

**VANDEBURGH COUNTY  
REZONING BOARD  
JANUARY 24, 2005**

The Vanderburgh County Rezoning Board met in session this 24<sup>th</sup> day of January, 2005 at 3:01 p.m. in room 301 of the Civic Center Complex with President Suzanne Crouch presiding.

**Call to Order**

President Crouch: Good afternoon. Welcome to the Vanderburgh County Commission Rezoning meeting. I'm going to let everyone, kind of go around the table....well, do you all know us?

Unidentified: I know her, she was in the last meeting I was in.

President Crouch: Alright, we'll go around and let everyone introduce themselves and their positions.

Commissioner Nix: Bill Nix, County Commissioner.

Commissioner Musgrave: Cheryl Musgrave, County Commissioner.

President Crouch: Suzanne Crouch, County Commissioner.

Madelyn Grayson: Madelyn Grayson, Recording Secretary.

Brad Mills: Brad Mills, Area Plan Commission Director.

Bev Behme: Beverly Behme, staff in Area Plan.

President Crouch: If everyone would stand and join us in the Pledge of Allegiance.

(The Pledge of Allegiance was given.)

**First Readings: VC-3-2005: Petitioner: Pedcor Investments  
Address: 4201 N. Green River Road  
Request: Change from Ag to R-4**

**VC-4-2005: Petitioner: Jack Tubbs, Mystic Creek LLC  
Address: 3030 N. Green River Road  
Request: Change from Ag and C-4 to CO-2 with UDC**

**VC-5-2005: Petitioner: Randall Johnston, RJC, Inc.  
Address: 3030 N. Burkhardt Road  
Request: Change from Ag to R-3 with UDC**

President Crouch: Alright, the first item on our agenda is first readings. We have three dockets. We have three dockets that are before us, and I believe at this time we just go ahead, there is no information presented, we go ahead and take a vote, usually on first reading so that they can proceed then to Area Plan. Then they will ultimately come back here.

Commissioner Musgrave: Is this a motion to approve?

President Crouch: That is correct.

Commissioner Musgrave: Motion to approve the first three items on our agenda today.

President Crouch: Okay, can you read the numbers, please?

Commissioner Musgrave: Let's make sure I get them right, okay. VC-3-2005, VC-4-2005, and VC-5-2005.

Commissioner Nix: I second that motion.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. Do we take a vote on the first readings? I don't believe we take a roll call.

Bev Behme: Just to send them forward.

President Crouch: Do we have to do a roll call on that?

Bev Behme: No.

President Crouch: Only when we do the final.

**Final Readings: VC-1-2005: Petitioner: Dayton Freight Lines**  
**Address: 11601 N. Green River Road**  
**Request: Change from Ag to M-2**  
**Action: Approved 3-0**

President Crouch: The next item on our agenda is the final reading for docket number VC-1-2005, Dayton Freight Lines. Is there anyone in the audience, or Area Plan that cares to address this issue? Can you tell us, Brad, what all has, was this a positive, a favorable?

Brad Mills: Yes, there were nine affirmative votes, and two negative votes. Part of the concern that was mentioned at the meeting was the fact that they had two drive accesses on to Green River Road. That was also brought up again at site review last week, I believe it was, and it had been requested that, to see if they could work out just doing one entrance, instead of the two. Part of the concern was the County Engineer wants to have acceleration and deceleration lanes, and passing blisters for the entrances. So, they were supposed to try to come up with something, and I have not seen anything else submitted. I don't believe you all have submitted revised drawings yet.

Unidentified: We won't have that all prepared until Wednesday.

Brad Mills: Okay, so.

President Crouch: Would you come to the microphone and state your name for the record?

Brad Mills: We're waiting for revised drawings then.

Bill Plesich: Bill Plesich, Reneer Construction, Columbus, Ohio. We're the general contractor.

John Evans: John Evans, Dayton Freight Lines, Terminal Manager.

Bill Plesich: We met with all the parties involved last Tuesday. Dayton Freight Lines has agreed to do the single curb cut, decel lane, everything that they requested, and we should have drawings in everybody's hands by probably Thursday. We'll have them all finished up on Wednesday.

Brad Mills: They had a few other minor things with drainage and things of that nature, but, I believe, Mr. Jeffers is working with them, and they are working all of those details out.

Bill Plesich: Yep.

President Crouch: Are there any questions by the Commissioners? Chair will entertain a motion.

Commissioner Nix: I'll make a motion we approve, pending the issues that were just discussed, on docket VC-1-2005.

Commissioner Musgrave: I'll second that motion.

President Crouch: And, I—

Commissioner Nix: Hang on, excuse me just a second.

Ted C. Ziemer, Jr.: This, I'm sorry, I was out of the room, this is for rezoning the property to R-4. I don't think we can make a motion to do it pending something. It's either satisfactory to us or it isn't.

Brad Mills: That's correct. This is an M-2 rezoning, and we cannot place conditions at the rezoning phase. It's either rezoned or it's not. So, those conditions that we discussed, and items that are of concern, are items that the County Engineer, County Surveyor, whatever other offices have placed on it through the site review. If they're not acceptable, then they will not get their permits through site review.

Commissioner Musgrave: Will you amend your motion?

Commissioner Nix: Yes, I will amend my motion then.

Commissioner Musgrave: And, I amend my second to remove any reference to pending.

President Crouch: Alright. We will take a roll call vote on this. Commissioner Nix?

Commissioner Nix: Yes.

President Crouch: Commissioner Musgrave?

Commissioner Musgrave: Yes, and I vote yes even without a pending, because I've heard their testimony that they will take care of those issues.

President Crouch: And I trust you, so, I will vote yes also. Thank you very much.

Bill Plesich: Okay, thank you.

President Crouch: Is there any other business to come before the board at this time?

Commissioner Musgrave: No.

President Crouch: Hearing none, I will entertain a motion to adjourn.

Commissioner Musgrave: So moved.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

(The meeting was adjourned at 3:06 p.m.)

**Those in Attendance:**

Suzanne Crouch

Brad Mills

Madelyn Grayson

Others Unidentified

Cheryl Musgrave

Ted C. Ziemer, Jr.

Bill Plesich

Members of Media

Bill Nix

Bev Behme

John Evans

**VANDERBURGH COUNTY  
REZONING BOARD**

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**Suzanne M. Crouch, President**

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**Cheryl A.W. Musgrave, Vice President**

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**Bill Nix, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
REZONING BOARD  
FEBRUARY 15, 2005**

The Vanderburgh County Rezoning Board met in session this 15<sup>th</sup> day of February, 2005 at 5:00 p.m. in room 301 of the Civic Center Complex with President Suzanne Crouch presiding.

**Call to Order**

President Crouch: Good afternoon. Welcome to the Vanderburgh County Commissioners rezoning meeting of February 15<sup>th</sup>.

**Approval of January 24, 2005 Rezoning Minutes**

\* The January 24, 2005 rezoning minutes were approved during the February 15, 2005 Commission meeting.

**Final Readings: VC-2-2005: Petitioner: Madisonville West Properties  
Address: 601 S. Boehne Camp Road  
Request: Change from AG to R-3  
Action: Approved 3-0**

President Crouch: We have one item on our agenda, that's a final reading, docket number VC-2-2005, petitioner, Madisonville West Properties, Inc. Mr. Shively?

Les Shively: Madam President, members of the Board of Commissioners, my name is Les Shively, representing the petitioner. This is nice to be able to have this available for your meeting. As you can see from the aerial photograph, we're talking about a piece of property, it's outlined in red, it's somewhat of an irregularly shaped piece of property. It contains approximately just shy of 15 acres. The request for this particular rezoning is for multi-family, R-3. The property just to the north, actually to the northeast, where you see Pearl Drive, that is all commercial. South of us remains agricultural, mostly single family usage. I won't read it in it's entirety, the staff field report, but this is consistent, according to the staff, with the comprehensive plan, because this provides the appropriate buffer between the commercial and the R-1 residential. Or, I actually should say the Ag use as R-1 residential. Just to hit some of the points here, by the way, it did come before the Plan Commission earlier this month, and they recommend approval by a vote of nine, with one abstention. The big issue on this particular piece of property has to do with access. INDOT has jurisdiction up to this point because of the limits of their right-of-way. INDOT, we presented this letter, Madam President, I'll give you a copy, this is a letter dated December 7<sup>th</sup>, they have no problems with the access on this property.

President Crouch: Thank you.

Les Shively: We learned, however, at the Plan Commission meeting, this is not funny, but it's kind of one of those comedy of error situations that occurs, we learned, even though we'd filed our petition back in November of last year, so we could have time to meet with, and we delayed any action so that we could meet with the Westside Improvement Association people, who you will hear from in a moment, Mr. Padget, we found out at the meeting on the 2<sup>nd</sup> of February, that two days before our meeting that there is a lot that was sold in here, it's going to be a physician's office, Welborn Clinic, I believe, is doing that. Anyway, to make a long story short,

they have an access point on Boehne Camp, in close proximity to our access point. All I can tell you right now is this project will have to go through two steps, site review and sub review will have to get that worked out. I don't want to tell you that everything is worked out at this point, but Mr. Danny Leek, who's our engineer on the project is here, he has been talking with the representatives of the leasing agent who is putting together this project for Welborn, and they're working, trying to work this problem out. They are very open minded, and it probably will end up being what I think a lot of people would like to see, and that is a shared access that lines up better with that portion of Pearl Drive to the east of Boehne Camp Road. So, this might be an opportunity to actually make it a better situation for everybody. We're not there yet. We'll have to get to that point by the time we go to site review and sub review, because those are conditions of our permits. This will have to go back to you all when you put on your hats as the Drainage Board, because we're talking about more than five acres. There will have to be a drainage plan submitted, adjacent landowners will have to be notified, just like you do in a subdivision situation. The Greenway committee met with us, and they have a long term plan of extending the Greenway out to the University of Southern Indiana. Their focus was the part of the property that's closest to the Lloyd Expressway. They really don't have anything worked out to the east, so, what we said we would do, we would give them a 15', reserve a 15' area on that part of the property where she's marking with the little hand. So, we won't build on that, we'll kind of leave that unencumbered and when the, when and if they do get some access across the parking lots and those commercial lots on that commercial subdivision just east of us, we will work out something a little more permanent and some access roads. But, right now we're just going to give them that 15'. I think you have a letter from Shirley James that says they are very pleased with that. Just to give you an idea, Mr. Allen Davis, who is one of the principals of the petitioners is here today, his company, this is their first multi-family venture in Vanderburgh County. They are the largest owner and operator of multi-family communities in the Hopkinsville-Madisonville area. There's going to be three styles of multi-family units in this area. There are only going to be 100 units, that's a low density, given the amount of acreage involved. There is three types of floor plans, and you will see, the second set of floor plans, and I'll give a copy of this to the President, shows kind of a town house approach. The reason they're doing this, is this is rolling hills, and such that are going to require a lot of excavation, moving of earth. This will minimize that and allow them to build units that will more aptly sort of blend into existing topography out there. But, these are very good looking facilities. They also, these all have garages. This is a high end type development. Not designed to accommodate the student housing situation, unless you are a very, very well-to-do student. As you can see by the layout, they don't lend themselves to that. Again, I'm more than happy to answer any questions that you have at this time. Again, Mr. Davis is here, and Mr. Leek from Morley and Associates is here as well to answer questions you might have.

President Crouch: Questions? None at this time. Thank you, Mr. Shively.

Les Shively: Thank you.

President Crouch: Is there anyone that is here to remonstrate against this rezoning?

Fred Padget: Hi, I'm Fred Padget, and I'm with the Westside Improvement. We're not here to remonstrate against, but we do want to talk about it a little bit with you. First of all, I guess, we compliment the Commissioners on their devotion to duty, having meetings today and being such a nice day outside. That would be tough to do, but anyway you're here, so, that's good. I would like to, first of all, thank the

attorney, Les Shively, and Mr. Davis for bringing West Side Improvement into this project at a very early stage. We reviewed this, I guess it's been a couple of months, three months ago now, and we appreciate their effort to keep us informed of what's planned for the area. The few things that I do want to talk about, Mr. Shively's already talked about, the access to the development, that's an important issue, and with additional traffic, because of the Wal-Mart construction and potentially for Sears on the other side of the road and Kohl's down the road, my feeling is that Pearl Drive, westbound, or eastbound, I'm sorry, westbound Pearl Drive will start to pick up a lot more traffic, which then lets it out onto Boehne Camp and either on to the Lloyd, or take Boehne Camp on down to Broadway. So, we see a lot of concerns with additional traffic loads in those areas. There was some discussion about ingress/egress to the area, we would like to see it lined up with Pearl Drive, which, of course is being worked on. That has to do with the access to the north that Mr. Shively was talking about. I've talked with most of the neighbors, at least the one's I could either find a phone number or get in touch with. All of the neighbors that I've talked with do have concerns about drainage. They do have concerns about soil erosion, because of the terrain and the hilly terrain out there. One of the neighbors was pretty much opposed to the project. On the other hand, some of the things that we see in favor, number one, it's in the comprehensive plan for residential. It's been in the comprehensive plan that way for quite some time, and it's also in this year's comprehensive plan. We've talked before with other groups about commercial on the west side of Boehne Camp, which, of course, was never in the comprehensive plan, this would, for all practical purposes, stop commercial development on that west side of Boehne Camp, and we think that's a real plus for this area. We like the idea of trying to keep the terrain, as much as possible, and leave the rolling terrain out there. We think that's a good plan. We were also very interested in knowing that the developer agreed to a right-of-way for the Greenway passage, which kind of is in their, it's in their long range plans right now. It isn't going to happen immediately, but we think that's a good plan, and one of these days we want to connect that up with USI, and then bring USI over to Burdette, which I think you talked about in your first meeting. So, that fits in with all of that. As far as the technical aspects, we leave that to site review, they know better than us, and they'll get it resolved. I guess, the other thing is, you asked about, or we appear as a remonstrator, but we often come down to oppose projects, we often come down with problems, but, we think it's also fair when something comes up that we can support, that we come down and tell you that also. We do support this project. Thank you. If there are any questions, I'll gladly answer them.

President Crouch: Questions? Thank you, Mr. Padget. Is there anyone else in the audience who wishes to speak for or against this project? Seeing none.

Les Shively: I would just like to note for the record that exclusive of the cost of acquisition of the land, when completed the improvements will, are valued at seven million dollars, and there's no tax abatements, so, when it goes on line it will produce tax dollars for the community based upon that valuation.

President Crouch: Thank you.

Commissioner Musgrave: So, you're agreeing to the assessment of seven million dollars in advance?

Les Shively: You know, I knew, Cheryl, you were going to say that. But, you know, things change, it's a moving target. What can I say.

Commissioner Musgrave: That's not right. Move approval of docket number VC-2-2005.

Commissioner Nix: I second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. There being no further business to come before this board, we stand adjourned. Oh, I am sorry, this requires a roll call vote. Commissioner Musgrave?

Commissioner Musgrave: Yes.

President Crouch: Commissioner Nix?

Commissioner Nix: Yes.

President Crouch: And I vote yes.

Les Shively: Thank you.

President Crouch: And now we'll stand adjourned. Thank you.

(The meeting was adjourned at 5:10 p.m.)

**Those in Attendance:**

Suzanne Crouch	Cheryl Musgrave	Bill Nix
Ted C. Ziemer, Jr.	Brad Mills	Bev Behme
Madelyn Grayson	Les Shively	Fred Padgett
Others Unidentified	Members of Media	

**VANDERBURGH COUNTY  
REZONING BOARD**

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**Suzanne M. Crouch, President**

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**Cheryl A.W. Musgrave, Vice President**

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**Bill Nix, Member**

Recorded and transcribed by Madelyn Grayson.



**VANDEBURGH COUNTY  
REZONING BOARD  
MARCH 15, 2005**

The Vanderburgh County Rezoning Board met in session this 15<sup>th</sup> day of March, 2005 at 5:00 p.m. in room 301 of the Civic Center Complex with President Suzanne Crouch presiding.

**Call to Order**

President Crouch: Good afternoon. Welcome to the Vanderburgh County rezoning meeting.

**Approval of February 15, 2005 Rezoning Board Minutes**

President Crouch: The first item on our agenda is approval of the February 15<sup>th</sup> rezoning minutes.

Commissioner Nix: I make a motion that we approve.

Commissioner Musgrave: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered.

**Final Readings: VC-5-2005: Petitioner: Randall Johnston/RJC, Inc.  
Address: 3030 N. Burkhardt Road  
Request: Change from AG to R-3 with UDC  
Action: Approved 3-0**

President Crouch: First item, second item on our agenda is docket number 2005-13-PC, VC-5-2005, petitioner, Randall Johnston/RJC, Inc.

Krista Lockyear: Good evening, members of the Commission. My name is Krista Lockyear. I'm here on behalf of RJC, Inc., and Randall Johnston, to request your approval for rezoning this property for residential, for a condominium complex that Mr. Johnston is proposing. I would like to hand to you the site plan also here in front of the easel. I have a small one for each of you to look at as well.

Commissioner Nix: Thank you.

Krista Lockyear: As you have probably seen from the petition, Mr. Johnston has this land under contract with the owner, Ethel Golden, in hopes to get approval to construct these condominiums. These condominiums will be known as Bennett Point, and, I'm not sure if you all have reviewed all of the minutes from the Area Plan Commission meeting. If so, I apologize for repeating the story, but my client came up with this design after being around several residents from other condominium complexes in town that had approached him and said, you know, a smaller, one bedroom, or one attached garage condominium would be perfect for our lifestyle. Randy came up with this design. As you can see from the picture here, this is Ivy Gardens Condominium, which is on the northwest side of town. Very attractive community here, and these, Bennett Point would be identical to this plan here that

is Ivy Gardens. Bennett Point would be built in four phases. As you can see from your site plan, phase two being the closest to Burkhardt Road, would be two, eight building units. I'm sorry, phase one. Phase two, moving back, would be two, ten unit buildings. Phase three, two, ten unit buildings, and then the final phase would be two, six unit buildings. That is a total of 68 units, and my client hopes to get those built in the next two to three years. Of course, depending on market demand, and how quickly they sell. The market appeal for these condominiums is, a lot of the residents closer to retirement age, because they are smaller units, they are about 1,278 square feet, they have an attached sunroom, which is a very nice feature, not commonly found in the apartments around here. Of course, the attached garage. As I mentioned at the Plan Commission meeting, I did have a conversation with John Stoll, he had two recommendations that he made with regard to this zoning. One was that we do not connect to Colonial Gardens Road, or if we did, that it would have to be substantially improved. After reviewing the road and talking to some residents back there that were very concerned that we would access that road, we've redesigned that plan, so we will not be utilizing Colonial Gardens at all. The other comment from John Stoll was that when this is fully developed it will meet a warrant for a decel lane. Just, we have acknowledged that that's a possibility. John indicated that he did not see any reason why we would have to do it immediately, because of the delay in developing the entire property. At some point we may, fully developed, may meet a traffic warrant for a decel lane. But, as the spaces go in, we certainly don't in the beginning two or three phases. In February my client hosted a reception for the neighbors in hopes of introducing them to this project. Unfortunately we only had one in attendance, but we did meet a couple of other neighbors at the Area Plan Commission meeting. One neighbor indicated that they would like to see a fence also along Colonial Garden Road, which we have agreed to do so. The fence that is provided for by the use and development commitment that was filed with this petition is non-transparent. Randy has indicated that it will be a vinyl siding, white vinyl siding fence. So, very attractive, and will go along with the design of the condominiums themselves. Then we have also agreed to put that fence up also along Colonial Gardens. The other issues that were brought up at the Area Plan Commission meeting, and as you know, drainage gets addressed at the next stage of the game, but Mr. Jeffers did indicate that we would have to find a route to funnel water off of this property to, I believe it's Crawford-Brandeis Ditch, but I could be incorrect about that. My client and Justin from Andy Easley's office have looked into that. There are several options that we have at this point. Probably the most desirable is to convert an existing easement into a drainage easement. It's access at this point, and contacts are beginning to be made with other neighbors to try and accommodate that drainage. As well as, Randy spoke with Mr. Jeffers the other day to try and kind of coordinate how that drainage would flow off. I believe the County Surveyor had some concern about any excess drainage on to abutting farm land, and we will certainly address that as need be. This zoning clearly meets the five criteria for a rezoning. The comprehensive plan does call for this area to be residential, as this zoning request is. The current conditions of the area, most desirable use of the area, conservation of surrounding property values, and responsible development and growth. All those criteria, we fit quite nicely into it. There are residences surrounding that this property will enhance that neighborhood. In addition, the other surrounding properties are agricultural, and we certainly will not do anything to impede their property values or use. We do have all the utilities available, this property infrastructure is in place, and it should be a wonderful development for this area. To have some single family condominiums with one car garage, have a lot of demand, hopefully, and build them up quickly. I would like to request that you approve this rezoning, and allow my client to get started.

President Crouch: Questions?

Commissioner Nix: It's my understanding that you won't be using Colonial Garden Road?

Krista Lockyear: That's correct.

Commissioner Nix: Okay. How will you terminate that back in the back then? Will that lake just come on up, that retention pond just come over further and the road just not go back there?

Krista Lockyear: We will put up a fence that will actually block it.

Commissioner Nix: Okay.

Krista Lockyear: Now, the road itself–

Commissioner Nix: It's green space now.

Krista Lockyear: Yeah, it is just green space on the end–

Commissioner Nix: It won't be paved along the lake, along the retention pond then?

Krista Lockyear: No paving along the retention pond?

Justin Schoffstall: Just as far as that portion here for the parking and allowing this access for this building here at the rear.

Commissioner Nix: Yeah, this drawing that I've got shows paving goes on out to Colonial, that's–

Krista Lockyear: You have, apparently, the original plan.

Commissioner Nix: Okay.

Krista Lockyear: That had been redesigned.

Commissioner Nix: Okay, I'm sorry.

Justin Schoffstall: (Inaudible) comments made by John Stoll–

Commissioner Nix: I never look at pretty pictures. I like drawings.

Justin Schoffstall: That was the original submitted January 10<sup>th</sup>, the filing deadline.

Commissioner Nix: Okay, thank you.

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

Justin Schoffstall: Justin Schoffstall with Easley Engineering.

President Crouch: Any other questions?

Commissioner Nix: As far as the deceleration lane, is that something you all will participate in financially, if it's required?

Krista Lockyear: Certainly. We'll work with the county on that. I believe it would be, if it's required, I think the county would require that we do the installation of that financially.

Commissioner Nix: But, you mentioned that, for now, in the start up of the project, that it's not part of it—

Krista Lockyear: It's not necessary.

Commissioner Nix: —but, as time goes on there could be a need, or, I guess, EUTS and the County Engineer would decide that at that time then?

Krista Lockyear: That's correct. As each phase goes forward, and the construction plans are brought in, the number of trips that the new construction will develop will dictate whether it meets the warrants for the excel or decel lane. I believe the county's position has always been that the developer that causes that need does participate financially in the addition.

Commissioner Nix: Okay, and you have no problem with that?

Krista Lockyear: No.

Commissioner Nix: Okay.

President Crouch: Any other questions? Thank you.

Krista Lockyear: Thank you.

President Crouch: Are there any remonstrators? Anyone that cares to speak, opposed to this rezoning?

Cathy Edrington: I just have a few comments. I live on Country Lane.

President Crouch: Can you state your name?

Cathy Edrington: Cathy Edrington. Sorry. I live on Country Lane. You know, the drawing we got, the original drawing had the two entrances, and, or two possible routes, whatever you want to call them. I did go over to Ivy Gardens, and unless I miscounted or didn't understand the plan there, it looked like there were 18 buildings there. It looked like, I don't know if they're going to make them entrances or exits, but it looked like there were two access points. Whereas this place, you're just going to have access to Burkhardt. As that area continues to develop, and that farm land continues to develop, it would seem like you might want to use the back as well as the front. You know, where I live, we actually have, I live in, like I say Country Lane, we actually have two and a half, depending on how you want to count it, ways in and out. It helps with the traffic flow. I mean, if you're going to actually build 68 units, it would seem to me, it would make sense to eventually work on the back side as well as the front side. I guess, I sort of expect when you do the drawings you sort of have already been to the area and noticed, you know, if it was or wasn't wide enough. You know, so—

President Crouch: Thank you.

Cathy Edrington: –I might have said all that at Area Plan, but I didn't know they weren't going to do it until I got to Area Plan. So, that's why it wasn't brought up then. Okay, thanks.

Commissioner Nix: Thank you.

President Crouch: Thank you. Would you care to respond?

Krista Lockyear: Sure. I guess, with some apologies that our initial designs did show access there, if Ivy Gardens, or Colonial Gardens had been wide enough to accommodate traffic. I think it, sure, it's easy to go ahead and utilize given access points, but at the recommendation of John Stoll, we revisited that issue. We did have neighbors that live back there that said they were very concerned, I believe it was Weber, Mr. Weber or Mr. Whitner that visited at the reception we hosted on the east side lives there along Ivy, Colonial Gardens, and was very concerned that we would access that road, did not want additional traffic on that road. So, in, I guess, following the County Engineer's recommendations, as well as the request of the individuals that live back there, we did redesign that. I think, I'm pretty sure, currently EUTS requests two entrance and exit point when there are 200 or more units proposed in a development. Clearly, we're well under that number. Even that's a request, it's certainly not something that's in our zoning ordinance at this point. So, I believe we're well under the criteria to have two entrance and exit points.

President Crouch: Questions?

Justin Schoffstall: I did want to make one direct comment regarding the comparison to Ivy Gardens by Ms. Blessinger. Ivy Gardens, it went through site review as a two and a half acre site, there's a total of two buildings on there. Directly across the street on Fulton Avenue is a Kenzi West, I mean, the Kenzi Apartments, and directly behind that is North Park Apartments. At that point, that's the only thing where I could see that we're getting close to an 18 building count. But, the development that Mr. Johnston has is merely a two building development, one ten unit building, and one eight unit building. As far as reference again with the access on to Fulton Avenue, there is plus 400 lineal feet of access on to Fulton Avenue. We have at that point allows us to have two curb cuts, which at that point was just simply two simple 24 foot wide throat widths access to Fulton Avenue.

Commissioner Musgrave: You may have said at the Area Plan hearing, but, if you would, refresh my memory, what's the anticipated market value of each condominium?

Randy Johnston: \$120,000 to \$125,000.

Krista Lockyear: \$120,000 to \$125,000.

President Crouch: Any further questions? Motion?

Commissioner Musgrave: Move approval.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. There being no further business—

Bev Behme: We need a roll call vote.

President Crouch: Oh, I'm sorry. Roll call vote. Commissioner Musgrave?

Commissioner Musgrave: Yes.

President Crouch: Commissioner Nix?

Commissioner Nix: Yes.

President Crouch: And I vote yes. There being no further business to come before this board, motion to adjourn?

Commissioner Musgrave: So moved.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. Thank you.

Krista Lockyear: Thank you.

(The meeting was adjourned at 5:15 p.m.)

**Those in Attendance:**

Suzanne Crouch

Bev Behme

Krista Lockyear

Randall Johnston

Cheryl Musgrave

Kathryn Daniel

Justin Schoffstall

Others Unidentified

Bill Nix

Madelyn Grayson

Cathy Edrington

Members of Media

**VANDERBURGH COUNTY  
REZONING BOARD**

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**Suzanne Crouch, President**

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**Cheryl Musgrave, Vice President**

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**Bill Nix, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
REZONING BOARD  
APRIL 19, 2005**

The Vanderburgh County Rezoning Board met in session this 19<sup>th</sup> day of April, 2005 at 5:00 p.m. in room 301 of the Civic Center Complex with President Suzanne Crouch presiding.

**Call to Order**

President Crouch: Call to order Vanderburgh County Commissioners rezoning meeting April 19, 2005.

**Approval of March 15, 2005 Rezoning Meeting Minutes**

President Crouch: First we need a motion to approve rezoning minutes from last month.

Commissioner Musgrave: So moved.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered.

**First Reading: VC-6-2005: Petitioner: Haas Development, Inc.  
Address: 7920 Hogue Road  
Request: Change from R-1 to R-3**

President Crouch: First reading, docket number 2005-20-PC, VC-6-2005, petitioner Haas Development, Inc. Do we have a motion to approve first reading?

Commissioner Musgrave: So moved.

Commissioner Nix: Second.

President Crouch: Is there anyone here to comment on this particular rezoning?

Commissioner Musgrave: That's Haas Development, Inc.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. It has been approved for first reading.



**Final Reading: VC-3-2005: Petitioner: Pedcor Investments, Inc.  
Address: 4201 N. Green River Road  
Request: Change from Ag to R-4  
Action: Deferred till 5/2005**

President Crouch: Final reading, docket number 2005-7-PC, VC-3-2005, petitioner Pedcor Investments LLC.

Krista Lockyear: Good evening members of the Commission. My name is Krista Lockyear. I'm here on behalf of Pedcor Investments LLC. My clients are in various dispositions of transit. They were supposed to be here, and I don't see them. So, I apologize. Hopefully, they will be here shortly, but I do believe that I can carry on without them. Pedcor is a developer of apartment facilities. They have 61 similar projects throughout six states. They are involved in the Evansville community through Fidelity Federal Bankcorp. They currently own and manage Vann Park Apartments, as well as Springview Apartments in Newburgh. Pedcor is interested in developing this parcel of property as an affordable housing apartment complex. The exact method of funding will utilize section 42 federal tax credits, which is a program under which the applicant receives credits that they can then enter into a partnership with a bank, a lending institution, or an investor that can utilize those credits. Under that program, approximately 89% of the units will be targeted to 60% of the median income, and the remainder will be market value. Pedcor has extensive experience in providing this type of facilities. Their apartments typically include amenities that are above and beyond what is commonly found in the affordable housing market. Some of those include large closet space, private storage areas, and a club house that has a pool, a meeting room, and playground facilities for the children of the complex. I want to stress that it is not low income. This will not be a section eight facility. It will simply take advantage of that federal housing program. We do know that there is a need for this type of housing in the area. While the east side of Evansville has experienced some growth in the executive level apartment complexes, there really has not been any targeted for the 60%, really the average worker income. The market studies that my client has obtained has indicated that the apartment complexes in this price range, that are well managed, have been running approximately 90% occupancy. So, they're certainly convinced that there is a need in this area. That need clearly can be explained by the growth of the area. If you drive out to this intersection of Lynch Road and Green River, you will see Lynch Road, obviously, has opened up that connection, east-west, between 41 and I-164, Burkhardt Road has been expanding for the past several years, 164 has brought growth of industry into this area. Green River Road, currently we've experienced expansion of the Schnuck's plaza, as well as the current Black Buggy market, which is under construction at this time, that will include corporate headquarters, a furniture store, and additional retail space. It's also my understanding that Cinergy Communications is building just east of the Black Buggy. That pretty much encompasses the intersection to the south of, on the southeast corner of Lynch and Green River, and is really kind of an example of what's happening out here. As well as you can look at Oak Hill Road and Lynch. The commercial is kind of locating right at the intersection, and the need for residential facilities close to that is becoming increasingly obvious. This property is an ideal site for this development. If you will look at it, it is located about a quarter mile from the Lynch Road intersection, and in this area Green River Road will be expanded to a five lane thoroughfare, with a center turn lane. There is a Huck's station that is located right there where the pointer is at this point. The comprehensive plan does show that that hub at the intersection will be commercial, and the outer lying areas

residential and agricultural growth. With regard to site plan details, while it's somewhat putting the cart before the horse to do definitive drainage plans before we get the zoning in place for the project, Morley and Associates, specifically Matt Wallace with Morley and Associates, has done preliminary investigations for all the plans. Hi, thank you. These are site plans. I'll kind of walk you through here in a second. The drainage, Mr. Wallace with Morley has spoken with the County Surveyor, the property will have sufficient retention ponds to hold any additional run off rate, and will probably drain to the east. The method of drainage, I believe they will still work out, hopefully, won't even need a direct drainage pipe. It can drain at a natural rate over a swale. There is so much retention on the property, we don't expect much run off. With regard to water and sewer, they will need to be brought to the side, and, again, Mr. Wallace has been in contact with the Water and Sewer Utility to come up with options for both of those, and they are both quite feasible. Traffic, of course, can be easily addressed with the widening of Green River Road. We have planned the, both of these site plans that you see here in front of me have the entrance as far north as possible. It's my understanding that has been done. In working with the County Engineer, in order to allow for the widening and a deceleration lane, which my clients will donate to the county for right-of-way, we have also put the property back off the road with sufficient distance to allow additional right-of-way acquisition and grants, if the county should need it. We don't think in discussions with the County Engineer that there will be any more right-of-way necessary, but the land is there and available if it should be. I think the County Engineer has even discussed the timing of the project and the possibility that if it goes out for bid at the same time that the county widening project, we've indicated that we would work with the county, if it's desirable for our County Engineer that the county would actually do the deceleration lane, and we would reimburse the county for it. We're agreeable to that opportunity. Again, depending on timing and how the projects proceed. Every zoning, I believe, has some neighbors that may have some issues and concerns about a new business going in to a property. Fortunately, this site impacts very few neighbors. Reverend Engler of Word of His Grace Fellowship Church lives at the southeast corner, I'm sorry doesn't live, the church is located at the southeast corner of the property. We have had discussions with him about tapping in to the utilities, and networking with the use of a daycare that the church is interested in creating for their parishioners. I think far and away the most affected by the property are the two residences that are in the middle on the south end of the site, that's Mr. John Irwin and the Titzer family. I've spoken with Mr. Irwin several times, and he's indicated the Titzer's have the same concerns, I think primarily was drainage. Running through the center of this property is a 100 foot Sigeco easement, and it has gotten into somewhat of a ditch, and water appears to drain into that ditch and to the south on to Mr. Irwin's, and across Mr. Irwin's property. Our drainage plan will stop the drainage from proceeding in that direction. So, we can certainly help with that situation. We've also talked about, discussing with him the ability for him to tap in to the sewer and water that we would bring to the property. We're not sure that that will be feasible, especially with the water. It's probably more likely with sewer, but we were continuing discussions with him about that. Then finally Mr. Irwin was concerned about noise, about trash blowing from the apartment complex on to his property, and my client has agreed that they will construct a privacy fence to block the potential there. As it crosses his and his neighbors property. The one consideration that's still out on that privacy fence, Vectren, of course, has rights to that 100 foot strip where their easement is, and I've been in contact with them, we will have to place a formal request with them to locate a fence across their easement. At first glance, hopefully, it won't be a problem, from my discussions, but, again, that will have to go through their formal engineering process. This is kind of a new little twist, you wouldn't have read about this in your packet.

Commissioner Musgrave asked me to address the criminal activity that she was fearful about that had been going on at Vann Park Apartments, as my client does own and operate Vann Park as well. What we did, I looked up in the county records incident reports, and we've got, I got an education today, we've got two different things, we've got calls to 911 and we've got incident reports. The incident reports show back as far as three years, and over the past three year period, we had approximately 105 incident reports. That is very comparable with other apartment complexes in the area of similar size. We did research, Bradford Pointe, Greenbriar, Sugar Mill Creek, the Timbers, a variety of, I guess, markets, if you will, and incident reports are fairly consistent. There are a lot of runs at the area for things that don't generate an incident. So, your 911 calls would be more than the incident reports themselves. In addition, I made a phone call to Jeff Vantlin, who is the enforcement liaison for this district, and Jeff Vantlin, of course he's with EPD, wrote an e-mail to Tom Crowe, who is the president of Pedcor that I would like to pass out to you for the record. For the record, I will read that, at the bottom of the message addressed to Mr. Crowe:

"I am the Beat 3 Crime Prevention Officer for your area and have a good working relationship with the employees of Vann Park Apartments. I have found the employees to be cooperative and responsive to any needs our department may have, including evictions of residents, if needed. Management has also agreed to allow police officers to ban from the property any non-resident deemed as being a problem."

In addition, Pedcor Management Corp. has adopted into their lease, and I will also pass out a copy of this for the record, the right to evict, if any police report or investigation of any one occupant or an apartment or guest, any illegal drug, controlled substance activity, illegal gambling, or prostitution. Any police report will be considered a default, and the lease agreement may be terminated immediately.

Commissioner Musgrave: Are you saying that this is the lease agreement that will be in effect for the apartments in question?

Krista Lockyear: I'll address that in just a second. Commissioner Musgrave asked if this is the exact lease that will be in place for the apartments in question. I can't say that that's definitely true. It will probably be a work in process, and there may be changes made. This is the current lease for the Vann Park Apartments, and adopts that ordinance. Now, I did ask if that language will be included in the new lease, and the answer to that is yes. My clients are in the business of running a business here. Of course, they want to do anything they can to facilitate a nice community, a safe community in dealing with the law enforcement officers that happen to work at the project.

President Crouch: Question, how many evictions have they had at Vann Park in the course of that three year period where you had indicated they had 110 incident reports?

Krista Lockyear: Incident reports.

President Crouch: How many were actually evicted in that three year period?

Krista Lockyear: Let me ask the management officer to come up for the property.

Gary Wright: Good afternoon, my name is Gary Wright. I'm the area manager for Vann. I can't give you an exact number of evictions in the last three years. I can give you a rough estimate of the last two years that I've been there, and for criminal activity, such as we're talking about in the lease, my best guess would be somewhere around five or six. Most of the calls are domestic type issues, children, things of that nature, and not a lot of criminal activity have we had to evict for. So, I would say my best guess in the last two years would be five, six.

Commissioner Musgrave: I'm looking at the records of incidents reports, and you've had everything from animal complaints, to battery reports, to family disputes, fight in progress, quite a few of those, harassment reports, hit and run with property damage, quite a few, investigations by the law, motor vehicle property damage, narcotics use and sales, a great number of noise complaints, parking violations, prowlers, shots fired, a couple of those, stolen vehicle in progress, several stolen vehicle reports, a lot of subjects refusing to leave, a suicide there, suspicious circumstances, thefts, and you've only had five evictions?

Krista Lockyear: Let me, let me address some of, I think there are a lot of answers that can be presented to that question. First of all, Jeff Vantlin when I talked to him about this, he said, quite honestly, your clients may not know about a great majority of these incidents. They are not notified automatically, and I think there are privacy reasons, etcetera, and Jeff indicated that he would try and, I guess, on our behalf, notify us more often. There has been a request of greater cooperation between them. Of course, he's also pretty busy, and has a lot of other apartment complexes he's dealing with, but he has indicated that he will try and do that. He has, prior to this request coming up today, met with management and given his, I don't know if it's his cell phone number, but a number where he can be reached for the community newsletter that will be distributed to the tenants. So, his number will be going out to the tenants in the newsletter here in the next month or so that will give them his name and information and direct them that they can report crime directly to him. So, I think we've got some of we're not sure every time that something happens on this property. I also had a discussion as to how crimes are reported, and with the new GIS system, if a call is put in to dispatch, and it is on Vann close to Vann Park Apartments, they actually use a common term, or common address, rather than an exact location. So, some of those incidents could be merely location, and we are next to Vann Park itself, so, if someone would be in the area, it comes in to dispatch on that location. They may show it as Vann Park Apartments when it is not in fact a tenant, but someone in the area or general vicinity. In fact, my clients have indicated they have a request pending to close Vann Avenue at the end of their property to stop some trafficking coming from the park on to the apartment complex. That, my understanding is that there is a fire hydrant that has to be moved out of that right-of-way in order to close Vann Avenue, and that the city has indicated and the Fire Department has indicated that they will work towards that. I think it's a financing issue to move that and find additional right-of-way, but it's something that we are aware of with that proximity to the park. I'm not throwing any of these up as an absolute answer, but I think a lot of things work in conjunction. In addition, I go back to the incident reports, with 105 in the past three years, and I don't, of course, have eviction numbers from the other apartments, but you look at these apartment complexes and it's just not out of line in the numbers. Runs happen, crime happens, in some areas of town more than others. I think the important thing is what is our management doing to deal with it? As I've indicated, they have previously talked to Jeff, got his number, got it into their newsletter, they have in the past worked with EPD. Jeff indicated that there was an incident a year or two ago that they had actually discussed with the EPD problems they were having with a tenant, EPD had

requested that they do not evict because of some information they were obtaining, and he was very complimentary as to the management working closely with EPD to wait until that information was utilized, I suppose, before evicting. So, I think the overall concern is what are we doing, and the management is definitely committed to addressing these problems, to the extent that the number of incidents brings to light a problem that we weren't aware of, we'll certainly be on top of it in the future. This is a further commitment regarding the crime at the property. Tom Crowe, president of Pedcor did tell me today that I was at liberty to indicate if there is a problem at the apartment complex that they are managing, be it Vann Park, be it the apartment complexes in the future they may develop, they will commit to having an on guard security officer at all times at the apartment complex. Again, their overriding goal is to have a safe and secure environment for their tenants.

Commissioner Musgrave: Are they committing to day to have one at Vann Park now?

Krista Lockyear: They have not been advised that that's really a necessary problem, but I will tell you that we can get with Jeff Vantlin and see if that is something that he feels would help EPD and certainly do that.

Commissioner Musgrave: Is Jeff Vantlin the community police officer for that area?

Krista Lockyear: Yes.

Commissioner Musgrave: Is he the new community police officer for that area?

Krista Lockyear: I don't know how long he has been there.

Commissioner Musgrave: I think he is.

Krista Lockyear: He did indicate....he would be happy for you to give him a call and pose any questions you may have.

Commissioner Musgrave: Was he aware that this e-mail would be entered into public record today?

Krista Lockyear: Yes he was. He actually sent that specifically for that purpose. He was, I think he felt very positive towards the management at Vann Park, and indicated that I could so express to you in public meeting and on the record.

Commissioner Musgrave: I also sent to you the copies of the minutes of a hearing that took place in this room last year of a neighbor requesting tax relief for her two rental properties that are near Vann Park Apartments. Her suggestion throughout this was the crime associated with the apartment complex was devaluing her property, and interfering with her ability to attract renters to these two units that she owns. Is there any response to that?

Krista Lockyear: I'm sorry, I didn't receive that information.

Commissioner Musgrave: Oh? It was with the other two that I sent to you.

Krista Lockyear: Did you send anything directly to me?

Commissioner Musgrave: Yes, I did. I sent you an e-mail around noon, I called you and you were in a meeting, and I let your staff know that I was sending you this e-mail.

Krista Lockyear: Okay, the e-mail did not come through, and I apologize for that.

Commissioner Musgrave: Let me just read a little bit from, this is Arlene Wolf's testimony last year, and I can get that exact date for you;

"In the past few years there has been a public housing development catty corner to where my house is at Vann and Pollack Avenues. There has been higher crime in that area. I lost the renter at 3020 Pollack because one morning, this was last summer, he put his, or, the mother put the little girl outside in the backyard to play or something, and there was a man lying drunk in the yard. This is not a single incident. If you check the paper on Saturday, they have that map of the crimes in Evansville, and that complex is high crime. There's no other way I can put that. There are a lot of robberies, prostitution, drugs being sold, meth labs. It's not unusual to see the fire trucks down there a lot. This is, but the, when the man appraised my property he put average neighborhood, it's not, it's starting to deteriorate badly."

Then there's some other information. Then she says:

"The renter of my other place, which is just three houses down from this, one morning she went out to get in her car and somebody was asleep in the back seat of her car, even though her car was locked. I don't know how he got it in. I don't want to dwell on this, I'm saying I can't get, I can't keep raising property, I mean raising my rent to attract quality people down there when we have drunks lying in the street and a steady stream of people walking up and down the street at night, and you know burglaries are an issue."

This is the sort of activity that's taking place around the other apartment complex that your clients own. It is an issue. You say that they're not aware of the continuing incident reports or the actual arrests that have been made out of there. How can you assure me that my vote to rezone this will not bring this similar activity to North Green River Road?

Krista Lockyear: Again, I can add the commitment that my client indicated that they will, if they have problems, and we will have to go back and investigate. I mean, I understand that one person may have concerns, and that we do have a large number of incidents. Any apartment complex seems to have a large number of incidents, and I did not have time today to pull subdivision reports, but we have, unfortunately, meth labs every where in the community, not just in apartment complexes. I think we have to take a step back, and with the information you've given us do some further investigation to find out if Vann Park is above and beyond what is happening anywhere else. Irregardless of whether it is, we do have a commitment to obtain a private security guard at the property, as well as continued work with the EPD, and it would be the Sheriff's Department I believe in this case, to do what we can to prevent it. Without that cooperation between law enforcement and our management, there's probably not much we can do. But, now that you have brought this to our attention, I think we will have much greater involvement in Jeff Vantlin's life, I'm not sure that he's excited about that or not. He was very helpful,

as I'd indicated, I know he's busy and has a lot of apartment complexes, but this has brought to light that perhaps there's more of a problem than what our clients are aware of. We do have the eviction provision in the lease for criminal activity, and will continue to enforce that. That provision will be in the lease for the county, and my clients have committed that, again, their overriding goal is to have a productive, safe environment. They want to rent this property to other tenants. This is not low income, it's median income. They have market rate properties as well. They can't just skate by on allowing this criminal activity to continue.

Commissioner Musgrave: Why do we need to rezone this? Is there not other land available where this project could take place that's already that zoning?

Krista Lockyear: Not, to my knowledge, not this close to the major arteries that make this project adaptable and appropriate for this land use. If I can, there are five statutory criteria for a zoning consideration. One of them is the comprehensive plan, and this comprehensive plan does call for this area to be residential and agricultural in development. The R-4 zoning that we've requested is considered in the zoning code to be a residential use. The current conditions and structures in the area, as I'd indicated the commercial growth is happening here, and this is an ideal site that will not impede on a heavily developed residential neighborhood. There are few residences that it will impact, and we have worked with them, and I believe satisfied their concerns. County Engineer has indicated that it's not going to be a problem for traffic concerns. Obviously, unfortunately, that's a big issue anywhere we turn, how do we get tenants into and out of this apartment complex? Most desirable use for the land, again, Vanderburgh County is putting this infrastructure in place to be utilized, and the apartment facility is a good use for this property. Conservation of property values throughout the jurisdiction, again, we're not locating apartment complexes in an area that is not intended for residential use. It certainly is. Responsible growth and development, which, again, I kind of, all of these fall back upon each other, but the fact that the county is investing infrastructure out here in the area to be used, my client will dedicate the right-of-way and the deceleration lanes needed for traffic, and servicing the needs of this area for housing.

Commissioner Musgrave: My last question is, what sort of need analysis have you done that supports your assertion that this land should be rezoned for this type of apartment complex?

Krista Lockyear: My clients have done a private market analysis, which does indicate that the need is in this area. Again, it's a—

Commissioner Musgrave: Do they have this document for my review?

Cyndi Gianneschi: It's an internal document that we have. We had an....I'm sorry, my name is Cyndi Gianneschi, Vice President of Development for Pedcor. We had an independent market study done as well for our, back up of our opinion about the market, and it was indicated that on average the market for apartments market or tax credit, which includes Arbors of Eastland, property like that, and Vann Park is 92% occupied, which is a good occupancy. For the demographics that we would be drawing, which is 60% of the median income, it indicated that we would only need six to eleven percent of the population that fell within that income bracket for a five mile radius. That's not a very big radius. So, our independent study indicated that there was a demand and a need for this housing, especially with all the service oriented development that is going to need somewhere to live.

President Crouch: Question. What is the rent going to be at this apartment complex?

Cyndi Gianneschi: One bedrooms start around \$300, on up to four bedrooms which will be close to \$850 a month.

President Crouch: How does that compare to Vann Park?

Cyndi Gianneschi: It's a totally different product.

President Crouch: I mean cost wise. The cost per month for one bedroom versus for—

Cyndi Gianneschi: For rent?

President Crouch: Yes, uh-huh.

Cyndi Gianneschi: Gary, what are your rents today?

Gary Wright: \$415 to, \$415 starting to \$455.

Cyndi Gianneschi: \$415 to \$455.

President Crouch: Is that for one bedroom or two bedroom?

Gary Wright: That's one bedroom.

Unidentified: (Inaudible) starts at \$475 up to \$555.

Cyndi Gianneschi: \$475 to \$555 for two bedroom

Commissioner Nix: How long have you owned Vann Park?

Cyndi Gianneschi: We developed it with an affiliated group back in '93.

Commissioner Nix: Okay.

Cyndi Gianneschi: We built it, we've had it the whole time.

Commissioner Nix: So, you've had it since it's been built then?

Cyndi Gianneschi: Yes.

Commissioner Nix: Okay.

Cyndi Gianneschi: Vann Park's units are, they've only got one and two bedroom units. They're smaller units, the two bedroom I don't believe has two baths.

Unidentified: One bath (Inaudible).

Cyndi Gianneschi: They have one three bedroom which is a house they converted, I believe. So, the new development is going to have larger units to accommodate larger space requirements of residents, and to compete with the other market rate developments on Virginia Avenue at a more affordable price.



President Crouch: Did I hear you correctly, this apartment complex, a one bedroom would rent for about \$300, and at Vann a one bedroom rents for \$415?

Cyndi Gianneschi: We, this was another question that Commissioner Musgrave had was what kind of financing would be applying for? It would be tax credit section 42, and the rents would be set at 30, 40, 60% of median income, with 60% median earners able to rent those units. So, that's why our rents are lower than Vann Park.

Commissioner Nix: And you don't have that arrangement at Vann Park, is that correct?

Commissioner Musgrave: They have section 42 financing at Vann Park.

Cyndi Gianneschi: Correct, but they went through a different application program back in the '90's.

Commissioner Nix: Right.

President Crouch: Do you know what the Timbers and some comparable complexes on Green River Road run for?

Cyndi Gianneschi: Both the Timbers and Sugar—

Commissioner Musgrave: Mill Creek.

Cyndi Gianneschi: Mill, I keep trying to call it Sugar Creek, their one bedrooms are about \$525, I believe to \$575, on up to three bedrooms in the \$800 range. So, we're very comparable with them in our top end, and then we provide an option for the lower end.

President Crouch: Any other questions?

Commissioner Nix: I guess, I'm just curious, did something alarm you to look into this? As far as, or is this something you just knew about?

Commissioner Musgrave: This is something I knew about. I attend a great many neighborhood association meetings, particularly the one that is around Vann Park, and I heard personally their complaints. I also was a member of the board that had to listen to thousands of tax appeals, and this was one of them. Her testimony was compelling, and there was nothing that we could do for her. We still have to tax her, even if her values are declining, and so are everyone else's. So, I just remembered this, and it alarms me that first of all in all the years that this has been going on, the management of your property professes not to know that this has been going on, and that you are proposing to buy and develop another identically financed and populated project in another part of our community.

Krista Lockyear: If I might, again, bring your attention to the fact that Vann Park Apartments is nowhere near out of line with any other apartment complex in this area.

Commissioner Musgrave: We haven't established that by any study.

Krista Lockyear: The incident reports list that I pulled today, and this is public record, shows Sugar Mill Creek, the Timbers, all being within very comparable numbers. If you would like to postpone this—

Commissioner Musgrave: I would.

Krista Lockyear: —for a month.

Commissioner Musgrave: I would like to study the records that you have, because I have not seen those, and you say that you have not seen all of the one's that I have seen. Can we postpone this for a week, or is a longer period of time necessary for noticing?

Brad Mills: Notice can be at the meeting here. Brad Mills, Area Plan. This meeting can be the notice, so, you won't have to renotify. You could do a week if you wanted to.

Commissioner Musgrave: We have drainage board next week, it might be best to wait two weeks. Would that be an inconvenience for you?

Krista Lockyear: I don't think it would. My concern I think with postponing, and we can certainly do that, I don't want to raise a red flag in the media to a problem—

Commissioner Musgrave: They aren't here.

Krista Lockyear: —that isn't a problem.

Commissioner Musgrave: No member of the media is here today.

Krista Lockyear: And bring undo concern to neighbors. I don't think two weeks is a problem for us.

Commissioner Musgrave: Then I would like to make an appointment with you after this meeting is over so that we can share information, and I would like to explore this commitment by the owner to have on site security.

Krista Lockyear: Sure.

Commissioner Musgrave: Move to table for two weeks.

President Crouch: And do you want to make the rezoning at 5:00? Or do you want to make it a part of our Commission meeting? Therefore, we could—

Commissioner Musgrave: I would like to make it immediately following our regular Commission business in two weeks.

President Crouch: And is that something that we can do, I presume? Okay.

Krista Lockyear: So, then for confirmation, it would be in two weeks on a Tuesday night, again, at 5:00 or shortly after your regular meeting?

Commissioner Nix: Hopefully, closer to 4:30.

Krista Lockyear: Okay.

Commissioner Nix: Or 4:15.

Commissioner Musgrave: Immediately following that meeting.

President Crouch: Right, our regular meeting starts at 3:30, so, whenever that meeting would end, we would go right into the rezoning.

Krista Lockyear: Okay, that would be fine.

President Crouch: It might be 5:00.

Commissioner Musgrave: I add that to my motion.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered.

Krista Lockyear: Thank you.

President Crouch: Thank you. There being no further, is there any other business to come before this board?

Commissioner Musgrave: Motion to adjourn.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered.

(The meeting was adjourned at 5:50 p.m.)

**Those in Attendance:**

Suzanne Crouch

Brad Mills

Krista Lockyear

Others Unidentified

Cheryl Musgrave

Kathryn Daniels

Gary Wright

Members of Media

Bill Nix

Madelyn Grayson

Cyndi Gianneschi

**VANDERBURGH COUNTY  
REZONING BOARD**

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**Suzanne Crouch, President**

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**Cheryl Musgrave, Vice President**

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**Bill Nix, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS  
MAY 3, 2005**

The Vanderburgh County Board of Commissioners continued rezoning petition VC-3-2005 from their April 19, 2005 Rezoning meeting during the course of their regular Commission meeting.

**Krista Lockyear: Extension on Rezoning Petition: VC-3-2005**

President Crouch: Krista Lockyear, extension on rezoning VC-3-2005.

Krista Lockyear: Good afternoon, members of the Commission. My name is Krista Lockyear, here on behalf of Pedcor Investments. If you'll recall, two weeks ago we were in front of you on a rezoning request, and there were some issues and concerns that arose during the course of our presentation that we are in the process of obtaining information to help us better address those issues and concerns. We would like to request a further continuance to continue gathering some of that information and procedures for you. The exact date that we continue to I think is somewhat up to your discretion. I talked to your office and I understand that June 7<sup>th</sup> may be an available meeting date, but we're flexible as well, and anytime after that date we think we could have all the information available for you.

President Crouch: I believe our next meeting would be May 10<sup>th</sup>, and then the 17<sup>th</sup> of May, would either of those dates work?

Krista Lockyear: Actually, they would not.

President Crouch: The 24<sup>th</sup>?

Krista Lockyear: The 24<sup>th</sup>, yes, if you have a meeting that date, that would be fine.

President Crouch: That's Drainage Board also.

Commissioner Musgrave: Well, do you want to go to the June 7<sup>th</sup>?

President Crouch: Is that too much time?

Krista Lockyear: No, that's okay with us. We understand that you've got other things going on as well.

President Crouch: Motion?

Commissioner Musgrave: Motion to delay this rezoning until June 7<sup>th</sup>.

Commissioner Nix: Second.

President Crouch: And that will be immediately following our Commission meeting?

Commissioner Musgrave: Yes.

Krista Lockyear: Alright, thank you very much.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. Thank you.

Krista Lockyear: Thank you.

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS  
JUNE 7, 2005**

The Vanderburgh County Board of Commissioners continued discussion of rezoning petition VC-3-2005 from their April 19<sup>th</sup> Rezoning meeting during the course of their regular Commission meeting. Additional discussion were held on June 7<sup>th</sup> and June 14, 2005 as well.

**VC-3-2003: Pedcor Investments**

President Crouch: We now will move to rezoning, VC-3-2005. Thank you for patience.

Krista Lockyear: Good afternoon, members of the Commission. Krista Lockyear, I'm here on behalf of Pedcor Investments, LLC. As I believe everyone is aware, we have been working with Commissioner Musgrave specifically in order to put together a written covenant that will address some specific concerns, and provide some accountability on behalf of our client in the future. I think it's telling that we're here after the earlier discussion about the rezoning on the west side. My client is very interested in putting in writing their commitments to the county, and standing behind the representations that they have made to you. I do have copies of the covenants as current draft. There are probably still some minor modifications that need to be made. My client would like to run these by their eviction attorney to make sure we don't have any problems with some of the language, versus the language in the leases. I would hope that in the next couple of days we could have discussions with any of the Commissioners that may have additional comments, and we could finalize this before next week, to take this rezoning to a vote.

Commissioner Musgrave: I want to thank you, and your clients for taking the time to meet with me last week to respond to the numerous e-mail messages that have come, not only from me, but from concerned members of the public, seeking to arrive at this covenant, which will put in writing some of the things that are important to the community, and that you're willing to put it on paper and stand behind it, I think that speaks very highly of your client.

Krista Lockyear: Thank you.

President Crouch: I do know that Mrs. Harp is here from Oak Hill Neighborhood Association, and I know she is here with some questions regarding this rezoning, because I did speak to her. So, if—

Krista Lockyear: Sure.

President Crouch: –you don't mind entertaining, even though we won't vote on it today.

Susan Harp: Thank you. Susan Harp, president of Oak Hill Neighborhood Association. This area out there, unfortunately, does not have any neighborhood association, and that is something that Mr. Farmer and the United Neighborhoods of Evansville and I, we're working on to try to expand more neighborhoods in the county. Keystone would probably be your first neighborhood, then you get into the Green River Estates. Some of the concerns, and this was brought up at the East Sector Neighborhood Police meeting. Officer Vantlin spoke about the Vann Park apartments, and then I had just received the e-mail regarding this information, and there are some concerns from any neighborhood when you put in housing that may attract people of lower income that may be influenced by vices such as drugs. Of course, we do have the drug house ordinance in the city that we feel is going to help alleviate some of this, and I'm hoping this covenant would address those issues. But, in fact, these apartments do kind of attract, and it's unfortunate, because everyone should be provided a place to live. My concerns were that would there be ample transportation for some of the lower income people to get to their job sites? That was one issue that was brought up. I know it will be on the Sheriff's Department to help patrol this area. It's just kind of secluded out there, and I know they are going to widen, or do some improvements on Green River Road, so that should help, but that's, you know, down the road. Those were the concerns we really had. I did speak to a few of the people from Green River I and Green River II that they knew nothing about any of this. So, Timber Park neighborhood had concerns, but they're on further south, but they and Oak Hill are the two nearest neighborhood associations, so, we're hoping that the covenant would address the issues that protect those neighbors right there who may not know what's in store for them.

President Crouch: Thank you, Mrs. Harp. Would it be possible to provide a copy of the proposed covenant to Mrs. Harp? Then if you could just briefly address her questions. If you could also tell her where the property is, because I think I told you the wrong location.

Susan Harp: Okay, thanks.

Krista Lockyear: Again, Krista Lockyear, for the record. Mrs. Harp, after the meeting I can give you a copy, as well as my card, and we can maybe correspond about any additional comments you have. Specific concerns that we are intending to address in this covenant is that my client is willing to commit that the leases, although this property is not to be, it's not in the city limits, or I wouldn't be in front of this body, we will include the language from the city ordinance about the drug enforcement and eviction procedures into our leases, so that we...and as amendments happen in the



future, we will comply, basically, with that city ordinance and lease language. We also are putting in mechanisms of background searches that we will proceed and follow. Currently, at Vann Park, and intended at this Green River Road site, we do previous landlord checks, obviously, credit report checks, and we are committing to checking the Vanderburgh County Sheriff's sex offender registry periodically, and to proceed to commit not to rent to anyone that is on that registry, as well as proceed to make sure that we don't have tenants in the complex that are registered sex offenders. The other provisions that we are having in here is that we would agree that at any point in the future, if the Sheriff's Department or the County Commissioners would request, as a result of criminal activity at the site, our client, or my client will hire on-site security at their own expense to cut down any problems that they may be having. Of course, we don't foresee problems. It's our full belief that this will be a microcosm of the neighborhood that we are locating in. I've indicated to this body before, our tenants that we are marketing to are the workers at the east side, close retail locations; Eastland Mall, the new Black Buggy development, the Schnucks development. This property is just north of Lynch Road on Green River Road, and, so, those tenants that we are looking for are the work force of that immediate area. As far as transportation goes, we are not marketing to individuals that require public transportation. Public transportation is just not really anything that our clients are interested in trying to accommodate at this point, or acquire. It's the intent that most of these tenants will have their own transportation. These tenants are working individuals, and there are percentages of income requirements, but they are individuals that either currently work or may be retired, and that these complex, apartment units will be affordable to them.

President Crouch: What percentage students?

Krista Lockyear: That creates a whole nother can of worms.

Commissioner Musgrave: At our meeting last week, you and I talked about the police reports, and you relayed to me how it took your client about six weeks, I think, to get the accompanying incident reports that went along with those that you could identify problem tenants in your Vann Park Apartments. We were discussing this in order to forestall any problems in the future development. You had mentioned that your client might want to pursue easier and better access to those records. Has anything come of that?

Krista Lockyear: Not to date. I think we are going to work, perhaps with you. I would like you to kind of take a look at what our suggestions or comments may be. I don't in any manner want to say that the Evansville Police Department didn't produce anything and everything that we asked them to do. It was the mechanism of obtaining the information. Officer Vantlin is our beat officer, I'm not sure of the exact term. He is on-site periodically. We have had communication with him, and we now

have his number to include in the community newsletter that Vann Park puts out. That hadn't happened before this process. So, I think that's a positive thing. We're also going to see, in working with Officer Vantlin if there is a mechanism that we can get monthly incident reports, rather than going through a formal process through the record room to obtain these reports, and perhaps, because I think we pulled officers off of what they normally do in order to get these reports. So, if we could come up with some kind of system where any apartment complex, or any resident, for that matter, could get police reports of things that occur in their vicinity on a regular basis, that certainly would help our clients in managing the apartment complex, as well as others. We certainly would be willing to talking to the Sheriff's Department about doing that in the future.

Commissioner Musgrave: Okay. But, the ordinance isn't, I mean, the covenant isn't ready to be signed today, so, I would make a motion to defer this until next Tuesday's meeting.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. Thank you, Mrs. Lockyear.

Brad Ellsworth: May I make a comment? Good evening, my name is Brad Ellsworth, Vanderburgh County Sheriff. It's my understanding that the property in question is out in the county solely, and would therefore be patrolled by the Sheriff's office until something changes that would preclude that. I do want to say that I'm sure you understand that the Sheriff's office is a full law enforcement agency, not just a jail, not just a civil process. That we do have detectives, and patrolmen, and crime scene investigations. One thing, my concern, and I've talked about this a couple of times, is that these were cornfields traditionally, and cornfields never call the police. But, housing developments, whether it's apartments, I think we used to refer to them as Section Eight, I don't know if that's still the case, but, even low income housing is, they call the police. But, in large subdivisions, Green River Estates, and even the costlier houses, they still call the police. We go to Green River Estates quite a bit. So, we get runs in every neighborhood in Vanderburgh County, whether it's \$500,000 houses, or whether it's a \$400 a month apartment. It's nothing new to us to patrol or to work in this kind of atmosphere. Carriage House Apartments off Green River Road south of there was in our patrol jurisdiction years ago before it was annexed, and I think they were quite satisfied, and law enforcement was done, and patrol was made. So, any concern that we can't handle that, or we won't provide reports, I don't know if that's, maybe that's not what I'm hearing, but our

reports won't be, depending on, I don't even know Officer VanZant, but it won't be dependent upon city police providing them, we'll be providing those reports, and I can tell you that our office is pretty diligent in providing the information. I think if you ask the citizens that we do patrol, that they are pretty satisfied with the service the Sheriff 's Office has provided. So, it doesn't concern us. We're used to any kind of law enforcement, whether it's low income, or high income. If you have any questions from us, I would be glad to answer those.

President Crouch: Thank you.

Brad Ellsworth: Thank you.

Krista Lockyear: If I may, just for the record clarify, this is not Section Eight housing. It's housing that will utilize the federal tax program that is Section 42, and we have units that are designated for lower income, but it is not government housing. It's not subsidized housing. It's affordable housing. Again, I wanted to stress that we are marketing workers. There's a median income level that, you know, we've discussed with various Commissioners, and, you know, as we've gone through this process we have found quite a bit of information to dispel, perhaps, the myth that lower income means problems. That's certainly not the case, and to ensure that large apartment complex doesn't mean problems either, that's really the reason why my client is working with you to get this covenant in writing, and, again, to provide some accountability in the future.

Commissioner Musgrave: Would you go ahead and supply a copy of that to the Sheriff, since it does mention in it an action by his department.

Krista Lockyear: Absolutely.

Commissioner Musgrave: Okay, thanks.

Madelyn Grayson: May I have a copy for the record also? Or you can e-mail me, Krista.

Krista Lockyear: Certainly. Certainly.

President Crouch: Thank you.

Krista Lockyear: Thank you.

President Crouch: Unless there is further business—

Commissioner Musgrave: Move to adjourn.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. Thank you.

(The meeting was adjourned at 5:28 p.m.)

### **CONSENT ITEMS:**

#### **Employment Changes:**

Health Department (2)	Circuit Court (1)	Knight Assessor (1)
Burdette Park (7)	Commissioners (1)	VCCC (4)
Sheriff Department (5)	Auditor (2)	Superior Court (1)
Prosecutor (5)	County Clerk (2)	Pigeon Assessor (1)

#### **Travel Requests:**

Health Department (4)	SWCD (1)	Treasurer (3)
Commissioners (1)		

#### **Auditor:**

Approval of Lien Release for Tax Code 03-110-03-132-030 (Mill Terrace)  
Approval of Lien Release for Tax Code 02-040-02-130-039 (Old State II)  
Submit Annual Report on Condition of School Funds

#### **Commissioners:**

Council Call: Disaster Resistant Community Corp: \$10,000  
Cinergy Phone Lines: Judge Heldt  
Department Head Minutes: 5/24/2005  
Local Roads & Streets Annual Operational Report for 2004  
Hillcrest-Washington Youth Home Annual Report for 2004  
Wesselman Woods Nature Preserve Surplus Request  
Surplus Request Letters from Various Departments

#### **Burdette Park:** Airspan Internet Agreement

#### **Department Head Reports:**

Burdette Park	County Engineer	County Highway
Ozone Officer	Supt. Of Bldgs.	SWCD

Veterans Service

CIO

**Those in Attendance:**

Suzanne Crouch

Bill Fluty

Madelyn Grayson

Les Shively

Brad Mills

Krista Lockyear

Others Unidentified

Cheryl Musgrave

Ted C. Ziemer, Jr.

Adam Farrar

Greg Moore

Jim Morley, Jr.

Susan Harp

Members of Media

Bill Nix

B.J. Farrell

Fred Padget

Dan Spindler

Bill Jeffers

Brad Ellsworth

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**Suzanne M. Crouch, President**

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**Cheryl A.W. Musgrave, Vice President**

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**Bill Nix, Member**

Recorded and transcribed by Madelyn Grayson.

**Rezoning Petition: VC-3-2005**  
**Petitioner: Pedcor Investments LLC**  
**Address: 4201 N. Green River Road**  
**Request: AG to R-4**  
**Action: Approved 3-0**

President Crouch: We will move to our rezoning. We have it deferred from last week, and that is VC-3-2005.

Krista Lockyear: Good afternoon, members of the Commission. My name, for the record, is Krista Lockyear. I'm here representing Pedcor Investments Limited Liability Company, asking for you to approve a rezoning of the property on North Green River Road to R-4 for multi-family residential development. I would, as you're all very well aware, we've had many meetings and discussions about this rezoning over the past couple of months. I do have some minor evidence to present to you. I'm just going to try and recap what we have been through. Maybe starting at the end and then moving backwards in time. I have to present to you the covenant that is signed and notarized and ready to be recorded that we have prepared in cooperation, if you will, with the County Commissioners, and particularly Commissioner Musgrave to get, as I indicated last week, some accountability in the future. That promises we've made with regard to this rezoning will be followed through, and that the county and/or it's assigns would have the ability for recourse, if something did not go as we have represented to you how it will. So, I would like to present to you the covenant, and I have one for the record as well. I do have the original, with the original notaries, we will record that in the event that this rezoning is approved. Very briefly, as your aware, we have, in this covenant, made promises to the county that we will go through a screening process of rental applicants in order to make sure that we are doing the best we can to get good tenants at this location. We indicate the screening processes that we will go through, and we will keep a record, or a checklist of those processes that are signed by a Pedcor employee that has actually done the check. You will have, you or the Sheriff's Department will have, at your request, the ability to review those to ensure that those screenings processes are still in place and being followed. In addition, I think very importantly we have agreed that in the event that the Sheriff's Department or the County Commissioners determine that the cause of criminal activity on site, an on site security officer would be advisable. Pedcor will employ, at their cost, a security officer on site to handle any problems that may arise. Other details, of course, are in the covenant. It will be part of the record. I think we've all had ample opportunity to review that. I can answer specific questions, if you would have any. By way of

recapping everything else that we have presented, and I have a packet for the record of information that we've delivered. I think each Commissioner has gotten this at various times in the past. We have gone through what I will call a Pedcor resume. Pedcor is a very, very high class developer out of Indianapolis. They have many facilities of this type, and run a tight ship. We have given you information about them, about other facilities, apartment complexes throughout several states that they own and manage. We have done a basic crime comparison of apartment complexes, and I think has shown that although the Vann Park apartment complex, maybe because of where it is located has some problems, we are not out of the ordinary. Any problems we do have, Pedcor has committed to make sure that we're on top of those issues to have a good working relationship with both the Evansville Police Department and the Sheriff's Department, so that in the future any issues that do arrive they will be prepared to address immediately. We have given you recommendation letters from the Warrick County Sheriff's Department, a Sheriff deputy from Marion County, and from the Vanderburgh County Sheriff indicating either that they have not ever had any problems to speak of with Pedcor Developments that they are currently working with, or from our Vanderburgh County Sheriff's Department, that they feel that they are fully equipped to handle the addition of these residential units in Vanderburgh County. We have also given you articles regarding valuation, how low income housing has been shown, in other areas, that it does not devalue adjoining properties. We have done a valuation study around Vann Park, and submitted to you a list of 45 properties, 41 of those did increase in value over the past five years. So, I think we've substantiated that this type of development does not cause a reduction in property values for surrounding properties. Finally, we've given you a market study that my client did develop prior to, really seeking to getting this rezoning. Wanted to make sure that their target market, their target tenants are in this area, and that they can lease this property. That market study has certainly concluded that we're looking at approximately a 90 percent occupation rate in Vanderburgh County, of these types of developments, that there is a need, as we've represented before. Clearly, the proximity to Eastland Mall, the Schnuck's Plaza there at Green River and Lynch and the other development that's going in in that area, that the tenants that we are looking at, or certainly would want to be in this, are so they would be close to their employment. If you will, I'll just hand this packet of information for the file.

Madelyn Grayson: May I make a tape change while she's doing that?

President Crouch: Certainly.

**(Tape change)**



Krista Lockyear: With that all having been said, I did finally, I spoke with Michael Lockard about this rezoning project, and I think that a lot will be done in the county in future rezonings to try and get the accountability, and, hopefully, there will be the cooperation. I do appreciate the Commissioners meeting with us, discussing issues and concerns with us, and allowing us to come to a place where we believe we have done everything we can to protect any issues from becoming problems in the future. With that being said, I would ask your approval for this rezoning.

President Crouch: Questions? Is there anyone here to remonstrate against this rezoning?

Commissioner Musgrave: I make a motion to approve the rezoning of VC-3-2000, I hope that's an eight. I didn't bring my glasses today, with the covenants as submitted by the attorney today.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered.

Krista Lockyear: Thank you.

Commissioner Musgrave: Let me make one comment for the record. I received a phone call from a person in a subdivision that will be, that is near the proposed development, and she was not opposing the development, but she wanted to make sure that the Commissioners and I and the County Engineer and all the folks involved in the development process remember that the traffic on Green River Road is substantial and growing, and that she would like to see further improvements to that road.

President Crouch: Those are on the horizon, contingent upon funding.

Commissioner Musgrave: Yes.

Commissioner Nix: My hat's off to yourself, and Mrs. Lockyear and Pedcor for sitting down and getting this hammered out. I know there were some issues early on, but you guys did a great job of putting this together. Maybe this will be a model for future developments that we're looking at down the road.

Commissioner Musgrave: Thank you for those kind comments.

Commissioner Nix: So, we'll put you in charge of all those.

Commissioner Musgrave: Oh, good.

Krista Lockyear: More e-mails. Thank you.

President Crouch: Thank you. Do we need a roll call vote?

Ted C. Ziemer, Jr.: Yes.

President Crouch: Commissioner Musgrave?

Commissioner Musgrave: Yes.

President Crouch: Commissioner Nix?

Commissioner Nix: Yes.

President Crouch: And, I vote yes. It passes. Thank you.

Krista Lockyear: Thank you very much.

Commissioner Musgrave: Do you want a motion to adjourn?

President Crouch: Yes.

Commissioner Musgrave: A motion to adjourn.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. Thank you.

(The meeting was adjourned at 4:15 p.m.)

## **CONSENT ITEMS:**

### **Employment Changes:**

Knight Assessor (2)  
VCCC (3)

County Highway (1)  
Prosecutor (2)

Burdette Park (1)  
County Clerk (1)

**Travel Requests:**

Health Department (1)

County Highway (2)

SWCD (1)

County Clerk (1)\* amended from 5/3/05

**Auditor:**

Submit A/P Vouchers.

Approval of Lien Release: Tax Code 03-110-03-132-020 (Mill Terrace)

**County Clerk:** Submit Monthly Report for April 2005.

**Treasurer:** Submit Monthly Report for April 2005.

**Commissioners:**

Department Head Report Meeting Minutes: 6/7/2005.

IBAP Gatekeeper May 2005 Report.

Jail Construction Payments: #60: \$7,650 & #61: \$55,000

Vision-e May 2005 Report.

St. Vincent De Paul surplus letter.

Secretary of State HAVA Letter: Polling Places

**Health Department:** Diabetes Prevention and Control Grant.

**Burdette Park:**

Axiom Marketing Agreement.

County Council Transfer & Appropriation Requests.

**Department Head Reports:**

Burdette Park

County Engineer

County Highway

Ozone Officer

Supt. Of Bldgs.

SWCD

Veterans Service

CIO

**Those in Attendance:**

Suzanne Crouch

Cheryl Musgrave

Bill Nix

Bill Fluty

Ted C. Ziemer, Jr.

B.J. Farrell

Madelyn Grayson

Phil Lawrence

Loretta Townsend

Steve Fuchs

Jim Rexing

John Stoll

Douglas Knight

Betty Knight-Smith

Krista Lockyear

Others Unidentified

Members of Media

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

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**Suzanne M. Crouch, President**

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**Cheryl A.W. Musgrave, Vice President**

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**Bill Nix, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
REZONING BOARD  
JULY 19, 2005**

The Vanderburgh County Board of Commissioners met in session this 19<sup>th</sup> day of July, 2006 at 5:00 p.m. in room 301 of the Civic Center Complex with President Suzanne Crouch presiding.

**Call to Order**

President Crouch: Good afternoon. Welcome to the County Commission rezoning meeting of July 19, 2005. We will start with introductions to my far right.

Ted C. Ziemer, Jr.: Ted Ziemer, Vanderburgh County Attorney.

Commissioner Musgrave: Commissioner, Cheryl Musgrave.

Commissioner Nix: Commissioner, Bill Nix.

President Crouch: Commissioner, Suzanne Crouch.

Madelyn Grayson: Madelyn Grayson, Recording Secretary.

President Crouch: We will forego the Pledge of Allegiance, since we did that in our earlier meeting.

Unidentified: (Inaudible. Not at mic.)

President Crouch: I didn't bring my agenda with me, but I have one now. Thank you.

**First Readings:**  
**VC-7-2005: Petitioner: Three I Properties, LLC**  
**Address: 535 Dixie Lane**  
**Request: Change from AG to C-4**  
  
**VC-8-2005: Petitioner: West Evansville Rural King Supply**  
**Address: 2800 N. St. Joseph Avenue**  
**Request: Change from C-2 to C-4**  
  
**VC-9-2005: Petitioner: Gregory C. Moore**  
**Address: 8530 Middle Mt. Vernon Road**  
**Request: Change from R-1 to R-4**

President Crouch: We have a number of first readings. Do we have to do a roll call vote on first readings?

Ted C. Ziemer, Jr.: No.

President Crouch: Alright, if we could do a motion to do all the first readings in one motion. Certainly our motion does not indicate approval whatsoever.

Commissioner Nix: I move we approve docket 2005-24-PC VC-7-2005; docket 2005-26-PC VC-8-2005; docket 2005-29-PC VC-9-2005.

Commissioner Musgrave: Second.

Commissioner Nix: First reading.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered.

**Final Reading: VC-6-2005: Petitioner: Haas Development  
Address: 7920 Hogue Road  
Request: Change from R-1 to R-3  
Action: Approved 3-0**

President Crouch: We do have a final reading? Yes, we do have a final reading. Ms. Behme, do you or Mr. Atkinson want to make a, have any comments for the board? This is regarding 2005-20-PC VC-6-2005, Haas Development.

Jerry Atkinson: Yes, thank you. My name is Jerry Atkinson. I represent Haas Development, Inc. They are seeking rezoning of little triangle of real estate to adjust the boundary between previously zoned R-3 land and R-1 land at their Heartland Crossing development in western Vanderburgh County near the intersection....it's near 7920 Hogue Road. What happened here was that there was an original conceptual site plan that didn't make it here to this meeting, unless I have it and I'm unaware of it, that had the condominium portion of this development serviced by a road that ran along the western boundary of the parcel of real estate. They discovered that that, the grade for the roadway would be steeper than they thought was appropriate, and they redesigned the condominium portion of the development so that a flatter roadway could be created. Also as a benefit from that, the single family residences would all face Blessing Way, which is a street within the subdivision to the north of the condominium area. All of the condominiums would face either Wolfe Creek Drive or a cul-de-sac street within the condominium section. In order to use space properly, all of the buildings within the R-3 area, it was necessary to rezone a little triangle of land that was about 230 feet long, perhaps 250 feet, that is depicted on a drawing that I'm going to pass around, so that one additional building would not have to be eliminated by moving the street. I have a larger...I believe that there are no remonstrators in the audience. The Area Plan Commission approved this technical line adjustment, if you will, by a unanimous vote earlier. I've taken the liberty to provide some photographs that demonstrate that this land, which is 450 feet from Hogue Road, isn't even visible from the neighbors or from Hogue Road. The property to be rezoned is on the bottom of this first handout. Then standing on the little triangle of land, I took a picture, a view to the east, and the west, and the north and the south. I'll pass those around.

Commissioner Musgrave: I'm having trouble telling them apart.

Jerry Atkinson: I'm sorry?

Commissioner Musgrave: I'm having trouble telling them apart. It's cornfields in one direction, cornfields—

Jerry Atkinson: I took the pictures myself, and there's this big field out there. On the, I guess, it's the east, there are some of the single family residences under construction, which you can see in the distance. No construction has begun on the

R-3 condominium buildings. We think that everybody wins by allowing this, and that there's no harm to anyone, and would ask that you vote to approve.

President Crouch: Questions by the Commission?

Commissioner Musgrave: Motion to approve.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. Commissioner Musgrave?

Commissioner Musgrave: Yes.

President Crouch: Commissioner Nix?

Commissioner Nix: Yes.

President Crouch: And I vote yes. It passes unanimously.

Jerry Atkinson: Thank you very much.

Commissioner Musgrave: Motion to adjourn.

Commissioner Nix: Second.

Jerry Atkinson: I'm sorry?

Commissioner Musgrave: Adjourn.

President Crouch: Be gone, poof.

Commissioner Nix: We're out of here.

President Crouch: We're leaving. All in favor?

All Commissioners: Aye.

President Crouch: So ordered.

(The meeting was adjourned at 5:09 p.m.)

**Those in attendance:**

Suzanne Crouch  
Ted C. Ziemer, Jr.  
Jerry Atkinson

Cheryl Musgrave  
Bev Behme  
Others Unidentified

Bill Nix  
Madelyn Grayson  
Members of Media

**VANDERBURGH COUNTY  
REZONING BOARD**

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**Suzanne M. Crouch, President**

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**Cheryl A.W. Musgrave, Vice President**

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**Bill Nix, Member**

Recorded and transcribed by Madelyn Grayson.



**VANDEBURGH COUNTY  
REZONING BOARD  
AUGUST 16, 2005**

The Vanderburgh County Rezoning Board met in session this 16<sup>th</sup> day of August, 2005 at 5:00 p.m. in room 301 of the Civic Center Complex with President Suzanne Crouch presiding.

**Call to Order**

President Crouch: Good afternoon, and welcome to the Vanderburgh County August 16<sup>th</sup> rezoning meeting.

**Approval of July 19, 2005 Rezoning Meeting Minutes**

President Crouch: We will start our rezoning meeting by approving the former minutes.

Commissioner Musgrave: So moved.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered.

**First Readings: VC-10-2005: Petitioner: Sebrina Martin  
Address: 15025 Petersburg Road  
Request: Change from AG to C-4 with UDC**

**VC-11-2005: Petitioner: SC Bodner Company, Inc.  
Address: 7100 E. Virginia Street  
Request: Change from C-4 to R-5**

President Crouch: First item on our agenda is a first reading, docket number 2005-31-PC VC-10-2005, petitioner is Sebrina Martin. I believe we just need to make a motion and a second in order to send this to Area Plan.

Commissioner Musgrave: So moved.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. Our other first reading is docket number 2005-35-PC VC-11-2005, petitioner, SC Bodner Company, Inc.

Commissioner Musgrave: Move approval.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered.

**Final Readings: VC-7-2005  
Petitioner: Three I Properties, LLC  
Address: 535 Dixie Lane  
Request: Change from AG to C-4  
Action: Approved 3-0**

President Crouch: Our final readings, first item on our agenda is docket number 2005-24-PC VC-7-2005, petitioner, Three I Properties LLC. The address is 535 Dixie Lane. They are requesting a change from agricultural to C-4 zone. We have here representing the client, Mr. Les Shively.

Les Shively: Madam President, member of the Board of Commissioners, for the record my name is Les Shively. I just briefly, this request takes a parcel that's within this commercial subdivision known as Grant Hill, it's an area that was granted a special use for parking. Back in 2000 when this was rezoned we were looking at a prospective buyer that just, and it already had a footprint in the area that we had rezoned that's already marked there for you, it was an existing C-4, but it needed additional parking. So, we then just simply did this special use for the parking facility. That plan did not come to fruition. Three I is now presently marketing this property. They have several interested buyers, and the issue is you've got this little section in the middle of this commercial sub that's not the same zoning classification as the rest. So, all we are wanting to do here is take this area and make it C-4, consistent with the area that was already rezoned back in 2000. I think the staff field report pretty well says it all. It says that;

"This rezoning is to allow the commercial use of all of lot three, eliminating the need for this special use."

So, this will make it easier to market, and easier for a potential user to come in there and lay out their footprint. I'm more than happy to answer any questions.

Commissioner Musgrave: Move approval.

Commissioner Nix: Second.

President Crouch: Before we vote, is there anyone here in the audience who cares to speak against this rezoning?

Kenneth Rickard: I do.

President Crouch: Yes, sir, if you could please come to the microphone and state your name and address for the record.

Kenneth Rickard: Kenneth Rickard, 601 East Boonville-New Harmony Road. It's right across the street from this area. Mr. Shively and myself and his client have had a hate-love relationship over this property and mine for probably the past five or six years. But, why I'm here is that I noticed that some of the language had been

changed from the original, originally this was denied C-4, probably back in about 2001 or 2002. Then it got a special use permit, and it was 600 East Boonville-New Harmony Road at the time. They got a special permit to put in the driveway and everything up to their property. The 1.1 acres is where 600 Boonville-New Harmony Road was. It was the Welch's property. They couldn't get that zoned C-4. But, in the language, the thing that bothers me most of all, on their report, the first time it says something about C-4 allows on premises signs 300 square foot, 50 foot high, and billboards 500 square foot at 50 foot height. The use and development commitment prohibits billboards on this site. On the new one, they have dropped that last sentence. There is nothing about saying that billboards can't be put up on that site. I've had my property checked, and I've lost about \$30,000 on the value of the property since they've moved in C-4 around there. So, I really don't want billboards up in that property. I'm just concerned about that language that it's not on the new one, on this report that I have here, and the fact that it was denied C-4, and that was probably before you guys' term. So, back in 2001 or 2002.

President Crouch: Sir, so, your objection, your only objection is that billboards used to, there used to be language in there prohibiting billboards, and now there is not?

Kenneth Rickard: Yes. That, and also the special use, it was zoned special use, and now they've come back and are trying to get C-4 for the 1.1 acres. It was denied in the past.

President Crouch: Okay. Mr. Mills, were those issues addressed at the Area Plan Commission meeting? Or do you care to comment on them?

Brad Mills: Brad Mills, Area Plan Commission. No, this was not brought up. I don't believe we had any remonstrators at that meeting. At this time, the billboards wouldn't be allowed there because of the residential that's immediately across the street to the east. It's too close. So, it wouldn't meet the set back requirements for the billboards. So, basically, at this time, the way the property is being used to the east it wouldn't be allowed to have a billboard on that property anyway. The only way that that would be allowed would be for the properties, I'm not sure if it's 300 or 500 feet from the billboard to a residential property. So, in his property...you're across the street?

Kenneth Rickard: Right.

Brad Mills: With his property still there, it still would not be allowed to have the billboard.

Commissioner Musgrave: Mr. Shively, do you have a response to this?

Les Shively: First of all, Madam Commissioner, let me give you all the...the rest of the story, as Paul Harvey would say. Mr. Rickard sought to rezone his property to commercial back in 2002, and had it be rezoned, it was rezoned at the expense of my client. Had it been rezoned, my client would have purchased his property. My client is already, made him that offer, he was very happy to participate in this C-4 request back then. Unfortunately, the Commissioners at that particular point in time, despite the fact that all the neighbors were well satisfied with not only the use and development commitment and the private covenants, the rezoning was not approved. We also have purchased and put in place, at my client's expense, city water to Mr. Rickard's property. I'm really somewhat at a loss as to why Mr. Rickard would object, because he is trying to sell his property. He wants it to be commercial.

We've extended water service to his property. I'm really at a loss as to what his concerns are. But, from a practical standpoint, I agree with what Mr. Mills said about the setback, but the important thing to note too is, to put most of what we're rezoning is a roadway, and it would be very impractical to put a billboard there. Moreover putting a billboard there really messes things up if you're trying to get a developer to come in there and put a grocery store, or a financial institution, or something of that nature. The billboard would just be inappropriate. The utilization of the property, we would have to be getting some pretty big bucks for billboards, and right now we have a glut of billboards in this particular market. My client has no present plans, no leases with any billboard companies. If they were going to lease any property for billboards, Ms. Musgrave, you know, this property has been, they've been trying to sell it since it was rezoned in 2000, the billboard locations that would be the most marketable would be the ones close to 41. You don't see any billboards up there. There is no use and development commitment prohibiting billboards in the area that was rezoned in 2000.

Commissioner Nix: Why is that language in there about the billboards?

Les Shively: There is nothing about, that was in a rezoning request, sir, that would have involved property, part of this property, but moving further all the way to Old State Road. That's not what we're talking about here. That's when the commercial development would have been carried all the way to Old State Road. We're not doing that. It would include that property right there.

Commissioner Musgrave: So, that use and development commitment that he has with that language does not pertain to the property that you have outlined in yellow here today, or red?

Les Shively: It may have included part of that, but it was never approved. The area in red has no such restrictions.

Commissioner Musgrave: Okay.

Les Shively: That's what we call Grant Hill. This would be a part of Grant Hill.

Commissioner Musgrave: You have no plans to put one up there—

Les Shively: No.

Commissioner Musgrave: —and Mr. Mills has testified that you couldn't put one up there anyway—

Les Shively: Right.

Commissioner Musgrave: —due to proximity of the residential property, including his.

Les Shively: Right, because they've got pretty strict....what was it 500 feet?

Brad Mills: Five hundred feet.

Les Shively: Five hundred feet, and the only way we could do that is everything south of Boonville-New Harmony Road would have to become C-4, and that apparently isn't going to happen for awhile.

President Crouch: So, we have a motion and a second. All in favor?

All Commissioners: Aye.

President Crouch: So ordered. Excuse me. Commissioner Musgrave?

Commissioner Musgrave: Yes.

President Crouch: Commissioner Nix?

Commissioner Nix: Yes.

President Crouch: And I vote yes. That does pass.

Les Shively: Thank you.

President Crouch: Thank you.

**Final Reading: VC-8-2005: Petitioner: West Evansville Rural King  
Address: 2800 North St. Joseph Avenue  
Request: Change from C-2 to C-4  
Action: Approved 3-0**

President Crouch: Next item, or next final reading is docket number 2005-26-PC VC-8-2005. The petitioner is West Evansville Rural King Supply, 2800 North St. Joe Avenue. Mr. Bohleber?

Steve Bohleber: Good afternoon, Madam President and members of the Commission, learned counsel, secretary. I am Steve Bohleber, and I do represent the owners of the old K-Mart building. The owners have petitioned to rezone this property to reopen it, and it will be a Rural King. The curious thing we found, I suppose, about this, is that it needed to be rezoned at all, because Rural King is going to be doing virtually the same thing K-Mart had done there for many years, selling many of the same merchandise, and marketing it and displaying it in the same way. We're not sure of the history of K-Mart as to why it didn't have a C-4 zoning at the time, but it's obvious at this point that Rural King needs that C-4 classification to reopen. As you know, Rural King is a part of our community already in Evansville, and they sell a little bit of everything. In their advertisements they indicate they sell everything from (inaudible) supplies and clothing to tools and toys. To say that it's a welcome addition to, not only my west side, but to the community is, I think an understatement, because it's been 15 years that we've seen that old building deteriorate at that site since K-Mart left it. The neighbors that were notified and the ones that have contacted us have all been in significant support. Leisure Living, the retirement community adjacent to the property is ecstatic. The owner is happy to see this happening. I think some of the residents there are even going to be working at this location. I think Fred Padget, at least, unless he's changed his mind since last week is welcoming this to the west side as well, on behalf of the West Side Improvement Association. If you have any questions, I do have Don Davis, who's the president of Rural King Distributing here this evening, and the CFO for Rural King, and also Jack Ferguson, who's the southern regional manager for Rural King in this part of Indiana. In this part of the country, I should say. They're here to answer any questions about their business, the type of merchandise sold, the economic impact that those 100 new employees and all the customers that will

come there will have on our community. Again, it comes with the exception of Ms. Crouch's anticipated abstention at the Area Plan Commission, it comes with a unanimous do pass recommendation to this body. So, we're here to answer any questions you might have.

President Crouch: Just a slight correction. It's Commissioner Musgrave's turn.

Steve Bohleber: Oh, I'm sorry.

President Crouch: I know we look alike.

Steve Bohleber: Yeah, one's a blonde and one's a brunette, but, otherwise, you're exactly alike, right? You know, as I get older, I have problems with names, Suzanne. I apologize, and Cheryl too.

Commissioner Nix: As long as you don't confuse me with those two.

Steve Bohleber: At least, Bill, I didn't think you were there, Bill, okay?

Commissioner Nix: Thanks.

Steve Bohleber: I think Cheryl came in late, maybe.

Commissioner Musgrave: I was there. Or, at least I remember all the discussion. You know, sometimes I feel badly that people arrive at public hearings and they are just, you know, they've got all the answers to any conceivable question. So, if there are any answers that you want to give, if you feel so inclined, I invite you to the podium to do that. But, I really don't have any questions. I don't want to jump the gun again and make another motion before you ask for remonstrators though.

President Crouch: Are there any remonstrators to speak against this?

Fred Padget: We don't want to speak against it.

President Crouch: To speak to it. Let me correct myself. Mr. Fred Padget?

Fred Padget: I'm Fred Padget, and I represent the West Side Improvement Association. I appreciate appearing here in front of you, Commissioners. This building has sat empty a long, long time, and as I said at Area Plan Commission, we are absolutely thrilled to see it put to good use. But, mainly I wanted to come down to thank Rural King for having the, I guess, the intelligence and knowledge and the desire to use a building that has been sitting idle. It answers our questions as far as (Inaudible), it helps in that regard. It takes a big asset that's been sitting there idle and puts it to productive use. As I said, we couldn't be more thrilled to have it. We just wanted to welcome Rural King to the west side and wish them the most best success in their venture. So, thank you.

President Crouch: I couldn't agree with you more. We have such a discussion about empty buildings around town, and it's very encouraging to see someone make the commitment that Rural King is. I agree. Welcome to the community. We thank you for your investment. Motion?

Commissioner Musgrave: I move—

Commissioner Nix: No, go ahead.

Commissioner Musgrave: Move approval.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: Commissioner Musgrave?

Commissioner Musgrave: Yes.

President Crouch: Commissioner Nix?

Commissioner Nix: Yes.

President Crouch: I vote yes. That passes. Thank you very much

Steve Bohleber: Thank you.

Commissioner Nix: Congratulations. Thank you guys.

President Crouch: Alright, do we have anything else on our agenda?

Commissioner Musgrave: Motion to adjourn.

Commissioner Nix: Second.

President Crouch: All in favor?

All Commissioners: Aye.

President Crouch: So ordered. Thank you very much.

(The meeting was adjourned at 5:15 p.m.)

**Those in Attendance:**

Suzanne Crouch	Cheryl Musgrave	Bill Nix
Ted C. Ziemer, Jr.	Brad Mills	Madelyn Grayson
Les Shively	Kenneth Rickard	Steve Bohleber
Fred Padget	Others Unidentified	Members of Media

**VANDERBURGH COUNTY  
REZONING BOARD**

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**Suzanne M. Crouch, President**

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**Cheryl A.W. Musgrave, Vice President**

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**Bill Nix, Member**

Recorded and transcribed by Madelyn Grayson.



**VANDEBURGH COUNTY  
REZONING BOARD  
OCTOBER 25, 2005**

The Vanderburgh County Rezoning Board met in session this 25<sup>th</sup> day of October, 2005 at 4:10 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: Call to order the Vanderburgh County rezoning meeting for October 25<sup>th</sup>. We have, is Krista Lockyear ready? We have one item on the agenda, SC Bodner Company, Incorporated.

Krista Lockyear: Good afternoon.

**First Readings: VC-12-2005: Petitioner: Level Development LLC**

**Address: 3340 Mariner Drive**

**Request: Change from R-1 to R-3 with UDC**

**VC-13-2005: Petitioner: Henry V. Goblen**

**Address: 13601 Highway 41 North**

**Request: Change from C-4 with UDC to CO-2**

President Musgrave: If I could ask you to hold for just a minute.

Krista Lockyear: Absolutely.

President Musgrave: We have two first readings, Level Development LLC and Harry Goblen. If there would be a motion to have those first readings.

Commissioner Nix: So moved.

President Musgrave: Second. All those in favor?

All Commissioners: Aye.

**Final Reading: VC-11-2005: Petitioner: SC Bodner Company, Inc.**

**Address: 7100 E. Virginia Street**

**Request: Change from C-4 to R-5**

**Action: Approved 2-0**

President Musgrave: Now we move to the final reading for SC Bodner Company, Incorporated.

Commissioner Nix: Sorry about that.

Krista Lockyear: That's quite alright. Good afternoon. For the record, my name is Krista Lockyear. I'm here on behalf of SC Bodner Company, Incorporated, the petitioner who is a contract purchaser for this parcel of property asking for your approval to rezone this property to residential for a condominium development. I have a handout that I will bring to each of you, and one for the record, that has some details on the site plan, as well as the floor plans of these units.

President Musgrave: Thank you.

Krista Lockyear: As you can see from the drawing on the front, these are townhouse condominiums that are planned. This is a wonderful ownership housing opportunity for Evansville. Condominiums, I believe, have been running a little behind in this community, and clearly the developers have been coming forth fairly recently wanting to put the condominiums up. With the interest rates as they are, they provide an ownership alternative to young professionals, especially, as well as those that are trying to downsize and not have quite so much maintenance in the yard, etcetera. This particular location for these condominiums is ideal. It sets in between some other apartments, so, it's adjacent to property that's already been rezoned for multi-family residential. It is very close, obviously, to a lot of the commercial and retail that Evansville has to offer. So, it will be a wonderful location for individuals to locate. If you notice from your package, the record from the Area Plan Commission, we did acknowledge, as John Stoll had requested, that we will both dedicate the right-of-way for the development of Columbia Street when it is ready to be built, as well as pay for the portion of Columbia that sits, that will sit on the right-of-way that we have dedicated. I believe that satisfied John and the Plan Commission requirement for our infrastructure commitment. You should also have a copy in the package of the private covenant that is of record committing that infrastructure requirement, as well as the agreement that my client entered into with Cross Pointe Commerce Corp. acknowledging that it will be their responsibility. This rezoning clearly meets the statutory requirements for rezoning. It fits in with the comprehensive plan for future development in this area. It is a good preservation of property values. This property will come under the governance of the covenants and restrictions for Cross Pointe Commerce Corp., so the quality will be in there consistent with the other development in the area. It's an appropriate use of infrastructure, and where, in fact, as I indicated my client is committed to assist the county in developing Columbia Street and the infrastructure. It provides some wonderful tax benefits for this property, and hopefully will be wonderful asset for the county of Vanderburgh. I would be happy to answer any questions, if you have them. Otherwise, I would ask for an affirmative vote on this rezoning.

Madelyn Grayson: Krista, I do not have either of the documents for the record that you mentioned. The private covenant—

Krista Lockyear: It should be in the Plan Commission package. I have extra copies here if you would like them. I will confirm then that the private covenant is a copy of the recorded covenant. It was recorded in 2004, and runs with the land, and the agreement is for purchase of real estate. Of course, we've taken out some of the private provisions, but it does have in there the commitment of the buyer understanding and agreeing that they will be responsible for that development.

President Musgrave: Just to reiterate, if you've already said this, you will be installing your own half of Columbia Street as recommended?

Krista Lockyear: That is correct.

President Musgrave: Okay.

Krista Lockyear: And that is both written in the covenant that is recorded, and acknowledged in the purchase agreement.

President Musgrave: As a point of curiosity, are each of these a condo as you go across on your photo?

Krista Lockyear: I'm going to have to defer.

Steve Bodner: There are five in that picture that you are looking at. You can't see the (inaudible).

President Musgrave: So, they are vertical?

Commissioner Nix: What you are showing there is–

President Musgrave: So, I would buy all three floors?

Krista Lockyear: That is correct. If you'll note, as you look through the package, you'll see first, second and third floor floor plans.

President Musgrave: I didn't have time to study those. Well, I think it looks like a very exciting project, and can't wait to see them.

Commissioner Nix: I would like to make a motion that we approve.

President Musgrave: Second. All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

Krista Lockyear: Thank you.

Commissioner Nix: Thanks.

President Musgrave: We do need a roll call vote on that. Commissioner Nix?

Commissioner Nix: Yes.

President Musgrave: Commissioner Musgrave votes yes.

<b>Approval of the August 16, 2005 Rezoning Meeting Minutes</b>
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President Musgrave: We need to approve the minutes of the August 16<sup>th</sup> rezoning.

Commissioner Nix: So moved.

President Musgrave: Second. All those in favor?

All Commissioners: Aye.

President Musgrave: Does that complete our agenda?

Madelyn Grayson: Yes.

President Musgrave: That completes the rezoning agenda for this evening. Thank you for coming. We will now move immediately to the board of–

Commissioner Nix: Drainage.

President Musgrave: –Drainage Board.

President Musgrave: And I'm still President of that Board.

Commissioner Nix: You're doing a fine job, just keep right on going.

Madelyn Grayson: May I change tapes real quick?

President Musgrave: Yeah.

(The meeting was adjourned at 4:20 p.m.)

**Those in Attendance:**

Cheryl Musgrave

Madelyn Grayson

Others Unidentified

Bill Nix

Krista Lockyear

Members of Media

Ted C. Ziemer, Jr.

Steve Bodner

**VANDERBURGH COUNTY  
REZONING BOARD**

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**Cheryl A.W. Musgrave, President**

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**Bill Nix, Vice President**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
REZONING BOARD  
NOVEMBER 15, 2005**

The Vanderburgh County Rezoning Board met in session this 15<sup>th</sup> day of November, 2005 at 4:25 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**First Reading: VC-1-2006  
Petitioner: Bruce Biggerstaff, Sr.  
Address: 7900 Telephone Road  
Request: Change from Ag to R-1**

President Musgrave: I would like to reconvene our meeting. We have a couple of items on tonight's agenda, a first reading, and then a final reading. If we could cover the first reading at this time.

Commissioner Nix: I would like to move approval of first reading for Bruce Biggerstaff, Sr, 7900 Telephone Road, change from agricultural zone to R-1 zone. It's docket number 2006-1-PC VC-1-2006. Move approval for first reading.

Commissioner Shetler: Second.

President Musgrave: Any discussion? All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

Commissioner Nix: Roll call?

President Musgrave: Roll call? Commissioner Shetler?

Commissioner Shetler: Aye.

President Musgrave: Commissioner Nix?

Commissioner Nix: Yes.

President Musgrave: And I vote yes.

**Final Reading: VC-9-2005  
Petitioner: Gregory C. Moore  
Address: 8530 Middle Mt. Vernon Road  
Request: Change from R-1 to R-3 with UDC  
Action: Denied 3-0**

President Musgrave: We move now to docket number 2005-29-PC VC-9-2005, the petitioner, Gregory C. Moore, represented by Mr. Shively. Mr. Shively?

Les Shively: Madam President, members of the Board of Commissioners of Vanderburgh County, my name is Les Shively, representing the petitioner. Prior to proceeding here, I believe my associate gave each of you a blue folder. I'm going to follow that tract of my presentation, and we will walk through that. Then we're more than happy to answer any questions you have included in that presentation.

The first item I would turn to, call your attention to, is item number one which is the staff field report. I won't read this in its entirety, but the proposal here to change the zoning to R-3 multi family is consistent with the comprehensive plan, and not only that, it is also consistent with the change in circumstances in the immediate area as a result not only of the proximity of the property to the existing highway, state highway, but also to the University Parkway project. In a moment here, I'm going to show you some recent photos of the area to give you a better idea of what we're talking about in terms of the fact that this area has changed. This aerial photo here, the GIS doesn't show the improvements in place for University Parkway. Again, towards the end of the presentation we have some recent photos that will give a little better description of that area. Again, this is, we would be consistent with the comprehensive plan, which, and I will read from the staff report:

"The step up in zoning to R-3 is consistent with the overall residential plan for the area."

Multi-family development is considered a residential use. As you know, there is no particular classification for student housing. That is the intent to use this property for a student housing project, but it is done so under the R-3 classification. The staff report also makes reference to a use and development commitment. As you know, if a rezoning is approved, and if it's subject to a use and development commitment, that commitment becomes a part of the zoning ordinance and controls all development on that property in addition to requirements under state law and the ordinance, notwithstanding whether the property changes title, what have you. As they say, in the law it runs with the land. Let me, on tab two, excuse me, yes, tab two I have a copy of the use and development commitment. I'm not going to read it verbatim. I would like to hit some of the highlights. There are no highlights on the first page, that's just the standard whereas boilerplate they require you to put there referring to the enabling statute for these instruments. The first item on page two of the use and development commitment is the traffic impact study. The petitioner will make as a condition, that prior to any development out here, to conduct a traffic impact study for not only those things which must be done to accommodate this project on-site, but off-site improvements as well. This indicates, presently, that the off-site work that would be necessitated by the impact study that the developer would contribute up to \$150,000. The developer stated at the Plan Commission meeting, and states this here again today, that the developer's intention is not to have any cap. The developer has worked before well with the County Engineer's office and EUTS and is prepared to take on those responsibilities for the off-site improvements necessitated by this project with no cap. I would note that you're going to hear from some of the residents out there, there is some indications of some existing problems out there that are going to have to be addressed by the county at some point in time in the future regardless of whether this project comes forward. So, one of the things you need to consider is not only is this appropriate land use given the comprehensive plan, which it is, but what it will do in terms of assisting the county to meet an already existing problem in this particular area. The second item of the use and development commitment is the commitment by the developer to extend not only sanitary sewer to serve his property, but also to run the sanitary sewer in such a way and to create laterals to all of the adjacent single family residences, so they may avail themselves of city sewer. Almost all of these homes, I think 100 percent are on septic systems. As you know, septic systems are problematic by nature, and property values certainly go up when one has sanitary sewer. It increases the value, it increases one's investment. Mr. Moore's intention is to extend that sewer in such a way so that each one of those properties can access it, via a lateral to their property. It was noted in the staff report, that the sewers that are presently there,

that we would be tying into have not yet been accepted by the utility, and we understand that that is one of the steps that will have to be completed before we do any sewer work out here, but that the existing sewers would have to be accepted by the utility and we understand that. In addition, we are going to provide you those adjacent property owners \$5,000 per property to be used as they deem fit to assist them for any on-site work that they have with a plumber to connect their sewer and to do any landscaping in the area where we're going to put the buffer fencing which is mentioned in item number three. It's our intention to create along the property lines that are adjacent to the single family properties a privacy fence. The ordinance says the maximum height is six feet. We would also, if this is approved, make good faith efforts to obtain a variance up to eight feet so that we can totally screen this particular community from the single family residents. The fourth item is that the number of units would be limited to 250 would be the maximum number of units. I would note parenthetically that a feasibility study is going to have to be done for this project, and the feasibility study will actually dictate how many units will go there. The 250 just sets the max. It could conceivably be based on whatever current demand and need is at that particular time, and that could be less than the 250. 250 is the max. Also, as we start working on the site plan for this property, it may very well be that we can't get 250 units there and still meet parking requirements, landscape, set green space setback requirements. As I indicated before, maybe I didn't, when this was originally filed it was filed for R-4. This is R-3. We changed it to R-3 and make it clear that the structures will have no more than two stories as item number five. Number six, the community will be operated by a professional management company, and will have appropriate security. In regards to item number seven, site plan, as you all are probably aware, even if a rezoning is approved, before you can start building, I mean, before you even start getting a building permit, you have to go to what they call the Site Review Committee, have your site plan approved. How you're going to access the property. How you're going to provide for utilities. How you're going to have your parking. How the building is going to look on the property, etcetera. This is a committee that meets weekly and has all the city and county technical people that closely scrutinize that site plan. At this point in time, we don't have a definite site plan at this juncture. We're still looking at it from different perspectives, but what we have said to the residents, and what we have put in the use and development commitment, is that we will provide to all of the adjacent landowners prior notice, at least ten days prior to the Site Review Committee meeting, so they can attend that meeting and have input on that layout. Because of the number of acres involved, this is about 11 ½ acres, we will have to go to drainage board for approval of a drainage plan to handle the surface water, and we will also be providing notice to those landowners as well, as is required. Finally, lighting, any lighting on this particular property will be done in such a way as to illuminate the community and not to bleed over and to create interference of quiet and enjoyment by the neighbors. We came to this use and development commitment and the amendment to the original request as a result of an initial meeting we had back in August with many of the landowners out there. Although we didn't get specific recommendations, we heard a lot of concerns and we tried to address those concerns by putting this use and development commitment together and incorporating those things that can be enforced through a use and development commitment. You're going to hear this evening from several people that say that this property should be used for single family. The fact of the matter is that rightly or wrongly this property no longer is suitable, from an investment standpoint, for single family residential. I provided to you under tab three a letter, an opinion letter, regarding this property from Mr. William Bartlett. Mr. Bartlett is a certified real estate appraiser with MAI designation. Mr. Barlett is a member of the Appraisal Certification Board. He's a past president of the local and state

Association of Realtors. In fact, he is an individual who's been hired by governmental agencies, including Vanderburgh County, on various appraisal issues that have arisen for public projects. I won't read his letter, it's pretty concise, but essentially Mr. Bartlett states two opinions; number one, this subject property is not suitable for single family residential development, it is more suitable for the R-3 or the multi-family, and also indicates that with the use and development commitment adhered to that he sees no detrimental impact upon adjacent residential properties. Finally, since the aerial photos that are available now do not completely show what's going on in this particular area, I've included a series of four photos. The first two photos that are provided under tab four are looking from the property towards campus looking at the exit ramp off of State Road 66, and also viewing parts of the new University Parkway. The two other....folks, it's not those photographs.

Unidentified: These are our photographs.

Les Shively: The other two photographs are, again, photographs of the subject property and where it lays and how it lays in relationship to University Parkway and in relationship to existing highway, the state highway in that particular area. Before I open it up for questions, let me make a statement here absolutely clear that this project will not proceed until the concerns that were set forth in a letter that was addressed to Mr. Mark Foster of the Area Plan Commission by the USI's President dated October 10<sup>th</sup> of this year, until those concerns and other concerns which USI officials have raised in our discussions with them concerning input on design and security, until these are addressed to the satisfaction of USI, and until USI's satisfaction with those issues, by the way that would also include a feasibility study conducted by a consultant that the university feels comfortable with that can show that there is a demand and that the existing university feels these facilities will not be a negatively impacted. Until all of that can be put in writing to the satisfaction of the university, this project will not move forward. Because this project is meant to compliment what the university is doing out there, and not to be a negative aspect to it. Finally, I have one thing I negated to, neglected to point out, is the projection of additional property tax dollars to be generated from this project. We based that upon the construction cost and they vary. As you can see that's our last item there. There was a lot of discussion at the Plan Commission meeting about how much tax revenue would be generated. It suffices to say that the tax revenue generated will be in the mid six figure range, and that's not only based upon our projections on construction costs, but also looking at some smaller developments, in particular, Cross Lake Apartments on the east side which presently generates at least \$170,000 per year in tax revenue. That's significant not only from the standpoint that that's revenue going to the county, it's significant from the fact that this is private property and it's less, it's a project being done with private dollars not public dollars. It allows the public dollars from higher education to be used for more direct higher education type facilities. So, it's a win-win proposition from that standpoint. Finally, there was a lot of discussion about occupancy rates, etcetera for facilities on the west side. A feasibility study was done by the firm of Will Stump and Associates of Carmel, Indiana on behalf of Mr. Moore regarding some other, regarding the Eagle Village Apartments. This was done the early part of this year, and I don't have extra copies, but I have the complete report here. I'm more than happy to share it with you, but here are the findings that he had, and he worked in conjunction with data prepared by Mr. David Matthews. I'm sure you all are familiar with Mr. Matthews. He maintains an on-going data bank, if you will, on apartments and vacancies. And just going through some on the west side, at that time that this report was done, Copper Creek was at 99 percent capacity, Mission Viejo 97 percent, Westwood 89 percent, Foxfire 92 percent, Orchard Gate 93 percent, Lakewood West 100 percent,



the Brickyard 98.78, Brooklyn Place 90.69 percent, and Cross Lake, which is at 90.87. So, as you can see, that's pretty good occupancy, and we all know that many students do live in these apartments. So, there again these apartments are pretty well saturated with not only students but other tenants. Again, I will try to answer as many questions that we believe are relevant to this request. I'm more than happy to answer any questions you might have at this time. Also with us this evening is not only Mr. Moore, but in the back is Mr. Jim Morley, Jr. of Morley and Associates the project engineers.

President Musgrave: You referenced two documents, the letter from USI of October 10<sup>th</sup>--

Les Shively: Yes, Ma'am.

President Musgrave: --and the study that you have in your hand which you didn't name that study.

Les Shively: I'm sorry, this was an appraisal of the Eagle Village Apartments, 810 Schutte Road prepared for Geneva Capital by Will Stump and Associates of Carmel, Indiana, dated March 21<sup>st</sup> of this year.

President Musgrave: Will those documents, copies of those documents, be submitted for the record?

Les Shively: We can do that. Sure, you can have this complete document.

President Musgrave: Thank you.

Les Shively: I've tabbed the part that I was reading from on the record.

President Musgrave: Thank you.

Les Shively: There you go.

President Musgrave: The letter from USI.

Les Shively: It's already part of the letter from the Plan Commission, I believe.

President Musgrave: Okay, if you could give a copy to...okay, thank you.

Les Shively: I'm sorry, I thought that was already part of the record.

President Musgrave: Different sets of records.

Les Shively: Okay, alright.

President Musgrave: Do the Commissioners have any questions?

Commissioner Nix: One question.

Les Shively: Yes, sir?

Commissioner Nix: 250 units maximum?

Les Shively: Yes, sir.

Commissioner Nix: And that would be four, these are four bedroom units?

Les Shively: Yes, that's my understanding yes.

Commissioner Nix: So, potentially we're looking at 1,000 people in this 11 acres?

Les Shively: If the feasibility shows that it can financially support 250, and if we can get 250 units in there under the present code and still have sufficient parking and still be able to meet all the other development requirements from the zoning ordinance, that would be the max.

Commissioner Nix: Would it be your client's, and he may need to answer this, I don't know—

Les Shively: Sure.

Commissioner Nix: —would it be his intention to possibly sell this parcel after it's rezoned before he ever develops it?

Les Shively: The, and he can answer that question, but normally what would happen in a situation like this, even if there was a sale, he would be required to complete the project, he would be required to remain a part of the project and to get it up to the point where it achieved a certain occupancy rate before there would be a complete turnover. So, he's going to be the one that has to invest the capital to build it, to get it to the appropriate occupancy level to meet the projections of the feasibility study. So, that's something where, if your question is will he get it, if it's rezoned today is he going to sell it tomorrow? No.

Commissioner Nix: Okay.

Les Shively: If there is a sale, like a purchase agreement, there will be all these contingency things that he is going to have to do like complete the construction, get all the infrastructure in, take care of everything else and then guarantee a certain occupancy level.

Commissioner Nix: You addressed some concerns about, and some money that you looked to put out there to help county road issues?

Les Shively: Yes, sir.

Commissioner Nix: Have you addressed anything with INDOT? Because it looks like that's only part of the problem here. Has INDOT been, have you, is there a commitment? Or is there anything beyond county roads to address traffic concerns? Because, once again—

Les Shively: Yeah, I'll let Mr. Morley answer that, but you're right, because, and the reason we....what the county has told us, Mr. Nix, is the fact that most of this is INDOT's jurisdiction. So, we don't want to get into one of these. So, if the feasibility says that certain things have to happen before, and in implementing those we'll have to work with INDOT as well as the County Engineer. Maybe Mr. Morley can answer that in more detail for you.

Jim Morley, Jr. : The existing traffic concerns were brought up at our first meeting that we had with the neighbors, and so I followed up with that. I told them I would. I spoke with John Stoll, the County Engineer, and he said that the signalization of that intersection there where the off ramp comes off, which is where the people are having a hard time getting off at, he said that is an INDOT issue. I spoke with Dale Lucas at the Vincennes District of INDOT and he said that they had no plans to do anything there. He was aware that the traffic had been switched so the off ramp went straight through, but as far as any kind of modifications there, they had nothing on the books there at INDOT. I told him that University Parkway was getting ready to open within the next six months or a year, and he said they had nothing planned to do any kind of improvements there.

Commissioner Nix: I guess, you touched on this too, Mr. Shively—

Les Shively: Yes, sir?

Commissioner Nix: —usually when things come before this board there's some conceptual things, there's a plan that shows a number of buildings—

Les Shively: Right.

Commissioner Nix: —some building layouts and that type of thing. This is really kind of hard for me to understand how we can get to this without really knowing what we're going to be putting on there. I mean, other than the fact that we're looking at 250 units, maybe, I mean, how many buildings is that? Twelve buildings? Or 14 buildings? Or have you researched that at all? Have you looked at—

Les Shively: That's an engineering function. I'll let Mr. Morley answer it, but there has been significant work done in that regard, and he can explain to you why we are where we are at this point.

Jim Morley, Jr. : If you did eight unit buildings, then you would end up with 32 buildings, I believe, I think is what the count is. It is undecided at this time what exactly those buildings look like. Through the development of Eagle Village, Mr. Moore has looked at what he likes and what he doesn't like about Eagle Village, and would want to redo the building plans. For example, I think that one of the things that he's considering is instead of each apartment having two bathrooms, each apartment would have four bathrooms. Or, you know, a modification like that. So, no new footprint has been put together to put on a plan. If you use the same building footprint that you use, that Eagle Village was, then I think it ends up being 32 units, or 32 buildings roughly. But, that's the intent is to probably use a larger footprint, a larger apartment to give a little more room to the students and some more amenities. So, because that exact footprint has never been laid out, or that floor plan has never been determined, an exact site plan has never been created. But, my guess is that we're only going two stories and buildings typically go in intervals of eight units, because the stairwells, you know, and usually from a grade change standpoint it works better if you have an eight unit building, oh, excuse me, and then step to another eight unit building. They could be combined to have two 16 unit, you know, two eights put together and create one 16. So, then, I guess, you have 16 buildings. But, that has not been finalized or worked out with the scenario of only having two story buildings and a larger footprint.

Commissioner Nix: I guess—

Les Shively: There's something I want to add to that too. This is something that's not going to happen in 2006. It's going to be down the road. The first thing would be to have that feasibility study done. Whatever, that feasibility study will be done by consultants, not that just do appraisal work, but are specialists in these types of projects. They will say, yes, a project like this will go at that location with this type of configuration, these kinds of units. That's what's going to really drive a lot of the design as well.

Commissioner Nix: One other question, just curious.

Les Shively: Yes, sir?

Commissioner Nix: There was a statement that you made a little bit ago about this lends to an R-3 versus just a residential. Why would not just homes be adequate in this? I mean, if it's just for the sake of money, is that it?

Les Shively: Well, I can give you two reasons. In my, I'm not a real estate evaluation person. Years ago when my late father was in the real estate business and I was practicing law we had a deal. He told me I promise I would never give an opinion on the value of real estate and he said he wouldn't practice law and write leases. So, we had....so, this is not my opinion, I rely upon on experts. He taught me that a long time ago. That's why I went to one of the best, Bill Bartlett, I mean, you can look at Mr. Bartlett's opinion. Moreover, two things I would tell you, I represented the Hartig family in their negotiations with the county for the part of their property that was acquired for the University Parkway property. Two things I learned from that experience, number one there weren't any developers beating their door down to buy that property for single family development purposes. The main reason is the proximity of the now two highways in that area. Also, the price that was ultimately negotiated in an arms length situation with the input of several professional people was a price per acre reflecting a multi family type of utilization. It's interesting to know, I represent a lot of developers that are always looking for land, and there's not too many of them looking for land at that particular spot so close to a highway. If you look at where the developments are going, especially where things have merged on the north side, which is our fastest growing area in the county, they're off of county roads and away from four lane highways. You know, the closest one to a highway that I can think of is Clear Creek Village and that's pretty well far off of Highway 41. So, it just doesn't lend itself even though, you know, builders, the housing market is still strong around here, builders are still looking for land, but they will, they're in competition, and that just does not lend itself, as Mr. Bartlett pointed out in his opinion. Again, that's not mine, that's just what the experts have said. Okay, yes, sir?

Commissioner Shetler: Can you clear up a few things here?

Les Shively: Sure.

Commissioner Shetler: As I understand it, there's a feasibility study is what will be the triggering device in order to give you the green light to build?

Les Shively: Absolutely. Absolutely.

Commissioner Shetler: And that will also dictate the kind of construction?

Les Shively: Yes.

Commissioner Shetler: And the amount of construction?

Les Shively: Sure.

Commissioner Shetler: And the whole business?

Les Shively: Right, because, I mean, there are professional consultants that go, the trend nationally, from what I've been told, the trend nationally is to where it's possible for universities that have resident students to depend upon the private sector to provide those needs. As a result there have emerged these consultants to go, that specialize in this kind of work, doing these kind of feasibility studies. That's what drives the lending, that's what drives the scope of the project, it drives everything. You're right, Mr. Shetler. In addition, because the concerns USI has raised as well, the comments they've had, the feasibility is number one, but also, you know, it has to be something too in it's appearance and the way it's set up compliments the university's facilities.

Commissioner Shetler: Isn't that contrary to most business practices though? I mean, it seems as if most business activities that I've been involved in in the past, the feasibility study comes first to tell me whether or not there's a need for that particular activity. Then everything else centers around that. It just seems as if we're kind of flipping—

President Musgrave: I'm going to interrupt everyone at this point in time. The sirens are going off, and there are tornado warnings for Vanderburgh County. We haven't had an announcement from the Building Authority to take cover—

Unidentified: I don't think there's a speaker in here.

President Musgrave: Is Marissa still here?

Madelyn Grayson. Yes, and she's watching it live.

President Musgrave: Do we want to continue? Or would we like to take cover?

Unidentified: Continue.

President Musgrave: I'm sorry?

Unidentified: Continue.

President Musgrave: Alright, anybody who would care to take cover, now would be a good time.

Unidentified: Where would we go to take cover?

President Musgrave: Go out, take a left, take another left, as if you're going in the Commissioners doors, and there's a staircase directly across from the Commissioners doors that will take you to the basement. Okay? We have somebody who's watching the internet coverage in the next room who will come in and tell us should the situation develop from here. But, I did want to tell you that there is a tornado warning and that the sirens are going off. That's an opening there above here and it's plexiglass with glass above it, so, even though we're in an interior room this is not a windowless interior room.

Commissioner Shetler: I might suggest too that anybody that feels like going down three floors down the steps and everything like that, that maybe some of the other, maybe some of those folks may be able to use this room here, because it's an interior, particularly for folks that—

President Musgrave: It goes right in that door.

Commissioner Shetler: Right.

President Musgrave: I'm sorry to have interrupted you with that.

Commissioner Shetler: I think I had it out.

Les Shively: I recall your question, it's a good question. If Mr. Moore was the owner of this property, something he'd held on to for a long period of time, that's exactly what he would do. The point of the matter is, he doesn't own the property, he has a window of opportunity to purchase it, and that window is narrowing, and he's in the position where he can buy it and hold on to it, but he's not willing to do that if he doesn't at least know that he has the zoning classification in place. That's purely the reason why we're moving forward with the zoning now. That's got to be done before he commits to buying the property and hanging on to it.

Commissioner Shetler: Okay, thank you.

President Musgrave: I have one further comment. You've made two verbal promises here tonight. One is that in your use and development document, number one, the traffic impact study has no cap of \$150,000.

Les Shively: Right.

President Musgrave: And, two, that you will be doing a feasibility study, which is not reflected anywhere in this use and development plan. Why have you not committed those two promises to writing?

Les Shively: Well, I guess, that's a little misstatement of the record. In the Plan Commission meeting, the \$150,000 cap was discussed, and after there was feedback in the public hearing, which is what I assume public hearings are for, we agreed to remove that cap. So, if this is approved, I suspect what we would have to do is go back and amend the use and development commitment to add, to take that away and we would have to come through the rezoning process and come back to you to take that out. So, we're saying that if this is approved, we'll do that and take that cap out by an amended petition, an amended use and development commitment.

President Musgrave: Okay, they are telling everybody to take cover. We're suspending the meeting. What do you call that?

Commissioner Shetler: Recess.

President Musgrave: Recessing this meeting right now.

Commissioner Shetler: That was my favorite time of the school day.

(The meeting was recessed at 4:50 p.m. for a tornado warning in Vanderburgh County.)

(The meeting was reconvened at 5:08 p.m.)

President Musgrave: As soon as I get the television's attention we'll go back on the air. Alright, Mr. Shively?

Les Shively: Yes, Ma'am?

President Musgrave: I'm not sure if you were in the middle of an answer, or if I was in the middle of a question.

Les Shively: Let's see if I recall your question. Your question was about the removing the cap on the traffic off-site work and also about the feasibility study. We probably would have to, as I indicated before, we would have to amend the use and development commitment to do that to remove the cap. And, also to add the language in the feasibility study. Now, let me tell you why it wasn't in there before. The Plan Commission usually has been very, very specific about what they want in a use and development commitment and don't want, because they want to be able to have something that's related to specifically land use, per se. But, while during the break here I was trying to kind of come up with some language, and this would be up to Mr. Mills in the sense that, you know, well, first of all if that's what you all wanted, to change the use and development commitment for a feasibility study and to remove the cap, you would have to send it back to the Plan Commission for us to amend it accordingly. Then it would have to go through that process. If that is your desire, while we're already going back to remove the cap, we would work with Mr. Mills and his folks, but some language that I thought might work is something to the effect that says, "subject to a feasibility study warranting demand and need for student housing and constructing only those units warranted by the feasibility study up to the 250 max". Now, I just roughed that out while we were taking our storm break. But, I mean, if we're going to have to go back and remove that cap, and it has to go back to the Plan Commission, we can certainly put some language in there regarding the feasibility study, assuming that the staff of the Plan Commission feels comfortable that there's some way they can monitor that. I suspect we could also put something in there that would say that upon completion of the feasibility study a copy would be submitted to the Plan Commission and put in the file and become a part of the official record, and the Plan Commission on this property. There's all ways to do it. We're certainly willing to do that if the staff of the Plan Commission says, yeah, we'll allow you to do that and allow the use and development commitment. Again, I guess, the beauty of that is the fact that it runs with the land. If it is sold or whatever, anybody in the chain of title that wants to do this kind of project as outlined, we've outlined here today in the use and development commitment would have to do that feasibility study and submit it to the Plan Commission staff to show it's been completed and put it in the file, and be subject to the parameters of that study. We're willing to do that.

President Musgrave: Are there any other questions of the petitioner? Are there remonstrators? Mr. Claybourn?

Jim Claybourn: Can I use this pointer here? Is that okay? I just kind of want to point out a couple areas on the overhead there. How far away will this work?

Unidentified: Push that button.

Jim Claybourn: Okay, obviously, this is the Lloyd Expressway, USI's on the southern side, this is university housing. This segment right here is now almost complete. The University Parkway going north. This section of Eickhoff now is cut off, it's a dead end. Eickhoff now picks up right here at Middle Mt. Vernon and joins in over here. So, right where it says University Parkway is where Eickhoff actually is now. So, this property is right on Eickhoff. This is the exit that comes off of the Lloyd and turns into 62, and if you can see there the dark streak right there, that's the left turn lane people coming off the Lloyd make to go into USI. People sit here for ten, 15, 20 minutes at a time right now waiting to get across. I had somebody coming to work on my house a couple of weeks ago and he made the mistake of turning off here and coming over, and had to sit here, he said 15 minutes before somebody would let him through, which makes sense, this is a right-of-way. So, anyway, this is a mess now. That's the intersection that's such a problem. Instead of a cloverleaf being built and going right in, for some reason they built this ramp that went to the left turn. This would be the access road to the property. This little short segment right here would tie Eickhoff to University Parkway, which would be these people would be coming up and waiting, a thousand cars waiting for who knows how long without some major changes being made. I just wanted to point that out before I got started. My name is Jim Claybourn. I live at 513 Coffeetree Lane, in the Willow Acres Subdivision, which is this subdivision right here just to the east of the property in question. I and our fellow neighbors would like to thank the Commissioners for this opportunity to speak to the rezoning on this piece of property. Mr. Shively in his presentation mentioned that the rezoning petition meets one of the criteria of the comprehensive plan, that being maintaining it as a residential use of the land. Technically speaking this may be true, but we as neighboring property owners feel that it does not comply with the spirit of the plan. To classify the R-3 zoning requested for this particular 1,000 bedroom project that's fitting in with the current surrounding residential development, is not meeting with the intent of the plan. As you can see from the map, nearly all the property north of Indiana 62, within almost a mile radius is currently zoned either agricultural or R-1. That was the white and yellow map, and this is the one that we have here. The white and yellow is the zoning. You all are familiar with the color coding. USI is over here. This is the university housing area.

President Musgrave: Would you hesitate just a moment while we change the tape?

Jim Claybourn: Sure.

**(Tape change)**

President Musgrave: Please proceed.

Jim Claybourn: Okay, the proposed R-3 zoning allows, and this particular project proposes a high density apartment complex with up to 1,000 bedrooms planned. You heard that figure from Mr. Shively and from Mr. Moore. We feel this type of development definitely does not fit in with the current and desired future use of this surrounding neighborhood. Please note that I do not use the term neighborhood loosely. This is a very stable neighborhood of owner occupied, single family homes. Many owners have lived here 30, 40, 50 years or more. Several of the homes are occupied by the original owners. There are several widows, retired single ladies of retirement age who live in the area. They stay there because these are the homes and the neighborhood that they have invested a large portion of their lives in. They feel secure and a part of the neighborhood. It's not right that after nearly 40 years of investing in their home and neighborhood that they would have to wake up every day to a 1,000 bedroom student housing complex practically in their backyard. One



of the things that we did, this map we have here, we had petitions drawn up, took to all the neighboring property owners within the radius that we looked at before, 101 people that we asked to read the petition and to sign it if they were opposed to this rezoning. We had 100 people who signed it that they were opposed. We have quite a few people here. Neighbors, stand up if you would anybody from our neighborhood. So, you know, in spite of inclement weather this is very strong feelings about this. Any of you that are in favor of the zoning stand back up again. Okay, so you can see it's, everybody here it's unanimous, and like I say we only had one of the 101 property owners that we contacted did not sign the petition. The red pins on the map are the property owners we contacted and the ones that signed the petition that they were against the rezoning. I have a handout that I would like to give to you. This is some figures from USI, their occupancy rates on their university housing. There are three columns there, three sets of numbers. The numbers to the left are on-campus housing. You can see the percentage occupancy of those on campus units ranging from 78 to 92 percent, roughly, for the last five years. Fall semester on the top, spring semester on the bottom. The next, the center set of figures is the Golden Tower Apartments, which the university purchased several years ago when they anticipated a need for housing. You can see that those have been around 55 percent, down to a low of 33 percent this past spring. The university has divested themselves of that property. The right column is the combined figures on those two, and you can see that it has been under 80 percent for most of this time period down to this past spring it was 73.1 occupancy rate. So, there is some numbers there, actual numbers from USI as far as what the university housing situation is. According to the letter from President Hoops, which I think you have received, he mentioned that Golden Tower was sold because of the declining occupancy of the university housing. The university has developed primarily within the boundaries of Schutte Road, Highway 62, Farmington Road and Broadway, the area south of Lloyd or interstate, I'm sorry, Indiana 62. At the time most of us moved out there, our houses were built, we knew that it was a growing area, we knew that it was a growing school, but we felt pretty confident that the development would stay south, which it has. The university has stayed south there. We would like to see it continue growing, but to continue growing in that direction. In the recently publicized master plan the university sent out, they said that they would like to have all residences within a ten minute walk on the campus. The campus would be all enclosed, a loop around the campus, no more than a ten minute walk from the housing to any university building. Parking has been mentioned as a concern. Mr. Moore and Mr. Shively have said that they will meet the code for the number of parking spaces required. There is, I call it a loophole in the code, it was written several years ago, probably did not have student housing in mind. The code requirement for any apartment unit of more than two bedrooms is only 2.33 parking spots per unit. That calculates to 582.5 parking spaces for a 1,000 bedroom complex. I know several of you have children in college, probably most of them, or all of them have a car at school, most kids do anymore depending on the campus. If every student had their own car that means there's going to be over 400 cars that are looking for a parking place every night. Mr. Moore has had to buy some property adjacent to Eagle Village to increase the parking there, because it looks like it's going to be inadequate. People are parking in the apartments that are not even yet rented. Mr. Moore and Mr. Shively, along with Morley Engineering, did hold two meetings with neighbors to answer questions and concerns. Very little information was offered, only what was requested by direct question. At the first meeting there were some drawings that looked like they were from Eagle Village presented as a probable building design. At the second meeting no drawings or plans were presented. We have not seen a site plan for the proposed property. Basically, all we know is that they want rezoning in order to build a 1,000 bedroom apartment

complex on an 11 plus acre lot. Mr. Moore, Mr. Shively mentioned that Mr. Moore has offered to pay the 15 or so property owners who's lots adjoin this site \$5,000 to help with sewer tap in fees, etcetera. We contacted all these property owners to determine their interest in this offer. Most felt that their property values would fall far more than \$5,000, not to mention any other costs that they may incur to try to deal with the increased noise, lighting, loss of privacy, litter, etcetera. Not a single owner wanted the money if it meant having this development in their backyard. In fact, several gave a more graphic description of where the money should go. They felt very strongly about that. Speaking of litter, we wonder what kind of trash collection facility or dumpsters will be required here? Where that would be? When those would be emptied? You know, if it's along the back line along the houses there, that's another concern that we have. Mr. Moore and his associates have attempted to anticipate and address to some degree certain construction related topics. The two meetings we had those were the kinds of things that came up. We're not used to this type of a procedure. We're not elected or appointed officials, we don't deal with rezonings. I've lived out there 23 years, and this is the first that I remember it coming up. So, we were kind of fighting it the only way we knew, which was kind of the drainage, lighting, landscaping, traffic and so forth. However, the bottom line is this proposed 1,000 bedroom student housing complex is wrong for this neighborhood. One of the ladies who spoke at the Planning Commission meeting, Mrs. Wigginton, lives on West Terrace Drive, which is right up here, I've got another handout that I want to show you, it's a blow up of the intersection there where Eickhoff goes into the University Parkway. The orientation, the incomplete road would be to the north, which would kind of match up with that. On the right, the top right corner is the proposed rezoned area. Those little dots on the streets there are, we took a, this aerial view, found a car on one of these streets, superimposed it in this area to see how many cars could fit on there. On that little link between Eickhoff and University Parkway you can get four cars there. You can see the three cars backed up waiting to turn left. It doesn't take very many cars before you're back to the turn. Somebody coming around the curve there could have very limited site. It could be a really dangerous intersection. The other thing Mrs., building on this, Mrs. Wigginton mentioned at the last meeting was, if this is backed up, if the entrance of the apartments is farther north, which is kind of what we've been led to believe, then the, somebody running late for class is not going to want to wait here very long to make a left turn, then get up here and wait another 15 minutes. We've got a feeling that they are going to turn right here, go up to West Terrace Drive, cut through, right here is West Terrace School. This is Key West Subdivision, and we feel like they would go up here, turn right on Schutte Road to get back to USI, or back to the Lloyd to turn left. So, they are very concerned, obviously, about traffic shooting through the neighborhood. A college student who is late for class, not to mention all the traffic and congestion here with West Terrace School. Mr. Shively also mentioned that this area is not conducive to R-1 type construction. Key West Apartments have been built within the last few years, there's been a couple of houses, this development here has been built in the last few years, and there's been a couple of other houses along Middle Mt. Vernon that have been built. So, there has been some construction of R-1, single family, owner occupied homes there within the last several years. The thing I want to wrap up with, some of you may be familiar with the management, motivational author, Steven Covey, known for his "Seven Habits" series of materials, Seven Habits of Effective People. In one of his presentations he stresses the importance of knowing the difference between "doing the thing right", and "doing the right thing". Now, Mr. Shively even said they are trying to "do things right". Which, you know, trying to meet some of the construction things to meet the codes, albeit some of it very minimal. They are trying to "do the thing right". But to illustrate the difference Mr. Covey uses a medical example. Modern physicians have

many tools in their arsenal to treat ailments. We don't go to a physician because she has nice handwriting on the prescriptions that she writes. We go to her because she knows what drug to prescribe. She needs to know what to do, and also how to correctly do it. "Doing the thing right", and "doing the right thing". Medieval physicians used a technique called "blood letting" to try to treat certain conditions. However, a doctor no matter how judicious and precise in doing a "blood letting" would not do their patient any good. In fact, many patients died as a result of the procedure. "Doing the thing right", in Mr. Covey's example a perfectly designed and executed "blood letting", is not the same as "doing the right thing". By meeting applicable building codes, meeting some of the adjoining property owners construction concerns, and even going so far as to offer some property owners \$5,000 if this zoning is approved, this development team may be attempting to "do the thing right". But, rezoning this property for this 1,000 bedroom complex would not be "doing the right thing". We respectfully request that you do the right thing, help us maintain the character and values of our neighborhood and deny this rezoning request. Thank you.

President Musgrave: Are there any questions? Thank you, sir.

Jim Claybourn: No questions? Thank you.

President Musgrave: Appreciate it. Are there any other speakers? Yes, Ma'am. Please state your name for the record and your address.

Donna Decker: My name is Donna Decker, and I reside at 8300 Middle Mt. Vernon Road. This proposed rezoning has already had a negative impact or effect on (inaudible) rights of individual property owners to use, enjoy, and even sell his or her property. My mother has already lost a sale of her home because of this rezoning petition, just the petition. On July 24<sup>th</sup> she put her house at 8300 Middle Mt. Vernon Road on the market. On July 26<sup>th</sup> she received a deposit for the house. On July 31<sup>st</sup>, after the potential buyer learned of the rezoning petition and the possibility of apartments being built, he cancelled the sale. She has had very few inquiries since this deposit was made, and since this proposal was made public. How will this proposal influence property values and the ability of homeowners, the current homeowners, to sell homes in the surrounding neighborhoods?. It's already affected us negatively, and this is something that we've had on the plans since March. I too urge you to vote against this proposal. Thank you.

President Musgrave: Thank you. Any questions? Are there any other remonstrators? I see approaching Mr. Fred Padget.

Fred Padget: I'm Fred Padget, and I represent the Westside Improvement Association. I don't know if it's appropriate, but before we start I, number one would like to compliment all of the first responders and the other agencies and groups involved with the recovery effort and rescue effort out with the tornado a week or so ago. I would also like to compliment the Commissioners for the action taken yesterday, which I thought was quite innovative and should be very beneficial to the people that were involved in the devastation out there. So, we thank you for that. The last time I spoke before this body, if I remember correctly, was June 7<sup>th</sup> this past summer. We were also discussing student housing at that time. We appreciate the Commissioners listening to our comments about this proposed project tonight. There are some who frequently comment that the Westside Improvement Association is against everything. I do have about a half hour speech about all that

we do support, but we'll save that for another day. Though we often have concerns about projects, it may interest you to know that in my four years as president of Westside Improvement Association, we've remonstrated against rezoning a total of three times, and we've spoken in support of rezoning many times. We completely agree and support what you have heard tonight in opposition to this project. One of the things Mr. Shively, the developers attorney, talked about the Dave Matthews information as dealing with vacancy rates for apartments, and he looked at only the west side. We feel that maybe in talking with people we know that a lot of the students live in places other than just the west side, and it may be appropriate to look at vacancy rates for a larger area. In the Dave Matthews study for 1999 he had a 4.1 vacancy rate for apartments. In 2001 it was 6.1 vacancy. In 2002 the vacancy rate was 8.7, and in 2005 the vacancy rate is greater than 10 percent, and that figure does not account for roughly 1,300 units that are proposed to be built in 2005. We've talked a little bit, or you've heard a little bit about USI and the possibility of them, or their philosophy of building residences for their students as they expand. The USI campus occupies 330 acres donated by Southern Indiana Higher Education. That's a non-profit foundation who holds more than 1,000 additional acres for future expansion. A recent article in the Courier Press indicates future plans for USI include building additional residence halls as needed. The Courier article indicated that USI felt that by doing this it would not be an unwieldy sprawl, but rather an efficient use of existing space. Dr. Hoops had sent Area Planning Commission a letter dated October 10<sup>th</sup>, and I would like to quote a couple of things out of that letter. This is Dr. Hoops quote:

"I believe there's a need to clarify the university's future plans for developing on campus student housing. The university has taken a conservative approach to the development of student housing, and has constructed additional housing as enrollment has increased on an "as needed" basis. In 1996 the university developed a ten year housing plan for 1996 through 2005. It was predicted that a total of 2,716 beds would be needed in 2005 to accommodate the growth in student enrollment. The university currently has available 3,044 beds."

Further in that same letter he goes on:

"At presently projected growth levels we believe that sufficient housing exists to meet student needs. Additional construction at the present time might be harmful to the USI housing program, and might subject commercial housing to a non-acceptable risk or failure. USI has attempted to be a reasonable neighbor to westside residents. We have purchased adjacent housing within a given cost range to prevent it's turning to student housing of a non-desirable nature. It is important that over built commercial housing does not have an outcome similar to the one we attempt to avoid."

Further in the letter:

"An additional point of consideration for the requested rezoning is the increased traffic and potential concerns for safety at the entrance to the university's campus. With the completion of University Parkway, there will be additional traffic on the overpass. Rezoning of the proposed area for a higher density use would create additional traffic and safety concerns."

As I understand it, the Commission was hand carried a letter dated, I think, November 14<sup>th</sup> from USI to reaffirm this letter of October 10<sup>th</sup>. At this point, I know you've received my letter of a few days ago, and some other recent information. It may have been more than you wanted. But, at this point I would like to emphasize a few of the points contained in that information, and especially pertaining to some of the policies, objectives, and criteria set out by the current comprehensive plan in regard to evaluating rezoning decisions. I do this because the Indiana Code outlines some very detailed criteria to be considered when making rezoning decisions, and our comprehensive plan follows the Indiana Code very closely in that regard. As you know, our comprehensive plan is adopted by resolution by the Vanderburgh County Commissioners, as well as the City of Evansville and the Town of Darmstadt. The resolution states:

“The comprehensive plan reflects the vision and desires of the citizens, the APC, and elected officials on the future development of our community.”

The plan's intention is to guide growth in a manner that supports and reinforces the community qualities important to city and county residents. A summary of the plan goals include; arranging land uses to create a pattern of orderly development, and to value neighborhoods. The plan's objective is to preserve the character and aesthetics of the neighborhood environment. In residential neighborhoods, exclude incompatible uses that would alter the character of the area. As part of that process the plan outlines the advantages of a neighborhood planning and development program to include emphasis that neighborhoods are an integral part of the quality of life of the city and county, and to provide an opportunity for involvement by neighborhood residents, and allowing residents who best know their area to identify their neighborhood's improvement needs and the actions required in solving those needs. Section 20 of the comprehensive plan goes into great depth to outline how zoning proposals should be evaluated and the criteria that should go into any rezoning request. It states that the following criteria should be used to evaluate proposals. Suitability of property for the uses allowed under the current zoning ordinance. Existing zoning and uses of surrounding properties. Existing and future character of the adjacent area. The type and extent of positive and/or detrimental impacts to adjacent properties or the community at large. The impact of proposal on public services, utilities, and facilities. Benefits to the public health, safety and welfare compared to any hardship imposed. Relative conformance of the proposal to the land use plan and the goals, objectives, and policies, and consideration of responsible development and growth, as well as any other relevant information. To assure conformity between zoning regulations and the comprehensive plan, while providing for an orderly and responsible sequence of development, the following principles should be employed; zonings should be used to guide development activities into appropriate locations and to enforce development or redevelopment standards in accordance with the plan, and zoning districts should be designated and administered in such a way that protection is given to the existing and future use areas from encroachment by uses inconsistent with the plan. Significantly, the Indiana Supreme Court heard a recent case, and a decision was handed down on January 5, 2005, Chief Justice Randall Shepard wrote the majority decision. In his decision he states that:

“Zoning bodies must also consider current structures and uses in each district, the most desirable use of the land, property values and responsible growth and development.”

In the same decision, Chief Justice Shepard goes on to state that:

“A comprehensive plan is a community’s long range vision for physical development, but implementing the plan as regards a given piece of real estate may not be the best course of action for the community on a given day. “

We can find no more powerful statement of why this proposal should be denied. This proposal does have numerous issues, as pointed out earlier, in earlier testimony that are not in harmony with the above criteria and methods. It does not fit with the current conditions and character of the neighborhood. There will be devaluation of property values. We’ve already seen some of that. Expression of the near neighbor’s desires through petitions, involvement in the many letters you and the APC received, clearly indicate the project is not wanted in that location. It is not the most desirable use. There are serious traffic and safety issues. It is not responsible growth and development. Additionally, the courts have generally held that property owners are not necessarily entitled to the highest and best use of the property, but only to a reasonable use. Based on the abundance of negative aspects inherent with this project, the expression of considerable neighborhood concern and objection, the failure of this proposed project to meet most if not all the appropriate criteria for a rezoning as contained in the current comprehensive plan, supported by the Indiana Code and various court rulings, we respectfully ask you this evening to vote no on the petition to rezone 8530 Middle Mt. Vernon Road. Thank you. If there’s any questions, I’ll certainly try to answer them.

President Musgrave: I received by e-mail this 12 page document, along with some photographs, is it your desire to enter this into the record?

Fred Padget: Yes, it is.

President Musgrave: Okay. Do you have questions? You referenced a letter that Dr. Hoops sent, and I would like to enter it into the record as well.

Fred Padget: Yes.

President Musgrave: It’s dated November 14<sup>th</sup>.

Fred Padget: Okay, that’s the one that, I have not seen that one. The October 10<sup>th</sup> I did, but, yes.

President Musgrave: Would you like me to read it?

Fred Padget: No, not really. If you would like to, you’re welcome to.

Commissioner Nix: It’s this same letter?

President Musgrave: I would like to read a couple of parts that I’ve highlighted.

“Additional construction at the present time might be harmful to the USI housing program. USI will welcome commercial partners if our enrollment growth warrants it, but it seems counterproductive at this time. Rezoning of the proposed area for a higher density use would create additional traffic and safety concerns.”

I will go ahead and put this in the record as well.

Fred Padget: We appreciate that.

President Musgrave: Have, and this question may be more for Mr. Shively.

Fred Padget: Okay.

President Musgrave: Have you received any promises, or have you made any promises regarding lease restrictions, a club house, any outdoor recreation areas?

Les Shively: I'm sorry, I did not hear your question.

President Musgrave: Are there any lease restrictions that you're proposing at this time? Will there be a club house or any outdoor recreational areas?

Les Shively: There's no club house, no outdoor recreation or lease restrictions. And the parents of the students are required to sign off on the leases as well.

President Musgrave: Is there a possibility that student housing would not be built, but other R-3 acceptable units would be built?

Les Shively: The plan right now is to do student housing. If it turned out that it's not feasible to do student housing, then the developer would have to go through, effectively go back through the rezoning process, because you would have to remove parts of the use and development commitment, or change it that pertain to the student housing aspects.

President Musgrave: Has USI endorsed your plan? The letter seems to indicate that they have not.

Les Shively: No, they have not.

President Musgrave: Okay.

Les Shively: And we never have indicated that they have. I would note that Dr. Hoops did note in his October 10<sup>th</sup> letter that he did not oppose Eagle Village.

President Musgrave: Are there any other questions? Are there any other remonstrators?

Commissioner Shetler: Actually, I don't have a question of Mr. Shively, but I do of Mr. Mills. Being the new kid on the block here, I guess, I can say kid, grandfather, I don't know if I can. The new guy on the block here. Just some questions about what's the categories and stuff on zonings. On an R-3, I guess there's no distinction between, we don't have any differences between student housing and other kinds of high density type of multi-family dwellings and stuff?

Brad Mills: Currently the ordinances don't distinguish the student housing as an apartment separate than what our current apartments are.

Commissioner Shetler: Like in a restaurant that's serving like alcohol, and I'm thinking in terms of like Biaggi's or Bone Fish, you know, it's kind of an upscale type

of restaurant like that versus like a strip bar, is there, will we distinguish between that in the zoning codes?

Brad Mills: There are different, there are adult uses versus a standard or a restaurant use. Yes, there are differences.

Commissioner Shetler: I'm just wondering if it wouldn't be helpful sometime in the future that we did distinguish it in the code, and that that were developed. Because I think there's a clear difference. My son is freshman at Xavier. I talked to him Saturday night, and he was going to a party across the street from the campus. I don't know why. I don't have the slightest idea why he might have been going across the street to a party, but it seems as if every time I call, he's going across the street. So, I'm just wondering if that's something we should look at in the future, you know, because there are sometimes things that go on like that that, you know, maybe would fit better in to some neighborhoods than they would others. Or certain areas that, you know, of the county and stuff than they would others. Just the point that I was thinking about there, but right now we, it all fits into the same category?

Brad Mills: Correct. We do have a separate classification for fraternities and sororities, but as far as just a separate stand alone student housing, no, we do not have anything.

Commissioner Nix: Excuse me, just one question quickly. We did do something recently with the parking, didn't we?

Brad Mills: We are currently, at the Area Plan Commission, looking at a modification to the parking to require one parking space per bedroom for student housing. However, that has not been passed by the Area Plan on to the Commissioners at this time.

Commissioner Shetler: Because that's kind of fitting in mind with what I was thinking, and that is if this were approved and at some later point in time it would go to site review, what kind of authority do they have to, you know, like for example if the parking requirement, what was the ratio used, 2.53?

Brad Mills: 2.33. It takes two per unit, plus one visitor for every three units.

Commissioner Shetler: Alright, so if you've got that ratio, but yet you've got four bedroom apartments, it seems to be, and, believe me, even the high school kids are pretty much one for one anymore, vehicle versus student, I would think that in this particular kind of housing, that's why I think we ought to distinguish between the two as well, that you're going to get up close to that.

Brad Mills: Yes, that's what we're attempting to do.

Commissioner Shetler: Right. But, at this present time, that would not go into effect. So, that if this were approved today, I'm assuming that that would fall underneath the guidelines, the site plan would fall underneath the plans of how it was approved at the time.

Brad Mills: No, it would apply at the time the applicant submits his plans for site review and subdivision review. It goes through both of those. So, we would review those plans at the time that he submits them. So, if what I understand they are going to delay and wait some period of time before they move forward with the



project, then it's possible that we would have the opportunity to make some amendments to our ordinance prior to that.

Commissioner Shetler: So, he's not grand fathered?

Brad Mills: Not at this time.

Commissioner Shetler: Okay. Thank you.

President Musgrave: Just to make certain I understand it. The verbal assertions, promises that he's made today would have no effect unless we sent this back to Area Plan to have the use and development commitment revised?

Brad Mills: In regard to the items he referred to in the use and development, yes, it would require it to come back to Area Plan, and then come back to you again.

President Musgrave: Thank you. Sum up?

Les Shively: Yes, thank you. If I could just, I'll pick up on the parking issue that was discussed, and I'm surprised that when Mr. Padget was reviewing recent Indiana Supreme Court cases he didn't talk about the *Pinnacle Media Case* which is right on point which says, basically, in effect, the development standards then in effect when you apply for your permit to build are those that control. Not when you got rezoned or whatever. So, Mr. Mills is exactly right, and since this project is a long way off, if the zoning code is changed, the development standards are changed with a different type of formula for parking, that's what controls, not what's in effect right now. I know you've been here a long time, and I'm going to be brief, but I do think there's some important issues here. One thing I want you to keep in mind, you've heard from a lot of people, you've seen a lot of pins on a board here, and I don't want to argue whether it's people way out to the northwest are going to be affected by that, but I will say this to you, there's 170,000 people in Vanderburgh County, and this is not just about my client and the people in this room, or the people that were here at the Plan Commission meeting. It's about what's good for Vanderburgh County and those 170,000 people. I wanted to compliment the remonstrators, it was, I thought that the discussion today was focused on land use, but a few things I felt were a little in error and I want to respond to them. Most of all, I'm taken a little bit aback by the comments about our meetings. We had a meeting back in August, five minutes into the meeting several of those assembled said they were against anything other than single family. They were against any kind of multi-family, be it condos, be it conventional apartments, be it student housing. Now, ladies and gentlemen, I'm just going to tell you right now, you can look at this picture, but the most glaring and graphic photographs of what's going to happen, what's going to drive that is those photographs in that handout I gave you this evening. Those were taken today. That's going to be multi-family or commercial. That's what it's going to be, and don't take it the wrong way, but the public projects that have been developed along this area, which include the Lloyd Expressway, Eickhoff exit, the exit was done during the Borries administration, Tuley administration, the University Parkway project, and the growth of the university, those are the factors that drive this. That's why your comprehensive plan, when it was just recently approved, made that observation. The issue is appropriate land use. Now, something else you need to keep in mind, there's a landowner just to the west and to the north along University Parkway that has I don't know how many thousands of feet of frontage this landowner has, but several acres, maybe close to 40 acres that has been given a direct cut on University Parkway. My experience would tell me you're not going to see that developed as a

residential subdivision. You're going to see some sort of commercial type of development. Now, we can talk about vacancy rates, the fact of the matter is, I represent one of the largest, multi-family developers and managers south of Indianapolis, the Neville family; Mission Viejo, Copper Creek, Sugar Mill Apartments, Bryce De Moray, everyone of their facilities that are of the west or east side of Evansville are at 95 percent or better capacity. They talked about Golden Towers, do you know why the university got rid of that? Do you know where Golden Towers is? I'm sure you do. Westsiders know where it is, it's on Red Bank Road. You can't even see Red Bank Road on that aerial photograph. That's why it didn't work. That's why Eagle Village is working, and that's because students want to live near the university. The fact of the matter is, the letter from the university of October tenth and the letter dated yesterday, we don't disagree with. We will have to do the feasibility study. We're going to have to establish that there is demand for the student housing. We believe that it's prudent to buy this land at this point in time, do the feasibility study and do this right and take the time to do it, because this comprehensive plan of the university, that was at least the version of it that I saw in the Courier, shows a projected student enrollment of 18,000 students. Yet, that same plan showed one dormitory to be built. I doubt 8,000 students are going to go in one dorm. The first night we met also, one of the residents there who I believe lives just east of the subject property in the residential area there said I'm already having problems with students. I said, what do you mean you're already having problems? We're not even there yet. We haven't even had our first public hearing. She says, well, one of the homes in our neighborhood is rented out to students. You talk about your gap in your zoning ordinance, a person can own a single family residence, lease it to four or five students, it doesn't have to be zoned R-2, R-3, R-4 or anything and put them in there, and she was complaining about the noise and the problems. Isn't it better to have them in a facility that designed for students, as opposed to having them right there in the neighborhood. To the lady who said her mother lost a sale, I would think, basically, it could be probably an effect of what's already there, not something that might be there three or four years down the road. As we noted, parking—

**(Tape change)**

—criteria will be that criteria that's then in effect at the time that we go to site review, not what's presently there. I suspect that we're going to have a different parking criteria by that particular point in time. Mr. Padgett mentioned a Supreme Court case that said, well, the comprehensive plan is not controlling, and in some circumstances you can disregard that. In that particular case, as most cases, they turn on the facts. In that particular case someone basically came before the Plan Commission or County Commissioners and said, we want commercial just because everybody near us is commercial. They had no plan. They had no thought. They had not approached it in a systematic way. That's hence the decision and the opinion and the statement by Chief Justice Shepard. That's not what you have before you this evening. This project is not going to happen until a feasibility study by a competent consulting firm says it's necessary. We're willing to put that in the use and development commitment, and put it in the language in such a way that Mr. Mills and his staff feels that they can monitor that, and make sure that that plan ends up in their file before we go to that first site review meeting, what have you. In addition, we will amend that development plan so that there is no cap on the infrastructure that has to be built off-site as a result of a traffic impact study. As you've heard from some of these residents, apparently there's problems out there already that are going to have to be dealt with. This is an opportunity, quite frankly, for the county to move a little bit of that responsibility from the public sector to the private sector.

Again, let's look at the total big picture here, and the 170,000 people that you serve, is this a good project? Is it good for the community? Yes, it is, and it meets the criteria, and you have, we will have, if this goes back to the Plan Commission, if the use and development commitment is amended, this will be unlike any rezoning I've ever been involved with. It will have more checks and balances associated with it than I've ever seen, and rightly so. And rightly so. To see that it's done correctly, and done in keeping not only with the spirit, but the letter of what that commitment says, that runs with the land, is binding upon all future owners of this property, whoever they may be. Again, under the circumstances of the weather and such and the heat in this room we appreciate your patience. Again, I also appreciate the patience and the civility of the folks that are in opposition to this this evening. We ask for you to take the appropriate action. Again, we are certainly amenable to sending it back for those amendments as we've outlined. Thank you very much.

President Musgrave: Any further discussion? Is there a motion?

Commissioner Nix: I move we deny docket number 2005-29-PC VC-9-2005, rezoning R-1 to R-3.

Commissioner Shetler: So moved.

Commissioner Nix: Second.

President Musgrave: Any discussion? Hearing none, I'll call for the vote. All those in favor?

All Commissioners: Aye.

President Musgrave: Does that require a roll call vote? Commissioner Shetler?

Commissioner Shetler: I would like to say that I think that looking at the 170,000 people, the university, we've got a huge investment as a community and as a state in that university, and I think there's some real concerns that they have on this project and others. So, that's the reason why I'm voting in opposition to this. So, voting yes for the motion.

President Musgrave: Commissioner Nix?

Commissioner Nix: Yes.

President Musgrave: And I vote yes.

**(Rezoning petition VC-9-2005 was denied 3-0.)**

<b>Approval of the October 25, 2005 Rezoning Meeting Minutes</b>
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President Musgrave: The only other item of business that we have on the agenda tonight is to approve the rezoning minutes for October 25<sup>th</sup> of '05.

Commissioner Nix: So moved.

Commissioner Shetler: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: I believe that concludes the business this evening. Is there a motion to adjourn?

Commissioner Nix: So moved.

Commissioner Shetler: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

(The meeting was adjourned at 5:56 p.m.)

**Those in Attendance:**

Cheryl Musgrave  
Brad Mills  
Les Shively  
Donna Decker  
Members of Media

Bill Nix  
Ted C. Ziemer, Jr.  
Jim Morley, Jr.  
Fred Padget

Tom Shetler, Jr.  
Madelyn Grayson  
Jim Claybourn  
Others Unidentified

**VANDERBURGH COUNTY  
REZONING BOARD**

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**Cheryl A.W. Musgrave, President**

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**Bill Nix, Vice President**

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**Tom Shetler, Jr., Member**

Recorded and transcribed by Madelyn Grayson.