. The frontage road will serve the interests of the corridor plan, because, as you know, it takes the access and moves it away from what they are anticipating. The corridor plan will be a pretty substantial intersection. In terms of planning, the entire roadway, as it's been suggested, there is no reason for a buffer between an R-3 and an R-1. We're not here today on that issue, which still remains a majority of the property. So, I would say, first of all, this is what we said to the Plan Commission, there were lots of questions, and the vote was 10-0. We've offered a protective covenant to cover the issues involved, provided for the buffer in the area in question. The zoning is consistent. There is not that much difference between C-2 and C-4. We picked C-4 to be consistent with what had, which seems only fair in light of the fact that we're accommodating the, and I wish John were here, John Stoll, would probably have helped us, to accommodate that frontage road moving further up north, and then also providing to take that traffic, which would be, oh, we would probably have about the same number of lots. Now, you will have lots on both sides of the frontage road. So, that serves, those frontage roads serve to the interest of the county as a whole. As to the question of the time limitation on covenants, I think Kevin can certainly address that for you, but that's pretty common today. We all realize that we used to do restrictive covenants that had no limit, and we leave a terrible legacy as lawyers for the people that follow us. 30 years is certainly, for most of us, a lifetime. So, I would point out that Mr. Jensen was all of my children and my wife's swim coach. Been in this city forever, and he's not here tonight. So, I'm,

obviously, he's pleased with it. With what we've sent out. As I understand, the head of the neighborhood association, I think, is Mr. Hutchins, and he's not, doesn't have a problem with it either. So, I think we've fulfilled our promise. So, Jim.

Jim Johnston: One statement. I'm Jim Johnston, and this is not under my name, this is under J.J. Brodi. J.J. Brodi is my children. This ground is for my children. It's not speculation. It will come. Probably the multi-family will go first. The commercial at that point in Greenriver Road right now is not worth anything. At some point it will be worth something, but it will be maybe in my lifetime, maybe not. What we are trying to look, we bought this ground the day that they announced Toyota was coming to Evansville. So, what's that been, five, six years ago? So, we're not in a hurry. We're doing this because we have to. Not for speculative purposes. The R-3 will be more valuable sooner, but at some point that Greenriver Road frontage, like I said, not in my lifetime, but at some point it will be valuable. We address that now, or we address it down the road. We're forced to address this issue today, not down the road. If it gets down the road, then it's like the target situation where everybody suffers.

President Fanello: Are there any other questions?

Commissioner Mosby: Mr. Mills? How many uses in a C-2?

Brad Mills: I don't have it in front of me. I don't know. 175 in a C-4. It would be somewhere much less than that for the C-2.

Commissioner Mourdock: I think 72.

Brad Mills: Is it 72?

Commissioner Mourdock: Don't ask me why I remember that, but I think it's 72.

Mike Shopmeyer: I don't think it's that great. In all due respect, I think it's, I don't think it's that great a difference. You may be right, I may be, but that sounds more than what I thought. I've been on both sides of these.

Commissioner Mourdock: Well, my recollection from the City Council was like 100 in a C-2, and 200 and something in a C-4.

Brad Mills: C-4 is 175 I know. So, C-2 is somewhere less than that.

Commissioner Mosby: Then they cut it down. I used to carry it in my briefcase. I beg to differ when you say there is not that much of a difference.

Mike Shopmeyer: There are uses that one can look to, but the C-4 is already there. I mean, I hope it's understood that we have a large tract here that is already C-4. That use is already there. It's already zoned.

Commissioner Mosby: I realize that, but you're coming back into a residential area.

Mike Shopmeyer: A large part of that area, the adjoining sub has their lift station, and, as you can tell from the map that is in front of you, a large part of that is commercial. Now, I suspect the developer, you know, looks at it a little differently than we did, but, nonetheless, they still, the very developer of that sub put C in there.

Brad Mills: David, another one from the city was, we had in our staff field of 110 uses.

Commissioner Mosby: In what?

Brad Mills: 110 in a C-2.

Commissioner Mosby: I was going to say, it was right around 100. Now did you say a C-4 was only 175?

Brad Mills: That's correct.

Commissioner Mosby: Hmmm.

President Fanello: Are there any other questions?

Commissioner Mourdock: I was going to make sure, there are a couple of ladies, if you wish to say anything. Okay.

Madelyn Grayson: Mr. Shopmeyer, do you have an additional copy of the covenant for the record?

Mike Shopmeyer: Yes, I do.

Commissioner Mosby: I guess, I'll ask you one question before we vote, are you willing to take this covenant back, and work with this gentleman on some of these uses in this C-4?

Mike Shopmeyer: Well, there are clearly some of those C-4's that we might work with them on, but—

Commissioner Mosby: Well, and then that's—

Mike Shopmeyer: Okay, we would like to talk to Wayne Hutchins, who's in a position of a little, the association for out there. So, we would probably talk to him.

Commissioner Mourdock: When you spoke to Mr. Hutchins before, were there some uses that you were specifically drawing out of it?

Mike Shopmeyer: No, he was happy.

Commissioner Mosby: They haven't drawn none of them.

Mike Shopmeyer: The main thing they wanted was the buffer—

Commissioner Mourdock: Right.

Mike Shopmeyer: —which we've provided for.

Commissioner Mourdock: The reason I ask the question is my notes from the APC meeting had Wayne Hutchins, remonstrator, he did not know it was zoned to be a small strip. He represents the homeowners association of Keystone. Then says spoke well about taking out the welding shops and probably limiting what they would have to work from. He apparently said something about, you know, he realized there

wasn't going to be welding shops, or something like that, and hence my comment. Those are not verbatim minutes.

Mike Shopmeyer: There was comments in the record industrial, which is out of line. Welding shops, don't get me wrong, but you can't put a welding shop in C-4.

Commissioner Mosby: You can weld in a mechanical shop. You can have a mechanical shop in a C-4. I used to own one. You can have a radiator shop in C-4. You can't have a body shop.

Mike Shopmeyer: Okay.

Commissioner Mosby: You can have a mechanical shop. You can have a gas station.

Mike Shopmeyer: You can have a gas station. I know that.

Commissioner Mosby: You can have a radiator shop. You can have, you know, that's why I say C-4 is heavier than you're saying. C-4 allows go-cart tracks, motorcycle tracks, you name it.

Mike Shopmeyer: We would certainly, as I've said in the record, we would work with them on, but Mr. Hutchins has had this. It was hand delivered to his house on Friday.

Commissioner Mosby: Mr. Hutchins is, what, the president of the association? Then I would advise Mr. Hutchins to get with him, because he is going to be the one here next month when you come back. I mean, he is the remonstrator here. That's what I'm concerned with. I mean, if you have to meet with him or whoever. I mean, that's not a problem, but, you know, my philosophy is if we get the two parties together and you can come to an agreement, and you can write out a tavern, or a liquor store, or a radiator shop, or whatever. I mean, I would be concerned of what his concerns are. I, I, and I'll be honest with you, 14 years in the city, I don't like passing a zoning that is vacant. I don't know what's going there, and I can't tell any neighbor out there what's going to happen.

Mike Shopmeyer: There's two schools of thought, of course, on that. As you know, on any zoning, if you zone it, and somebody's saying, you know, they are going to put something in, as long as it's in that use, it can change next week. As we've all discovered on the riverfront here in Evansville.

Commissioner Mosby: The use can change.

Mike Shopmeyer: Right. There's two schools of thought, one is that the type of zoning we're doing here allows for people to know in advance what's happening. Certainly, it was in the record, and I think Mr. Mourdock can speak to that, this gentleman didn't read his restrictive covenants, didn't look at anything. He admitted that in the record. Yet today we're going to take long time residents, we're going to, you know, all these folks here who have no complaints, a 10-0 vote, and you're talking about delaying this for a month. I don't see—

Commissioner Mosby: We don't have to delay it. You want me to make a motion? I'll make a motion to call the roll.

President Fanello: I would just add one resident is just as important as ten other residents, and you know that, Mr. Shopmeyer.

James Ehram: May I make a statement?

Commissioner Mosby: There's a motion on the floor.

President Fanello: Go ahead.

James Ehram: The statement I have is that my mother-in-law lives in that same addition. I'm also in contact with my neighbor, who's husband works in Chicago, she just had twin babies, so she has to stay home and take care of the babies. The neighbor across the street has an 18 month old child that doesn't, that is special handicapped. Her husband is, right now, in Fort Knox in the Army doing Reserve work. So, I'm also trying to represent my neighbors in this, as well as my family.

President Fanello: Thank you.

Commissioner Mourdock: Let me just ask the question, David, since there is a motion on the floor. Two minutes ago, three minutes ago you were, certainly, giving indications that you wanted both parties to work together on this. I think the motion that you put on the floor would kind of put an end to what, hopefully, might be resolved, if the two parties work together.

Commissioner Mosby: I was going off of a lead.

Commissioner Mourdock: I understand.

Commissioner Mosby: I mean, I can read leads.

Commissioner Mourdock: You can what?

Commissioner Mosby: I can read leads.

Commissioner Mourdock: Oh, okay. So can I, and I just want to make sure we give both sides full opportunity to review what their total options might be here. So, I'm not going to second the motion, and might even respectfully ask that you rescind it, to see if, in fact, the petitioner would want to take a month to talk to other folks about this.

President Fanello: Mr. Shopmeyer.

Mike Shopmeyer: Sure, we'll take another month to talk to other folks about it.

President Fanello: Would you like to rescind your motion, Mr. Mosby?

Mike Shopmeyer: I would appreciate it if the motion would be rescinded.

Commissioner Mosby: I will rescind the motion, if they will get with the perspective parties involved. I don't know if it's just this gentleman, or whoever else that you might be representing that you are talking about.

Commissioner Mourdock: For what it's worth, from the APC, and I don't have the minutes in front of me, maybe Brad does, but there were a number of people who spoke to this at APC, and tonight I see only Mr. Erickson.

James Ehram: Ehram.

Commissioner Mourdock: I'm sorry.

James Ehram: Ehram.

Commissioner Mourdock: Oh, I'm sorry. Okay, alright, I apologize. I don't know if these two ladies, which side of this they're on. Okay, so we've gone from having a room of a number of remonstrators, apparently, to one. So, there has been some progress.

Commissioner Mosby: That's fine.

Unidentified: (Inaudible. Not at mike.) people in Keystone. (Inaudible.)

Commissioner Mourdock: Right.

Commissioner Mosby: I guess, my only thought is that if there is some things that you don't have to have, and there's some things that you don't want that....I'm not going to say that you're going to come to an agreement. I've listened to these for 14 years, and you're probably not going to come to an agreement on everything. I'm sure this body will be reasonable enough, both ways, to look at what the end result is. I mean, if there is a protection there for the neighborhood of some type, and their concerns, and you don't need it, I mean, if you intend to put a go-cart track in there, then don't strike it, but if you don't intend to put a go-cart track in there, strike it out. It's one less use.

Jim Johnston: Well, we could put a go-cart track in the existing section, and not in the next section. That's the problem.

Commissioner Mosby: And that would be—

Jim Johnston: The C-4 is already there, so we'll talk...we would like to talk to the association, but we'll do it.

President Fanello: Thank you.

Kevin Winterheimer: We'll need a motion then to—

Commissioner Mourdock: Yeah, I'll move that we defer this until next month's meeting.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mourdock: Motion to—

President Fanello: Go ahead.

Commissioner Mourdock: I was going to adjourn. Are you ready? Motion to adjourn.

Commissioner Mosby: Thank you. Did you say motion to adjourn? Huh?

Commissioner Mourdock: Yeah.

President Fanello: He said motion to adjourn.

Commissioner Mosby: Second. Okay, I didn't hear him.

President Fanello: So ordered.

Meeting was adjourned at 7:51 p.m.

Those in Attendance:

Catherine Fanello	David W. Mosby	Richard E. Mourdock
Kevin Winternheimer	Madelyn Grayson	Brad Mills
Mike Shopmeyer	James Ehram	Jim Johnston
Others Unidentified	Members of Media	

**VANDEBURGH COUNTY
REZONING BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY
REZONING BOARD
AUGUST 19, 2002**

The Vanderburgh County Rezoning Board met in session this 19th day of August, 2002 at 7:00p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Approval of Minutes

President Fanello: I need to go ahead and open the meeting. The advertised meeting starts at 7:00. So, call to order Board of Rezoning meeting.

Commissioner Mosby: Motion to approve the minutes of the previous meeting.

Commissioner Mourdock: Second.

President Fanello: So ordered.

First Readings

President Fanello: You'll have to forgive me, but I don't have an agenda.

Commissioner Mosby: There's no first readings.

Commissioner Mourdock: Yeah, first readings, we have none this evening. So, you are the only item of business.

President Fanello: Yes.

**Final Reading: VC-8-2002
Petitioner: JJ Brodi LLC
Address: 4510 Heckel Road
Request: R-3 to C-4**

President Fanello: VC-8-2002, petitioner, JJ Brodi LLC.

Commissioner Mosby: Madam President? I'm just going to make a short statement. I have talked with Mr. Clark today. I've talked with Mr. Shopmeyer, and the petitioners. We were here last month, July the 15th, there was one gentleman present, which was this gentleman right here, and he had brought it to my attention that there was a restriction on this piece of property and this zoning. The restriction was basically for billboards, and it did not restrict the uses of the property. At that time, I had requested Mr. Shopmeyer to go back and negotiate with this gentleman to put restrictions on the property, because of the fact that an open C-4 would have allowed some hundred and some odd uses, and we won't go into that. He agreed, after a period of time, that he would go back and work with this gentleman. I didn't know it was going to lead to this, but I'm glad to see there's this many people interested. I thought he was a lone sailor for a while. What it is, is you have the opportunity now, over the next 30 days, and I would advise that you do this as quick as possible. We need to get this back on the Area Plan agenda for the first Wednesday of next month. So, he really needs to know what he's going to put in this use and development commitment. After talking with him this morning, I believe he was submitted some 59 uses that were considered undesirable. At that point, I believe, the petitioners have come to the conclusion that they could live with 46 or

47 of them uses. Some 85%, possibly. What I need you to do is get together, go back, try to negotiate what you think is the best deal. Now, you people might not get everything you want, and they might not get everything they want. Last month this would have passed as an open C-4, and every use would have been allowed, and it come out of Area Plan 10 to nothing. So, we could have passed this, and it would be a done deal. We didn't, but I would suggest that you work, and work in the spirit of compromise. I've been through many of these for 13 years. I would just ask you, that you work with the attorney, and his petitioner, and that he work with you all, and we come back here the third Monday of next month, and we'll have this zoning in front of us. So, at this time, I'm going to make a motion to continue this until next month's zoning meeting.

Commissioner Mourdock: I'll second, and if there are any folks who want to make a comment, I guess, it's up to the board here if we care to hear anything, at this point.

Commissioner Mosby: That's allowed.

Unidentified: May I make a comment?

President Fanello: Sure. Please just state your name, address.

James Ehram: James Ehram, 5901 Winnett Drive. As you can tell, I am not the only one. I would like to thank—

Commissioner Mosby: That's obvious.

James Ehram: —everybody for showing up, and showing their support for our community. I would also like to apologize to Mr. Brodi, the Commissioners, and his attorney for the miscommunication on the second letter that went out. It wasn't necessary, because of the lack of communication. Again, thank you very much for listening to us, and noticing that we do care about our neighborhood. Thank you.

President Fanello: Thank you. Is there anyone else who would like to make a statement.

Al Bragin: My name is Al Bragin, I live at 5816 Shoreham Drive. I have a question more than a statement. The question is, if this were to be rezoned today, with the restrictions, would that be C-4 with restrictions, or something else?

Commissioner Mosby: No, it would be C-4 unrestricted.

James Ehram: That's why we—

Commissioner Mosby: That's why we're here.

James Ehram: —wanted to table this, and we're going to work with them on the restrictions.

Al Bragin: Okay, with the restrictions, would it be C-4 with restrictions?

Commissioner Mosby: It would be C-4 with use and development—

Al Bragin: Okay

Commissioner Mosby: –which is the restrictions.

Al Bragin: Does that mean at a later date those usages and restrictions can be changed?

Commissioner Mosby: No.

Commissioner Mourdock: Only if they come back through this whole process again.

Al Bragin: So, okay, so what I'm saying...what the question is, C-4 is C-4, with or without restrictions? Would it be easier, you've been here 13 years, and I don't know how long you've been here, would it be easier to go from C-4 restricted, to C-4 unrestricted? Or easier to go from C-1, C-2, C-3 to C-4 unrestricted?

Commissioner Mourdock: I'll answer this, and then I'll let David answer it. I want to answer first, since he's been here a little longer than I have. I've been here almost eight years, and I have never, ever, one time, seen any, it could be a C-2 with a use and development commitment, it could be a C-4 with a use and development commitment, I have never seen a petitioner come in here saying I have a C-4 with this use and development commitment, now I would like to weaken that use and development commitment and go to something else. I have never seen that happen. I say, it could happen, because legally it could, but I think the firestorm that would erupt would be pretty severe. So, I've never, as a practical matter seen it happen. I don't know if you have, David.

Commissioner Mosby: I have once. I mean, and it was just due to the fact that the gentleman lost a tenant in a building, and the one use that they had eliminated, this gentleman was going to put a shop in, and it was agreeable by the neighbors.

Al Bragin: Okay.

Commissioner Mosby: And, usually, that's the only way it's going to happen. I mean, a use and development commitment is a very good tool that we were given by the state, and it will hold up at any point in time. I mean, we use them all the time. I feel very comfortable with them, and that's why I had asked last month that this come back this month with a use and development, but time didn't allow, and everybody didn't get together, and this is what we're at.

Commissioner Mourdock: Let me define, and I'm not an attorney here, so, those of you who are attorneys, correct me if I say this wrong. Occasionally, we'll have people come in and they will offer the adjoining neighbors a private covenant, which simply means it's a deal between the person who wants the zoning and those adjacent neighbors, and he may say we won't put in, I heard a car wash mentioned, I'll use that as an example. I'll make a covenant with you that we won't put in a car wash. That's fine, but if he does put in a car wash, those private neighbors with whom he has the covenant have to bring legal action to challenge it. With the use and development commitment, the people who enforce it remain the county.

Al Bragin: How about in the future if the property, the C-4 property changes hands, changes ownership? Then what?

Commissioner Mourdock: It stays with, the zoning stays with–

Al Bragin: It stays with the land.

Commissioner Mourdock: –the property, and the restrictions stay with the property.

Al Bragin: Okay.

Commissioner Mosby: Shame on the person that buys it if he don't check it. Yes, ma'am. I'm sorry, it's her–

Unidentified: (Inaudible. Not at the mike.)

President Fanello: Could you please come to the microphone?

Commissioner Mourdock: You need to come to the–

Unidentified: Just a quick question.

Commissioner Mourdock: Yeah, and–

Commissioner Mosby: That's okay.

Commissioner Mourdock: –and please state your name and address.

Commissioner Mosby: We just need it for the record.

Anita Ozete: Hi, my name is Anita Ozete. I live at 4245 Pembroke Drive. The question is, right now, it is zoned as?

Commissioner Mourdock: C-4.

Commissioner Mosby: C-4, and, well–

Anita Ozete: Just a small portion of it.

Commissioner Mosby: –75% is C-4, and 25% is R-3. If I'm–

Unidentified: It's the other way around.

Anita Ozete: I think it's the other way around. Is it not?

Commissioner Mosby: It's the other way around? Okay.

Anita Ozete: Is that–

Commissioner Mosby: I know the part that's along Greenriver Road is a C-4, right?

Commissioner Mourdock: Right.

Commissioner Mosby: And then the other square is R-3?

Commissioner Mourdock: Right.

Anita Ozete: Certainly when we bought our lot, we had understood that just a small portion was C-4, and the rest was for residential, I thought R-3. So, this to me is a big change. What I'm understanding is that you're going from automatically

presuming that you would make it an R, make it a C-4, with restrictions, as opposed to maybe even having it remain an R-3. Is that correct?

Commissioner Mourdock: That's a very good question. I've not made that presumption, because, and as a board, we, the three of us cannot talk to each other. We never have in the year and a half these two have been here, and the previous time that I was here with others, we don't speak among ourselves as to how we feel a property should be zoned. As far as I'm concerned, when that zoning comes before us, in whatever final form, if, in fact, there is some agreement between the landowner and the petitioner, that's nice, but I make my decision based on what I see to be the full land use plan that this board has implemented with all the other things that affect zoning. Until I see everything in final form, I don't know how I will vote.

Anita Ozete: Okay, well, that...thank you, that was my concern was it sounds almost as though we've already, that you as an advisory board has already agreed to change it from, yes, instead of it being staying as an R-3, will go to a C-4. Is that incorrect?

Unidentified: That's incorrect, yes.

Commissioner Mosby: I don't, yeah, I don't think—

Anita Ozete: But it sounded prior on, before we opened this meeting, it didn't sound that way to me. So, I'm really now confused. Which, I guess, is good.

James Ehram: We can talk all this off line, and—

Anita Ozete: Okay.

James Ehram: —try to answer any questions about what is going on. Try to ease everybody's concerns, and just so everybody can get a clear picture on what, as a neighborhood, what we're trying to do.

Anita Ozete: And that would be when? So, that we all would know when to make—

Madelyn Grayson: Mr. Ehram, I really need you to come to the mike, because we're, we type these verbatim, these minutes.

James Ehram: I'm sorry. What we'll do, and we'll have to move on this quickly is answer your concerns and questions off line, outside of this meeting, and, as, for that matter, we could all stand out in that hallway, and you can ask questions till your heart's content. We can answer your questions at that point, and try to get everything worked out to benefit the neighborhood as a whole. I, you'll have to understand that we're not going to get 100% approval on the petition. We didn't get 100% signatures. So, we have to go with what the majority works for. That's what the democratic society is all about. So, anybody that has questions, we can be outside in the hallway, and you can ask questions of us, and deal with it at that point.

President Fanello: Is there—

Commissioner Mosby: Oh, go ahead.

President Fanello: I was just going to say, is there anyone who has questions for these three board members?

Commissioner Mosby: I just want to make a comment to her question, and then we'll—

President Fanello: Okay.

Commissioner Mosby: What I wanted to say is, and I understood exactly what you were saying, last month when this came before us, I mean, understand that this was sent to us from the Area Plan with a 10-0 vote, approval. That's why we're here tonight, I mean, we didn't do that, and, I guess, that's where you might have come up with the interpretation. When I was speaking, I might have made reference to the use and development commitment, there's been no vote taken by this body, but, it was recommended to us 10-0 for approval. That's why we're sending it back now to Area Plan, because they have to be the one's to look at the restrictions, which in my motion I need to restrict, or I need to restate that this go back to Area Plan, because I said continuance. So, we are sending this back to Area Plan for their September 4th meeting. Then it will come back here on September 16th. So, it will be heard here again September 16th. You'll be going to Area Plan on September 4th for a hearing there, and then will send us another approval. But, I did want to state that this goes September 4th, so that if we go past the time limit, Area Plan's vote would hold up.

Commissioner Mourdock: Yeah.

President Fanello: Do you need to, does he need to make another motion? Or amend his?

Commissioner Mourdock: Yeah, he needs to amend it.

Commissioner Mosby: I'll amend my motion to state that we send this to Area Plan on September 4th.

Commissioner Mourdock: And I will again second.

President Fanello: So ordered.

Commissioner Mourdock: And just to be technically correct, the vote from Area Plan was 10-0-1. There was one abstention—

Commissioner Mosby: One abstention.

Commissioner Mourdock: — and that was me, because I serve on Area Plan. I'm the only one of these, of the Board of Commissioners who do serve on that body, and the reason I abstain when something is coming back to us is for exactly this reason. I didn't want to go on the record voting for something, and then have it come back to us as a board and have conditions changed. So, politicians get beat up enough reading about our changing thoughts in the paper. So, I don't want to give the newspaper too much ammunition.

President Fanello: Is there any other questions for the Board of Commissioners?

Commissioner Mourdock: Seeing none, I'll make a suggestion, since this is our only item of business, I'll move that we adjourn, and Mr. Shopmeyer, and the various representatives, if you would like to use this room, you're free to do it. We will get out of here, and let you do your thing. So, I move that we adjourn.

Kevin Winternheimer: Did we, did you vote on the other?

President Fanello: Yes.

Commissioner Mosby: Not yet. Oh, we did?

President Fanello: Yes. He seconded, and I so ordered.

Kevin Winternheimer: Okay.

Commissioner Mosby: Oh, I thought you meant, I thought you had to take a vote on it.

President Fanello: Oh, do we need to take a roll call vote on that?

Commissioner Mourdock: To send it back? I don't know. We can.

Kevin Winternheimer: It doesn't matter, as long as you took a vote.

Commissioner Mosby: I think on a, yeah, if you're sending it back, it has to be voted on.

President Fanello: We'll go ahead and take one just to be safe. Roll call vote on the motion, Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Fanello: Commissioner Mosby?

Commissioner Mosby: Yes.

President Fanello: And I vote yes. Do I have a motion to adjourn?

Commissioner Mosby: Motion to adjourn.

Commissioner Mourdock: Second.

President Fanello: So ordered.

The meeting was adjourned at 7:20 p.m.

Those in Attendance:

Catherine Fanello
Kevin Winternheimer
James Ehram
Others Unidentified

David W. Mosby
Beverly Behme
Al Bragin
Members of Media

Richard E. Mourdock
Madelyn Grayson
Anita Ozete

**VANDERBURGH COUNTY
REZONING BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
REZONING BOARD
SEPTEMBER 16, 2002**

The Vanderburgh County Rezoning Board met in session this 16th day of September, 2002 at 6:15 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Approval of Minutes

President Fanello: Call to order Vanderburgh County Rezoning meeting for September 16th. I need approval of the minutes of the previous meeting.

Commissioner Mosby: Motion to approve minutes

Commissioner Mourdock: Second.

President Fanello: So ordered.

First Readings

President Fanello: We have no first readings.

**Final Readings
VC-8-2002: 4510 Heckel Road**

President Fanello: As I understand it, this will, the VC-8-2002 has been carried over until October?

Commissioner Mourdock: It's scheduled for, I don't know that they've met the filing dates—

President Fanello: Okay.

Commissioner Mourdock: —to get it there, but at least it cannot happen earlier than that.

President Fanello: Okay. So, if there's no other business, I'll make a motion to adjourn.

Commissioner Mosby: Motion to adjourn.

Commissioner Mourdock: Second.

President Fanello: So ordered.

Those in Attendance:

Catherine Fanello
Kevin Winternheimer
Members of Media

David W. Mosby
Madelyn Grayson

Richard E. Mourdock
Others Unidentified

**VANDERBURGH COUNTY
REZONING BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY
REZONING BOARD
OCTOBER 21, 2002**

The Vanderburgh County Rezoning Board met in session this 21st day of October, 2002 at 7:00 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Rezoning meeting, October 21st.

Approval of Minutes

Commissioner Mourdock: I'll move approval of the zoning minutes from last month.

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

Unidentified: (Inaudible. Not at mike.)

Commissioner Mourdock: Yeah, go to the mike, and state your name and all again.

James Ehram: James Ehram, 5901 Winette. Just want to make sure that the Heckel has been postponed till November.

President Fanello: As far as I know, it's postponed.

Commissioner Mourdock: Yeah. I saw something in writing that said the earliest would be November. It actually looked more like it might be December, but, at least, until November it is postponed.

James Ehram: I just wanted to make sure there's no in-route.

Commissioner Mourdock: Yeah.

James Ehram: Thank you.

President Fanello: Thank you.

Commissioner Mourdock: There being no first readings, or no second readings, I move that we adjourn.

President Fanello: Second.

The meeting was adjourned at 7:01 p.m.

Those in Attendance:		
Catherine Fanello	Richard E. Mourdock	Kevin Winternheimer
Madelyn Grayson	James Ehram	Others Unidentified
Members of Media		

**VANDERBURGH COUNTY
REZONING BOARD**

Catherine Fanello, President

Richard E. Mourdock, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
REZONING BOARD
NOVEMBER 18, 2002**

The Vanderburgh County Rezoning Board met in session this 18th day of November, 2002 at 6:34 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Rezoning meeting for November 18th.

Approval of Minutes

President Fanello: Do I have a motion to approve the minutes of the previous meeting?

Commissioner Mourdock: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

First Readings VC-10-2002: Petitioner: Dennis V. Owens Address: 4124-4200 Hogue Road Request: Ag to C-4
--

President Fanello: First readings.

Commissioner Mourdock: I'll move approval on first reading VC-10-2002. The petitioner, Dennis V. Owens. The address 4124 through 4200 Hogue Road, and the request is from Ag to C-4. Is there anyone in the audience to speak to it? Seeing none.

Commissioner Mosby: Second.

President Fanello: So ordered.

Final Readings: None

President Fanello: And there are no final rezonings.

Commissioner Mourdock: Motion to adjourn.

Commissioner Mosby: Second.

President Fanello: So ordered.

The meeting was adjourned at 6:35 p.m.

Those in Attendance:

Catherine Fanello
Kevin Winternheimer
Members of Media

David W. Mosby
Madelyn Grayson

Richard E. Mourdock
Others Unidentified

**VANDERBURGH COUNTY
REZONING BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
REZONING BOARD
DECEMBER 16, 2002**

The Vanderburgh County Rezoning Board met in session this 16th day of December, 2002 at 7:01 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Board of Commissioners Rezoning meeting, December 16th.

Approval of Minutes

President Fanello: Do I have approval of the minutes of the previous meeting?

Commissioner Mourdock: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

First Readings:

**VC-1-2003: Petitioner: Jeffrey G. and Jennifer L. Korb
VC-2-2003: Petitioner: Donaldson Capital Management, LLC
VC-3-2002: Petitioner: Alan R. and Angela M. Gauger
VC-4-2003: Petitioner: Herbert P. Grimm
VC-5-2003: Petitioner: Charlestown Square, LLC
VC-6-2003: Petitioner: Sterling Development**

President Fanello: We have several first readings. First one being VC-1-2003, petitioner, Jeffrey Korb and Jennifer Korb. Request, change parcel A to R-1 from Ag. Change parcel B and C to R-1.

Commissioner Mourdock: And that's on 7920 Hogue Road—

President Fanello: Hogue Road.

Commissioner Mourdock: —anyone here to speak to that one? Seeing none, I'll move for approval on first reading.

Commissioner Mosby: Second.

President Fanello: So ordered. Next one being VC-2-2003, petitioner, Donaldson Capital Management, LLC; address 7424 Darmstadt Road; request R-1 change to CO-2.

Commissioner Mourdock: And seeing no one coming to the microphone on that one, move approval on the first reading.

Commissioner Mosby: Second.

President Fanello: So ordered. Next one VC-3-2003, petitioner, Alan Gauger and Angela Gauger; address, 2012 Koring; request Ag change to C-4.

Commissioner Mourdock: Move approval on the first reading.

Commissioner Mosby: Second.

President Fanello: So ordered. VC-4-2003, petitioner, Herbert Grimm; address, 975 Hillsdale Road; Ag to R-1.

Commissioner Mourdock: Motion to approve on first reading.

Commissioner Mosby: Second.

President Fanello: So ordered. VC-5-2003, petitioner, Charlestown Square, LLC; 730 Citadel Circle; C-4 change to C-2.

Commissioner Mourdock: Motion to approve on first.

Commissioner Mosby: Second.

President Fanello: So ordered. VC-5-2003, Sterling Development; 6649 Old Boonville Highway; A change to R-3.

Commissioner Mourdock: Motion to approve on first reading.

Commissioner Mosby: Second.

President Fanello: So ordered.

<p>Final Readings:</p> <p>VC-8-2002: Petitioner: J.J. Brodi, LLC Address: 4510 Heckel Road Request: R-3 to C-4 with UDC Action: Approved 3-0</p> <p>VC-10-2002: Petitioner: Dennis V. Owens Address: 4124-4200 Hogue Road Request: Ag to C-4 Action: Approved 3-0</p>
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President Fanello: We have two final readings. The first one being VC-08-2002, petitioner, J.J. Brodi, LLC; 4510 Heckel Road; R-3 change to C-4.

Mike Schopmeyer: My name is Mike Schopmeyer, here on behalf of the petitioner. With me are Jim and Jackie Johnston. This was before you some months ago. We have entered into, with Keystone Neighborhood Association, a restrictive covenant, or protective covenants, as well as a use and development commitment that resolves, I believe, the issues that were before us. I'll be happy to answer any questions. There are members of Keystone that are present, but I think the documents speak for themselves.

President Fanello: Does anyone in the audience have any questions.

Commissioner Mosby: I just would like to know, for the record, when you read that, that should be changed to C-4 with use and development.

President Fanello: Okay.

Commissioner Mourdock: There's two of them. I just make the comment, I know there's been a lot of discussions that have gone back and forth since this meeting, and with the several APC meetings that this has occurred, and I appreciate the petitioners who have worked with the neighbors out there. Having said that, I would move on final approval VC-8-2002 for J.J. Brodie, 4510 Heckel Road, with the use and development commitment, as Commissioner Mosby noted, R-3 change to C-4.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mosby: You have to have a roll call.

President Fanello: Roll call vote. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Fanello: Commissioner Mosby?

Commissioner Mosby: Aye.

President Fanello: And I vote yes.

Mike Schopmeyer: Thank you very much. I like this new podium.

Madelyn Grayson: Mr. Schopmeyer, the recording check was only for \$9.00. Do you not want the use and development commitment recorded?

Mike Schopmeyer: Yes, and I'll, they will want that recorded, and we'll see that a check's delivered—

Madelyn Grayson: Okay.

Mike Schopmeyer: —for that. There's also a restrictive covenant that will need to be recorded, as well. We'll coordinate that with you.

Madelyn Grayson: Thank you very much.

President Fanello: Next final reading is VC-10-2002, petitioner, Dennis Owens; 4124-4200 Hogue Road; Ag change to C-4. Do we have anyone here wishing to speak to the rezoning?

Dennis Owens: Good evening. I'm Dennis Owens, the petitioner for the zoning change. I'm here to answer any of the questions you may have concerning this. I know Richard has some.

Commissioner Mourdock: You're ready. Very good. That reference is to a conversation that took place at the Area Plan Committee meeting, Area Plan Commission meeting, and at that time you had mentioned that you were going to enter into a covenant with the people who were surrounding the property within, was it a half mile?

Dennis Owens: Yes.

Commissioner Mourdock: And, at that time, the covenant had not been signed?

Dennis Owens: That, not on this one. On the other one, the previous one.

Commissioner Mourdock: Okay, has it been signed now for this one?

Dennis Owens: Yes, it has.

Commissioner Mourdock: Okay. Okay. Alright. One of the issues that came up, and, again, just for the record, and for the background of both David and Catherine, as much as anything, part of the fill material that Jerry David placed over the years on the south side of the Lloyd Expressway will be relocated from it's present location to be used as fill on this property. Mr. Owens and I had a brief exchange at the APC meeting, making sure there was full understanding as to what the liability might be. Hopefully, if there is nothing in there, if it's a bunch of old asphalt that can easily be dug out and moved, but I just wanted to make sure that everyone is clear that if you run into something that's really ugly out there, that's going to be nasty. It's going to be a liability issue.

Dennis Owens: I'm aware of that, Commissioner.

Commissioner Mourdock: Okay.

Dennis Owens: Also, if you'll see your, the recommendations from John Stoll, and I discussed this with Richard at the other meeting too. We've hired Alt Witzig to supervise the placement of the fill over there in this 19 plus acres. So, they'll be working with John Stoll towards that end.

President Fanello: Does any other Commissioners...do you have any questions?

Commissioner Mosby: Has this got a use and development on it then?

Beverly Behme: No, no.

Commissioner Mourdock: It's a private covenant.

Commissioner Mosby: Oh, it's a private covenant.

Commissioner Mourdock: Right.

Commissioner Mosby: And this is the same private covenant that the city accepted?

Dennis Owens: Yes.

Beverly Behme: (Inaudible. Mike not on.)

Dennis Owens: We've been working with the West Side Improvement, and they—

Commissioner Mosby: See, I knew you had, and I knew you had a zoning over in the city.

Dennis Owens: See, the one in the city there, David, is the one that we had, we had agreed to previously, but there was some verbiage in it that we wanted to get cleared up before we did that. Richard was concerned about that, before we done this one, he wanted that done and notarized and recorded, which we have done. The one for this piece of property, we've agreed to, and we will sign that, and get it recorded, if you guys see fit to approve this tonight.

Commissioner Mourdock: You confused me on that one. I thought you already signed the covenant.

Dennis Owens: We have.

Commissioner Mourdock: Okay.

Dennis Owens: We have signed, but it's not recorded yet.

Commissioner Mourdock: Okay. So, that's all you're saying. You'll record it.

Dennis Owens: Yes. It will be if you guys approve this tonight, we'll do it.

Commissioner Mourdock: I would note Mr. Lockard, from West Side Improvement Association is here. Mike, do you have any comments you would like to make to us?

Mike Lockard: For clarification, I think what you're looking at is the difference between this one and the one in the city, the city was 25 Dorothy Drive, and that was a very restrictive covenant. It only allowed for his construction business on Dorothy Drive. This one is for the, what, 22 acres?

Dennis Owens: 19.

Mike Lockard: 19 some odd acres. It is a little bit looser in the fact that it allows many of the C-4 uses, but it does restrict certain types of uses, which I believe is at the top of page two. Then, of course, some of the special uses at the bottom of page one. So, it does allow a number of commercial establishments on the property, but, at the same time, limiting some of the more, what we like to think annoying uses that are out there. For lack of a better expression. Yes, there's no, there's no adult businesses allowed on this property.

President Fanello: Thank you.

Mike Lockard: And we think, you know, we've worked with Mr. Owens very good on this, and I think he's done a lot of work to try to address most of the concerns of the neighbors. The private covenant there, I think it does hold him accountable for a lot of the things he is doing, and I think if he manages to accomplish all the things that he has talked about, that it will be a very nice development over there.

Commissioner Mourdock: The fill, again, is going to be moved from the south side of the Lloyd to this property. If that fill is not put in on this property, that property is largely not developable. Or, at least, some of it is not developable.

Mike Lockard: From talking to the different engineers, I know since there is some flood way and flood plain issues there, that he has to be, I believe, for county standards 2' above base flood elevation. So, if he doesn't get the fill from across the way, he would still have to bring in clean fill in order to develop it.

Commissioner Mourdock: And the work that would be required of placement of that fill will require permits from the DNR.

Mike Lockard: DNR, IDEM, and since he's going to be—

Commissioner Mourdock: Corp of Engineers.

Mike Lockard: —potentially right in the middle of Carpentier Creek, there are some, several Army Corp of Engineers—

Commissioner Mourdock: Right.

Mike Lockard: —issues as well. I've spoken with all three of those agencies, and, as they told me, you know, once the permit applications come in, they will address them on a one on one basis.

Commissioner Mourdock: Uh-huh.

Mike Lockard: Thank you.

President Fanello: Thank you, Mike. The board would entertain a motion.

Commissioner Mosby: Any remonstrators that wants to speak? Seeing none. Motion to approve VC-2002, 4124-4200 Hogue Road, from Ag to C-4, noting that there is a covenant that goes with this petition.

Commissioner Mourdock: Second.

President Fanello: So ordered. Roll call vote. Commissioner Mourdock?

Commissioner Mourdock: Yes, and I appreciate the fact that you're undertaking this, and took care of the request that I had. So, thank you, Mr. Owens.

President Fanello: Commissioner Mosby?

Commissioner Mosby: Yes. Aye.

President Fanello: And I vote yes. It passes.

Commissioner Mourdock: Motion to adjourn.

Commissioner Mosby: Second.

President Fanello: So ordered.

The meeting was adjourned at 7:11 p.m.

Those in Attendance:

Catherine Fanello	David W. Mosby	Richard E. Mourdock
Kevin Winternheimer	Beverly Behme	Madelyn Grayson
Mike Schopmeyer	Dennis Owens	Mike Lockard
Others Unidentified	Members of Media	

**VANDERBURGH COUNTY
REZONING BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and transcribed by Madelyn Grayson.