

**Vanderburgh County
Rezoning Meeting
January 25, 1999**

The Vanderburgh County Rezoning Meeting was called to order at 7:15 p.m.

Approval of minutes

President Jerrel: I'd like to call the Vanderburgh County Rezoning Board to order. The first item on the agenda--

Commissioner Mourdock: I'll move approval of the minutes of the December 21, 1998 Rezoning Meeting.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-21-98 Red Bank Development, LLC

President Jerrel: The next item on the agenda is a first reading for Gregory and Anne Gorman, 3020 and 3030 North Green River Road from AG to...wait a minute.

Joe Harrison, Jr.: R-1.

Charlene Timmons: You're reading the minutes.

Commissioner Tuley: You're reading the minutes.

President Jerrel: Oh, I am. What am I'm...the first, Red Bank...these two items, okay. The first item on the agenda is the Red Bank Development. That is for rezoning from...you'll have an amended...it will be from AG to C-4.

Joe Harrison, Jr.: No.

Commissioner Tuley: Yeah, that's the amended one.

Charlene Timmons: Yes.

President Jerrel: Yeah, that's the amended one. It had been listed as R-1 to C-4.

Joe Harrison, Jr.: Sorry.

President Jerrel: But it is AG to C-4.

Commissioner Mourdock: I'll move approval on the first reading and for the record the address on that is 525 South Boehne Camp Road.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-01-99 Woodward, LLC

President Jerrel: The next first reading is the Woodward project on Eagle Crest. It's

for an office building and it will be from M-2 to C-4.

Commissioner Mourdock: I'll move on first reading. Again, for the record the address is 7109, 7137 and 7140 Office Circle.

Commissioner Tuley: Second.

President Jerrel: And I'll say so ordered.

Commissioner Mourdock: I will move for adjournment.

Commissioner Tuley: Second.

President Jerrel: And I will say so ordered.

The meeting was adjourned at 7:17 p.m.

Those in attendance:

Bettye Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
February 22, 1999**

The meeting was called to order at 6:36 p.m. by President Bettye Lou Jerrel.

Approval of minutes

President Jerrel: I'd like to call the Vanderburgh County Commission Rezoning Meeting to order. The first item on the agenda is the approval of the minutes of the previous meeting which was January 25th.

Commissioner Mourdock: I'll move approval of the January 25, 1999 Rezoning Meeting minute notes.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Final reading VC-20-98 Gregory and Anne Gorman

President Jerrel: Okay, there are no first readings. We do have one final reading and, Mrs. Cunningham, would you want to review that?

Barbara Cunningham: Certainly. I don't know...are there any remonstrators on this one? I might ask that because it is usually Mr. Gorman and I together.

Joe Harrison, Jr.: Can I go ahead first and just swear, if there is anybody?

Barbara Cunningham: Sure.

Joe Harrison, Jr.: Anyone who wishes to comment with respect to this petition...what is it again, VC...? VC-20-98, is that it?

Barbara Cunningham: Uh-huh.

Joe Harrison, Jr.: Please raise your right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Barbara Cunningham: Perhaps I had better go through the whole thing. Gregory and Anne Gorman are petitioners in a change in zoning from AG to C-4 for two residential properties located at 3020 and 3030 North Green River Road. This overall seven acre site is located on the west side of Green River Road south of Spring Valley Road. The current owners are James and Mary Hirsch. The site is located on north Green River Road just south of Spring Valley Road and Green River at this location has been widened to accommodate four lanes of traffic with a center turn lane. One of the goals in the transportation element of the Comprehensive Plan is to develop a transportation system that moves people and goods safely. The plan calls for limiting the number of curb cuts allowed to avoid creating additional vehicle conflict points and currently there are three residential access points within the 255 foot total combined frontage on these two residential

lots. The three residential drives must be eliminated and/or combined into one commercial standard shared access point for the entire seven acre site. Developments along Green River Road must plan for shared commercial access. According to the Comp Plan development proposals along major arterials that are not accompanied with commitments to construct the necessary infrastructure improvement to accommodate site generated traffic and to do the extension of sewer, any infrastructure improvements, should be denied. So with that in mind, information submitted by Mr. Gorman indicates that all utilities are available except for sewers and the site is currently served by septic. Commercial development, we think, must be served by a sewer and that's what we told and we said that Mr. Gorman would need to address the plans for the extension of sewer to this site. When they did...that caused the Use and Development Commitment that is included in your packet, so you might want to look through that to see what it is. The proposed C-4 is in the designated commercial corridor, however, the infrastructure needs to be in place and that is what we've said all along. So the Plan Commission asked Mr. Gorman at the first meeting to come back with a Use and Development Commitment which he did and so this is a commercial development, there are two houses on the lot. We found out that the septic system for one does not work and that the septic system for the other one can be used for this low key operation. We really think a commercial septic should have been put in, but the Plan Commission at the meeting determined with this...as long as this was this low key activity that the septic, if it was okay with the Health Department, could work at this time, but any changes to it would have to have a sewer and that is included in your Use and Development Commitment. I think if you go through the Use and Development Commitment, Mr. Gorman and I...you know, he worked hard on getting this together, so what it really says is the commercial use is limited under C-4 to just his pest control. This is a specialized zoning, it's just for his pest control business and it is utilizing the existing buildings. He can have no new buildings or additions to the existing structures to be allowed for commercial use. Now, he could probably use the residential house for a residential...legal non conforming residence to rent only if the septic is improved for that use. The commitment shall also expressly prohibit the erection of off-premise advertising signs and billboards and all non conforming current residential uses shall be permitted and access shall be determined by Site Review so what we have worked out with him now is to utilize two of the cuts, have one going in and one going out just for this use only and at such time as the property is developed or his business gets so big that he needs to do something else he is probably going to be limited to one access point. A commercial septic system shall be installed if it is determined that it is needed and should sewer, and Mr. Gorman agrees with this, become available then it is agreed the petitioner will tap into the sewer. So those are the conditions that are placed.

President Jerrel: Is there anyone that wishes to speak to this issue?

Greg Gorman: I'm Greg Gorman, and I am moving my pest control business to this location. As Mrs. Cunningham said, she has been very kind working with me to get the Use and Development Commitment, to get the rezoning. One structure is going to be used for my business location. The other is going to be used for a rental house. We don't plan on building anything. We're just going to use the existing structures and operate our business from that particular location.

President Jerrel: Are there any questions of Mr. Gorman?

Commissioner Tuley: No, the only comment I wanted to make is they are in a little bit of a crunch as they have already sold their former place of business.

Greg Gorman: We are.

Commissioner Tuley: They did come in January and some of these questions came up and they took a 30 day continuance and came back with the Use and Development Commitment and received a ten to nothing vote in favor of passage.

Greg Gorman: A unanimous vote, yes sir.

President Jerrel: Okay, is there a motion regarding this?

Commissioner Tuley: I'll be willing to move then for the approval as requested for VC-20-98, the request to C-4 with a Use and Development Commitment.

Commissioner Mourdock: Second.

President Jerrel: This is a final reading and I'll call for a voice vote. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: I just thought I would try that, keep everybody on their toes! Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: And I'll vote yes. Thank you very much.

Greg Gorman: Thank you.

President Jerrel: Is there a motion to adjourn?

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

The meeting was adjourned at 6:44 p.m.

Those in attendance:

Betty Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Greg Gorman
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

Betty Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
March 15, 1999**

The Vanderburgh County Rezoning Meeting was called to order at 6:45 p.m.

President Jerrel: I'd like to call the Rezoning Meeting to order at this time and ask that Barbara Cunningham begin.

Approval of minutes

Commissioner Tuley: Wait, do you want the approval of the minutes from the February 22nd meeting?

President Jerrel: I will say second and so order.

Commissioner Tuley: Okay.

First reading	VC-2-99	Norman Klueg
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Commissioner Tuley: Basically, if you want to speed things up here we have two first readings, so at this point in time I will move approval of VC-2-99. The petitioner is Norman Klueg. That address is 14420 Darmstadt Road. The request is from AG to M-2. I'll move approval on first reading and recommend it be sent to Area Plan Commission.

President Jerrel: I'll second and say ordered.

First reading	VC-3-99	Scott and Laura Parsons
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Commissioner Tuley: We have another first reading, VC-3-99. The petitioner is Scott and Laura Parsons. The address is 6800 Old Boonville Highway. The request is from AG to C-4 and, again, I'll move approval on first reading and I recommend that it be forwarded to Area Plan Commission.

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

Final reading	VC-1-99	Woodward, LLC
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Commissioner Tuley: Now we're ready for a final.

President Jerrel: Is there any further business?

Commissioner Tuley: We have one final reading, VC-1-99. The petitioner is Woodward, LLC. The address is 7109, 7137 and 7140 Office Circle. The request is from M-2 to C-4. I guess this is where Mrs. Cunningham comes into play.

Joe Harrison, Jr.: I'll initially say all those interested in speaking with respect to this rezoning petition please raise your right hands. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Barbara Cunningham: Bob Woodward is the representative for the petitioner and owner, Woodward, LLC, in this petition to down zone 4.65 acres southeast of Office Circle at the northwest corner of Oak Grove and I-164 from M-2 to C-4. It includes three lots. The petition was recommended for approval by the Area Plan Commission with eight affirmative votes and no negative votes. Access from the site is from Office Circle. A preliminary plan was reviewed...I'm trying to cut this down because of the number of people that are waiting to speak! A preliminary plan was reviewed by Site Review and these three lots are planned for development as corporate offices for Accuride Corporation per information submitted on the preliminary plans. So final approval by Site Review will be required prior to development of the site and they're requesting to down zone this industrial site to a general commercial which is a C-4 classification. This is an area designated as industrial within the 1996 Comp Plan. The down zoning is consistent with overall development plans for the area and will allow establishment of the commercial office use which is prohibited within the higher industrial classification.

President Jerrel: Is there anyone that wishes to speak to this issue?

Bob Woodward, Jr.: My name is Bob Woodward, Jr. I would just like to add that in addition to this rezoning when we build this Accuride office building we will be taking down two billboards along I-164.

Commissioner Tuley: Taking down?

Bob Woodward, Jr: Yes.

Commissioner Tuley: No wonder he got eight affirmative votes!

Barbara Cunningham: I think he was...you're taking them down at the request of Accuride, is that correct?

Bob Woodward, Jr.: Correct.

Barbara Cunningham: That's correct.

Commissioner Tuley: Well--

Barbara Cunningham: No, if he was taking them down, maybe.

Joe Harrison, Jr.: (Inaudible, mike not on.)

Barbara Cunningham: I know, or just not sell it.

President Jerrel: Are there any other comments that wish to be made? This is a final reading. Is there a motion?

Commissioner Tuley: I will move approval of the down zone of M-2 to C-4 for VC-1-99.

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

Commissioner Tuley: Yes.

President Jerrel: And I vote yes.

Commissioner Tuley: I thought they would kiss you since you were going to be taking down billboards and she is still giving you a hard time.

Joe Harrison, Jr.: Motion to adjourn?

Commissioner Tuley: So moved.

Charlene Timmons: Bettye Lou, so ordered?

President Jerrel: So ordered.

The meeting was adjourned at 6:50 p.m.

Those in attendance:

Bettye Lou Jerrel

Patrick Tuley

Joe Harrison, Jr.

Charlene Timmons

Barbara Cunningham

Bob Woodward, Jr.

Others unidentified

Members of the media

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
April 19, 1999**

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

Approval of minutes

President Jerrel: I'd like to call the Vanderburgh County Rezoning Meeting to order. Is there a motion to approve the minutes of the previous meeting?

Commissioner Mourdock: I'll move approval of the minutes of March 15, 1999.

Commissioner Tuley: Second.

President Jerrel: So ordered. The next item--

Commissioner Mourdock: Um, just for the record I was not at that meeting so technically the two of--

Commissioner Tuley: Then I'll move approval of the minutes of the March 15th meeting.

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

First reading VC-4-99 Warren W. Spurling

President Jerrel: Okay, the first item on the agenda is a first reading for VC-4-99, Warren W. Spurling.

Commissioner Mourdock: And on first reading I'll move approval of the rezoning of 3401 North Green River Road from AG to C-4 and C-2.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-5-99 Sara E. Seib

President Jerrel: The next item is also a first reading. Is there a motion?

Commissioner Mourdock: And that's VC-55-99. I'll move on first reading, petitioner Sara Seib at 10707 Seib Road, I would move rezoning from AG to M-1.

Commissioner Tuley: Richard, did you say VC-5 or 55?

Commissioner Mourdock: VC-5-99.

Commissioner Tuley: I will second.

President Jerrel: So ordered.

First reading VC-6-99 Patrick and Melissa Reisinger

Commissioner Mourdock: And on first reading I would move approval of VC-6-99, the petitioner Patrick and Melissa Reisinger, 4501 Upper Mount Vernon Road with the request from AG to C-01.

Commissioner Tuley: Second.

President Jerrel: And I'll say so ordered.

Final reading VC-2-99 Norman R. Klueg

President Jerrel: Item C is a final reading and that is VC-2-99, petitioner Norman Klueg.

Barbara Cunningham: Steve Bohleber is the representative for Norman and Joanne Klueg in this request for rezoning of a portion of their property located at 14420 Darmstadt Road. The Kluegs are proposing to rezone a 1.1 acre of their 1.8 acre lot, Lot 1 of Anton Krack Subdivision, located on the west side of Darmstadt Road between Inglefield and Princeton Road from agricultural to M-2 with the Use and Development Commitment. The Use and Development Commitment included with this petition limits industrial use of this site to a machine or tool and die shop for Norman Klueg or his lineal descendants only, prohibits billboards and limits on-premise signage to a maximum of 100 square foot and non illuminated. Mr. Klueg was contacted by the Area Plan Commission staff after complaints of a machine shop, a commercial in operation at this address. If this is approved for conversion to commercial industrial use compliance with all code requirements will be addressed by Site Review upon submission of plans for the approval of the industrial use of this site. The site is located in a rural residential and agricultural area. It's just outside the corporate limits of the town of Darmstadt. Due to the absence of utilities and the existing agricultural land in the area the Comprehensive Plan designates this area to remain agricultural and undeveloped with scattered residential uses. Commercial development should be served by sewer. Information submitted by Mr. Klueg indicates that all utilities are available to this site except sewer. The site is served by a septic system. The machine shop will require a commercial septic from Indiana State Department of Health. Vanderburgh County Health Department recommends that before approving the rezoning of the property either the required permits be obtained, a statement be added to the Use and Development Commitment stating such a permit will be obtained or sewer be extended to the site. Darmstadt Road is a narrow rural residential street. If approved for industrial use access must be installed per Site Review recommendations to commercial standards. Access and parking must be paved with a hard and sealed surface. The surrounding area is completely agricultural and residential. The Comprehensive Plan discourages spot zoning and encourages development in those areas best suited by virtue of their contiguous location, availability and adequacy of public facilities, services and utilities.

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

Response: I do.

Joe Harrison, Jr.: Thank you.

Steve Bohleber: Commissioners, my name is Steve Bohleber. I represent Norm and Joanne Klueg who are seated in the front row. They own the subject property that brings us here this evening plus quite a bit of land around it. This is really in the center of land owned by the Kluegs. As I pointed out in both letters to each of you and at the Plan Commission meeting, they find themselves in a difficult situation that they created, but not intentionally and not maliciously. Mr. Klueg opened a small machine shop in a pole barn structure adjacent to his home. He didn't know it needed to be rezoned. That's not an excuse, but it is simply a reality. At this point he has no real choice but to seek this rezoning because his livelihood at the current time depends on this tool shop. While he has spent much of his life working for others he found himself without a job in 1997. He then started punching up a business that he had sort of done on the side for a few years before that at home and it turned into an income for him and more recently his son. The concerns that apparently caused someone to complain and what brings us here this evening, but in talking to the neighbors, most of whom are here, all of his neighbors are in support of this. He has been a good neighbor. The operation does not adversely impact upon any of them and they have taken the time out of their day to come here and stand up and be counted in favor of this rezoning petition. But we realize that this is a spot zoning situation, a catch-up situation, where they are attempting to bring themselves into compliance with the county code. Again, it was not these folk's intention to violate the law. They didn't know they were until the Plan Commission contacted them. We did submit a Use and Development Commitment that is about as restrictive as I can imagine to minimize any impact this might have on the community in terms of immediate impact or opening up the area in some domino fashion. We think this will address the concerns of the neighborhood and not do injustice to your code or land use planning in general. The use commitment limits it to this use only as defined by your code and it also makes it simply applicable to Mr. Klueg and his lineal descendants and really that's his son, but when a Klueg stops operating at this site it will then be incumbent by the terms of his use commitment for the then owner to rezone it back to agricultural. I think if you took a look at this situation you will concur with what my clients have told me concerning traffic generation. This is a very low traffic generator. Ninety plus percent of the traffic that enters the driveway comes to their home. Mr. Klueg has a lot of friends out there and he is involved in the 4-H Center Board and the Southern Indiana Antique Club. A lot of folks come by to talk to him about these things and less than ten percent come by to visit the business site. Those invariably are in automobiles or pick-up trucks. We're not talking about big vehicles coming here. They tell me one time a semi came to deliver a copy machine to the house. Occasionally a UPS truck will come, but I think what you're going to see from the neighbors that are here this evening they're not concerned about it. It is not adversely impacting upon them. There was a concern brought up at the Plan Commission meeting and, in fact, brought up by Commissioner Tuley as well as some other folks, asking why this large area was sought to be rezoned. Well, frankly I tried to minimize it in a logical fashion and didn't just want to pick a plug out of the middle, but rather pick the minimum amount that encompasses the current structure out to the street and sought rezoning for just that. To address that concern the Kluegs have agreed to a private covenant in addition to the Use and Development Commitment that prohibits their expansion of the business operation at this time. They can't make the building bigger than it is now. The only caveat on that would be as required by Site Review, building codes, health codes or whatever else to bring this on line. We have that restrictive covenant that I think I've provided each of you a copy with. We'll file that if you approve this rezoning or if you want some changes done on it with the

assistance of your council. Any time we can amend that, get my clients to sign it and file it and we'll certainly do that as a condition of this rezoning. We've also, as you see, prohibited billboards, limited the size of the on-premise advertising sign that might be erected there. This does come to you with a nine, one, one do pass recommendation if my math is correct and I recall it from the last situation. I haven't reviewed your minutes, I hope that is what it reflects. I think everyone here is in support, is that correct?

Commissioner Tuley: Ten, one, one.

Steve Bohleber: Is everybody here supporting this?

Response: Yes.

Steve Bohleber: If you would like, Commissioners, they can read their names and addresses into the record or you can just acknowledge their presence here this evening by their presence. I do add a letter from Scott Smith. Scott didn't make it here, did he, I don't believe? He is right across the street from them and he wanted to let you know also that he has no objection to this rezoning.

President Jerrel: Would you want to just let your--

Steve Bohleber: Certainly.

President Jerrel: They can sign and we can include--

Steve Bohleber: Yeah, we'll just make it part of the record. I'll even steal the Commissioner's pencil or pen if you promise to give it back. Put your name and address down there. I admonish you not to take it. If you do that's between you and the county, okay. It's a 19¢ BIC pen that hopefully you bought at bid which it was probably at 12¢.

Commissioner Mourdock: Probably a lawyer gave it to us!

Commissioner Tuley: And charged it to his customer!

Steve Bohleber: I've got one here, too.

Barbara Cunningham: Do you have another copy of the private covenant?

Steve Bohleber: Yes.

Barbara Cunningham: For the file.

Steve Bohleber: If anyone has any questions we would be pleased...of any of their neighbors or me we would be happy to try to answer them for you.

Commissioner Mourdock: I'll just say it out loud. As I understand from what Charlene was just saying she does not have a copy of the private covenant with the documents you have so the fee would have to be adjusted to cover the compensation.

Steve Bohleber: Not a problem. I will take care of that. You want me to just bring up the original to you guys to record?

Charlene Timmons: Yes.

Steve Bohleber: I'll do it.

Charlene Timmons: And the money.

Steve Bohleber: If this passes I'll come over tomorrow unless my 49 year old brain forgets.

Charlene Timmons: It will have a higher fee.

Steve Bohleber: I understand. I'll bring some money, too.

Charlene Timmons: Okay.

Joe Harrison, Jr.: Looks fine.

President Jerrel: Okay.

Joe Harrison, Jr.: I just reviewed it quickly.

President Jerrel: Is there a motion regarding the final reading?

Commissioner Mourdock: I think formally we just need to ask if there is anyone here in opposition who would like to make a comment one way or the other? For the record I don't see anyone wishing to comment. I'll move formal approval of VC-2-99, 14420 Darmstadt Road from AG to M-2.

Commissioner Tuley: Second.

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

Commissioner Tuley: Yeah, since I asked for the covenants to be entered into the record and everything and Joe has reviewed them and said they are fine, I'll gladly keep my word and vote yes.

Steve Bohleber: Thank you, sir.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Steve Bohleber: Thank you. If I may submit the original of Mr. Smith's letter. I think I gave you a copy.

Commissioner Mourdock: I'll give it to Charlene. I do have one question I meant to ask a minute ago and it sounds terribly delinquent after the vote, but I do just want to clarify it. For those of you who are attorneys in the room, lineal descendent has what meaning under law? Does that mean--

Joe Harrison, Jr.: It's my...I may be wrong, Steve, but it would be my understanding it would be direct descendent from Mr. Klueg and I guess it would be--

Steve Bohleber: Children and grandchildren.

Joe Harrison, Jr.: --an issue.

Steve Bohleber: If the family stays in business for 1,000 years I guess it is a 1,000 year process.

Joe Harrison, Jr.: But it has got to be issue.

Steve Bohleber: Yeah, issue. It can't be in-laws or aunts or uncles.

Commissioner Mourdock: That's what I wanted to clarify.

President Jerrel: We'll just enter the support that you've demonstrated by being here tonight and if you would just include at the top of that...whoever is back there now, if you want to include what the names represent that we support this rezoning.

Steve Bohleber: If you like I can do that, Mrs. Jerrel, and put the cause number on it.

President Jerrel: That would be fine.

Steve Bohleber: Otherwise if everybody has signed you are free to go.

Unidentified: Where are we going to get steaks at now?

President Jerrel: Ah-oh! See you all later.

Barbara Cunningham: I would like to invite, and Pat would, too, because he is going to hopefully be there tomorrow and I would like to invite...Wednesday, invite you all to the Area Plan Commission special meeting. We're going to address off-premise signs. One reason...and I have invited the City Council members, too. It's at 6:00 p.m. in Room 301. The reason I have invited both...particularly in making this invitation and I am going to do this again to City Council, too, is because as Pat remembers when we...were you on when we did this before? We don't want it to go ping pong back and forth and all that.

Commissioner Tuley: In '89.

Barbara Cunningham: If you all have problems with it I would rather that they be brought up if you could at Plan Commission so we can address those concerns.

Commissioner Mourdock: I will do my best to be there. However, we have a Jail Committee meeting that begins at--

Barbara Cunningham: You have a what?

Commissioner Mourdock: A Jail Committee meeting that begins at 5:30 on Wednesday.

Barbara Cunningham: Bring the people from the Jail. The more the merrier.

President Jerrel: Tuesday or Wednesday?

Commissioner Tuley: Wednesday.

Barbara Cunningham: This Wednesday. Wednesday at 6:00 p.m.

Commissioner Mourdock: I will be there--

Barbara Cunningham: And I think, Pat, don't we...we want to get it...I read '89's minutes and we had 12 meetings and 42 others and all that and we don't want to go through that.

President Jerrel: I've got several, you're going to start at 6:00?

Barbara Cunningham: We'll start at 6:00.

President Jerrel: I could be there between 6:00 and 7:00. Now, where are you going to be?

Barbara Cunningham: Room 301.

President Jerrel: Room 301.

Commissioner Tuley: If we go to Indy we should be back long before then.

Barbara Cunningham: (Inaudible) so if there are concerns let's do them up front.

Steve Bohleber: Is this your pen? I know it was your pad.

President Jerrel: Yeah. No, that's not my pen.

Steve Bohleber: I'll put that pen back over here.

Barbara Cunningham: I think I sent you the whole packet.

Commissioner Tuley: I got it.

Barbara Cunningham: You got one?

Commissioner Mourdock: Motion to adjourn.

Commissioner Tuley: So moved...second, I mean.

President Jerrel: So ordered.

The meeting was adjourned at 6:52 p.m.

Those in attendance:

Betty Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Steve Bohleber
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

Betty Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
May 17, 1999**

The meeting was called to order at 6:30 p.m.

President Jerrel: I'd like to call the Vanderburgh County Rezoning committee to order and welcome all of you.

Approval of minutes

President Jerrel: The first order of business is the approval of the April 19th minutes.

Commissioner Mourdock: I'll move approval of the minutes as filed.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-7-99 Les Winget

President Jerrel: First reading we have petitioner Les Winget, VC-7-99. Is there a motion regarding this?

Commissioner Mourdock: On first reading I'll move approval of VC-7-99 petition from C-4 to R-1 and the address is 850 Volkman Road.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Final reading VC-4-99 Warren W. Spurling

President Jerrel: The next item, C, these are final readings so if you would like to begin and give the description.

Commissioner Mourdock: Just if we can clarify one thing before we do that.

President Jerrel: Okay.

Commissioner Mourdock: I notice on the cover letter dated May 6th it says 3401 North Green River Road, but in the packet I saw 3201. Which is correct? I guess it was on the agenda I saw 3201.

President Jerrel: Yeah, it was 34.

Commissioner Mourdock: Okay, it is supposed to be 34?

President Jerrel: Right. Okay.

Commissioner Mourdock: Do you want to go ahead and give the summary description then, Blaine?

Joe Harrison, Jr.: Why don't I first do this. Again, this would be VC-4-99, petitioner Warren W. Spurling, 3401 North Green River Road. The request is from AG to C-4

and C-2. All those wishing to speak with respect to this petition if they would raise their right hands. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you. Go ahead.

Blaine Oliver: My name is Blaine Oliver. I'm the Assistant Director of the Area Plan Commission. The site is located on the east side of Green River Road south of Lynch Road. The Comprehensive Plan designates a limited strip of land along this east side of Green River for commercial development on the Future Land Use Map. The area to the east of the commercial strip is designated for residential use. Although it is zoned C-2 and C-4 much of the land to the south of this site is an existing multifamily development, Lakeside Manor, with the remaining land along Green River Road developed as a commercial use. Any commercial adjacent to residential development should incorporate adequate buffering along the southern property line where adjacent to residential. When developing commercial sites adjacent to residential the Comprehensive Plan encourages landscape open space buffers that exceed the minimum requirements in the code. The concept in the Comprehensive Plan is to have higher intensity uses fronting along Green River Road with lesser intensity uses further to the east similar to the mixed use development to the south. The eastern edge of the site also borders a low area floodplain containing the Crawford Brandeis Ditch which is a legal drain. This 58 plus or minus acre site is located on the east side of Green River Road, a heavily traveled major arterial. Because of its location across the street from a school careful planning must occur to minimize the traffic conflicts particularly during peak hours. Plans for the development of this site should be coordinated with the development of sites adjacent north and south to utilize shared curb cuts and access to eliminate the proliferation of curb cuts along this major arterial. The County Engineer, John Stoll, states that one, construct the existing Spring Valley Road in conjunction with the development of this property and two, provide right-of-way for the extension of Cullen Avenue. The site is located in a growing area of mixed multifamily residential and commercial uses. A development of this size and density could create a significant increase in traffic. To ensure a functional transportation system the plan calls for minimizing additional vehicle conflicts such as new commercial driveways. The plan also encourages consolidation of access points for any independent commercial uses. Previous commercial rezoning of this site in February 1997 was subject to comments...commitments regarding dedication of right-of-way for Spring Valley Road and Cullen Avenue, limited permitted uses, fencing, trees, landscaping, lighting, noise and signage. In January 1998 the site was rezoned back to Agricultural. This is a petition requesting C-2 and C-4 without commitments. The Area Plan Commission meeting, the vote was eight to three for a recommendation of approval on this rezoning.

Jim Morley: I'll go ahead and start here. Oh, I see you have one of these exhibits. Okay. What I passed out to you and what is relative to this zoning is not so much on the site itself as to how it relates to the surrounding property and what has been allowed for. The rear portion which is being rezoned C-2 is for phase three of Lakeside Manor Apartments and that is the layout which our firm has currently finished with the...nearly finished with the site design. That is all phase three of Lant Manor, right. That is what is proposed for the rear of the property. The front half of the property, the C-4 zoning, would be additional commercial uses similar to what Bill has developed call the park, the commercial buildings in the front. What Mr.

Spurling is proposing here and if you look and kind of see some tiny lettering on there at the time Cullen Avenue was originally conceived of as a possible extension from Morgan which with the non development of certain properties makes it nearly impossible, Cullen Avenue, there was a limited access right-of-way left up along the Lant property just east of the SIGECO line. No, right here.

President Jerrel: Oh, okay.

Jim Morley: Right at that point right there. If you look just an inch on the drawing that you have just an inch to the east of the SIGECO easement and what Mr. Spurling is proposing here relative to the access is continuation of Cullen Avenue north. Correspondence has been had with SIGECO on the sharing of that. As you might imagine, SIGECO's 100 foot wide easement essentially splits up any type of development that you might have, so in attempting to coordinate that SIGECO has agreed to share the west 40 feet of the 100 foot right-of-way. In other words, the right-of-way would be 10 foot off of their poles, completely across their property and all the way to Lynch Road.

President Jerrel: You want to...would you mind coming over here and pointing?

Jim Morley: Okay, right here.

President Jerrel: Okay, here.

Commissioner Mourdock: It was--

President Jerrel: It was up here?

Jim Morley: The limited access...the hole in the limited access right-of-way is right there. When they purchased it they had envisioned it being right here and we're talking about shifting it to that location.

Commissioner Mourdock: And SIGECO has agreed to move it from here to the east side?

Jim Morley: SIGECO has agreed to share that location.

Commissioner Mourdock: To the west side.

Jim Morley: SIGECO's line doesn't have to be relocated. Cullen actually had nothing to do with...it did not correspond with SIGECO's line. That was at issue here and by moving it over to the SIGECO easement that would enable both the Spurlings and the Lants and Davis who are interested in the property to the north to combine right-of-way and SIGECO and not chop the property up so much. Rose Zigenfus has indicated, well, there is a process you go through to move a limited access right-of-way opening, but that there was nothing unreasonable about the location. That it would be satisfactory.

President Jerrel: Is that...I don't know. John Stoll isn't here, is he?

Jim Morley: We met with John.

President Jerrel: Okay, is that a process that the Commissioners do or do you remember?

Jim Morley: It depends on whether or not federal funds were used in the right-of-way acquisition for Lynch. If they were you have to submit it through--

President Jerrel: INDOT?

Jim Morley: --INDOT and it comes back. It is not...it takes a little while as everything with INDOT does, but you can move an opening. You just can't get a new opening.

President Jerrel: Right.

Jim Morley: If it is limited access you can't get a new opening, but you can shift it if it is a reasonable request and since we're still a quarter of a mile east of Green River Road it's a reasonable request. So they have indicated that it would be no problem. So those are things that would plan to be done. That, I think, really covers the basic points of this. The Spurlings and the property owners to the north have been in communication with each other to work out some agreements. As you know, originally there was no sewers in this area and the county...and Bill built a lift station, built a lift station deep enough to service the Harp property immediately to the south of him and Harp and the Spurlings shared in construction of a sewer that could wind up going to there and the Spurlings and Lants and Davis have been in conversations about agreements of extension of utilities and how they feel about the road. I think that's really about all I have to say. I'm sure you want to hear about the conclusion of their agreements. So, perhaps--

Commissioner Mourdock: Jim, one question.

Jim Morley: Yes.

Commissioner Mourdock: Looking at this plan the area that is south of Spring Valley Drive--

Jim Morley: Yes.

Commissioner Mourdock: --kind of the triangular piece--

Jim Morley: Right.

Commissioner Mourdock: --it seems strange as a land use thing to see that kind of lot in there. Do you know what the plan is for that, in the C-4 portion?

Jim Morley: That would be probably commercial. It would probably be commercial. Probably a lower density...it's going to wind up with a lot of unusable ground, the corners, but the other alternative would be to take Spring Valley and then dead-end it and this seemed to have a better flow of traffic and I don't know, perhaps, Bill, you don't really have anything more certain to add at this time do you, on that triangle?

Bill Spurling: No, just (inaudible) an office or something like that in that area.

Jim Morley: It will probably be a little bit lower density than some of the other and with more landscaping out in front of it, but I think essentially he is willing to sacrifice the density on the use in order to get a better flow of traffic into the phase three of Lant Manor. That's all that I have. I think there are some other people that probably want to speak to the agreements.

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

Marco DeLucio: Good evening. My name is Marco DeLucio. I'm here this evening on behalf of Carol and Betty Davis who own property immediately north of the property you have...that is before you tonight for the rezoning request. Mr. Morley is correct, there has been an agreement executed concerning the utilities. We have reviewed the agreement. I think Mr. Spurling has presented to the County Commissioners as part of his petition a private covenant for the construction and extension of Spring Valley and Cullen Avenue north from Spring Valley. The only thing that we would add and want to make clear this evening we have noted...and I'm going to ask Mr. Spurling if he doesn't agree that neither of these agreements have been signed by the fee owner of the property and consequently there is a possibility, I suppose, that if the property is not purchased by Mr. Spurling we just want to make sure and want to make it of record this evening that the property will not be developed without compliance with the agreements that have been entered into with the Lants and also the agreements that have been submitted to you, the Vanderburgh County Commissioners, concerning the development of Spring Valley and the extension of Cullen Avenue north.

Commissioner Mourdock: That presents us then with the possible dilemma of approving this zoning with the covenant that you're proposing, the property sale does not go through and yet the property is rezoned. At that point--

Marco DeLucio: I would point out I think that might be solved because I believe both agreements indicate that they're binding upon the successors and assigns and my position would be that he as a purchaser, a prospective purchaser of the property, it would be binding upon his successors and assigns and so when they came in to get their building permits I think that...I'm fairly comfortable that could be enforceable against a later property owner, it's going to be filed of record.

Commissioner Mourdock: But I thought...maybe I misunderstood you, Marco. Did you say that the current property owner of record has not signed?

Marco DeLucio: That's correct. Either one as far as I know.

Commissioner Mourdock: Either for the Davis or the owner of the property Spurling is purchasing.

Marco DeLucio: The Davis...Mrs. Davis and Mrs. Lant have both executed the agreement.

Commissioner Mourdock: Okay.

Marco DeLucio: But the current property owner, I think is the Hirsch Trust, has not executed this document or the document that has been submitted to the County Commissioners as well.

Commissioner Mourdock: Bail me out here, Joe. Is this the problem it would seem to be? Again, I guess what the Hirschs are looking to do, is well if we know it is going to be rezoned then we'll go ahead and sign the document.

Joe Harrison, Jr.: I think that is exactly right.

Marco DeLucio: Well, I'm not sure that the Hirschs are prepared...I haven't had a

conversation with the Hirschs.

Commissioner Mourdock: I understand, you don't represent them.

Joe Harrison, Jr.: Maybe Mr. Spurling might be able to give us some information on when you intend on purchasing the property.

Bill Spurling: Our intentions are to move forward with the purchase of the property. It was subject to the rezoning. It's like the chicken and egg, which do you do first?

Commissioner Mourdock: Right. Do you presently have it under option, I presume?

Bill Spurling: Right.

President Jerrel: And let me finish that sentence.

Joe Harrison, Jr.: Yes.

President Jerrel: And if this is rezoned tonight you plan to purchase the property?

Bill Spurling: Right, exactly.

President Jerrel: And when you purchase the property you will abide by the covenants and the agreements that are listed?

Bill Spurling: Right.

Commissioner Mourdock: Right, and all that is okay, but the one possible flaw would be if at the time of sale, at the conveyance, if for whatever reason the sale didn't take place we would have zoned it and then there is no leverage on behalf of the county, if you will, at some future point to make sure this same type of easement is present. Again, maybe I am making a mountain out of a molehill.

Marco DeLucio: I don't think you may have all of the leverage that you would normally have. However, I think you do have some substantial leverage in that anybody that comes before you comes before a Plan Commission or the Building Commissioner to get permits. It is a matter of record tonight because you've heard me talk about it. You've heard Mr. Spurling talk about it. It also says it is binding on the successors and assigns to Mr. Spurling and I would suggest to you that he has an interest in the property and it would be binding upon any successors to him. It's going to be a matter of public record when they purchase the property that these covenants are in place.

Commissioner Mourdock: And just for the record, since we do all this on tape the speaker before Mr. DeLucio was Mr. Spurling just to identify your voice on the tape.

Joe Harrison, Jr.: As far as the covenant, I don't...obviously the covenant has not been signed, but it will be signed.

Marco DeLucio: It was signed out in the hall earlier this evening. The covenant...you're talking about the Vanderburgh County?

Joe Harrison, Jr.: Yes.

Bill Spurling: Actually the covenant I don't think has been signed. The agreement, another agreement, the sewer agreement was signed, but I don't think I've signed that covenant yet.

Joe Harrison, Jr.: No, and you intend on signing this immediately?

Bill Spurling: Right, tonight.

Joe Harrison, Jr.: Okay.

President Jerrel: Okay, is there anyone else that wishes to speak on this issue? Is there a motion?

Commissioner Mourdock: I'll move the approval of DC...ah, DC, I'm sorry, of VC-4-99, 3401 North Green River Road to change from AG zoning to C-4 and C-2 as submitted through the Area Plan Commission.

Commissioner Tuley: Second.

President Jerrel: I'll just add, before I say so ordered and call for the vote, and that's subject to the conditions that were discussed at this time.

Commissioner Mourdock: That is correct. Condition to the signing of the covenant as indicated it is Mr. Spurling's intention to do so.

President Jerrel: Okay. Alright, this is a final reading and I'll call roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: And I'll vote yes and I also just want to say on behalf of the County Commission we appreciate it when several landowners get together and work through these kind of deals before they come here. That's the way business ought to be done and we compliment you for it, so thank you.

President Jerrel: Yeah, that's well said, and I will vote yes. So you have your zoning. You want to let him sign that?

Final reading VC-5-99 Sara E. Seib

President Jerrel: Okay, next item on the agenda is VC-5-99, petitioner Sara Seib.

Blaine Oliver: Again, I'm Blaine Oliver, Area Plan Commission. This site is located in an area designated for residential and agricultural use in the Comprehensive Plan. In general the east side of State Road 57 corridor is designated for commercial industrial use as is an area south of this site. In recent years there have been a number of scattered commercial rezonings of property fronting along the west side of Highway 57. This is a proposed change in zoning to M-1 which although inconsistent with the specific plan for the area is consistent with the progression of heavy commercial and industrial along Highway 57. If this site is to be rezoned for industrial development any industrial use should be adequately buffered from

adjacent residential. The Comprehensive Plan encourages new commercial and industrial development to provide a buffer larger than that required in the code when adjacent to residential. The plan also calls for commitments at the rezoning stage that ensure that the infrastructure improvements needed to accommodate new development will be in place when needed. Any development must be designed to minimize the number of access points on Highway 57. So in other words, in the Comprehensive Plan this specific site is designated for residential but with other rezonings in the area that have occurred recently we don't really feel this would be out of line with the trend that has been happening in land use in that area. In traffic and access this agricultural site is located on the west side of Highway 57 north of its intersection with Kansas Road. Applicants are proposing to rezone the site to M-1 for industrial development. This proposed 2.21 acre industrial site must be designed to minimize the number of access points on Highway 57 and all work within the Highway 57 right-of-way will require INDOT approval. This proposal is to rezone a small 1.21 acre site fronting on Highway 57 and subdivision is required to divide this lot from a large farm acreage with access and frontage on Seib Road. At the Plan Commission meeting on May 5th they recommended approval in a unanimous eleven to zero vote.

Joe Harrison, Jr.: All those wishing to speak with respect to VC-5-99, petitioner Sara E. Seib, address 10707 Seib Road request AG to M-1, please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Jim Morley: My name is Jim Morley and we're the engineers for the Seibs, Dick and Sara, who live on Seib Road there where the Blue Harvest Store silos are. This is on a part of the farm. They have had an industrial tool sharpening business for many years with approximately six employees here in town and wish to relocate the business out where they've got a little more room out there on the farm. This site is immediately adjacent to the truck terminal that was built out there along 57. This is on the corner right immediately adjacent to that. Relative to the Staff Report EUTS had indicated perhaps under the assumption that this was being set up to sell or market to someone else that they ought to look into an overall traffic plan for the whole farm, but the Seibs are not ready to do that. This is not a sale. They have no intention of proceeding and so they weren't able to comply with that portion. If at any time in the future such would happen then they would come...this is purely their own personal business which they've had for many years. What's is the street address, Dick, of your business?

Sara Seib: It's 906 Keck.

Jim Morley: 906 Keck, okay. They don't cater to the public. The traffic here will be very low. Most of their industrial...the equipment that they sharpen they pick up and deliver. Both Dick and Sara are here to answer any questions that you might have.

President Jerrel: First of all, would either of you wish to speak to this?

Sara Seib: I'll be glad to answer any questions.

President Jerrel: Okay, alright. Are there any questions?

Commissioner Mourdock: I would just point out from the minutes of the Area Plan Commission I understand you don't like billboards on the property.

Commissioner Tuley: Yeah.

Sara Seib: You won't get one there!

Commissioner Mourdock: It's always good to hear in this day and age. I don't know that I have any specific questions.

President Jerrel: Do you have any?

Commissioner Tuley: No, I don't have any questions.

President Jerrel: Is there a motion?

Commissioner Mourdock: I'll move approval of VC-5-99 which is for 10707 Seib Road from AG to M-1.

Commissioner Tuley: Second.

President Jerrel: And I will call for a roll call vote on a final reading. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Final reading VC-6-99 Patrick and Melissa Reisinger
--

President Jerrel: Next item on the agenda is VC-6-99, Patrick and Melissa Reisinger. This is a zoning from AG to Commercial.

Steve Bohleber: Good evening. My name is Steve Bohleber and I represent the doctors Reisinger, Patrick and Melissa. Patrick is here with me this evening. He made it in from the west side through the storm to be here as did I.

Commissioner Tuley: Can we make it home?

Steve Bohleber: The request is from AG to CO-1 and the Reisingers are simply going to open up a medical practice to serve the neighborhood as well as the rest of the community on 1.7 acres of about a 24 acre tract owned by them. They will use the existing single family residence with some modifications as the office and it will be approximately 3,000 square feet. The Staff Field Report does indicate there is a minor sub that will need to be created in order to accomplish this result. Matt Wannemuehler with Bernardin Lochmueller is working on that subdivision. We think this is a compatible use. A medical office is something that's always a plus for a residential area. The doctor knows that he has to comply with all Site Review requirements. They are ready to do that. This comes with no remonstrators and a

unanimous do pass recommendation, so we would ask for your positive vote this evening.

Joe Harrison, Jr.: Just for the record if there are any others that wish to speak in connection with this, VC-6-99, petitioner Patrick and Melissa Reisinger. The address is 4501 Upper Mount Vernon Road. The request is from AG to C-01.

Steve Bohleber: You can do your Staff Field Report or swear me in, but we'll do it bassackwards.

Joe Harrison, Jr.: All those who wish to speak with respect to this please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thanks.

President Jerrel: And is that retroactive?

Steve Bohleber: That is retroactive. Yes, I incorporate my previous comments after the oath.

President Jerrel: You're fast. You were on your feet and talking.

Steve Bohleber: I was. Well, you know this oath thing is somewhat new so I'm not quite used to it.

President Jerrel: Blaine, did you have any comments that you wished to make?

Blaine Oliver: Well, I could go ahead and read the Comprehensive Plan section of the Staff Report.

President Jerrel: Okay.

Blaine Oliver: The site is located in an older area, very mixed zonings and uses, just outside the city limits. The Year 2015 Conceptual Land Use Map in the Comprehensive Plan designates the north side of Upper Mount Vernon Road as residential with existing commercial and industrial on the south side of the road. This proposed C-01 office is on the north side of the road and it's a 1.7 acre lot proposed for C-01 use limited to an office and up to 3,000 square feet in size. The Comp Plan calls for preservation of neighborhood residential environment through excluding incompatible uses and providing buffer areas between residential and adjacent commercial uses. A major SIGECO easement and transmission line crosses the eastern side of the site. This proposed 1.7 acre office and a SIGECO substation is adjacent across Upper Mount Vernon Road the C-01 classification is considered a compatible and appropriate buffer adjacent to remaining residential. The site is fairly close to the Western Terrace Subdivision, just to the west of Western Terrace, but this large SIGECO easement is really in between and that will act as a buffer between the existing residential and the proposed use.

President Jerrel: Are there any other questions? Is there a motion?

Commissioner Mourdock: I'll move approval of VC-6-99, for 4501 Upper Mount

Vernon Road, to change the zoning from AG to C-01.

Commissioner Tuley: Second.

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

Commissioner Tuley: It's nice to see that old house being fixed up. I'll vote yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Steve Bohleber: And it's nice to have another doctor on the west side.

Commissioner Tuley: That's right. I'm going to drive right by there in about ten minutes.

President Jerrel: Thank you. Is there any other business to come before this Board?

Commissioner Mourdock: I'll move for adjournment.

Commissioner Tuley: Second.

President Jerrel: So ordered.

The meeting was adjourned at 7:05 p.m.

Those in attendance:

Bettye Lou Jerrel
Joe Harrison, Jr.
Jim Morley
Sara Seib
Members of the media

Richard E. Mourdock
Charlene Timmons
Bill Spurling
Steve Bohleber

Patrick Tuley
Blaine Oliver
Marco DeLucio
Others unidentified

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
June 21, 1999**

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

Approval of minutes

President Jerrel: The first item on the agenda would be the approval of the minutes.

Commissioner Mourdock: And I'll move approval of the minutes of the Rezoning Meeting of May 17, 1999.

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

Final reading VC-3-99 Scott R. And Laura H. Parsons
--

President Jerrel: Okay, on first reading...

Beverly Behme: No, there isn't any.

Commissioner Mourdock: Yeah, we have no first readings this month.

President Jerrel: Okay, I don't have anything.

Joe Harrison, Jr.: Did we approve the minutes just now?

President Jerrel: Yeah, we approved the minutes, but I don't have anything else.

Commissioner Mourdock: Thank you, Charlene.

President Jerrel: I didn't have one. Thank you very much. Item B, none and Item C, final readings for the first one is VC-3-99. I like for them to be separated.

Charlene Timmons: I do, too.

President Jerrel: I don't like that. Is there someone here to speak to this?

Les Shively: Yes, ma'am. Madam President, members of the Board of Commissioners of Vanderburgh County, my name is Les Shively representing Scott and Laura Parsons. Laura is with me here this evening. Briefly, the property that we are talking about is on Boonville Highway and this property is bordered on the east by I-164. To the northwest is the Burkhardt Industrial Park that has been developed by Mr. Woodward. The rest of the property to the west would be agricultural. I'm going to give you two copies of this report that we had originally provided to the Area Plan Commission when this first came before them and the only thing that is really relevant today to our discussion is tab two which is the letter of opinion from Fred Barber, Vice President of F.C. Tucker/Huber Realtors Commercial Real Estate Services which basically indicates this property because of the changes in the area use, the highway being located there, we would say a combination of private and public projects really renders the property no longer viable economically for single family residential purposes. Mr. and Mrs. Parsons desire to be able to rezone this property in order to market it. To give you a better idea of where their property...how their property is situated here are three sets of photographs I think accurately depict the area. When we first came before the Plan Commission the

Plan Commission obviously is concerned when you change a zoning classification when there is not an immediately use in mind. To allay those fears we developed a Use and Development Commitment, one version and changed it again which you have the final version. Let me just hit the highlights if I might. First of all, we want to make it clear that my client does not intend to develop this property themselves and so we made it very clear that the existing buildings on the subject property cannot be used for commercial purposes. The second part of our Use and Development Commitment states that any commercial use will be subject to prior submission to the Site Review Committee pursuant to the relevant provisions of your ordinance and full compliance with those provisions. As you know that involves the Site Review Process which brings into play the County Engineer, the County Health Department, EUTS, Mr. Jeffers who acts as a liaison to your Drainage Board. You name it, if they have some sort of function that involves land in Vanderburgh County they sit on this body and their input is incorporated into any site plan that is approved, notwithstanding the rezoning classification. Also, the Health Department has asked us to also place in here a requirement that we will either have an on-site commercial septic permit and system permitted by the state before any use goes in that is commercial or hook up to a sanitary sewer. Last, but certainly not least in view of the discussions going on with your parallel legislative body, we have a prohibition of any outdoor advertising facilities on this property notwithstanding the fact that we've got about 700 feet of frontage on I-164 so that is, I think, a pretty nice gain for the people here in Vanderburgh County. It also allows the Parsons to sell this property, to market it. They have met with all their neighbors, not just the ones that they had to notify, but everyone in the general vicinity. In fact some of them were probably going to join in this petition and sort of wanted to see how things went. The whole area is changing out there. We think that we have balanced the interest of the county, the surrounding property owners and the Parsons in this particular proposal. It did pass the Plan Commission with seven affirmative votes, two abstentions...seven, two and two, as Beverly indicates, subject to this amended Use and Development. Again, I am here to answer any questions you might have regarding this request.

Joe Harrison, Jr.: Again this is...it's my understanding it's a change, Les, from Ag to C-4?

Les Shively: Yes, sir.

Joe Harrison, Jr.: Do your clients want to speak on this? If they do I would ask that they raise their hands.

Les Shively: I don't think Laura has anything to add.

Joe Harrison, Jr.: Okay.

Les Shively: I know Laura would tell me if I have missed anything.

President Jerrel: I don't have any questions. I'm just assuming as I review this that likely the house will come down, and the garage?

Les Shively: I think that once it is sold and developed it is going to have to come down and really you're probably going to have to buy the piece of property next door to it.

President Jerrel: Right.

Les Shively: To do something with it.

Commissioner Mourdock: Because they are saying the structure that is there now couldn't be used under the amended use you're putting out?

Les Shively: Right. That's always in there, but we've continued it in the amended Use and Development.

President Jerrel: Is there a motion?

Commissioner Mourdock: I'll move approval of VC-3-99 to rezone from AG to C-4 the address at 6800 Old Boonville Highway.

President Jerrel: I'll second and this is a final reading and I'll have a roll call vote. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Les Shively: Thank you very much.

Final reading VC-7-99 Les Winget

President Jerrel: The next item on the agenda is VC-7-99. The petitioner is Les Winget.

Les Winget: There are two Les here.

Commissioner Mourdock: Less is more!

President Jerrel: That's right.

Les Winget: Yeah, less is more.

Commissioner Mourdock: I couldn't help myself.

Joe Harrison, Jr.: Before you speak would you please raise your right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Les Winget: Yes, I do.

Joe Harrison, Jr.: Again, this is a request for rezoning from C-4 to R-1. And the property, I'm sorry, is 850 Volkman Road.

Les Winget: Right, East Volkman.

President Jerrel: Did you have any comments?

Beverly Behme: Yes, I did. Mr. Winget is asking to down zone this property. He had previously done a subdivision and it was into a two lot subdivision. A portion of the subdivision is zoned C-4. He would like to put modular in the location and the only

location that he can put it in that is out of the floodplain happened to be in the C-4 area, so he is asking...his subdivision has been approved and now he asking to down zone this from C-4 to R-1 so he can place the home there. Plan Commission approved it unanimously.

President Jerrel: Are there any questions? Is there anyone else that wishes to speak to this?

Les Winget: I haven't had any remonstrators.

President Jerrel: Okay, hearing that--

Commissioner Mourdock: I'll move approval of VC-7-99 for 850 Volkman Road to rezone from C-4 to R-1.

President Jerrel: I'll second and call for a roll call vote since this is a final reading. Commissioner Tuley? Excuse me! Mourdock. I'm trying...well, I always do include him. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Les Winget: Okay, thank you.

President Jerrel: You're welcome.

Commissioner Mourdock: Motion to adjourn.

President Jerrel: Second.

The meeting was adjourned at 6:55 p.m.

**Vanderburgh County
Rezoning Meeting
June 21, 1999**

Page 5

Those in attendance:

Betty Lou Jerrel
Richard E. Mourdock
Joe Harrison, Jr.
Charlene Timmons
Beverly Behme
Les Shively
Les Winget
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

Betty Lou Jerrel, President

Richard E. Mourdock, Vice President

**Vanderburgh County
Rezoning Meeting
July 19, 1999**

The meeting was called to order at 6:42 p.m.

Approval of minutes

President Jerrel: We have just one item on the agenda and that is...let's see.

Joe Harrison, Jr.: Approval of the minutes.

President Jerrel: Approval of the minutes.

Commissioner Mourdock: Yeah, I'll move approval of the minutes of the June 21, 1999 meeting of the Zoning Board...or the County Commissioners' zoning meeting.

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

First reading VC-8-99 A.L. Perry

President Jerrel: We have under first readings one item and that is VC-8-99. The petitioner is A.L. Perry and it's for a request from Ag to C-2.

Commissioner Mourdock: C-2 or...?

President Jerrel: I think C-2.

Commissioner Mourdock: Okay, yeah.

President Jerrel: Is there anyone here that wishes to speak to this?

Commissioner Mourdock: On first reading then I'll approve or move to approve VC-8-99 for 11725 Petersburg Road from Ag to C-2.

President Jerrel: I'll second and say so ordered. Is there any other business to come before this Board?

Commissioner Mourdock: Motion for adjournment.

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

The meeting was adjourned at 6:44 p.m.

Those in attendance:

Bettye Lou Jerrel
Charlene Timmons

Richard E. Mourdock
Members of the media

Joe Harrison, Jr.
Others unidentified

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Richard E. Mourdock, Vice President

Recorded and transcribed by Charlene Timmons.

**Vanderburgh County
Rezoning Meeting
August 16, 1999**

The Rezoning Meeting was called to order at 6:31 p.m.

Approval of minutes

President Jerrel: I'd like to call the Rezoning Meeting to order. The first item on the agenda we're going to have to delay because Commissioner Tuley was not present for the meeting and Commissioner Mourdock is not here this evening.

Request for continuance VC-8-99 A.L. Perry

President Jerrel: The first item on the agenda is a request for a continuance. We do have some information from the petitioner. Are there...yes.

Les Shively: Madam President, members of the County Commission. I represent Mr. Al Perry regarding the rezoning request for 11725 Petersburg Road. We initially sought to change...by the way, this property is located just south and adjacent to the Hornet's Nest property. We had requested to change from AG to C-2. Incidentally, this property for years was like many properties out there, there was a business located out there, an excavating business, that kept their equipment there and the owner lived there in the residence. After talking with the neighbors and getting comments from the Plan Commission members, we have amended our request from AG to C-1 and included several more items to the Use and Development Commitment not the least of which has limited the buildings to be constructed to one story and to be constructed in a manner consistent with the design and the appearance of the residential structure, the home that will remain. I have sent a copy of all this to the neighbors, plus the three people that actually aren't adjacent neighbors but had expressed interest and were at the meeting. They've gotten copies of all this. I told them I would be here this evening, but if the continuance was granted that it would then cause it to be on the October agenda of the Planning Commission and the County Commissioners. We're still going to have probably a meeting with those folks to work out any more concerns that they have. They must have gotten my letter. That's all I got. I sent Mr. Harrison...(inaudible) sent you a copy of the letter that I sent to them so he knew that I had done that as I represented it.

Commissioner Tuley: Les, the comment here about the lighting, was that something that was a change?

Les Shively: Yes, that's in there, too.

Commissioner Tuley: That was a new change?

Les Shively: I put that...the only thing I put on the lighting is if we do have lighting, I don't know if we will have--

Commissioner Tuley: Right.

Les Shively: If we do have lighting--

Commissioner Tuley: It will be shielded?

Les Shively: --it will be shielded lighting. That's in there, too.

Commissioner Tuley: Right. Yeah, I'm reading it. I was just trying to remember which ones were new or additions that came out as a result of that.

Les Shively: You know, if it goes with the game plan we want, that is office type of stuff,--

Commissioner Tuley: Yeah.

Les Shively: I don't know how much lighting we would have other than security lighting. I don't think you're going to see that much activity at that location after hours...say after hours, evening hours.

Commissioner Tuley: Right.

Les Shively: But if there is lighting it will be shielded.

Commissioner Tuley: Okay, if there is not any more questions then I'll move for the approval of the continuance for VC-8-99.

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

Les Shively: Thank you.

First reading VC-9-99 Jerry David Enterprises, Inc.

President Jerrel: The next item on the agenda, we have seven first readings.

Commissioner Tuley: Since no one is here I'll just go right down the line here one at a time.

President Jerrel: Alright.

Commissioner Tuley: I'll move approval on first reading for VC-9-99, petitioner Jerry David Enterprises. The address 4301 Hogue Road. The request is from AG to C-4.

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

First reading VC-10-99 Paul K. Neville II

Commissioner Tuley: On first reading for VC-10-99, petitioner Paul K. Neville II. The address is 712 South Boehne Camp Road. The request is from AG to R-4. I'll move approval.

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

First reading VC-11-99 George and Penny Cissell

Commissioner Tuley: On first reading for VC-11-99, petitioner George Cissell and Penny Cissell. The address is 11401 North Green River Road. A request from M-2 and AG to M-2. I'll move approval on first reading.

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

First reading VC-12-99 Dan Buck Development, LLC

Commissioner Tuley: On VC-12-99, petitioner Dan Buck Development, LLC. The address is 11500 North Green River Road. The request is from AG to M-2. I'll move approval on first reading.

President Jerrel: Second and so ordered.

First reading VC-13-99 Mercury Investments, LLC

Commissioner Tuley: On VC-13-99, petitioner Mercury Investments, LLC. The address is 8300 East Lloyd Expressway. The request is from AG to R-4. I'll move approval on first reading.

President Jerrel: Second and so ordered.

First reading VC-14-99 Hartmann Family Land Trust

Commissioner Tuley: For VC-14-99, petitioner Hartmann Family Land Trust. The address 7730 and 7840 Virginia Street and 601, 640, 641 and 649 Circle Front Drive. The request is from C-4 to C-2. I'll move approval on first reading.

President Jerrel: Second and so ordered.

First reading VC-15-99 Jagoe Land Corporation

Commissioner Tuley: The final one, VC-15-99. The petitioner is Jagoe Land Corporation. The address is 3000 Kansas Road. The request is from AG to PUD and C-4. I'll move approval on first reading.

President Jerrel: Second and so ordered. There are no final readings. Is there a motion to adjourn?

Commissioner Tuley: So moved.

President Jerrel: And I'll second and so order.

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

Those in attendance:

Betty Lou Jerrel
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Les Shively
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

Betty Lou Jerrel, President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
September 20, 1999**

The meeting was called to order at 6:40 p.m.

Approval of minutes

President Jerrel: I'd like to call the Board of Commissioners' zoning meeting to order. The first item on the agenda is the approval of the minutes of July 19th and August 16th.

Commissioner Tuley: I will so move approval of the minutes of July 19th and August 16th.

President Jerrel: And I'll second and say so ordered. The first item on the agenda is the...okay.

Commissioner Tuley: That's what I was getting ready...I thought you said the 19th. We can't approve the 19th, I wasn't here.

President Jerrel: We can only do...but we'll leave the 16th. The 19th we'll--

Commissioner Tuley: Come back with.

President Jerrel: --come back to next time.

First reading	VC-16-99	Tim Zeller
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President Jerrel: The first item on the agenda is VC-16-99, petitioner Tim Zeller. This is a first reading.

Commissioner Tuley: First reading of this petition as just mentioned is at 5100 Upper Mount Vernon Road. The request is from R-4 to AG and I'll move approval on first reading.

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

First reading	VC-17-99	Timothy Nunning
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President Jerrel: Item two is Timothy Nunning, a first reading.

Commissioner Tuley: On VC-17-99 the address is 5300 Happe Road. The request is from AG to C-4. I'll move approval on first reading.

President Jerrel: Second and so ordered.

First reading	VC-18-99	Casey's Enterprises, LLC
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President Jerrel: Item three is VC-18-99, Casey's Enterprises.

Commissioner Tuley: Listed as VC-18-99 the address is 3100 North St. Joseph Avenue, the northwest corner of St. Joe and Allen Road. The request is from AG to C-2. I'll move approval on first reading.

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

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

President Jerrel: VC-19-99, R.E.I. Properties as item four.

Commissioner Tuley: The address 3200 North St. Joseph Avenue. The request is from AG to C-4. I'll move approval on first reading.

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

First reading VC-20-99 Timothy J. Kempf

President Jerrel: Number five, VC-20-99, petitioner Timothy Kempf.

Commissioner Tuley: Address is 6312 Petersburg Road. The request is from AG to R-3 with a Use and Development Commitment. I'll move approval on the first reading.

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

Final reading VC-12-99 Dan Buck Development, LLC

President Jerrel: We'll now go to final readings. We are going to take VC-12-99, petitioner Dan Buck Development, first because the City Council is having a meeting and they need to appear there also.

Krista Lockyear: Thank you. My name is Krista Lockyear on behalf of Buck Development.

Joe Harrison, Jr.: Can I have you hang on one second, Krista? Will anyone who wishes to speak with respect to this petition would you raise your right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Barbara Cunningham: Do you want me to do the read in or the background?

President Jerrel: Yes, please.

Barbara Cunningham: Okay. Krista Lockyear is the representative for Dan Buck Development in this petition to rezone property located at 11500 North Green River Road from Agricultural to M-2. It's a 41 plus acre site located on the south side of Boonville-New Harmony Road between Green River and Highway 57. Mann LLC, Alvin and Eleanor Mann are the current owners of the site. The northern part of this proposed M-2 site which is south of Boonville-New Harmony is located in an area designated for commercial development in the Comprehensive Plan. South of the designated commercial area industrial development is projected along the east side of Highway 57. South of the Boonville-New Harmony Road corridor Green River

Road is projected still to remain agricultural and residential. The M-2 zoning classification allows many uses incompatible adjacent to residential development. If the site is to be rezoned for industrial development any industrial use or commercial use should be adequately buffered from adjacent residential. The State of Indiana Department of Highway has notified all communities that rezoning for outdoor advertising along state highways is contrary to the intent of the Highway Beautification Act and could jeopardize local or state highway projects. A petition to rezone property to industrial along the state highway system without any proposed use at this time and with 2,227 feet of frontage along the highway could raise the question of compliance with the intent of the Highway Beautification Act. The proposed 41 acre industrial site has frontage on Highway 57, Boonville-New Harmony and Green River Road. The frontage on Highway 57 though, I think, Krista, is blocked in most part by a railroad spur, is that correct?

Krista Lockyear: Entirely correct. I'll talk about that.

Barbara Cunningham: Okay. The site has potential to generate significant traffic volumes and no information until tonight when I saw Krista's drawing has been submitted regarding the plans for the development of the site, so if industrial development of the site is to occur development plans must be designed to minimize the number of access points on Highway 57 as any access to Highway 57 would require crossing the railroad lines which runs along the east side of the highway. The projected increase in vehicular traffic generated by these new uses will require capacity, safety and/or operational improvements at the entrance to the development. An internal road network should be provided to minimize the number of curb cuts on adjacent roadways. According to the Comprehensive Plan it's essential for development proposals along major arterials to be accompanied with commitments to construct the infrastructure improvement necessary to accommodate site generated traffic. No commitments have been submitted with this rezoning petition and another question that Krista and I just talked about is I don't know, and John Stoll is not here, if the right-of-way has...if it is necessary that any right-of-way be granted for Green River Road, but that is another consideration to see if that is necessary. I'll look for that while you go ahead, Krista.

Krista Lockyear: Krista Lockyear on behalf of Buck Development. Dan Buck is seeking to meet a need in northern Vanderburgh County. This location is close to several major highway systems. It makes perfect sense for an industrial park for that reason. From the point of view of safety keeping major transportation problems out of the intercity and more congested areas of Vanderburgh County. This is along Highway 57 and we do have a conceptual plan of the subdivision that may help you visualize as I go through and I'll pass this out again reiterating this is conceptual. You can see from this plan that these are relatively small lots. They're much smaller than the anticipated Phoenix development. Therefore, it should not be in direct competition with that subdivision. These lots are designed to meet the needs of local industry with the need for distribution centers. Again, reiterating the easy access from Boonville-New Harmony out to 164 and directly there onto Highway 57. You can see down at the lower left-hand corner of the plat, Lot 22 is a triangular parcel that an agreement has been executed with one local company to purchase that acreage. They have a letter here that I will pass out to you from Indiana Southern Railroad that the railroad has agreed to allow a crossing across the railroad in the event that this property owner would utilize the railroad track spur from Indiana Southern. That location would be the only access onto Highway 57. You can see again from the conceptual plat that there would be one access on Boonville-New Harmony and one onto Green River Road with the exception that Lot 1 on the

corner of Boonville-New Harmony and Green River maybe ideally situated for a convenience store in which case access there on both corners would be anticipated. The sewer will be extended by the developer from the lift station that is, I believe, the Earle/Daylight lift station to the north of this property directly to this subdivision. That extension will benefit or could benefit property owners on the other side of Green River Road as well as property owners to the south of this property. Dan Buck is willing to make the oral commitment and offered to make written commitments, and we could certainly do so, that he will not have any billboards in this subdivision, off-premise billboards. Of course, the industries that locate here will want signage indicating what they are and what their business is. I also have for you conceptual covenants and restrictions that will be filed in connection with this development.

President Jerrel: May I ask a question? Did you...I haven't read this, but did you include that you were going to extend the sewer?

Krista Lockyear: No. They are not in there. Sewer extension would be necessary for the conceptual plan. The size of the lots as they are laid out would have to have sewers to develop and just to be a viable industrial park here that sewer extension is going to be necessary for the developer. The covenants and restrictions, I think, go to show that and especially on the first page there is a paragraph, number six, noxious activities that has quelled some of the concerns of some of the adjacent landowners that we would have a big processing plant in here that would cause difficulties and be a bad neighbor. These covenants and restrictions are designed to keep this industrial park aesthetically pleasing as well as a good neighbor to any of the residential and/or commercial/industrial neighbors. Landowners on the other side of Highway 57 have raised some concerns and we have talked to them and tried to show them, I think they probably still have some concerns, but I would like to point out that there is at least 200 foot of right-of-way between this property and their property. Highway 57 has 100 feet and Indiana Southern Railroad has an additional 100 feet. There is a heavy layer of trees that from this property you cannot see through onto Highway 57. Those trees would stay intact with the exception of where the proposed driveway onto 57 would be located on that most southern lot. This area in Vanderburgh County, again, is ideally situated for industrial development. We encourage your vote in favor of this rezoning to allow growth in northern Vanderburgh County in an area that is already serviced by an excellent roadway system. To address Barbara's concern about right-of-way on Green River Road with the subdivision plans, of course, we have to go through subdivision review and we haven't gotten into the nitty-gritty details about any of that not yet knowing where exactly the cuts will be made, but I'm certain that if right-of-way is needed to be dedicated we would do so during the subdivision process.

President Jerrel: Would you have a problem, since you've said twice that you are going to include the sewer, is that a problem just adding that in here?

Krista Lockyear: Well, it wouldn't be. It probably wouldn't be appropriate to that. That is a document that is intended to benefit the landowners of the subdivision and the neighbors, but maybe a written commitment to you as the Commissioners. We could certainly do something like that.

President Jerrel: If you wouldn't object I think that's important that we know because we've invested a lot in the sewer.

Krista Lockyear: Absolutely.

President Jerrel: And I know the lift station also and if we just had something that would be documented.

Krista Lockyear: Absolutely. I can get you something in writing as early as tomorrow morning if that's acceptable.

President Jerrel: Is that fine?

Commissioner Tuley: Yeah, that would be fine. You know, I think it's important because, you know you've got it laid out like this and if that doesn't develop and you wanted to change your mind as large as this lot is I don't think you would be required to have a sewer.

Krista Lockyear: Absolutely. Would it help, and Dan may be able to give you some of the specifics on his investment so far in looking into the sewer line and just to give you an idea that he is pretty serious about this. He has already gone through the plans and found out exactly where the lines would have to be located.

President Jerrel: Every time there is going to be a new lift we hear about it.

Krista Lockyear: Right.

President Jerrel: If you would we would appreciate it.

Krista Lockyear: Okay.

Dan Buck: My name is Dan Buck, developer of the property. The question again would be about the sewers?

Joe Harrison, Jr.: Yes.

Dan Buck: About the investment that we would put in on the sewers or the intent?

President Jerrel: Yeah.

Dan Buck: Well, the intent is to come off of the sewer line that would be extended from the pump station to the northwest corner of Boonville-New Harmony and Highway 57 that I think has already been approved to come back that way to that corner. From that aspect we probably will have about \$100,000 investment to come from that corner and put sewer. We've got to bore underneath Highway 57 and the railroad, come parallel with Boonville-New Harmony Road, come into our subdivision and lay sewer throughout so we're probably looking at \$75,000 to \$100,000 worth of investment there.

President Jerrel: You don't have a problem with just giving us something?

Dan Buck: No, don't have a problem at all. Also, I wanted to reiterate the fact that there is other M-2 property next to this piece across the street and other commercial property relative to my piece that is already there.

President Jerrel: Right.

Barbara Cunningham: Mrs. Jerrel, when this is given and they do come in for industrial use or commercial use they probably are going to be asked to do a traffic

impact study and possibly would be requested to do some traffic improvements as that goes forward. By Krista's look that seems to be okay.

Krista Lockyear: Yeah, anything that...I mean, we recognize that there are quite a few more steps that would need to be taken at the subdivision time and we have no problem with addressing any traffic, sewer, safety, etc., concerns that happen to come up at Site Review.

President Jerrel: Is there anyone else that would like to speak to this issue? Yes, ma'am. If you'll step up and give your name and your address please.

Carol Bengert: My name is Carol Bengert. I live at 11646 Highway 57. My main concerns are safety. The intersection at Boonville-New Harmony and Highway 57 is an already overburdened intersection. There are numerous serious accidents at that intersection. To add to that burden at this point there are also just within a mile straight down Boonville-New Harmony Road three subdivisions. Two of them have 85 plus houses and the other one is being laid out, I don't know. All that traffic will be an added burden onto an already dangerous intersection. Then the other concern is that cutting a road across the railroad tracks. As you're coming down the hill there are already people at the top of the hill that are passing. It's already like a two lane highway coming down over the hill, so now we're going to add another road going over a railroad track that would also hinder the flow of the traffic in that area. Also, if they get permission and do put this street, road, whatever, across the railroad tracks then who is expected to pick up the financial end of putting barriers and lights? We had to have both intersections because there have been serious train and car accidents, so there would need to be lights and barriers there. I think that should be up to the developer if this thing passes. My concern is how much traffic can that intersection handle? It's not doing very well right now.

President Jerrel: Barbara, I have a couple of questions. When you go across 57 don't you have to deal with the state?

Barbara Cunningham: Yes.

Commissioner Tuley: Yes.

Barbara Cunningham: Yes, 57 would be state.

President Jerrel: So that would have to come from the Indiana Department of Transportation. As far as the road at the intersection of Boonville-New Harmony that is a state issue also. I have spoken to them about that because I agree that we need to perhaps widen that intersection and it is partly county responsibility and part state. We've been talking to them because we're trying to stay abreast of what is going on even though you can't...it's all moving so fast you can't keep up with it, but I agree that we need to do something to that intersection. Regardless of what happens it's needed and we've initiated some discussion already.

Barbara Cunningham: Isn't there a light, I was just trying to think?

President Jerrel: Yes, but it's not a...it just flashes.

Barbara Cunningham: Just flashes. That might be something. I'm thinking the state highway...like Gene Hahn put in that light out at Red Bank.

President Jerrel: I think that is something that we need to talk to the state about because we could improve the intersection and we're doing that elsewhere. We're doing that at Mt. Pleasant and 41 and making it...it goes right over a railroad track, but we need to keep the safety in mind and I think that's something we need to initiate.

Carol Bengert: I lost my train of thought.

President Jerrel: I'm sorry.

Carol Bengert: That's okay. But you can see where there would be even with all these other houses and a major concern Boonville-New Harmony Road needs to be lined up square with the highway. I think that's one of the blind spots is the intersection as you come up Boonville-New Harmony Road because there is a slight curve there and also the highway curves. So that adds to the problem of the traffic. I've lived there 30 years and I will not even use that intersection unless I positively have to. The other thing I wanted to say is about the sewer. The placement of the sewer will have no benefit to the 17 families that live on the opposite side of the street. I talked...my neighbor works for the state and he said because of the placement of the sewers that these 17 homes still would not have access to the sewers.

President Jerrel: Let me ask you a question. You know what I am going to ask?

Joe Harrison, Jr.: Probably. I think I know what you're going to ask. You're going to ask about--

President Jerrel: The Barrett Law.

Joe Harrison, Jr.: They've probably checked on that before. The county is not in the sewer business.

Carol Bengert: Right.

Joe Harrison, Jr.: Like the city. However, residents who wish to get into a sewer that may be extended out in your area, which is going to happen or is happening, there is a means to alleviate the cost up front to tap-in by taking advantage of what is called the Barrett Law. It's a statute that would enable a number of homeowners to possibly tap-in and pay over a period of time for that convenience if that is something you want to look at.

Carol Bengert: We have investigated that and since there is only 17 homes and not all 17 of them agreed to tap-in because they wanted \$20,000 per household. That's an exorbitant amount for a tap-in.

Joe Harrison, Jr.: Does a lift station have to be built?

Carol Bengert: Yes, yes.

Joe Harrison, Jr.: Okay. Because otherwise that would seem kind of out of whack.

Carol Bengert: Right, but that's a point.

Joe Harrison, Jr.: And Mr. Buck may want to...he may have some info. Maybe it has

changed with what they want to be doing out there, the parameters may change in the future that may make it a little less expensive to tap-in. It's possible that as time goes on that cost may go down. Mr. Buck may have some knowledge of that, but still I'm sure there would have to be an expenditure of some major proportion but it may not be quite that much.

Carol Bengert: Twenty thousand was a little bit much.

Joe Harrison, Jr.: I understand.

President Jerrel: Did they usually...haven't they been running \$5,000 or \$6,000.

Joe Harrison, Jr.: Again, \$20,000 is because of a lift station or some other--

Commissioner Tuley: (Inaudible.)

Joe Harrison, Jr.: Yes. But, again, there may be some things coming down the pike that may enable that to be done at a cheaper cost. That's going on all over the county where a few years ago the cost would be a lot more, but as time goes on and more development and more sewer lines and lift stations come in in different areas the cost to tap-in could be a lot less.

Carol Bengert: Okay, this was less than a year ago that we looked into it.

Joe Harrison, Jr.: It could very well be that it is still the same amount or it could be less, but you might want to check again. Times change.

Carol Bengert: I wanted to know what type of business was going to go in across the street. I heard Ms. Lockyear say that there would be nothing obnoxious. That's what I was concerned about, the odor. You know, what is going in? I think the residents along there have a right to know if it's something that's going to leak or smell or whatever.

President Jerrel: Perhaps Mr. Buck can speak to that.

Carol Bengert: Okay.

Dan Buck: Dan Buck again. Can I just walk up and show you?

President Jerrel: Sure.

Dan Buck: Right here is the Daylight Farm Supply property.

Commissioner Tuley: Right.

Dan Buck: And the lift station is down here approximately a quarter of a mile. Now, either at my expense or at the county's expense this sewer will be brought from the lift station which is already being installed, okay, to this corner, so there is some benefit for these individuals along here whether I put it in or somebody else does. Now sewers, they are gravity, because this sewer the way I understand it is going to go up here and into these subdivisions at Boonville-New Harmony Road and then I bore underneath here, take it here and then bring it over in back. Now the reason why I can't go this way is the grade elevation--

Commissioner Tuley: Goes too high.

Dan Buck: --goes too high, so if I take the sewer this way I've got to be 20 to 25 foot deep here at this point to make sure that when I get it to here it's going to (inaudible).

Commissioner Tuley: Right.

Dan Buck: So that's the reason why we're coming this way and down because this is my low point.

President Jerrel: What about Mrs. Bengert's question about what is going in here?

Joe Harrison, Jr.: You might want to go out there.

President Jerrel: Yeah.

Dan Buck: I will say that I am giving him an easement for a sewer, but he doesn't...my agreement is with him if he wants the sewer he has to run the sewers to me.

Joe Harrison, Jr.: Who is him?

Dan Buck: Jeff Kahre is his name.

Commissioner Tuley: Okay. North American Structure?

Dan Buck: North American Structure.

Joe Harrison, Jr.: You might want to just--

Dan Buck: The user on Lot 22 is North American Structure. They are already located within a half mile of this piece of property. It's a truss manufacturing company so all they do is bring in lumber, configure it in to make roof trusses, floor trusses and ship it right back out. So they're already, like I said, they're already there within a half mile of this piece. They want to expand. They want the capability of railroad to buy lumber.

President Jerrel: It will be a woodworking business. Is there someone else? Sure.

Carol Bengert: One thing. I wondered if you could consider this as commercial property rather than industrial. It's farmland now, but commercial would go down a whole lot easier than an industrial park.

President Jerrel: What about the...for instance on the person, the Kahres, that want to lease 22 they would...would that have to be M-2 for them to be able to perform?

Dan Buck: I don't know about them having to be M-2, but we have been negotiating with other potential clients already that need to be M-2. Again, this individual is not a factory, but a transfer trucking station. At this point in time I don't have anything in writing on the agreement, so I don't want to say who they are, but they want seven acres. That's the reason for the M-2 because I think we need that for the trucking, to be a transfer station for trucking. It would be a freight terminal is what it is for them to come in. They're a national company. They want to locate along I-164 and 64. In turn, they bring their semis in, unload into a warehouse, redistribute back out

into other semis and reship back out. That facility alone, the building is around one million three quarters which I would own and lease to them. So we're talking a significant amount of investments up there which means significant amount of tax revenue. Also, on the commercial aspect of it there is more traffic on commercial then there is on industrial. People come in and they work, and yes there is deliveries coming in and going back out, but there is not people coming in 24 hours a day buying stuff out of retail.

President Jerrel: Want to give someone else and then you can respond. Please come up.

Dave Stuckey: Hi. I'm Dave Stuckey. I live at 5105 East Boonville-New Harmony Road. I have several issues with this. Carol's comment regarding traffic. That is one of the worst intersections in the area and just south of there is another one of the worst ones at Boonville-New Harmony Road and Green River Road. Every few weeks or so a serious accident there. I don't know if we need more lights or what, but it is a real problem. You addressed the long-range planning earlier in your comments. I ask if you have long-range planning for the drainage in the area also as part of the long...there are a lot of issues here that affect my family and I and the neighbors. Traffic is one, a big one. The noise pollution is another. Especially increased freight traffic like he is talking about. I ask if you consider brownfield development versus taking agricultural land out of production. We're not making any more agricultural land. There is very limited areas now where farmers can get to now. We've got blacktop all over the place. One important reason for that is soil and water runoff. To me that's the most critical issue here. We've got a lot of development. You named the subdivisions further up Boonville-New Harmony Road. They're all going to provide a lot of runoff to Schlensker Ditch which is vastly undersized. It can't take the drainage now. Those are going to have to be addressed. I'm not sure what the storm water ordinances are. If they require 50 percent containment or what, but it is a very serious issue and we have problems now and it's not going to get better.

Commissioner Tuley: Just they will need drainage approval and I think the current ordinance reads that the storm water runoff after development must not be at a greater capacity or greater flow than what it currently is undeveloped. Does that sound right to you, Dan?

Dan Buck: Yes.

Chris Weil: Actually it's compared to a 25 year storm (inaudible comments made from audience).

Commissioner Tuley: You're actually holding it back after development greater than what it was before development?

Chris Weil: (Inaudible comments made from audience.)

Dave Stuckey: How are you going to do that?

Chris Weil: Detention basins.

Commissioner Tuley: They'll submit a plan and it will be reviewed by the Surveyor's Office. It will come in and they'll either say it meets the ordinance and they give approval or it doesn't meet the ordinance and therefore they won't give them

approval.

President Jerrel: And, you know, you would be I'm sure not only would you be notified but you would want to look at it because right now it's just a concept. It's when an actual site plan is developed and drainage has to be absolute in what it is going to achieve. That's when you need to see the plans meet what the rules and the current ordinances call for. Right now it's just, as I said, it's concept more than anything else.

Dave Stuckey: Well, as I said, the issue is a problem now. While I'm here I would like to ask you what can be done to improve that drainage? If it's not a public drain who do we go to?

Joe Harrison, Jr.: It depends on where the...yeah, if it's on public property if there is a drainage issue involved and it's in right-of-way obviously it's up to the county if it is in county right-of-way. If it's state right-of-way it's the State of Indiana. If it's on private property it is the private property owners. You mentioned erosion control. Any plan that's to be contemplated out there is going to also have to comply with Rule 5, a state requirement regarding erosion control and runoff. That will also be reviewed locally as well as by the state concerning any development that is contemplated. Drainage will have to go to the Drainage Board with regard to the plans that are going to come down the road. In addition, I guess it's going to go to Area Plan for subdivision.

Barbara Cunningham: The drainage plans come in before subdivision (inaudible, mike not on). We don't even look at them until the drainage is done, so those subdivisions that you say should be causing problems shouldn't be because they should have been reviewed in the overall complete drainage basin. You know, I'm not sure. Are these preexisting drainage problems that you have?

Dave Stuckey: Yes.

Barbara Cunningham: Well, you know, if they are preexisting and they are caused by the area, perhaps your area or your subdivision or something caused that. I don't know if they can correct what is caused there.

Dave Stuckey: No, I don't think they caused them.

Commissioner Tuley: Just the lay of the land.

Dave Stuckey: Just an undersized drain. It's the way the ditch is configured. You've got curves on it, it's narrow. Under I-164 it's very narrow.

Joe Harrison, Jr.: Well, what you may want to do is you may want to send a letter to the Commissioners and let them investigate if any of those areas that you're referring to are in county right-of-way and let them look at that. We can refer it to the Surveyor as well for his review, but certainly some of the things that are going to be coming up down the road may have some impact or may not have any impact on what you're talking about, but certainly the conditions that are out there now if you believe they involve the county why don't you set forth that information and send it to us and we'll get back to you.

Dave Stuckey: And if it is all private is there no--

Joe Harrison, Jr.: Well, if it is all private then you need to get with your neighbors and maybe see if there is something that can be worked out. The Surveyor's Office may be able to suggest some things that may alleviate the problems that you are currently experiencing.

Barbara Cunningham: (Inaudible comments, mike not on.)

Commissioner Tuley: The other thing too that you could be talking to when you talk to the Surveyor's Office is ask them of the feasibility of a need to make this an impacted area. We've done that along 41 where there is a severe drainage problem. We called that an impacted area and acted under the authority of this Board to do that and therefore there are even greater restrictions put on future developments to control that water.

President Jerrel: I'm going to give you a couple of names. You might want to call them. They're very helpful in making suggestions. As Mrs. Cunningham said it may very well be some things that have happened that over the years it could be corrected. In other words, they could be corrected by reestablishing if there was a natural drain. Sometimes it just takes a little goodwill among neighbors, but if there is no goodwill and somebody is causing it we do have a law on the books that permits the neighbor to insist that the other neighbor, if they are obstructing a natural drain, to come before us and they can be ordered to correct it.

Dave Stuckey: I don't think that's the case. It's just a narrow waterway.

President Jerrel: Yeah.

Dave Stuckey: It has probably always been narrow. It's just receiving more runoff than it can take.

Commissioner Tuley: There is a legal drain behind it.

Dave Stuckey: I know there is a lot of money out there now for it, you know. It's pretty dry out there now you don't realize the potential problems, but I know that money is being devoted to storm water runoff in the city and I assume in the county also. It's out there and available. Is that the public domain property only?

President Jerrel: Well, I think what Mr. Harrison was saying is you need to call this gentleman and then if there are problems associated with ours, any drainage that we're responsible for, and maybe there is a problem. You know, sometimes things like that happen and it isn't constantly observed as it worsens and there may be something we need to do, but if you'll give him a call then maybe you can--

Commissioner Tuley: Did you give him the Surveyor's name?

President Jerrel: Uh-huh.

Dave Stuckey: A few more things, take your time, the trash and littering that's a problem. I assume it won't get better also. I have to admit we called. We had some folks dumping and we called the County Garage and they came out the next day and took care of it which was really nice. We have to go out and pick the trash up weekly and I can't help but think with increased traffic it's going to get only worse. The covenants that Mr. Buck has proposed, who is going to be responsible for enforcing those?

Joe Harrison, Jr.: You.

Commissioner Tuley: Do you have a copy of them?

Joe Harrison, Jr.: Whoever they run in favor of. It's the homeowners, so they will have to comply and if they don't comply and you're a homeowner that is benefitted by those covenants then you can try to get them enforced either by discussing it with them or go to court.

Chris Weil: Chris Weil, I'm the engineering with Buck Development. I just wanted to, I guess, let Mr. Stuckey know we discussed up here about the Drainage Board. Those hearings are public meetings and you can come back.

Commissioner Tuley: Yeah, I wanted to make sure, I thought I heard you say they aren't.

Chris Weil: They are. They are public meetings and you can come.

Commissioner Tuley: Did I say they weren't?

President Jerrel: No.

Chris Weil: They can come and voice their opinions then and discuss any potential problems with drainage then.

Commissioner Tuley: The point is I think though are you required to give notice to abutting landowners--

Chris Weil: Yes.

Commissioner Tuley: --for Drainage Board as well?

Chris Weil: That's correct.

President Jerrel: The homeowners or the neighboring landowners will be notified because you have a say in everything as we proceed. The nice thing about working together is that you'll get some of the things you want done and the developer in turn wants to have you satisfied with what is coming out there so sometimes agreements are reached that wouldn't happen if this was all done at one meeting. Is there anyone else that would like...yes, sir.

Paul Joiner: My name is Paul Joiner. I live on land across the street from this proposed development. I want to digress for a minute and talk about this drainage problem just a little bit. What constitutes a legal drain?

Barbara Cunningham: (Inaudible, mike not on.)

Joe Harrison, Jr.: Well, it just depends. If it's a drain that has been established by the residents in that area or by the county and it's maintained by the county.

Commissioner Tuley: It's maintained by the county at the taxpayer's expense.

Joe Harrison, Jr.: Yes, yes. Through an assessment.

Paul Joiner: This ditch in question, and I'm familiar with Mr. Stuckey's property, he abuts my property and this ditch that is between our two properties is--

Joe Harrison, Jr.: Sir, you're not talking about Schlensker Ditch?

Paul Joiner: Schlensker Ditch.

Joe Harrison, Jr.: Okay.

Paul Joiner: It's a very large ditch between our property. It's on downstream that it, I think, bottles up possibly. That ditch was relocated at some point. I doubt very much if the homeowners did that.

Commissioner Tuley: No, I think...the reason I was asking about Schlensker is I think Schlensker is a legal drain.

President Jerrel: Yeah.

Joe Harrison, Jr.: Sure it is.

Commissioner Tuley: I think you probably receive an assessment on it each year don't you?

Paul Joiner: (Inaudible) on my assessment. But I would question it being a private ditch.

Commissioner Tuley: No, if it is Schlensker I am sure it's not.

Barbara Cunningham: (Inaudible, mike not on.)

Jack Tubbs: Jack Tubbs. We looked into this at one time. Schlensker, if I remember, and Bill Jeffers needs to verify this, from about a half mile north of where it intersects the Big Bluegrass Creek, so if you try to correlate that with the roads out there it's not quite to Boonville-New Harmony as you come from the south to the north.

Joe Harrison, Jr.: So what you're saying is it stops?

Jack Tubbs: The legal drain status of Schlensker Ditch--

Joe Harrison, Jr.: Stops.

Jack Tubbs: --stops before it hits Boonville-New Harmony.

Joe Harrison, Jr.: So it's not a legal drain beyond that?

Jack Tubbs: There is not a legal drain beyond that from that point north of Browning Road where the watershed (inaudible).

Paul Joiner: If I interpret what he is saying my north property line is Boonville-New Harmony Road. The ditch behind that severs my property is probably 30 feet wide and 20 feet deep. That's a pretty good sized private ditch. That portion of that ditch has been straightened out. At one time it meandered. I have about seven acres that lays behind the ditch. At one time that ditch meandered through that seven

acres and then came back out. Someone has straightened that ditch out. Like I say, I doubt very much that was a property owner project.

President Jerrel: Right.

Paul Joiner: If any part of that is a legal drain I would think certainly that part up to Boonville-New Harmony Road which is the access to I-164.

President Jerrel: You know, that's a good point that we need to consider because if it stops in terms of being certified as a legal drain that might be another issue that we need to consider is extending it, but we would have to get the property owners and they would have to be involved in that, but what we do is yearly take bids on having the ditches cleaned. If it isn't a legal drain then it isn't cleaned.

Paul Joiner: When we have a hard rain the water in the ditch behind my house moves very slowly. I mean, it's full, but very little current because it can't get out somewhere down the road.

President Jerrel: It's bottled up. It might be worth--

Commissioner Tuley: It would be worth investigating.

Paul Joiner: As to this proposed zoning, I need to register my position as being against it. Like I say, I live across the road, across Green River Road, from this proposed zoning. I was totally surprised, that isn't a strong enough word, that the Plan Commission approved or sent down at least a recommendation to rezone this property. The study that the planning staff does certainly didn't sound like it would get approved a couple of weeks ago. Their Comprehensive Plan shows this property as proposed residential and commercial property. If I am wrong please correct me. All the--

Barbara Cunningham: (Inaudible, mike not on.)

Paul Joiner: Yeah, there is some industrial out there, but I see this...first, I don't see it really being needed. I don't have the wisdom possibly, but we have all kinds of land up the road, up 57, that I haven't heard of any big purchases up there. I think that's something that came through the Plan Commission, City Council, maybe last year. All that land is laying up there so I guess I question the need for this development. The traffic certainly is going to be a problem. Green River Road carries a tremendous amount of traffic now. It's mostly cars. The limited amount of truck traffic down through (inaudible) and last summer they were hauling dirt out of a farm down about Kansas Road, but these big trucks rolling up that road, I mean, they start putting the brakes on half a mile before they hit that intersection. It was a dangerous thing. The County Sheriff they were out there all summer long trying to control the traffic. It's a narrow road. There has been several deaths on that road since I've been there a short time, what four or five years.

President Jerrel: I don't think--

Paul Joiner: One right on the corner and one of your cohorts was killed there. It's a dangerous area. I'm not really enthused when I hear Dan Buck talk about a cartage terminal. I own some apartments over here on Kratzville Road and there is a cartage terminal across from me and those trucks bang each other all night long backing in and loading and hooking up. It's a noise pollution, it will be. Commercial,

I can see commercial. I expected commercial. I've got some of my property is zoned commercial. I didn't zone it that way, but it was zoned that way when I bought it. I could see commercial out there, but I think industrial, M-2, is just really...it's almost a crime for that to happen. I would appeal to you not to approve this at least at this time. That's all I have. Thank you.

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

Krista Lockyear: I apologize for bailing out for a few minutes. We had a couple of matters pending at City Council as well. To address some of the points that certainly bear merit and to maybe explain why this rezoning is appropriate for this property, several of the remonstrators raised the issue that this would be okay for commercial rezoning. Commercial rezoning would generate...most likely generate more traffic than industrial. Residential would probably generate more traffic than this industrial development. In addition, this is not spot zoning. There is industrial immediately adjacent. The Daylight Farm Supply which most likely stores chemicals that not many businesses really want to be in close contact with. This is a wide open area and it is ideal for industrial development because of that reason. You can see from the pictures that we submitted there aren't many residences that are even within eyesight of this property. Mr. Joiner is across the street, across Green River Road, and he certainly can see this property. The residences that are on the other side of Boonville-New Harmony absolutely cannot see this property through the tree line. I know that you've addressed the fact that drainage will come up again and there are appropriate forums, so I will not go into that, but again I would like to reiterate that allowing an industrial development in this area keeps the high traffic trucks, those types of equipment that you don't want in heavily populated commercial and residential areas on the outskirts of the county and for that reason in addition to the location next to the major highway systems this is a wonderful rezoning and we request your approval.

President Jerrel: Yes.

Unidentified: May I rebut one statement?

President Jerrel: Sure come on up to the mike.

Paul Joiner: I'm Paul Joiner at 11715 North Green River Road. I am not the only person that can see this development. There is probably 20 houses. Have any of you folks been out there? There are numerous houses down Green River Road. Some of them can look out their kitchen window and see this development, so I'm not the only person and there are several people here tonight I feel like my neighbors that are not in favor of this and they are not speaking out on it. I don't know, is it out of hand to see if we have any support for this in the neighborhood? Is that unrealistic?

President Jerrel: That's fine. Is there anyone else here that supports Mr. Joiner but doesn't wish to speak?

Bill Young: My name is Bill Young. I live at 12305 North Green River Road. Mr. Joiner has pretty well expressed all of my sentiments. The only thing I would like to say is if you look at the big picture out there, okay, and you let this M-2 go in it looks like you got spot zoning. I don't know. In other words, you approve these subdivisions on Boonville-New Harmony Road just to the west of this area. There are a lot of nice homes down Green River Road south of Mr. Joiner's house. You

know, I really question the wisdom of putting an industrial park in this area. If we needed...if there was a great need for this I could see, but like Paul reiterated, up 57 there is quite a large area of industrial ground there that was tried to be developed and nobody ever bought any of it or anything. You know, I don't really see a need, so I guess at this point I would like to raise my objection to it.

President Jerrel: Thank you. Is there anyone else that would like to speak? Yes, ma'am.

Carol Bengert: Carol Bengert. I would like to ask if there is going to be an access road along the property before you enter into the industrial park?

Commissioner Tuley: She is talking about a decel/excel lane.

Carol Bengert: A decel or what is that one called? Access deceleration?

Krista Lockyear: For the property, the six acres, Lot 22, the furthest south which I believe may be closest to your property with one user at this point excel and decel will probably not be necessary. Again, that will be up to State of Indiana approval, of course, and if excel/decel is required we have the frontage there that could be dedicated. As far as the Boonville-New Harmony/Green River entrance and exits go, you know, at this time again because we don't have the subdivision plans finalized we cannot say that there will or will not be, but depending on the usage and depending on what the traffic study requires that could certainly be a possibility.

Carol Bengert: With the implementation of the access deceleration lane that would then take out a swath of trees and then the whole park would be visible. You would have to cut down the trees for the deceleration lanes. Also you're going to cut down trees just to put the road in.

Krista Lockyear: If I could explain this--

President Jerrel: Would you want to let her...did you show her a map, so she could have a map?

Carol Bengert: I live there. I know this.

Krista Lockyear: Along Highway 57 where the excel/decel would be created would be adjacent to the Indiana Southern Railroad property. The tree line is behind the Indiana Southern Railroad property, not immediately adjacent to Highway 57 so the trees would not need to be cut down for excel/decel except immediately where that driveway would cross Highway 57.

President Jerrel: Could you all wait just one second. This is part of this. We keep verbatim minutes and Charlene is afraid that you're not on, that mike. I'm going to move this up here so we can get everybody on. I'm afraid we're not getting it. She is trying to take notes, but I want to make sure that we get this.

Joe Harrison, Jr.: I'm trying to figure out what you're doing.

President Jerrel: Well, actually I'm going to turn whoever this is around like this and they can speak to both groups.

Commissioner Tuley: Are you sure you want them that close?

President Jerrel: Yeah. Because I know she isn't going to find what she is looking for and this way she can get you. Okay, Carol come on up. You can just stand there if you want to or whatever, but you'll be picked up by all of these.

Carol Bengert: Well, that's about all. I was concerned about the trees and the neighbors having to view an industrial park. I cannot see how the trees will remain there if another lane is put in. Also, when you remove the trees you have more drainage problems, too.

President Jerrel: Well, all those issues that relate to the drainage as well as the access will be addressed as this moves through the other stages. If this passes, which it was approved at Area Plan.

Barbara Cunningham: No action.

President Jerrel: Oh, no action, I'm sorry. That was 6-4?

Commissioner Tuley: Seven votes and it only got six. Six, two and one.

President Jerrel: Okay, but as far as moving it has to go through all the other hoops that exist and you would be part of that decision making process. You think you're getting this now? I hope so. Okay, is there anyone else? Do you have any questions, Commissioner Tuley?

Commissioner Tuley: No. For the purposes of bringing it to a vote I would move at this time that VC-12-99 move for approval.

President Jerrel: And I'll vote second. I mean, I will second that motion and call for a roll call vote. Commissioner Tuley?

Commissioner Tuley: These are the kind I hate because you try to weigh the good of the community as a whole in terms of development and what have you and you also try to take into consideration the neighbors who are most affected by it. However, at this intersection of Highway 57, Boonville-New Harmony, Green River Road and access to 164 this is what we're going to end up with and I think the argument that it will create traffic and more problems is legitimate but on the other hand the same people that are saying that are saying they would rather have it commercial which I think would be far worse in terms of traffic generation. I'm going to vote yes.

President Jerrel: I want to tell the neighbors that I was very sincere about that intersection improvement and I'm going to support the rezoning, but we are going to make improvements. We're making them at Mt. Pleasant and 41 and we are examining doing the same thing here because that's what our job is to make those intersections better and to prepare for improvements that happen in areas. I would expect all of you to be back to make sure you're satisfied with the drainage plans. I would expect all of you to be back to make sure...what is the next step, Barbara?

Barbara Cunningham: Subdivision filing and drainage plans and then Site Review.

President Jerrel: Because you're going to be the neighbors that are going to have to live with this and it needs to be what you want and I think Mr. Buck is sincere in his efforts to help make this a workable arrangement for the neighbors. That means leaving the trees up. That motion has passed.

Final reading	VC-10-99	Paul Neville, II
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President Jerrel: We're ready to move onto Mr. Neville.

Barbara Cunningham: Les Shively is the representative for petitioner Paul Neville and owners Interprop Fund in this request for rezoning their property located at 712 South Boehne Camp Road from Agricultural to R-4. This petition is actually two separate parcels, a 2.12 acre parcel and a 1.27 acre parcel located on the east side of Boehne Camp between Lloyd and Middle Mt. Vernon. The Comprehensive Plan Future Land Use Map indicates that the south side of Lloyd is projected to be an expansion of the existing commercial strip development west to approximately Boehne Camp Road and the undeveloped acreage between Red Bank and Boehne Camp was rezoned to allow a shopping center development in 1971 and is currently being developed as a multi lot commercial development called Eagle Plaza. The 22 acre site rezoned to R-4 for an apartment complex is adjacent south of the C-4 so what they're doing tonight is a proposal to add 3.39 additional acres south of the existing R-4 making the project the size of 25.5. The Comprehensive Plan recognizes that multi family is an acceptable buffer use between commercial and single family residential. John Stoll states and I think Les agrees, and Mr. Neville, that when the property is developed it is requested that the access to the site is from Dugan Trail instead of Boehne Camp Road. If possible...if there is going to be possible future development then I think John and Site Review will look at some other access drives and a sight distance study might be done at that time. It's my understanding that all they're going to do...this development is going to come in from Dugan Drive now. We don't have any information, I don't think, on the number of units and they're not going to use Boehne Camp Road so they don't need to be looking toward improvements until such time as they might want to.

Joe Harrison, Jr.: All those who wish to speak concerning VC-10-99 please raise their hand, their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Les Shively: For the record, my name is Les Shively representing Paul Neville, II. Mr. Neville is ill this evening and apologizes for not being here. Very briefly, we are simply adding to a parcel that we've already rezoned for multi family. I forget what we disclosed at that time, the number of units, but it won't...as you can see by the map the area in orange is what we're rezoning. We're not changing the unit mix. We're not changing the layout at all. An opportunity...basically, we had to get some more land to do this project because Mr. Hahn and his development needed some of our land for some more commercial work. That's why we acquired this other land. Unfortunately we had to acquire...you see some of the area we're acquiring the rezoning does not show buildings on it, but that's the way we had to buy it and the seller controlled that situation. We also had likewise with the part there in the lower southeast corner which we will probably do nothing with, but it's all part of the same legal description and for simplicity purposes we want to bring it together as one description under one classification which is really necessary to do when you are seeking financing and title insurance. If you break it up and have different classifications it is a lot more costly and more cumbersome to do so that's why we're doing this. It doesn't change our plan at all from what we showed you a year ago

and we are in complete agreement with Mr. Stoll and we'll follow his recommendations. This was approved unanimously by those members present at the last Plan Commission meeting.

President Jerrel: Is there anyone here again that wishes to speak to this? Commissioner Tuley, do you have any questions?

Commissioner Tuley: No, there was a representative from the West Side Improvement at the Area Plan Commission, but they have met with the developer and I don't think they have...I know they didn't have a comment at the Area Plan meeting. I think they're in agreement with what they're trying to do here. Having said that, then if there is nobody else to speak I'll move for approval of VC-10-99.

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

Commissioner Tuley: Yes.

President Jerrel: And I vote yes.

Final reading	VC-14-99	Hartmann Family Land Trust
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Les Shively: Madam President, Mr. Tuley, I have one other matter that is in a similar situation in terms of how it was treated at the Plan Commission. I was supposed to be at a meeting that starts at 8:00 on the far west side.

President Jerrel: You mean the Hartmann?

Les Shively: Yes, ma'am.

President Jerrel: Alright, go ahead.

Barbara Cunningham: (Inaudible, mike not on) Hartmann Family Land Trust in this petition to down zone the property at 7730, 7840 Virginia and 601, 640, 641 and 649 Circle Front Drive. It's a four and a half acre site located north of Virginia Street adjacent with I-164. This is a change in zoning from C-4 to C-2 for the stated proposed 208 unit apartment complex (inaudible, mike not on). This site consists of all six platted lots within the new platted lot (inaudible, mike not on). Future access to Burkhardt will be provided to the almost completed extension of Virginia Street. (Inaudible, mike not on) in an area designated as commercial. It's a down zoning from C-4 to C-2 and it passed the Plan Commission.

President Jerrel: Is there anyone that wishes to speak to this rezoning?

Joe Harrison, Jr.: All those who do wish to speak please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Les Shively: Again, my name for the record is Les Shively. I'm representing Hartmann Family Land Trust and S.C. Bodner Company out of Indianapolis. This is going to be a low density 208 apartment complex. It shows 4.5 acres. Actually

this is more like just shy of 15 acres. I'll show you a couple of photographs of the South Bend and Indianapolis projects of the Bodner Company that are under construction right now. This was approved unanimously by the Plan Commission members present. Two things I would add, number one after land acquisition it will be about a \$15 million plus project. We will commence construction this year and have it completed sometime in the year 2000 and we will be donating land for the Greenway that Mr. Bodner considers to be an enhancement and an amenity for his project so it's a win-win for everybody. I'm more than happy to answer any questions you have.

Barbara Cunningham: (Inaudible.)

Les Shively: All those lots, yeah. All those lots added together.

President Jerrel: Since there is no one here to speak do you have any questions, Commissioner Tuley?

Commissioner Tuley: No. Again, at the Area Plan Commission there was not a single person that spoke out against this proposal. At this time then if there is no one else here then I will move for approval of VC-14-99.

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

Commissioner Tuley: Yes.

President Jerrel: And I vote yes.

Les Shively: Thank you. Thank you very much. I appreciate it.

Final reading	VC-11-99	George and Penny Cissell
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Barbara Cunningham: Are you ready for the next one?

President Jerrel: The next item on the agenda is VC-11-99.

Barbara Cunningham: The petitioners George and Penny Cissell are requesting a change in zoning from Agricultural to M-2 for the property located at 11401 North Green River Road directly across from Dan Buck, where he is going to bring the sewer. This is a 12.7 acre site located east of Green River Road south of Boonville-New Harmony Road. The current owner is Bill Cissell. In 1987 Mr. Cissell petitioned to rezone this 12.7 acre from Agricultural to M-2. The 1987 petition was amended to rezone only the west half of the site fronting on Green River Road. This petition seeks to rezone the remaining half that was dropped at that time of the site to M-2. The applicants have filed a plat for a proposed new subdivision, Amber Subdivision, for this site. It's a three lot industrial subdivision which provides a new street for access to the rear of the site. Access to the site should be limited to a single access point, which would be the road, with each lot accessing only the interior road. The subdivision plat was continued and has still been continued, is that right, to the October meeting, Bill?

Bill Cissell: Bill Cissell, the owner on the property at Green River Road. I was talking to Beverly and we're going to pull that petition for that subdivision.

Barbara Cunningham: You're going to pull it, what's that mean?

Bill Cissell: We're going to amend it. We're not going to do it.

Barbara Cunningham: Okay. Due to the absence of sewers in the existing agricultural land in the area the Comprehensive Plan designates this area to remain residential and agricultural. Approximately half of this 12 acre site is already zoned M-2 and the site is served by septic and lies within the floodplain. The Comprehensive Plan encourages development in those areas that are best suited by virtue of their location, availability and adequacy of public facilities, service and utilities. All utilities are available to your site except sewer.

Bill Cissell: That's correct.

Barbara Cunningham: And the site is served by a septic system. I guess you're going to address if you're going to get sewer tonight?

Bill Cissell: That's right.

Barbara Cunningham: Okay, commercial development should be served by sewer and commitments have not been made for the infrastructure improvements.

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

Response: I do.

Joe Harrison, Jr.: Thank you.

Bill Cissell: Bill Cissell, the owner on Green River Road. I would like to rezone the rest of my property to bring it all to the same zoning and in the event that the sewers are extended out there then at that time we will approach for redoing our subdivision out there, but at this time we just would like to get the property rezoned all to the same zoning.

President Jerrel: May I ask a question?

Bill Cissell: Yes.

President Jerrel: When...in other words, the sewer...you know, we're not in the sewer business.

Bill Cissell: Right.

President Jerrel: So you're going to...are you going to try to bring the sewer to your property?

Bill Cissell: Yes, ma'am.

President Jerrel: Okay. And did you put that in writing anywhere?

Bill Cissell: I haven't yet, no, but I will. We will get you a letter to that effect.

President Jerrel: Okay. It's just that it makes it easier to conceptualize what is going to happen next if we know that is going to be accomplished.

Bill Cissell: Okay.

Commissioner Tuley: Are you going to try to tie in with Dan Buck?

Bill Cissell: Yes, we have been working with them.

Commissioner Tuley: You've been working with Mr. Buck then?

President Jerrel: Is there anyone that would like to speak to this issue? Yes, ma'am. Come up please. If you don't mind coming around. We've lost the microphone. If you could kind of stand behind there we can pick it up on there.

Joe Harrison, Jr.: Did you get sworn in, ma'am?

Unidentified: Pardon?

Joe Harrison, Jr.: Were you sworn in earlier?

Unidentified: No, I haven't. Only I talked here the last meeting. I'm the one that has the drainage problem on Green River Road where through his property needed the ditch to be cleaned out.

Joe Harrison, Jr.: Can I have you raise your right hand, ma'am? Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Unidentified: Yes.

Joe Harrison, Jr.: And what is your name?

Ernestine Ziliak: Ernestine Ziliak. I live at 10501 Petersburg Road, but this property that I'm talking about is on Green River Road just south of Buck's and west of Green River Road from this property.

President Jerrel: Okay, and what--

Ernestine Ziliak: We talked about it and they said they were going to check it out. We have a pipe under our driveway to get into it, a 36 inch pipe. Now this lane, what goes back to this riding stable on the north of us about maybe a half or quarter of a mile they have about a 16 inch pipe therefore the water from the bottom of the ditch is about 20 some inches before it starts going out this pipe north along Green River Road to Boonville-New Harmony Road. Well, so there is a big pipe under Green River Road there in front of Cissells going east down toward that Schlensker Ditch, I think. But on the east side of the road that ditch is not open enough to start taking the water away so therefore it builds up right at the corner of our property and goes back and floods the field.

President Jerrel: Can you interpret this one? Take that up there and see if you can...I wrote your name where I put it and Mr. Cissell might come up to point.

Ernestine Ziliak: Okay, this is where Cissells is. This is Schlensker Ditch, but here is Green River Road. Okay, this is ours, I guess, directly across from you. Yeah,

here it is. Oh, okay, right here going west. Now, do you notice here like our sewer what goes into this field is 36 inches and this right here at this point is only about a 15 or 16 inch.

Bill Cissell: Right, that's Mr. Mann's property.

Ernestine Ziliak: Yes, it is.

Bill Cissell: And I have nothing to do with that.

Ernestine Ziliak: I realize that. They said that could handle that and they didn't because that's on the county. The county is the one that's supposed to handle that. They assured me that--

Commissioner Tuley: I think she spoke to us maybe during Drainage Board.

President Jerrel: Yeah, you spoke to us in a different Board, that's what it was.

Commissioner Tuley: Same faces, just different title.

Ernestine Ziliak: I didn't recognize any of you. Mourdock and all those guys were here when I spoke.

Commissioner Tuley: That's us. We're all those guys. Mourdock is not here tonight.

Ernestine Ziliak: Well, they took my name and address and was going to let me know what they was going to do.

President Jerrel: Did the garage come out and look at that, do you know?

Ernestine Ziliak: I don't know, but they assured me they was. The Surveyor was here and everybody. They assured me that they would.

President Jerrel: Did you not hear from the Surveyor?

Ernestine Ziliak: I haven't heard a thing.

President Jerrel: Okay, well give me that back. Show me where your house...where your property is.

Ernestine Ziliak: It's right here. Right in here.

President Jerrel: Is the ditch that is in question and the drainage on this side over here?

Ernestine Ziliak: No, wait a minute. This is...yeah, this is Green River Road.

President Jerrel: Right.

Ernestine Ziliak: It's on the northeast corner of my property. It would be the northwest side of yours?

Bill Cissell: It would be on the west side of Green River Road. It's not on my property.

President Jerrel: I know. You're over here and she is having the problem--

Ernestine Ziliak: Yeah, right here.

President Jerrel: I want--

Ernestine Ziliak: Here, right here. You go out there and look you'll see. Check mine, too, because the county put it in for us just about three years ago when we got that 36 inch and this pipe here is only 15 inch. The water has to drain out...well, it goes this way towards Boonville-New Harmony Road.

President Jerrel: What I wanted to ask you is I want to call him and find out if they did go out and why they didn't call and I want you to give me your phone number, Mrs. Ziliak.

Ernestine Ziliak: 867-3813.

President Jerrel: Okay, I'll do it.

Ernestine Ziliak: They assured me that they was going to go out there and check on that. But they did tell me that they wouldn't be able to do anything with Cissell because that is private property. I understood that.

President Jerrel: Right, but we want to look at the county's to see if that 16 inch pipe is ours. That's what we want to know.

Ernestine Ziliak: Okay.

President Jerrel: I promise you this won't happen again.

Ernestine Ziliak: Okay, I appreciate that. Thank you.

President Jerrel: Is there anyone else that would like to address that issue? Is there a motion concerning this?

Commissioner Tuley: At this time I'll move approval of VC-11-99.

President Jerrel: And second and call for voice vote, please. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: And I vote yes. Motion carries.

Final reading	VC-13-99	Mercury Investments, LLC
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Barbara Cunningham: Tom Bodkin.

President Jerrel: Okay, that brings us to--

Joe Harrison, Jr.: VC-13-99.

President Jerrel: VC-13-99.

Barbara Cunningham: Tom Bodkin is the representative for Mercury Investments, LLC in the petition to rezone this almost 50 acre site at 8300 East Lloyd Expressway from Agricultural to R-4. The proposed use is for a multi family development and/or an assisted living facility. It's at the northeast of the intersection of Lloyd Expressway and I-164 and Koester Contracting is the current owner. A previous petition to rezone this site to C-4 was withdrawn by Koester Contracting in January, 1999. The Vanderburgh County Commissioners have granted a waiver of the one year time limit required by ordinance to allow the new petition for rezoning of the site to be filed. We received a letter before Plan Commission from Mr. Bodkin regarding the concerns raised in the Staff Field Report regarding water and sewer, traffic and access, safety and school issues, all those things. We copied the letter to the Plan Commission and I hope we copied it to you all. If not, we have copies of it in the file. We copied Mr. Bodkin's letter to the Plan Commission members in advance of the hearing. The reason we question these areas until the night of the hearing...or until the night of Mr. Bodkin's letter no information had been presented to indicate how water and sewer or roads could work for this site and past history has shown us that even though the petitioners often check out that all the utilities are available to their site often they come after the rezoning when they're ready to develop a site and find that the cost of extension of sewers or streets is too high or there is insufficient capacity to handle their project. We've seen a number of sites that have remained undeveloped for this reason and we even had an instance where the developer had to lease the adjacent ground for commercial septic when they found out the cost of extending sewer to their site. So the Comprehensive Plan acts as our guideline for determining those areas best suited for development and encourages development in those areas best suited for growth due to their location of public facilities. This site is located in a rural residential and agricultural area essentially cut off from any access to Vanderburgh County by the I-164/Lloyd Expressway interchange. The proposed 50 acre high density residential site will probably generate significant traffic volumes on Warrick County roads to the western end of Stahl Road at the Vanderburgh County line and development of this site will increase traffic at the Epworth Road/Lloyd Expressway intersection also in Warrick County which is a high accident intersection. The provision of water and sewer, we asked about the site and I think at the meeting, at the end of the meeting, Mr. Bauer asked that before you came to County Commission if you could have kind of a cost estimate or something like that and Mr. Bodkin indicated that he has that ready because really according to the Comprehensive Plan, and this evening has been an example of it, it's essential for development proposals along major arterials to be accompanied by commitments to constructing infrastructure improvements necessary to accommodate both traffic, sewer, etc., and we really need to have those for the Commissioners prior to the meeting. So the Comprehensive Plan calls for commitments to be in place for the necessary road and infrastructure improvements prior to rezoning approval, so Mr. Bodkin is going to tell us what all he has got committed to.

Joe Harrison, Jr.: All those that wish to speak with respect to this petition please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Tom Bodkin: Tom Bodkin, 700 Hulman Building, counsel for the petitioner. Let me start with the last piece first with regard to sewer and water. The off-site cost to

bring sewer to this is \$13,600. That's 350 feet of eight inch sewer. It will come from a lift station sitting at the corner of the ITT property which exists today, it's there now. That's a 310 gallon a minute lift station owned by the town of Newburgh. Gravity sewer we're going to extend along Stahl Road in Warrick County to this site. Water also will extend from this same area, which again is the ITT school right along Stahl Road to this site. That water comes from the town of Chandler. The cost for the water line, which is a six inch line, is approximately \$10,000. Consequently the cost to the developer to bring water and sewer to this site is significantly less costly than it would have been had it had to of come from Evansville.

Barbara Cunningham: \$400,000 from Evansville.

Tom Bodkin: A number of years ago the town of Newburgh reached an agreement with the city of Evansville with regards to supplying sewer at least to that property on the east side of 164 and that is because Newburgh can be reached quicker and easier, okay. The town and the city reached an agreement that Newburgh would supply that sewer and there is sewer there. In fact, the town of Newburgh will be very happy for the sewer to come on because the only flow going to that lift station today is the ITT school and that's not very much flow and it actually creates a problem as opposed to solving one, so that issue is taken care of I think. Secondly, fire service...there was a question about fire service raised, I think, in the Staff Report. This is in Knight Township. The Knight Township Fire House is at basically Morgan and Burkhardt which is straight line distance not very far. There are also, I understand, from talking to the fire chiefs in Warrick County interlocal and mutual aid agreements where they supply help to each other. In fact, I think that may well happen here. On the Warrick County side of 164 south of this location is a very large complex called the Atria Assisted Living Facility. It's quite large. That's actually in Warrick County, but it is my understanding that fire service is going to be provided under a local agreement out of a Vanderburgh County unit. Here obviously the Ohio Township Trustee has fire service in this area in Ohio Township, so we're not concerned that we'll get good fire service one way or the other. Schools, well the school buses are just going to have to go in there. There is no other way to do it as you can know from your own knowledge of the area and the map we submitted there is only one access to this site. It was built by the State of Indiana when the interstate was built and when the Lloyd Expressway was widened. That is Stahl Road. That is actually built by the State Highway Department, not Warrick County. It is oddly enough owned fee simple absolute by the State of Indiana, but Warrick County has been given jurisdiction. As I mentioned to Commissioner Tuley at the Plan Commission Meeting, and Mrs. Jerrel, this is probably one of the marvelous opportunities for you as a County Commissioner. You're going to pick up a substantial property tax increase from the use of this ground. There will be several hundreds of people that will live there and you'll get the head taxes, but you know you don't have one road to pay for.

Barbara Cunningham: And that's before the census.

Tom Bodkin: That's right, and this is before the census. But Warrick County has to deal with the roads instead of you which is a pretty good deal and those don't happen very often.

Commissioner Tuley: My response is, that's my kind of growth.

Tom Bodkin: That's right. It is going to be a good project, I think, for both counties in that standpoint. We have had discussions with the Warrick County

Commissioners regarding Stahl Road because it is there and is the only access. We'll continue to have discussions with them about issues as they develop down the road. So far the only concern they've expressed, and I think I tendered a copy of their minutes from their meeting in August, is that when we do start construction they want us to bond that road. Warrick County has this, perhaps not unique, but this facility of putting weight limits on every road in the county of ten tons. We'll definitely be driving bigger vehicles than that. We will therefore have to bond that road as we go in and out to make sure it is repaired and restored and that's the procedure they use in that county. The client is dedicated...is dedicating a 30 foot wide strip along the interstate for the greenbelt. We've had good discussions with the folks for the walkway and that's effectively done. We also are going to dedicate a 30 foot strip along the north border of this parcel for the possible someday maybe if anybody ever did a widening of Columbia or an extension of Columbia. I have to tell you Warrick County Commissioners have told us that they have no plan to build Columbia from here to Epworth Road and I don't think Evansville or you have any plan to build the overpass over the interstate, but if you ever do for the next 20 years you've got half of the road right there so that is dedicated as well. If you have any other questions I would be glad to try to answer them. The designer is here and that's Jack Tubbs with the Corradino Group. The Plan Commission recommendation was unanimous in favor of the project.

President Jerrel: Again, I'll ask is there anyone in the audience who has any questions? Commissioner Tuley?

Commissioner Tuley: No questions. I'm ready to move at this point for approval of VC-13-99.

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

Commissioner Tuley: Yes.

President Jerrel: And I vote yes.

Tom Bodkin: Thank you.

Charlene Timmons: Motion for adjournment?

President Jerrel: We need a motion to adjourn.

Commissioner Tuley: So moved.

President Jerrel: Second, so ordered.

The meeting was adjourned at 8:20 p.m.

Those in attendance:

Bettye Lou Jerrel
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Krista Lockyear
Dan Buck
Carol Bengert
Dave Stuckey
Chris Weil
Paul Joiner
Jack Tubbs
Bill Young
Les Shively
Bill Cissell
Ernestine Ziliak
Tom Bodkin
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

Bettye Lou Jerrel, President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
October 18, 1999**

The Vanderburgh County Board of Commissioners' Rezoning Meeting was called to order at 6:45 p.m. on October 18, 1999 in Room 307 by President Bettye Lou Jerrel.

Approval of minutes

President Jerrel: I'd like to call the Vanderburgh County Rezoning Meeting to order and welcome all of you. We're glad to see you. The first item on our agenda is the approval of the minutes of the previous meeting.

Commissioner Mourdock: This one?

President Jerrel: Yeah, but we have another one that needs to be signed.

Commissioner Mourdock: You and Pat need to do that one.

Commissioner Tuley: Okay, Richard wasn't here so I'll move approval of the Rezoning Meeting of September 20th.

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

Commissioner Mourdock: And I'll move approval of the minutes of the meeting of July 19, 1999.

President Jerrel: And I'll second and so order.

First reading VC-21-99 Sagamore Creek Development, LLC

President Jerrel: At this time we're ready for first readings. We have first reading, petitioner Sagamore Creek Development. On first reading, anybody here--

Commissioner Tuley: Basically, all we have to do is move for approval.

President Jerrel: Yeah, I need a motion.

Commissioner Mourdock: I'll move approval on first reading of Sagamore Creek Development, LLC for Haver Hill Drive and Beacon Hill from AG to C-2.

Commissioner Tuley: I will second.

President Jerrel: I'll say so ordered.

First reading VC-22-99 Sagamore Creek Development, LLC

Commissioner Mourdock: And on first reading I will also move approval of Sagamore Creek Development, LLC, 1232 Raleigh Drive, 1000 and 1001 Beacon Hill. A request to change from AG to R-3.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Final reading	VC-8-99	A.L. Perry
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President Jerrel: The next items on the agenda are final readings. The first is VC-8-99. That is A.L. Perry.

Barbara Cunningham: Okay, do you want to swear me in? Or we don't do that here do we?

Joe Harrison, Jr.: That's okay. All those who wish to speak with respect to VC-8-99 please raise their hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Barbara Cunningham: Les Shively is the representative for petitioner A. L. Perry in this request to rezone 2.67 acres on the east side of Old Petersburg Road south of Boonville-New Harmony. As initially filed this was a request to rezone from AG to C-2 with a Use and Development Commitment. The petition was heard at the August 4, 1999 Area Plan Commission Hearing and received recommendation for denial. It was zero yes, eight no and two abstentions. Prior to hearing by the County Commissioners the petition was amended to a request for C-1 with an Amended Use and Development Commitment. At the last Area Plan Commission this petition received a no action vote. Six yes, three no and two abstentions. The Use and Development Commitment which is included as part of this rezoning petition now states that there will be no bar, tavern, restaurant serving alcoholic beverages, multi-family residences or any billboards on the site. It still allows 56 office, commercial, and service uses. The commitment further states that there will be no building constructed on this site that exceeds one story in height and states that the exterior appearance of any building shall be in conformity with the residence that is to remain on this site and Mr. Shively will explain to us what in conformity...he has explained to us in the past what in conformity is. The commitments concerning the lighting and the drainage plan are covered under the existing Vanderburgh County ordinances. Old Petersburg Road is a narrow two-lane residential street. The Comprehensive Plan stresses that the transportation and utility systems necessary to accommodate new development should be in place when needed to mitigate development impacts. The plan calls for commitments at the rezoning stage that ensure that the infrastructure improvements needed to accommodate new development will be in place when needed. Evansville Urban Transportation recommends that adequate right-of-way be dedicated to upgrade Old Petersburg Road to a standard two-lane facility. EUTS may request a traffic impact study as part of the site review process. The site is located in a rural residential and agricultural area. According to the Year 2015 Conceptual Land Use Map and the Comprehensive Plan the site on Old Petersburg Road is located contiguous south of the designated commercial node at the corner of the Boonville-New Harmony Road and Old Petersburg Road intersection. Presently a convenience mart and the Hornet's Nest occupy two of the commercial parcels, the northeast and the southwest corner, and there are two remaining undeveloped commercial parcels, the northwest and the southwest corner, at this site. All four corners of the intersection have been zoned commercial since about 1940. Surrounding the commercial node is a predominately residential neighborhood zoned agricultural which is rapidly developing with new residential subdivisions. Adjacent east of the proposed commercial rezoning is the 81 lot

Breckenridge Subdivision approved in February of '98. Adjacent west across Old Petersburg Road is the 37 lot St. Charles Cove Subdivision approved in April 1999. The agricultural classification is considered a residential district in that it permits single-family development of the same size and intensity as the R-1 zoning classification. The Comprehensive Plan Commercial Action Plan encourages compact commercial areas and where possible avoiding new or expanded inefficient strip development. It stresses that new commercial development should be directed into existing commercial areas prior to rezoning new land.

Les Shively: Madam President and members of the Board of Commissioners of Vanderburgh County, my name is Les Shively representing Mr. Perry on this particular request. As Mrs. Cunningham stated, we are asking a change in classification from AG to C-1. Formerly our request was from AG to C-2. This would be subject to an amended Use and Development Commitment which Mrs. Cunningham has explained to you and I'll highlight in a moment. It's important first of all I think to get oriented as to where this property is located and I will show these photographs to Mr. Tuley and let him share with his fellow Commission members. The property, as Mrs. Cunningham noted, is just south of the C-4 zoned property at the southeast corner formed by the intersection of Boonville-New Harmony Road and Petersburg Road. In fact, the north line of this property is the south edge of the Hornet's Nest parking lot. The classification which we seek is referred to neighborhood retail or commercial. It is Mr. Perry's desire to develop this into a neighborhood retail and office type of facility. Mr. Perry's interest in doing this stems from his own experience. He lives in the McCutchanville area. Because of the nature of his business he doesn't have a lot of walk-in traffic, not a lot of clients and customers that call upon him on a walk-in basis. He desired to have an office in close proximity. None were available so his only choice at that time was to make arrangements with the community center group that operates the Old McCutchan school house, so Mr. Perry has his offices presently there and spent in excess of \$20,000 or \$25,000 of his own money improving those leasehold improvements which we all know will remain with that particular building when he moves out. This experience has sort of heightened his interest. As he talks to other people, as we see this area out in McCutchanville rapidly expanding into a residential community more so than it has been before, the need for professional offices, limited types of neighborhood retail to be in close proximity to the people that live there to cut down on commuting and long trips and things of this nature, so he has purchased this property and intends to keep the residence that is on this property that is shown in the photographs there. I would note that this particular property for many, many years was not only used in part as a residence, but also you can see in the foreground a building which housed the equipment for the prior owner's excavating company located not...kept its operations and equipment at this particular site. The site plan which we have submitted in conjunction with this rezoning request shows the dedication along the frontage of this property of 25 feet of additional right-of-way for the future widening of Petersburg Road which will allow it to become a standard two lane road at no, at least in terms of the acquisition of that particular right-of-way, no cost to the county. I would also note that this would allow the county to do the widening on Petersburg Road without having to acquire property on the west side of Petersburg Road where there are some long established residences in that particular area. One point I want to point out in the Amended Use and Development Commitment I think is very important. First of all, there has been extensive residential development in this area. With any kind of residential development when you have more paved areas and you have roofs you have the concern about surface water drainage. We're able, because of our drainage ordinance, to deal with those problems through the platting procedure, the subdivision control ordinance. This

particular property sort of falls in the cracks because it is less than five acres. What we propose to do in our Use and Development Commitment to shore that gap is to treat this as if we were presenting to you a plat or ground in excess of five acres to be developed. Mr. Perry is imposing upon himself the condition that before he can get any permits to break ground or change any of the characteristics of the land he will have to submit a drainage plan to this, I say this body, when you wear your Drainage Board hats, that is, just like any subdivision would have to do or any other development in excess of five acres and that the approval of the drainage plan would be the same criteria used for those type of developments would be a condition to get an improvement location permit. Also I would note that we have limited the size of the buildings, and you can see by this rendering by Mr. Dave Wanninger, to one story with the little gables up there, but we're actually going to keep it to one story and no multi-family. One thing I wanted to clarify from Mrs. Cunningham's comments she said 56 uses. Fifty-six different types, I think, can be done in C-1. There isn't going to be room for 56 different businesses in this location. There is not enough land. I didn't want there to be a confusion when we used the term 56. Quite frankly, the practical aspects limit it to quite less than 56 types of uses. It will be mainly professional offices and very limited type of retail. I would note that the developer of Breckenridge Subdivision and St. Charles Subdivision, which is to the east and the west of this property, is well aware of our plans and finds it to be compatible with his developments in those particular areas. We're adding one additional item and this is a result of our last public hearing before the Plan Commission on October 6th. A couple of the Commission members, including Commission President Bauer, expressed a concern and I guess it ties in with Mrs. Cunningham's remarks about being compatible with the area. Mr. Perry, and I'll give you a copy of this this evening...the Plan Commission, as Mrs. Cunningham is quick to point out to you, is not in the business of monitoring landscaping or monitoring architectural matters. Oh, I'm sorry, Barbara, there you go. Really, she doesn't have the staff to do the monitoring of those more aesthetic features of certain projects so Mr. Perry has signed an original of a document which you have a copy in front of you which not only incorporates the Use and Development Commitment again, but also incorporates this design as you have seen a conceptual building and also incorporates the materials to be used, preferred materials to be used, in the construction of this building. Again, the desire is to do it in a manner that is compatible in appearance to the residential structures in the area keeping in mind it's Mr. Perry's desire to keep that home which is in the center of that property there and used as a single family residence. I believe that covers our comments. I'll be more than happy to answer any questions that you might have at this time.

Commissioner Tuley: Will this be serviced by sanitary sewer, the extension that is going in out there?

Les Shively: Yes. Yes, it is accessible to the property and obviously would have to be. Anymore it is prohibited to do a--

Commissioner Tuley: Commercial without it?

Les Shively: Yeah. Pump and haul is not favored and the sewer is there. We might as well take advantage of it.

Commissioner Mourdock: Les?

Les Shively: Yes, sir.

Commissioner Mourdock: The things that were going up and down here. I have a picture of an office building, but it is not that one. I just want to confirm what is this?

Les Shively: That's one that we had presented at the September meeting and we felt that our comments from the residents out in the area and some other landowners in the area and, again, Mr. Bauer's comments at the first public hearing we attended that it looked a little non-rural, if you will. A little too...something you would see maybe as opposed to Green River Road and we needed something that fit in a little bit better and hence we are going with this design and that's the design that is incorporated in the private restrictions.

Commissioner Mourdock: If I am viewing that correctly there appears to be gables for the windows and yet you are saying this is a one story structure?

Les Shively: It is going to be one story. It will be one story. I think Mr. Wanninger simply drew this to give a concept, but it's only going to be one story. We're not going to lease out any space on the second floor. We're limited to that by the Use and Development Commitment.

Commissioner Mourdock: Okay, you just said it's one story, but you're not going to lease out space on the second floor. I'm confused.

Les Shively: This will be decorative gable roofing. This will not be usable area.

Commissioner Mourdock: Okay, it's not usable floor space?

Les Shively: It will be decorative roofing to give the gable effect so it sort of blends in with the homes that are out in that area. Not to be a two story structure with usable area on the second...that will just simply be a decorative roof type of appearance.

Commissioner Mourdock: And the house that you referred to that will be kept on the property as well is that the property owner's home? Is that the residence of the person developing the property?

Les Shively: Mr. Perry owns that residence, but he does not live there.

Commissioner Mourdock: Okay.

Les Shively: He has a tenant that lives there who happens to be an Evansville police officer.

Commissioner Mourdock: Okay.

President Jerrel: Les, if there aren't any further questions of you why don't you just wait and let us have the other three people that wish to speak come up.

Les Shively: Sure.

President Jerrel: Yes. Come up and if you'll give your name please and where you live.

Michael Bridges: Thank you. My name is Michael Bridges. I live at 11550 Old Petersburg Road, less than an eighth of a mile, I guess, from what he is wanting to

put up here. You've heard the word residential here a lot and that is what we are, residential community. I've lived there for 14 years and I raised both of my daughters there. I went out there because it was a quiet area. I like it in that area. There are people building homes out there. There are going to be children in those homes. Increased traffic is not what we need. We don't need more commercial development. As they stated, there are already two areas that they're not even using, yet we have an area here that is going to be commercial, residential, commercial. Sort of like leapfrogging around. We're a quiet residential community, that's true. It's a good place to raise children and we would like to keep it that way, quiet and not commercial. Thank you for your time.

President Jerrel: Have you had a chance to look at the restrictive covenants?

Michael Bridges: Yes, ma'am, I have. I've been to both of the meetings. Mr. Perry is to be commended for his efforts in trying to get something that fits in with the area. Nothing...it's obviously nothing obscene and gross, it's just our concern is it's just more commercial development, where does it stop? You know, they can't get this other property because I've heard the excuse like it's too expensive.

Commissioner Mourdock: What's the other property you're referring to?

Michael Bridges: Where Hofmann's corner used to be and directly across from where the convenience store is. We have residential area there. We would just like to keep it that way. We're, you know, a nice community. A residential community, not commercial. That's all I have to say. Thank you for your time.

President Jerrel: Thank you, Mr. Bridges. Is there someone else that would like to speak?

Mike Bredhold: Good evening. The name is Mike Bredhold. I live at 11520 Petersburg Road. Several of the things that Mike had said are things that I kind of had in mind, too. Like they said, there are two corners at this intersection that are zoned commercial right now that are available to be built on that are not being and I would like to say the same thing as far as if he is going to...he is planning on two buildings here. This one would be phase one the way we understand it, which would go next to the Hornet's Nest, and then he has got the residence and then on the south side of that is another parcel of ground where he wants to build phase two if phase one goes through okay. If that's the situation it seems to me, as Mike has said, we're just kind of leapfrogging down through the residential area with zoning commercial. If this residence is on ground that is zoned commercial there is really nothing to stop that from being used in the future as commercial property, the way I understand it. There is also ground or property, an industrial park, over on Highway 57. There is the 41 corridor. All of these are within just a very few minutes of this area. I can't really see developing this corner which is, other than these two properties right now being used as commercial, taking more property and rezoning it as commercial when there is ground available for commercial. There is other areas within this neighborhood that are zoned commercial and even industrial, so it seems to me like they could be used before this property is taken up so that's one of my concerns on it. Thank you.

President Jerrel: I have a question. Is that true that this is going to have another phase added to it?

Les Shively: What you see on the site plan is what we're going to do.

Barbara Cunningham: The house becomes legal nonconforming when...if this is all zoned. The house will be legal nonconforming if this is all zoned and the house can change to be commercial at any time.

Commissioner Tuley: If I might. Maybe the confusion is two...or phase one and phase two. There are just two buildings being planned and my assumption is both buildings will go up at the same time or are we going to do--

Les Shively: No, sir.

Commissioner Tuley: Okay, so there is the confusion there then.

Les Shively: What we thought was the fair thing to do is to show the plan, the long range plan, for the use of this property. If things go according...we're going to build the building closest to the--

Commissioner Tuley: To the Hornet's Nest?

Les Shively: Yes, first and see how that is received and then the other building will be located as you see in your site plan.

Commissioner Tuley: Okay, so there are two buildings? This is not really phase one and phase two?

Les Shively: That's correct.

Commissioner Tuley: It's just one will be built first and then the other later?

Les Shively: That's correct. We could have divided...excuse me, sir.

Commissioner Mourdock: So in the end there would be three buildings?

Commissioner Tuley: Total, correct.

Commissioner Mourdock: The present day house, the first building, the second building?

Les Shively: That's correct, sir.

Barbara Cunningham: In reality what you're voting on is the zoning classification, not really the site plan.

President Jerrel: Right.

Barbara Cunningham: Although we appreciate having a site plan to look at. What you're voting on is what can fit on the lot with that classification.

Les Shively: Essentially, that's it. That's all that fits and provides sufficient off-street parking pursuant to code, maintains the landscaping that we need to have and it provides for the service drive. I mean, that's really what limits it right there.

Barbara Cunningham: And what they have committed to limiting it further is just one story and not utilized for those things that they said would not be utilized.

President Jerrel: Right.

Barbara Cunningham: And then I guess you'll record this?

Les Shively: Yes, ma'am. We will record that if we receive, obviously, if we would receive favorable action this evening.

Barbara Cunningham: Okay.

President Jerrel: Is there anyone else? Yes, ma'am.

Martha Vibul: I'm Martha Vibul and I live in the area. I really didn't come down for this item, but it's all in the general area. My question is I was under the impression that this was about three acres.

Commissioner Tuley: Two point six.

Martha Vibul: Is it three?

Commissioner Tuley: Two point six seven according to the staff report.

Martha Vibul: Well, how large is this building because where the pole barn sits I would guess that would be about an acre, the house would take about an acre with the pool, and then on the south side of that would be another acre about. So that looks like a big building to me and I would like to know how that can fit on one acre if that is where it is going to be with the pole barn?

Commissioner Tuley: The pole barn is coming down.

Les Shively: Yes.

Martha Vibul: That's just my question.

President Jerrel: Do you want to speak to that?

Les Shively: Here is a site plan. The pole barn comes down.

Martha Vibul: So does this building go where the pole barn is?

Les Shively: Huh-uh. Basically, yes.

Martha Vibul: So then the house would be there?

Les Shively: Yes, ma'am.

Martha Vibul: And then this other site is sitting perpendicular to Petersburg, this is the second phase then that they were talking about?

Les Shively: Yes, ma'am, the second building.

Commissioner Mourdock: Roughly how many square feet are the planned buildings, Les, do you know?

Les Shively: I hope your glasses work better than mine. Mr. Perry has been

eyeballing it and it says about 7,000 plus on this building. I think it's 7,200 and about 8,500 to 9,000 on the other building, square feet.

Barbara Cunningham: You've got 2.67 acres and you're allowed 75 percent lot coverage, so 8,729 square foot could and the existing coverage that is one, Les, we have as 3,073. New addition coverage could be 7,200 and 9,000 is approximately what they're talking about.

Les Shively: Right, 7,200 on the first and then if we do the second it will be a little larger, about 9,000 square feet.

President Jerrel: Mrs. Vibul, did that answer your question?

Martha Vibul: I guess so. (Inaudible.)

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

Kent Burress: My name is Kent Burress. I live on 11210 Petersburg Road which is south of the proposed development. My concern is really just echoing what everybody else has said before. Another item that I like to worry about is the traffic which is going to be increasing due to more businesses up there. School buses going up and down the road, I have a little girl that rides the bus. I have another one coming along that will ride the bus. People whip around sometimes out there on the road early in the morning going to work so it will be more traffic if they are going to establish a business up there. People running around and possibly having an accident. Also, the lighting. I don't know how many lights they're going to have up there, but I can see the Hornet's Nest and I can see that store up there from my house and they've got a lot more lighting than they used to have. You know, I guess this place will have lights on all night, too, I suppose. Also, drainage. I notice behind that pole barn when it rains a lot the water stands because they filled up a ditch there so I don't know if he is going to address...I'm sure he'll address that problem, but since they built up that subdivision, that new subdivision on the east side of that property, that water just pools in the back of that barn, so I guess he is going to try to fix that, but then that will make more water come down our way I suppose. So that's another item I would like to have addressed before that goes in. There will be a lot of parking lots that will be paved and rain doesn't soak through a parking lot, it drains and goes down the street.

President Jerrel: Do you have any response to the issues of the lighting at night?

Les Shively: The only thing I can say, Mrs. Jerrel, is that the Use and Development has number five. It says:

"If installed, all lighting shall be shielded to prevent any shining onto adjacent properties."

And we say if installed. Again, our thrust is going to be on offices and some limited retail. Other than for security purposes you are not talking about 20 hour a day type of business. That's not the market we're going after. That's why we say if installed. The lighting will be extremely limited because of the type of uses that we're going for in this particular location. We do have the requirement that any lighting will have to be shielded to prevent shining on the adjacent properties which is something that no business out in that particular area is doing now and we would be doing that by virtue of this Use and Development Commitment.

Kent Burress: I just had another item I thought about. I mean, what type of retail business are you talking about? A convenience store, are we talking about just a mom and pop store from 8:00 to 5:00 or what? The store up at the corner is open from 8:00 to 11:00 as a rule and there is a lot of traffic up there at night. It kind of gets annoying sometimes when you're trying to sleep or something like that. I don't know if this outfit is going to do that or not, but that is another item that I was thinking about. You know, what type of businesses, how late are they going to be open and are they open on Sundays and weekends? You know, that type of thing. Monday through Friday it's not as bad, but still you don't know until they do it and then it's done. I just wonder, can you change from C-1 to C-2 or something else later if they want to? That's another item. I would kind of hate to be the guy in the middle of that residential house within those two office buildings. I wouldn't want to live in that house with those two businesses on each side, but that's not my problem, I guess, but it would be kind of tough. Thank you.

President Jerrel: Yes, sir.

Les Lantaff: My name is Les Lantaff. I live at 11626 Petersburg Road directly across the road from this development or whatever you want to call it. I am opposed to it because I don't think we need to mix commercial. We don't need spot zoning where we have our commercial mixed in with our residential area. From the safety standpoint I am against it. Petersburg Road is not made to handle the traffic that we're going to have extra traffic out there. It's not made to handle the traffic we have now. I don't think that was taken into consideration when those two subdivision were approved.

President Jerrel: Do you live...help me out just a little bit. I'm looking at...now which side of the street do you live on?

Les Lantaff: I live on the west side. (Inaudible.)

President Jerrel: Okay, right. What is right next...what's here? What's here?

Les Lantaff: Residential. That's all residential.

President Jerrel: All the way up to right here? Yeah.

Commissioner Mourdock: I presume, is that your house, Mr. Lantaff?

Les Lantaff: Yes.

Commissioner Mourdock: So it is open all the way to up here where that building was that we--

President Jerrel: Right, tore down.

Les Lantaff: Also, just repeating what somebody else said, the water problem out there. Every time they build another house out there I get a little more water. I don't think the water problem was address properly when they built...when they approved the St. Charles Subdivision or St. Charles Cove. I think the way it is set up now there will be a 28 inch line running into my 24 inch line. I'm not a hydraulic engineer, but I don't think that will work. If they put this blacktop up here it's going to be just that much more water coming on down the road. Excuse me. So I'm opposed to it because I don't think we should mix our residential and our commercial together and

also from the safety standpoint. The little piece of ground that he is going to give them there is not going to help traffic on Petersburg Road.

President Jerrel: Are there...yes, okay.

Les Lantaff: And I would like to recommend to the council that they deny this zoning.

President Jerrel: Yes.

Jeff Simpson: Jeff Simpson. I wasn't really here for this one, but I live in the area so I'll just put my two cents in. I think one thing we need to consider and remember is there is a school property half a mile from here and it may someday be a school and you're talking buses, so considering the traffic I think we need to keep that in mind. Thank you.

President Jerrel: Barbara, what was the general attitude of the traffic discussion that you had?

Barbara Cunningham: EUTS--

Commissioner Mourdock: Turn your mike on, Barbara.

Barbara Cunningham: Evansville Urban Transportation asked for a right-of-way. Let's see...let me find out. EUTS recommends that adequate right-of-way be dedicated. They don't...EUTS generally doesn't talk to the merits of the zoning pro or con. They talk to if it happens the things that are necessary and they said they might need a traffic impact study. I'm looking to see what John Stoll usually answers on this too. Let me see if I can find his remarks. Generally we include that. I don't think John had remarks on this. I think there was a concern raised as to the improvements would be necessary. Do you have the Evansville Urban Transportation thing?

President Jerrel: Yeah.

Barbara Cunningham: And I think with John and with both there were questions on they certainly want to have the traffic move safely in that area and it is a narrow road.

President Jerrel: Are there any further questions? Les, did you want to add something?

Les Shively: If I could just sort of summarize briefly.

President Jerrel: Certainly.

Les Shively: I know you have a long evening in front of you. No one likes change and the theme of comments of most people that have spoken here this evening, including the two that aren't really here on this petition, but haven't even identified their address, but apparently are here on the matter on Kansas Road and Seib Road which is some considerable distance from this property. The area has changed. The area changed with the extension of the sewer. Smaller lots, more homes, recreational facilities have been expanded to the Petersburg area. The addition of a public golf course. Someone said the School Corporation plans at some point in time and purchased land for planned expansion. It has changed. It is not rural

undeveloped. The traffic is there. It is there for several reasons. Not only...mostly because of the homes that are there. Homes and single family residences are high traffic generators. They are high traffic generators because of commuting. Many of those people live in the north side, the far north side, commute east, commute west or commute south to the central business district. What we want to do in this situation is create an area where you can have offices, professional services, neighborhood retail, that will cut down on that extensive commuting that is compatible with the area. Hence, the C-1 classification is denoted as neighborhood commercial. The EUTS recommendation is for additional right-of-way to be granted. We are doing that. We are going to be assisting in not just an insignificant way, a very significant way. There is substantial road frontage there that will be made available to the county to do the improvements that are necessary right now to Petersburg Road without impacting the property owners on the west side of Petersburg Road. This is not leapfrog. This is not extension of C-4. This is a C-1 with a significant Use and Development Commitment that will result in a compatible use with the immediate area. The most significant and substantial investment in residential development in this particular area is the St. Charles and Breckenridge subdivisions which are there and which developers have become well acquainted with our plans and see those as not having a detrimental impact on their developments and their ability to market lots in this particular area. The drainage issue is a significant issue. When we started this process of listening to the neighbors several months ago and drainage was brought to their attention, that's why this provision with regard to having to come before the Drainage Board with a drainage plan even though we're not, but for this Use and Development Commitment, not required to do that, will be significant. Unfortunately, Mr. Perry will have to take the situation out there as he finds it and not add to it and we believe by doing an appropriate plan not only will we make sure that his property doesn't contribute to any problems, but add to the improvements in the particular area. Mr. Perry has spent a lot of time modifying this plan, listening. He's got a good plan. He's got a plan that will enhance the tax base. He's got a plan that will be compatible and the thing to keep in mind is the impression has been given that this particular use being proposed here is just an overnight...proposed overnight change to commercial. The thing to keep in mind as you look at the photographs mixed uses have been out there for years. It has not been uncommon for years for people to operate their businesses out of their homes with large outbuildings and such. Such was the case with the prior owner of this property, an excavating company. He had that pole barn that this lady talked about a moment ago where he kept his excavating equipment and ran his business. The pole barn will be gone. That industrial use will be gone and this will be a use that will be compatible with the area, that will serve the area well and I will say to you will be a beginning of solving many of the problems out there not contributing to them. We would ask for your favorable recommendation and the opportunity for Mr. Perry to do with this property what he has already done to the Old McCutchanville school house. Thank you very much.

President Jerrel: Yes, ma'am. Sure.

Carol Bridges: My name is Carol Bridges. I live at 11550. My husband has already talked to you. The issue that we're here to decide is whether to zone commercial or not. It really doesn't have a lot to do with, you know, these are all extraneous issues, the pretty building or this or that. I mean, the mix between residential and commercial has lead to a fiasco on Green River Road because that's how that all started years ago. We had a little bit of commercial here, a little there, and we're all very worried about the...okay, the other two properties, they're all in a little corner. They're there, nobody uses them.

Commissioner Mourdock: Mrs. Bridges, do you mean by that the other two properties on the northwest side and southwest side?

Carol Bridges: Yes, right.

Commissioner Mourdock: The ones that are already C-4?

Carol Bridge: Right. We have an intersection, two sides are already being used. You know, the little grocery store, the convenience store and the Hornet's Nest. Hofmann's place and across the road at that northwest corner there is commercial available and it's in an area of concentration as is. We can't...you know, people are going to grow. That's not...any of us...I mean, we moved out there because we liked it, you know, and we moved into...most of us have been there quite a while and all of sudden everything has in the last few years has just rolled over. People need a place to live. Nobody is against that. It's just that we've all seen the east side is not something we want to become on the north side. Not that it isn't working its way through, but that has been a problem for many, many years and everybody that I know in the neighborhood, whether they are here or not, feels very overwhelmed and very nervous about that type of situation, commercial versus residential.

President Jerrel: How long did that...I don't know who I am asking this question of, you or Barbara or somebody in the audience. Obviously, it was used for something other than residential.

Carol Bridges: The Niedhammers owned that property.

President Jerrel: Who did?

Carol Bridges: The Niedhammers. First Art owned it when I was a child. I am 46. He owned it and ran a trucking...he had trucks. He willed it to his nephew Donnie, and he had trucks. He had a truck, a backhoe and a bulldozer at one time and they all fit in there. His business...yeah, his business was, of course...his assets were, of course, his equipment, but he owned all that was the Breckenridge. He owned that place and he owned St. Charles Cove area, so he owned all of that. All he kept there was his equipment, and his business is like any other construction business, was not there just where his...I'm not really good at legal...what is legally what. I'm not sure how we can trust, I don't mean it personal, but there are some things that are legal which would be the C-1. The Amended, I forget what they call it, you know that we'll make it look this way and do that, that I'm not sure if that is legally binding, but all I know is that if it is zoned commercial and next year Mr. Perry decides I don't want to go through this hassle I'll sell it for something else we don't have any recourse then.

President Jerrel: Well, let me ask a question about the Use--

Commissioner Mourdock: Use and Development.

President Jerrel: --and Development so you can speak to that because I think people need to hear. Thank you.

Joe Harrison, Jr.: Mr. Shively may want to comment on this, but the Use and Development Commitment would run in favor of the county as far as the enforcement of the provisions set forth?

Les Shively: (Inaudible) and I forget what the statute says.

Joe Harrison, Jr.: Right, but I was saying the county could enforce that?

Les Shively: Yeah.

Joe Harrison, Jr.: The restrictive covenants, you're going to file another document that I've just had a chance to look at and it is my understanding that would be able to be enforced not only by the county, but adjoining--

Les Shively: Not the county. I really don't think it's the county.

Joe Harrison, Jr.: Well, the Use and Development Commitment...the restrictive covenant incorporates the Use and Development Commitment. The provisions of it.

Les Shively: Except the enforcement and that would have to be done privately by the adjacent property owners.

Joe Harrison, Jr.: The Use and Development Commitment though as far as what he has outlined in there, I don't know, ma'am, if you have looked at it--

Carol Bridges: Yeah, we've talked a number of times.

Joe Harrison, Jr.: --but it has nine or ten things.

Carol Bridges: And his Use and Development is kind of a sketchy things (inaudible) because I talked to some homeowners that are in some of these newer subdivisions and knowing that...you know, he had mentioned a couple of different types of businesses that might be drawn to that area. Maybe a dentist, maybe a doctor, maybe an architect or whatever, but a lot of these kind of businesses...a doctor's office wouldn't move out there because they need the clinics and the hospitals to survive. You know, that's just the way it is now.

Joe Harrison, Jr.: The other thing about the restrictive covenant, ma'am, is it is my understanding that whoever the subsequent purchasers would be bound by the terms of the rezoning.

Carol Bridges: Well, it is still under the C-1, right? But it's still not addressing the fact that we already have available, not just in that little half mile zoning, but we have within five minutes there are plenty of other places that are already zoned and we're talking just five minutes away and we're talking even in closer proximity to Windemere and Camden Farms and some of those out there by Kansas Road and the new one that is going to come up tonight. We've got areas on both sides that are they are already commercial, they are already even industrial. It doesn't seem to be needed in a little tiny community like this. You know, I don't want to end up with...because I have spent enough time, money, love and energy in my home that I don't want to be living in the middle of Green River Road in 20 years because I would love to stay there. I moved a round a long time. I was raised there, I was gone 14 years and I came back to that area because it was McCutchanville. You know, we can't stop people from living out there. You know, everybody has got to live, but I want to be able to still be there. Most of us have invested and there is no need to throw a lot of different things right in our front yard when it's available right over there, you know. The use...what do you call it? The commuting doesn't seem

to hold water there because there is just way too many other places that are five minutes versus one. That's just really not much and that's why I am very against it.

Commissioner Mourdock: If I may just add something, just for the record. You had commented that a physician or dentist might not move into those types of facilities.

Carol Bridges: That was one that he recommended might be there and I talked to a couple that told me there wouldn't be any need for them to be there.

Commissioner Mourdock: Well, my point was going to be--

Carol Bridges: I'm sorry.

Commissioner Mourdock: --and remains that in dynamic Darmstadt, as those of us like to call it over there, we have both a dentist office and a doctor's office who moved into both those types of facilities. I throw that in for what it is worth.

Carol Bridges: Oh, I know they're there, yeah. I just happened...was addressing that particular spot and people that I knew.

Commissioner Mourdock: That does raise another question though and it is one that, Mr. Shively, I heard you use the term neighborhood retail three times. Would you define for me what neighborhood retail is beyond what we just spoke of?

Carol Bridges: That would be of interest to all of us. Excuse me, I'll move over.

Les Shively: Let me say...I want to respond to that comment.

Commissioner Mourdock: Which comment?

Les Shively: The comment was just made and then I will answer your question if I could. We have met with neighbors on numerous occasions. Everything you see in the Use and Development Commitment, everything you see in the restrictions are things that the neighbors commented on. I mean, I think they're against it period, but they have commented on or raised concerns. We've met every concern that they've raised. You know, the neighborhood commercial, we're talking about the size of these buildings. I mean, you're talking about small square footage. For example, maybe something in the nature of a small pharmacy would be something that would be a potential use there. A real estate brokerage concern in addition to professional offices, although professional offices, again, are addressed along with business offices, but you're talking about because of the limited...I forget what the square footage limitation is in C-1, but you're limited to the square footage that you can have and these buildings limit the types of...you know, maybe a deli, a small deli might be there or a place where you could buy specialty food items. Something of that nature may be a fit in that particular situation. Again, I think it is important to note that everything that is in there addressed every concern or question that was raised. There is not one thing that we were asked to do that we've refused to do. I also want to point out something in addition to the former use of this property. Just as the crow flies at Boonville-New Harmony Road and Seib Road is zoned industrial because for many, many, many years Mac McCutchan had a truck hauling business. He hauled aggregate. He hauled material and stored large trucks and outside stored materials there. That was a legal nonconforming for years. Now that has now legally been zoned to industrial classification, I think with a Use and Development Commitment, I'm not sure, but mixed uses are something that has been with the McCutchanville

area for years and years and years. The difference is what we're proposing to do here there are written commitments. There are enforcement provisions and there are guarantees that this will be compatible with the area out there and it won't be an exasperation of a problem, but will be the beginning of some solutions out there which we think are very positive. Mr. Mourdock, you said Darmstadt is a great example. They have that little corner up there, it's a good example. Dr. Johns, I think, still has his office there. I'm not sure if he does or not. John Staser, until he became a banker, had his office up there where he had banker's hours and I see there is still some office space up there now. The area they're talking about on Kansas Road, we don't want C-4. That's C-4, that's industrial. We don't want to pay C-4. We don't want an industrial use. We want something that we can develop in a compatible way that fits this little niche that we want to serve based upon the experience Mr. Perry has had with the restoration and leasehold improvements of McCutchanville school. That's what we want to do. We don't want to go industrial. We don't want to go high level commercial to C-4. Quite frankly, those two corners are not practically available. I think the one corner, I think it's already been sold, but they were asking about \$160,000 an acre. Thank you.

Les Lantaff: I would like to make a clarification please.

President Jerrel: You want to come to the mike please.

Les Lantaff: The same thing was brought up at the meeting last week. The property has not been sold. I talked to two of the property owners and they have not even been approached, so I don't know where Mr. Shively got his information.

President Jerrel: Yes.

Dale Wright: My name is Dale Wright. I live at 10838 Eagle Crossing Drive. I kind of want to affirm what everyone else is saying and it just seems odd to me that if the community...if this project was something that the community wanted it seems to me you would have other people up here besides Mr. Perry and his attorney. So I don't see the support for this project, but I do see conversely a lot of concern and hopefully you'll take those concerns to heart and look at the situation as it is unfolding here and vote that. Maybe I don't understand or have a firm understanding of--

President Jerrel: How it works?

Dale Wright: --how these things work.

President Jerrel: Well, maybe I think that might be important for Mrs. Cunningham to explain. The community doesn't usually come forth and say we want somebody to build over here. That isn't the way it works. At least in--

Dale Wright: That doesn't mean it can't.

President Jerrel: No, but I meant that I've been here a little under three years and I don't know, have you?

Commissioner Tuley: No, I don't think too often we've had someone stand up here and say, yeah, I want C-1 next to my house or I want even a zoning that may be in their minds considered appropriate. Most people only come out when they want to say something against development. It's rare that we have people come up and say

they want it, and I'm not trying to be funny about this particular one.

Dale Wright: I'm not trying to be--

President Jerrel: I know.

Dale Wright: --dense on this either.

President Jerrel: Yeah.

Dale Wright: I believe if I felt like we were living in an area that deserved some services that we don't have out there I wouldn't be ashamed or feel intimidated to come before you and ask you to consider or round up support for entrepreneurs to develop out there. If we felt like we needed more development I think people are smart enough to ask for it.

President Jerrel: Okay, are we ready to take action one way or the other?

Commissioner Mourdock: Any other comments? Okay. We have a procedure we need to go through here. Mr. Lantaff?

Les Lantaff: Did you get your definition from Mr. Shively?

Commissioner Tuley: Yes.

Commissioner Mourdock: Yes. Yeah, we already...yeah. We have the procedure here we need to formally call for a roll call vote, so with that I would move for a roll call vote on VC-8-99 for the rezoning from AG to C-1 for the 2.67 acres at 11725 Old Petersburg Road.

Commissioner Tuley: Second.

President Jerrel: Alright, and I'll ask Commissioner Tuley.

Commissioner Tuley: These are what makes this job more difficult than anything. I think these rezonings and, drainage. As Mr. Shively eluded to earlier, next week we'll take off our Commissioner hats after our regular meeting and put on Drainage Board hats, but these kinds of things are ones that really for me in my seven years just are really difficult to deal with and try to decide. In my...in this particular issue my biggest hangup with this is this abuts right up on the east side it looks like against residential zoned property. I mean, right up against it. I also can hear the next person coming in wanting to go further south down the road using this property as an argument to say, well, you've got C-4 on the corner, you've got C-1 right next to it, so let's just extend it a little further down Petersburg Road, so that having been said I'm going to vote no.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Ditto the first two sentences that Pat just said. This is what makes this tough. After doing this six years Pat probably knows what I am going to say by heart here, and Bettye Lou has probably learned it too after two and a half, but I try to be consistent as I cast these votes. We had a group that spent a lot of time and frequently reviews our long-term comprehensive plan. There are times and places that we use to modify what we put together in that plan for

residential and all kinds of commercial and industrial. The current land use plan says that C-4 is one area around this intersection and it also is very strong in its language wanting to dissuade this body from going into different types of strip zoning or spot zoning, so I will also vote no.

President Jerrel: I'll make that unanimous.

Final reading	VC-9-99	Jerry David Enterprises, Inc.
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President Jerrel: Okay, if you'll move on now to VC-9-99, Jerry David Enterprises.

Barbara Cunningham: Donald Wright is the representative for Jerry David Enterprises, Inc. in this petition to rezone a 7.76 acre site adjacent to his property at 4301 Hogue Road from Agricultural to C-4. Mr. David amended the petition from a request to rezone four acres to C-4 to the current petition before you which is now a petition to rezone 7.76 acres from Agricultural to C-4.

President Jerrel: May I ask those of you leaving so we can hear Mrs. Cunningham read her report, thank you very much.

Barbara Cunningham: This seven plus acre site is adjacent west of the existing Jerry David batch plant at the intersection of Hogue and Rosenberger. The stated proposed use of this site proposed for C-4 zoning is identified on the petition as an equipment storage building for the Jerry David facility. There is no access currently available to the proposed C-4 site as this was sold off by, I believe it was, Mr. David or the company by the petitioner. The only access to this site is through the Jerry David adjacent M-2 lot. Any parking area of the new C-4 area requires paving with a hard and sealed surface, but the site is in the Carpenter Creek floodplain and the property is in both the floodway and the floodplain, so any permits that would be granted on this would require DNR approval. Many of the 174 uses permitted under the C-4 classification are considered incompatible with adjacent residential development and I don't believe...another point of interest that I said was when they did sell off the adjacent property I think it was to the west and to the south there was a 75 foot buffer that was left adjacent to residential.

Donald Wright: Madam Chairman and members of the Commission--

Joe Harrison, Jr.: Mr. Wright, can I have you hang on one second? All those who wish to speak with respect to this particular rezoning please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Donald Wright: Madam Chairman and members of the Commission, I represent Jerry David Enterprises, Inc. and JK, LLC. The owners are Jerry David, II; John David and their sister, Diane Folz. They currently operate--

Commissioner Mourdock: And what is your name, sir?

Donald Wright: Don Wright.

Commissioner Mourdock: Okay, thank you.

Donald Wright: They currently operate Jerry David Enterprises, a batch plant off of Hogue Road. In order to assist you a little bit as you go through it I have given you a little bit of a drawing that I'll cover. The rezoning request as you've heard is for a little over seven acres to be C-4 is presently agriculture. There is to be a maintenance and storage of equipment in this area and maintenance and storage in conjunction with the existing batch plant. The access would be through the existing Jerry David Enterprises' property. I call your attention to the little map that I have given to you, the Jerry David portion is a portion of the yellow that you see and has access off Hogue Road. The portion we're rezoning...the pink portion is the property that they own and you'll see towards the left side or to the west side there is a green line there. There is a 75 foot buffer left to those premises to the west. To the north of this is a railroad track. Across from the railroad track is all commercial zoning. The yellow portion that you see is industrial zoning. The portion to the south that abuts Hogue Road is unimproved agriculture not owned by the Davids and the portion to the west is residential and being developed residential and that's why the buffer has been left on that side for trees and so forth to buffer that property. They understand that because this is in the floodplain that they're dealing with IDNR. They also understand that before they build any building we've got to raise the level, what is it, three or four feet above the floodplain level and because of that and because of the fill there is the potential that we'll have to have maybe even a pond out there to offset the fill, but they're handling that with IDNR and we'll get IDNR approvals. We're also not able to give you a site plan at the present time. We wish we could, but we're not sure where the building can be located until we get the IDNR approval, but we understand that there has to be pavement on all the roads that are out there because of the floodplain. That will be done. They also understand that when they do submit a site plan it will have to have not only the parcel that we're rezoning, but also the parcel already existing to show the access to it so that you can see how you get in and out of the parcel. So as I've said to you, I believe this is a reasonable use for this particular property because it is adjacent to a railroad track, it's in the floodplain, it's adjacent to industrial and it does not in any way give another access or another cut to Hogue Road. That's probably going to keep trucks and vehicles off Hogue Road if we can keep them on that premises rather than having to take them somewhere else and store them. So we believe it's a reasonable use. We think that we've left a reasonable buffer for the residential area to the south and west and we request your approval. I have Mr. John David here with me to answer any questions you might have.

President Jerrel: Show me...John, could you come up? Show me where your current business is located.

John David: It's located right in here. This is the creek. Here is where the property line is, so we're located in here.

President Jerrel: And then you'll have some way to--

John David: There is already...there is an access right here through this (inaudible).

President Jerrel: Okay.

John David: So nothing can be put in here anyway.

President Jerrel: Uh-huh.

John David: And that would be the access into this property.

Joe Harrison, Jr.: Bettye Lou, you might indicate that was Mr. David speaking.

President Jerrel: That was John David speaking. Are there any questions?

Commissioner Tuley: No, I think it's important that they're leaving that 75 foot buffer because I think the residential development that they're talking about besides the existing older homes, the few that are along there I think there are only one or two between Rosenberger and Hogue on the north side. Other than...on Hogue up to Red Bank with the exception of Winstead Place, which has some pretty substantially nice homes in there, but with that 75 foot tree buffer I don't think that is going to effect the Winstead Place development.

President Jerrel: What would you do if you didn't get a favorable DNR ruling? Just that's it?

John David: Well, we would let the farmers go back in and farm the land again.

President Jerrel: Yeah. Okay. But before you can add any fill or anything they'll have to give approval for that?

John David: Correct.

President Jerrel: Okay. Did you have any questions? Did you?

Commissioner Tuley: I'm sorry.

President Jerrel: Did you have a comment?

Barbara Cunningham: I'm having a blank moment and I can't remember how the 75 foot buffer was left. Was it left--

John David: It was left agriculture.

Barbara Cunningham: So it's left agricultural, so you would have to come back. So that's protected.

Commissioner Tuley: If you rezone it.

John David: It's not in the rezoning petition.

Barbara Cunningham: No.

Commissioner Tuley: That's what we're trying to get clarified.

Barbara Cunningham: Yeah.

President Jerrel: Anyone else that wishes to speak to this? Is there a motion?

Commissioner Mourdock: For the purpose of a roll call vote, I'll call on final reading VC-9-99 which is the rezoning from AG to C-4 for 7.76 acres at 4301 Hogue Road.

Commissioner Tuley: Second.

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

Commissioner Tuley: I'm going to vote yes for this with the comment that I'm glad to see that you didn't come out to Hogue Road. Please while I am sitting here don't come back and try to extend that out to Hogue and front on Hogue Road. But I'll vote yes on this one.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: I'm going to vote no because again I want to be consistent here. Our Area Plan says that this is for residential use which in all reality will never happen because of the floodplain and floodway issues out there and I just look at those two issues alone, the floodway issues, and I am really...I speculate as to how successful the applicant would be with permitting, so I am going to vote no.

President Jerrel: Well, I'm going to take you at your word with your 75 feet that separates and DNR is the answer to whether you do anything or don't do anything and I am going to vote yes.

John David: Thank you.

President Jerrel: Motion carries.

Final reading	VC-15-99	Jagoe Land Corporation
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Commissioner Mourdock: We'll move on to Jagoe Land Corporation.

Barbara Cunningham: Jim Morley and Marco DeLucio are the representatives for Jagoe Land Corporation in this request for a change in zoning for three parcels of land, all part of the Stone Creek master plan community. Let me get...we've got lots of drawings. Marco, do you want to help me with these?

Marco DeLucio: Yeah, I'll help.

Barbara Cunningham: This before you is all part of the Stone Creek master plan community. The planned Stone Creek development is located at the northwest corner of Kansas and Seib Road. The 5.13 acre proposed C-4 parcel is at the southeastern corner of the site closest to Highway 57. There is a 14.18 acre parcel with access to Kansas Road at the western edge of the site which is proposed as a 55 lot residential planned unit development. A second residential planned unit development is planned in the center of the 209 lot Stone Creek Subdivision which consists of...this PUD consists of 56 lots on a 7.48 acre site. The 209 lot Stone Creek Subdivision did not get preliminary approval and will be returning to the Plan Commission at next month's meeting. The PU...so what you're looking at tonight is not the subdivision, which is not what you generally look at, but you're looking at both the C-4 zoning and the two planned unit developments that are proposed. Planned unit development zoning classification is designed to allow for more flexible regulations while preserving the purpose of the zoning ordinance. In return for allowing more flexible zoning regulations, the developer shall be required to preserve common open space or any environmentally sensitive areas. Most of this site lies within the floodplain and the Department of Natural...DNR has designated a large portion of this property as floodway along Firlick Creek which will require DNR permit prior to any cutting, fill or any other land disturbing activities. The portion of the site which is located in the floodway is designated as an open space park area planned for various recreational uses including possible soccer or baseball fields including

drives and parking. The subdivision and building plans are part of the planned unit development rezoning ordinance. The lots within the two PUDs range in size from 3,565 square feet to 9,786 square feet. Lots in the PUD shall have minimum 20 foot front yards, minimum 15 foot side yards and zero feet on one side with a minimum ten foot on the opposite side. We also have on file nine typical house designs have been submitted which would be permitted within the minimum setbacks required on the plat. Jagoe Corporation's overall development plan detailed on the Stone Creek Subdivision plat includes the relocation of Seib Road to a point 400 plus feet west of its existing location. There is an interior road network that will be...that was addressed as part of the overall subdivision development plan. The adjacent area to the east of this site is designated in the plan for commercial use and some commercial development has occurred. In general, the State Road 57 corridor just northeast of the site is planned for a mix of predominately industrial and commercial uses. The five plus acre proposed C-4 area lies between the existing Seib Road and the proposed new rerouted Seib Road maintaining the residential integrity of all development west of Seib Road. South of Kansas Road is an agriculturally zoned area planned for a residential subdivision. Across Seib Road east of the proposed C-4 is an existing C-4 trucking business. The proposed development plans for this site appear to be consistent with the overall plan for the area.

Joe Harrison, Jr.: All those wishing to speak with respect to this petition please raise their right hands. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Marco DeLucio: Madam Chairman, members of the Commission, my name is Marco DeLucio. I'm here this evening on behalf of Jagoe Land Corporation. You have plenty of drawings here in front of you and what I thought I would do is kind of try to explain why this property, why we're looking at it, what our plans are and why we believe that this Commission should approve the request for the PUD...two PUDs and the C-4 zoning this evening. First of all, why this property? Well, I think if you'll look at where this property is situated it is essentially on the corner of Highway 57 and Kansas Road. The road system there is, I think, one of the keys to why we are looking at this property. The people that utilize and live in this subdivision, in the PUD or the subdivision itself, will have easy access off of Kansas Road onto Highway 57 to go north or south. They will have easy access onto Kansas Road which I believe is about 22 feet in width to go...if they're going to go north on Highway 41 we would generally think that they would take Kansas Road to Petersburg Road to Browning Road to Hillsdale or on up to Boonville-New Harmony. They also have easy access onto the east side of town by taking Kansas Road directly east to Green River Road and down Green River Road. So we think that the location of this property is key for why we want to do that. The second as we looked at this property as to what Jagoe thought about and I'll ask you to flip, and I believe I should have done this a second ago. I believe I sent to the County Commissioners last Friday I had delivered a plat and I'm going to make some references to that tonight. I'm not sure whether you brought that with you this evening. I have extra copies. As Barbara indicated in her comments if you'll flip to Tab 2 which is a copy of the 2015 Comprehensive Plan Map and in Tab 2 you'll see Highway 57 as it heads north there is a commercial area off to the west side of Highway 57. That is the general area where we are looking at. The white streak between the commercial area and what has been denoted as a residential area is Seib Road, so you can see where we are proposing the PUD developments those are residential developments, they're residential PUD units and that fits within the Comprehensive Plan. The

commercial area follows Seib Road and one of the requirements that the Plan Commission has imposed on us and which we have agreed to do is to relocate Seib Road for safety purposes and you can kind of see how Seib Road is going to curve at our proposed...where we are asking for the C-4 designation this evening. What we are asking for is to keep a C-4...to make a C-4 zoning east of Seib Road which is consistent with the C-4 zoning that you'll see that fronts along the highway right there. So we think that the C-4 zoning is consistent. One of the things we looked at when we looked at this property is does this property fit within the Comprehensive Plan and we believe the answer to that question has to be yes because this is a residential development. A little bit about this project, and if you'll flip to Tab 3 just so you can see, this kind of describes what this project is. As Mrs. Cunningham said, there is a total of 320 units that is being proposed and most of that is going to be in the subdivision. The two PUD units, the one that will access Seib Road to the north, it's the green area on this map on the bottom, is a 55 unit area and the one that fronts along Kansas Road is 56 units. There is a total of...when you take in the C-4 area it's about 5.13 acres. When you add those three units up together with the subdivision you'll arrive at roughly 100 acres total. That's going to be comprised of 320 residential units. What type of housing is being proposed in the PUD? Again, the second page under Tab 3 and the following pages...the remaining pages in Tab 3 show the types of homes and these are actual homes which Jagoe has built in and around the Evansville area. Jagoe is not new to Evansville. It has developed Timber Park out near...out off of out near St...Good Shepherd School and Stockwell School. It has a PUD unit within those subdivisions out there. The Village at Timber Park that has 96 units, so this is consistent with what Jagoe has done in the past and the units you're seeing in the pictures as you look through those are the types of units that we would be developing here. Jagoe has also built additional PUD units at Windsong at Lincoln Pointe as well as various other areas in Henderson and Owensboro and a new project that is under way in Newburgh. So it has experience in these. The reason why we're seeking the PUD and we feel it's in conformity with the subdivision itself is that there is a demand for these type of units. The market that Jagoe is looking at when it builds these houses if you'll flip to Tab 4 the market for the PUD units itself generally speaking are going to be the young singles that are starting out, new home buyers. These units are roughly 800 to 1,200 square feet priced anywhere from \$80,000 to \$120,000. Tom, is that correct? So they're relatively inexpensive homes. They're low maintenance homes. There is not much front yard, not much rear yard so you don't have a lot of maintenance. The other significant age market are the empty nesters. Those are folks that have had bigger homes. Their families have grown up and they desire to have a home that's a little smaller with a little less maintenance involved. Those are the two markets and there has been a great demand in the PUD units that have been built by Jagoe similar to this in Evansville and in the surrounding communities. Those have sold out probably as quick as any and that is what they anticipate to happen here. So it's strictly a residential type of development which again is consistent with the Comprehensive Plan. Tab 5, and what we wanted to do here was to demonstrate...we are asking for this to be rezoned. If it would not be rezoned it could be developed as a residential subdivision and not be before you this evening. There was some concern expressed at the Area Plan Commission by neighbors in the area their concern that there is going to be more houses on these lots. That's true, there will be more houses on a smaller area in the PUD area itself, but what we would like to point out is that you're going to have less population and we think the population is what the concern ought to be because it is people that generate traffic. It's people that generate noise. It's not the homes themselves. So if you'll look at that comparison based upon the household sizes and these are household sizes that Jagoe has come up with in its prior history in the subdivisions that with a PUD they anticipate a population of about

165 people in these two PUD units and if they were to develop this residentially with bigger lots there would be 186 people, so we think that there is going to be less people hence less traffic and less noise as a result of the PUD. Another concern that was expressed at the Plan Commission level was issues concerning traffic. What we wanted to show you this evening, and that's behind Tab 6, is that the number of dwellings...the PUD units in the west and in the east, the east being the one that fronts along Seib Road, are going to generate less traffic than the remaining portion of the subdivision. It generates less traffic because there are less people living in these homes and hence there is going to be less traffic. How is that traffic going to be dispersed? There is some concern about widening Seib Road and the need to do that. A little bit of history might be important here. A portion of this property was previously approved for a subdivision about a year ago in 1998, I believe. It was a 171 unit subdivision with two entrances and the only two entrances fronting on Seib Road. At that time EUTS and the County Engineer recommended that Seib Road be widened at that point to handle the additional traffic flow. One of the things that Jagoe did when it took a look at this property in addition to presenting a plan that shows its entire development plan as opposed to just a portion is to create an internal roadway system that would funnel traffic off of Seib Road that is generated in this subdivision and send it on south onto Kansas Road. The road, if you'll take a look at it here, it has been generally outlined in red, that's the sidewalk area, but the sidewalk follows the road. There is an internal road network of streets that are 29 feet in width that will, I think, people will stay on and the natural outflow is to send the traffic on south as opposed to getting onto Seib Road which is just 18 feet in width. It was designed that way so that we could get to that point and funnel that traffic down. We shared this information with EUTS and the County Engineer both of whom agree that is where the traffic would go and hence there is no need to widen Seib Road at that point according to EUTS and according to the County Engineer at least as a result of this subdivision. We think that is demonstrated. We had in Tab 6 a trip generation study performed by David Ripple of Bernardin Lochmueller that showed how he believed the traffic would flow from this subdivision and from this area. As I indicated during my opening remarks, we think the traffic is either going to exit out and go down 57 south or go east on Kansas Road or west on Kansas Road. We think there is going to be very, very little traffic that exits onto Seib Road. The only area that we think that may exit onto Seib Road will not be the PUDs, but it may be the 60 lots in this corner that I'll call the northeast corner of the subdivision itself. As you can see, where the PUD is situated the traffic they have two alternatives that basically head south out of the PUD onto Kansas Road. The second page behind Tab 6 is just a study that we did trying to take trip distances and times because there was some concern expressed that a lot of people that were heading north perhaps to the Toyota facility or to other manufacturing concerns along 41 may take Seib Road to Boonville-New Harmony Road. We did some timing from that point and we basically timed it from the entrance of the subdivision all the way to the intersection of Boonville-New Harmony Road and Highway 41. As you'll see there the time is relatively the same with the exception of going north to Highway 57 and then exiting onto Boonville-New Harmony. That's a little bit longer, but really the shortest route as we indicated before is to take Kansas to Petersburg Road to Browning Road to Hillsdale. One of the things we wanted to show with Tab 7 is that there has been some concern that this subdivision, the PUD, the commercial zoning on this property should not be built because Seib Road is only 18 feet in width and can't handle any additional development in the area. We added this insert to show that there are approximately ten other subdivisions in the area that have access to roads that are 18 feet in width or less, so it's not new. I think the County Engineer has mentioned that in his comments that there have been a lot of subdivisions approved where the roadways are 18 feet. In our case the principle access, we

think, at least certainly the PUD on the west side of the property if not the PUD on the north side of the property is going to be onto Kansas Road which is 22 feet in width. Another concern, I think, that was raised at the Plan Commission level was the issue of school overcrowding in the area. We have very little control over that. I think the comment that Roger Herrin made at the Plan Commission level was that if the school...that the School Corporation will always provide for the students. If more classrooms are needed the School Corporation will provide it. Be that as it may, what we wanted to show here is that Jagoe's historical numbers would show that it would project in the entire subdivision, certainly the PUDs themselves are not going to have a great deal of students, but in the entire subdivision you're going to create...probably have about 59 students generated or that live in the subdivision itself. That is because to a large extent in the PUD units that you're looking at, the 55 unit PUD and the 56 unit PUD, as we said before those are generally younger people that are buying their homes before they've started a family or older folks who are moving out from bigger homes once their families are raised. That helps keep that number down to 59. The second page shows what that would mean. Again, this development is not going to go up overnight. It's going to go up over a seven year period, so you're not going to have all of these students added to the various schools in the district immediately but you're going to be factoring those students in over a seven year build out period. As you'll see there, it is estimated that Scott Elementary School you're going to average about 3.3 additional children per year as a result of the entire development itself. Even if you...and the School Corporation has provided us with some numbers that they were estimating that there may be as much as 200 or 212, I believe, students living in the subdivision. We didn't use their number this evening because I don't think they factored in...they just looked into the number of units as opposed to the fact that 110 or 111 of these units are going to be of the smaller PUD type development. One of the principal concerns now turning to the C-4, a couple of things I would like to note there. Again, I think the suggestion that we have heard is that because Seib Road is being relocated that extending that C-4 into that area is not going to be invasive to the community. We envision that this is going to be complimentary to our community and be used for the residents of not only our subdivision, but of surrounding subdivisions in there as well. At the Plan Commission we indicated that there was some concern expressed because there wasn't a Use and Development Commitment filed that anything could go in there. One thing we would like to point out to you is that Jagoe is primarily and almost exclusively a developer of residential properties. It is putting its money into a 320 unit residential subdivision and PUD and it certainly builds its own units, it develops the land and builds the houses. It is not going to cut off its nose to spite its face to put something that is going to be objectionable to people that are living immediately adjacent to what the C-4 designation is. What we wanted to do this evening, and attached behind Tab 9 in the packet, is an agreement and declaration of covenants which Jagoe has signed and will record if the subdivision itself is approved, if the PUDs are approved and when it buys the property that will severely limit the types of uses that can go on in this. What we did was go through and pick out those things that we believe would under no set of circumstances go in there and leave in there things that we think would be useful for the residents in the area such as a small deli type establishment, a convenience store, a car wash, something of that nature that the residents in the area would be able to use. If you'll look at the restrictions themselves you'll also see that we've placed restrictions during construction, restrictions that would dictate what type of lighting could be in the area so it's not visible and it doesn't shine the lights into adjacent residential property. Limit off-premise signs, i.e. billboards. Covenants concerning the maintenance of the grounds and limiting noise and the times and where delivery vehicles can deliver product in this area. Again, it's a relatively small portion of this project.

Approximately five acres out of a total of 108 acre project, but we believe it's important to provide a total community not only for our own folks who are going to buy lots in here, but also for the surrounding property owners to use as well because we think there is a market for that in that area. In closing, again with me this evening is Scott Jagoe and Tom Hansen from Jagoe and Jim Morley. We're happy to answer any questions you have. I know there was some drainage issues that arose and I think we addressed those and though I think this project has already received preliminary drainage approval and we know we need to get final drainage approval. We know we need to get DNR permits for the subdivisions themselves and we'll be working on that. But in closing we want to point out, again, that this property was selected because of its ease of access to existing roadways and because it seems to us to fit entirely within the Comprehensive Plan for Vanderburgh County. For those reasons we would ask your approval of this rezoning petition this evening and I am happy to answer any questions as is Mr. Hansen, Mr. Jagoe and Mr. Morley. Thank you.

Commissioner Mourdock: And we need to flip the tape.

Tape change 8:15 p.m.

President Jerrel: You ready?

Charlene Timmons: Yes.

President Jerrel: Okay. Are there any other questions or anything you would like to ask? Alright, let's--

Barbara Cunningham: The only thing I don't find in my file and I wonder if it's in the subdivision file is the amended EUTS report.

Marco DeLucio: I have a copy. I have that letter over here that we received from Mrs. Zigenfus if that is what you're talking about.

Barbara Cunningham: Okay, I don't think the Commissioners have that.

Marco DeLucio: Would that be the one dated September 30th, Mrs. Cunningham?

Barbara Cunningham: I have September 20th, is all I have. Let me look at it and see. Yeah.

Commissioner Mourdock: I do not have any questions at this time.

President Jerrel: Okay, thank you. May I just say this, when we start many of you will be saying maybe the same things, but if you can I noticed that there were 19 hands raised, so just...I mean, to get up and say the same thing try to keep your remarks either if they're different be sure to or if you agree with someone you can...so I'll just...whoever wants to go first. Okay, we have a gentleman over here and a lady over here. You're nearer to the mike. If you'll just be sure and give your name.

Commissioner Mourdock: And address.

Michael Lasher: My name is Michael Lasher. I live at 2621 Waterstone. I don't know what Rose Zigenfus' report is there, but I certainly hope that a traffic impact

study has been done on this particular project. I think many of the subdivision plans that are reviewed are in the range of perhaps 40 to 60 homes. We currently see how Windemere and some of the other developments in the area have continued to expand and as I understand will continue to expand, but this particular development is 320 plus dwellings. I'm pretty impressed. I think other folks are here, too. This is a very major step. I'm not against the development per se. I do have several concerns regarding traffic and safety. My first comment would relate to the planned unit developments. I believe they reflect a significant change to the current rural nature of the area and that these PUDs have a certain urban feel and traffic density that are not appropriate in this area. I feel that it is a change of use in the area and the neighborhood. Also, the C-4 lot I believe would significantly increase the traffic count in the area on Kansas Road and certainly the turning movements off Highway 57 and onto Highway 57 at Kansas Road. This rezoning is not necessary to serve a local community. There is a C-4 lot just to the south of this area about a quarter mile off Highway 57. I would ask you to please limit the C-4 frontage to Highway 57 as it has currently been developed and is a part of the Comprehensive Plan to continue commercial and industrial development along that corridor. I would ask you not to turn the corner onto the county road and begin to stack up and create traffic problems in that area adjacent to so many residential units. Also, I understand and I appreciate that significant funds have been spent to extend the sanitary sewer up Highway 57 to Daylight. Obviously, we all hoped that this was going to support additional industrial development as well as residential and this also was forecast in the Comprehensive Plan. I am a licensed engineer. I work for many local industrial concerns and in my opinion and preliminary calculations this particular sanitary sewer is very close to being maxed out and it appears that it's the residential developments that are appearing before you all very quickly that are sucking up this capacity. I know the Utility Board is concerned. I'm wondering when the Malibu lift station will be upgraded and at whose expense? Also, beyond that perhaps the next choke point is the ten inch sewer across the airport property and I know that funding is very difficult to make these kinds of substantial improvements. I'm wondering just who is going to sign that capacity letter to the Indiana Department of Environmental Management that says that sanitary sewer has adequate capacity for this development as well as those developments that have currently been brought on-line. Jagoe's representatives stated that there was easy access to Highway 57 and to Green River Road. That would particularly be true if we could have some improvements to the intersection at 57 and at Green River Road and I hope that infrastructure could be in place and perhaps even volunteered by this developer. Thank you for your time.

Carla Hynes: Hi, my name is Carla Hynes and I live on Seib Road. I have a lot to say and I want you to know that I am not just representing myself. I'm representing a lot of my neighbors who couldn't be here tonight. I live just across from the proposed development, Stone Creek. I like to say that my neighbors and I are not against development or this development. In fact, I do not like being called a remonstrator over and over again. I'm merely here in the hopes that if development does occur it is safe, well planned and an asset to our community. Unfortunately, I do not feel that this petition for rezoning fits that description. The developer and the engineer have presented to you some attractive pictures and maps, but I feel we need to look closely here and consider the whole picture from all points of view. We have no problem with the homes themselves on an individual basis, they are very nice. I realize that what is being presented tonight for rezoning is in three sections, two PUDs and one commercial C-4 area, but we feel the entire subdivision must be considered to determine the full impact on our community. It is impossible to consider the impact of this large subdivision in portions so I invite you to remember

some other statistics when you make your decision tonight. The entire proposed subdivision, no matter how the numbers are broken up, is one of the largest ever proposed in Vanderburgh County. The entire plat contains 321 homes and a five acre C-4 area with stated plans that the commercial area is to be used in part as a gas station, convenience store and car wash. The residential area contains 210 lots. PUD 1 along Kansas Road contains 56 lots and PUD 2 contains 55 lots. This translates roughly to 800 to 1,000 people, and 800 I got from the engineer's statement last time and 1,000 I kind of added in because I felt like that was pretty low. Anyway, and approximately 642 automobiles because even if you have two adults living in a PUD usually two adults have two cars even if they don't have children. I also feel the history of this property needs to be reviewed carefully before a decision is made. The property is located on land currently zoned agricultural and it was farmed up until three years ago when development was first attempted. In the past the property owner attempted to rezone the southern portion of the property to C-4 in order to build a trucking facility. This attempt was defeated by the County Commissioners on September 16, 1996 for the following reasons: the entire property is designated in the Vanderburgh County Comprehensive Plan as residential. The roadways servicing the C-4 would be inadequate for this level of traffic. The C-4 zoning classification allows many uses considered incompatible adjacent to residential development. These are not my words, these are the words of the County Commissioners and the Area Plan Commission. The property then came before the Area Plan Commission on several occasions in 1998 when a 174 lot residential subdivision was proposed at the northern part of this property. Future plans were stated for development south. This subdivision plat was approved only after provisions were agreed to for relocation of Seib Road and Kansas Road intersection and widening of Seib Road along the length of the subdivision. This was required of the developer secondary to no county funds being allocated to upgrade this road. The reason the aforementioned provisions were required were the narrow roadways, the public safety issues, and it did not meet subdivision codes because of these reasons. This subdivision plat has since expired. The community raised multi issues at that time concerning drainage, road safety, sewers, impact on environmentally sensitive areas. The same issues apply today and even more so with the added impact of the surrounding development factored in. Because of the topography of this land and the amount of fill needed for the property to be developed it is necessary for this developer to maximize the density to get monetary benefits. We do not feel the community should bear the burden of those negative impacts because they have chosen a difficult and expensive piece of property to develop. There are areas much better suited to dense development than this rural area. Our Comprehensive Plan discusses at length the need to control urban sprawl. It defines urban sprawl as outward growth. The plan stresses contiguous development which minimizes the loss of agricultural land, creates efficient use of infrastructure and improves the stability of certain uses within the city and the county. It strongly recommends infield development and discourages rezoning of new land when significant vacant areas are available within current zoning. This outward growth or urban sprawl has been in the news lately on numerous occasions. Our Governors, our Senators, local papers, even the Vice President has warned us to control urban sprawl because it is negative, the impact is expensive and it is not good for the environment. According to our census, I looked this up, Vanderburgh County is not significantly growing we're just moving around. We're spreading out and we're jumping around and using up agricultural land. This is very expensive. We need to entice people to come to stay and not keep moving around. We need to maintain rural areas, not overcrowd and ruin the positive attributes of trees, green areas and low density. So let's get to specifics. A portion of this property is environmentally sensitive. Firlick Creek runs the length of the property. It is

inventoried on the US Department of Interior Maps as a potential wetland. Drainage in this area is a major concern. Mr. Lasher already discussed that. It has been pointed out by residents in the past. It has also been pointed out by your recommending bodies as a problem. I know that they already have given preliminary approval, but I feel this deserves a closer look and I also want you to realize that this process is complicated, it's hard to understand and it is time consuming for the public. The public is not always welcome and comfortable in your technical review committees so bear with us if we bring up some issues that have already been discussed at Drainage Board and other committees. I want you to realize that 136 of the proposed lots are located in the 100 year floodplain. This is roughly two-thirds of this subdivision. Thirty-seven lots are located within the floodway. The Comprehensive Plan states that placement of substantial fill within the floodplain can impact adjacent areas that do not currently flood. DNR approvals are required and have not been obtained. The sewer system has already been brought up. Fourth, the schools in this area are currently over capacity. I have a kindergartner who was just moved to a portable classroom. That's okay, but there is no more room at Scott School where she is to put anymore portable classrooms. I called the Vanderburgh County School Corporation and I was told that they did have the property, but they have no funds and no plans in the future to build the school. Fifth, there is a severe lack of publicly funded recreation areas in this site. The proposed open areas in this development appear to consist mainly of retention ponds, Firlick Creek and not much is leftover for ballfields, play areas, let alone parking. Last, the roadways are barely tolerable at present. Seib Road is a narrow 17 to 18 foot wide road with hills and lacking shoulders along most of the road. Kansas Road has a narrow one lane bridge located just west of PUD 1. Kansas Road additionally is the road that is supposed to take up the traffic. The Highway 57 and Kansas Road intersection is skewed with a flashing light. It has been said that Seib Road will take most of the traffic...will not take most of the traffic flow because it has internal road systems that will take this, but I would like to ask what assumption that is based on. If you were traveling north...I live in the area. I measured the distance and the time. The quickest and shortest path to Highway 41 is Seib Road. The distance is half, the speed limit is 45 on Seib and it's 35 on Kansas and Petersburg. Seib Road is already a collector road by definition and it will be even more so with this subdivision and commercial area. In a letter from Rose Zigenfus dated September 30, 1999, I believe that you have that before you, EUTS and the County Engineer agree that Seib Road will need major improvements to address hills and narrow pavement. In the past this has been discussed. School bus drivers have great difficulty on this road. Kansas Road's narrow bridge does not even allow two large vehicles to pass at the same time. The west end of Kansas Road has a severe curve and this is the path that everybody believes is the shortest and I disagree with that. The same letter that discusses the need for improvements on Seib Road goes on to say the developer is not responsible for the improvements. In the past this was a requirement. The developer has agreed to relocate the intersection of Seib and Kansas, but not widen the road. The ASHTO standard for roads is 24 feet wide with ten foot shoulders recommended. I called EUTS when I read the aforementioned letter and I asked since the developer isn't responsible does that mean that the county has allocated funds and has planned for improvements to these roadways? I was told no. I have also been told we cannot ask the developer to pay for road improvements. We have not recommended that before. Well, that's not true. We have and here are a few examples: Clearcreek on Mt. Pleasant; Edinborough and Fox Hollow on Heinlein Road; Woodgate on Eissler Road. Besides, I have a problem with that. Because we have not planned well in the past and asked for improvements to be made does that mean that we should perpetuate a problem? Just because there are a lot of other narrow roads where we have allowed

subdivisions to go in, does that mean we should keep doing this and at the taxpayer's expense improve them? It is very expensive and difficult to go backwards. Why not prepare and learn from our mistakes? So here are my specific issues and the reasons I feel these rezonings should be turned down. The C-4 commercial area. The justification for this is that the developer is relocating the intersection of Seib Road and Kansas Road. This entire property still remains in the Comprehensive Plan as planned residential regardless of where Seib Road is. You've been told that the surrounding property is already C-4, but I think you need to take a closer look here. I live in this neighborhood. (Inaudible comments made away from mike.) Where the C-4 corridor runs those businesses...there are two businesses located there. They back up to Seib Road. They have a large green area that is very well kept. The business that is on 57 and Kansas has a huge green area. It's very well kept. It has grass, it has trees. I was told that this man was approached and asked to sell a piece of this property so that they could connect directly to 57. He said, no, he likes the way it looks. He thinks it creates a good buffer zone between residential and he doesn't want to have problems with the residential area. I have to agree. It's beautiful. My pictures didn't come out. It is very nice. The piece in question for C-4 will front exclusively on Seib Road according to Ms. Zigenfus. It will have no frontage or connection to Highway 57 like the other C-4 in the area. All of them front 57. It will increase traffic tremendously on Seib and the area roads. It will be a traffic magnet. There is no land use and development agreement in place. The engineer has told us there will be no billboards, no lights, but that is not anywhere on paper, I don't believe. It may be in the new thing that they added. In the past it has been stated that many of C-4's 174 uses are not suitable adjacent to residential areas. There are already existing C-4 areas for similar businesses in the area that can be used and you guys have heard a lot about that tonight. The Comprehensive Plan states we should not rezone and encourage spot rezoning. The property owner just behind this five acres has this nice buffer zone and I think we should maintain that. The two PUD areas. The PUD code requires common open space and retention ponds do not count. PUD area number one on Seib Road has no common, open areas. The developer has said that there is common open space adjacent, but it appears that it is across the street and down between two yards on a pathway. Numerous times in the past and present Seib Road safety issues have been brought up not only by the community, but your planning bodies. PUD 1 has 56 lots on 7.48 acres. This is incredibly dense. PUD 2 has 55 lots on 14 acres which sounds a little better, but you've got to remember that the common open area and many retention ponds are located there. If the property is to be donated as a park that's wonderful, but it doesn't leave much left for the park or parking. The creek and the retention ponds appear to engulf most of this area. I also remind you that Firlick Creek floods its banks often and it is now to be used for a spillover from the retention pond. If these villas are proposed for retirement and for people to age in you do them a disservice by locating them far from community services or public transportation. At the Area Plan Commission it was mentioned that all the people present with issues should come to the next meeting concerning updating the Comprehensive Plan. I would be glad to do this, but I would like to say the Comprehensive Plan as it is is wonderful. I have read most of it. I am asking you today to follow the Comprehensive Plan that you have adopted. In fact, Indiana law mandates that zoning be in accordance with the Comprehensive Plan. I'm asking you to turn down these three petitions for rezoning. The Comprehensive Plan dictates that infrastructure be in place prior to development occurring. No impact analysis studies have been performed and insufficient evidence has been presented to substantiate as to whether this development will have a negative impact. Please make your decision based on compliance with your Comprehensive Plan. Ask the developer to redesign for a

better fit with the community. We feel we have presented you with numerous reasons and substantial documentation, not just our opinions, to deny this rezoning. Thank you.

President Jerrel: Who is the next speaker?

Richard Seib: My name is Richard Seib. I live at 10707 Seib Road and I'm getting to know you people on a personal basis. I came here. I want one point to emphasize and I want to ask you or beg you to consider that this Seib Road was designed for horses and horse drawn equipment and that is exactly the way it was when I was a little boy. As time went on more vehicles were using it. More accidents, which weren't very many, but many close calls in my own case are increasing. I ask you this road that was designed for horses and horse drawn equipment please improve it before you add more homes in this Seib Road area.

President Jerrel: Next speaker.

Mike Bredhold: My name is Mike Bredhold. I live at 11520 Petersburg Road. I'm a contractor/builder. I have a few questions. I'm not really familiar with these PUDs. I would like to kind of find out a couple of things. They're talking about a zero clearance on the lot edge. Most of the time whenever we build or anything we've got certain minimums that we can build up against these lots and all. If this is actually something that can be approved, building right on the edge of the lot, do these houses have footings under them?

President Jerrel: Who would--

Mike Bredhold: Do they expand past the wall? Aren't they encroaching on the next door neighbor's property if you're on zero clearance?

Marco DeLucio: In the covenants for the PUD that were submitted as part of this application along the zero lot line there are common shared easements that allow for maintenance from one side to the other for footings to go underneath the property line, for eave overhang and for maintenance purposes so that people can get in and out. There is a walkway and a pathway between the two and they are a common shared easement and they are part of the restrictions that we filed in connection with the PUD.

Mike Bredhold: Well, if that works I guess that's okay, but if I were living in that type of a situation I don't think I would really appreciate anybody coming in at their own discretion on my property. Especially from the pictures that we saw at the last meeting and all, I think you're asking for problems with this sort of thing. Maybe they work since you have already built them and that sort of thing, but it seems awfully shaky to me to build something on somebody else's property and expect everything to fly down the road. I also wonder they say this area, this ground, is going to have to be built up substantially in order to get it out of the floodplain. If these houses are going to be built on this type of ground how stable can they be being built on top of fill? I know whenever we do something like you normally dig down to solid ground and put your footings and foundations up out of that and not build on just loose fill. I believe that's...my main questions were about the overhangs and houses and all that. It seems to me like it is a bad planning situation to have something like that. I also don't think that this is really a type of housing development that needs to be put in that area. There is no other housing development in that area that even comes close to this type of design.

Gina McCalister: Hi, I'm Gina McCalister and I live on Brink Drive right behind this planned subdivision. A couple of things, she covered most. Ditto. But two things that I did talk to the principal at Scott School today. She said they are at capacity with two trailers behind them. I realize this is slow, it's not going to be, you know, 300 houses and kids filling them, but there is this subdivision and all the other subdivisions that have been mentioned. All those subdivisions are going to have children in them. I don't know where they're going to go. Vanderburgh County has no plans on building a school. The lot that they have there to supposedly build a school is not stable ground from what I understand and quite possibly a school couldn't be built on it. More studies have to be done. She said we're busting at the seams now. The other thing is they keep saying that everyone will go out onto 57 and Kansas. Well, there is a large grocery store being built at the other end of Seib Road and Boonville-New Harmony there. Those people are going to come out of that subdivision and they're going to go down Seib Road to this grocery store at the other end. I'm never going to get out of my subdivision. I will be there forever in between all the other traffic. Thank you.

Commissioner Mourdock: Mrs. McCalister, where is the large grocery store being built?

Gina McCalister: At 57 and Boonville-New Harmony Road. You know where Daylight Farms is?

Commissioner Mourdock: Sure.

Barbara Cunningham: We don't have anything on it.

Gina McCalister: I have the plan if you would like to see it.

Commissioner Mourdock: Yeah, just tell me where it is.

Gina McCalister: (Inaudible.)

Commissioner Mourdock: 57 and Boonville...

Unidentified: West of Daylight Farms.

Commissioner Mourdock: Oh, oh, okay. I know where you are talking about.

Barbara Cunningham: All of that is commercial, but we have not had any applications.

President Jerrel: There has never been anything submitted.

Gina McCalister: Okay, well, that's the plans for it.

Sally Seib: Good evening. I'm Sally Seib and I live at 10707 Seib Road. This particular piece of land in question is poorly situated for dense development. There may be other pieces of land in the area that could support the traffic this will generate. An outlet directly onto a highway would be ideal, but Kansas and Seib Road is not fit for this. About a quarter of a mile south there is property that might do better. It does not matter who the developer might be, this is just not a good site for heavy residential development. The development companies that have been interested in this are all good, reputable companies. I just think they have not taken

all things into consideration. Planned urban development should be for an urban area not for a rural area which this is. PUD just doesn't fit in the country. The old shotgun houses that were in so many towns were squeezed next to each other and often when fires broke out the neighbors were in danger of having their homes go up in flames too. You don't see homes like this built close to each other in towns anymore and for many good reasons. I checked with the Army Corps of Engineers two weeks ago to see if this area had been determined to be a wetland. The Army Corps of Engineers said they were going to look into this. This is something else to consider if this is a wetland on Firlick Creek. There are six different types of silt loam on this property. This 100 acres has been tilled twice to drain the land so crops could grow better. It's in the floodplain and the floodway. Please vote against this. Thank you.

Raelene Smith: I'll be really brief. Carla, how many cars (inaudible). Eight hundred and something? I just want to create two pictures in your mind.

Commissioner Mourdock: First we need the picture of your name for the record.

Raelene Smith: I'm sorry. I'm Raelene Smith and I'm in Eagle Crossing. I would like to put two pictures in front of your mind. The first picture is 800 cars along with all the cars in Eagle Crossing and all the surrounding subdivisions. I understand they do have them routed on down to Kansas Road. Most people work in town. I want to paint you a picture from 7:30 to 8:00 every single morning 800 plus cars all trying to get to work at the corner of 57 and Kansas Road. Highway 57 and Kansas Road, 57 there is not a stop, as you know, it's just a warning light. Kansas Road, we have a stop. That is very dangerous. We don't have 371 or 800 cars coming out there now and I can barely make a left on 57 or get out now at busy times. So 800 cars trying all to get to work in that little portion (inaudible). The outlet and 57 with semis, semis up 57 barreling down at 70 miles an hour trying to get out of that that is very dangerous. I would also like to bring another picture to your mind that just occurred to me when they were talking about the zero lot lines. My father grew up in downtown St. Louis. He talked about handing comic books to his next door neighbor. That's downtown St. Louis. Do we want that? Do we want that where we are? Thank you.

Commissioner Mourdock: Ms. Smith, would you state your address, too, please?

Raelene Smith: 3000 Long Iron Drive.

Rhonda Gerst: My name is Rhonda Gerst. I live at 2341 Waterstone Drive. Along with the concerns that have been mentioned I don't have much more to add, but I do want to bring up the fact that right on the other side of 57 are railroad tracks. There is room for maybe one car between Highway 57 and the tracks. The entrance to the subdivision that they're talking about on Kansas Road, I live off of Kansas Road. Our only way out is onto Kansas. There will 115 homes in our subdivision and Jagoe is developing Camden Farms next to us which I believe may be 50 homes. All of those homes exit onto Kansas Road and as has been said the road is very narrow, so whether you route the traffic on Seib or on Kansas the roads are both very narrow. I walk these roads sometimes, not enough. The white line on the side of these roads are sometimes not even full lines. They're maybe half way there sometimes. The entrance to the subdivision it will be within four tenths of a mile is the entrance to our subdivision, the subdivision next to us, the one that will go across the street, the PUDs and the convenience store exit. It seems like that's a lot of traffic to put in a half mile range and going up Seib doesn't solve any of the problems

either. Thank you.

President Jerrel: Is there anyone else that would like...yes.

Martha Vibul: I'm Martha Vibul and I live at 2209 Southeast Browning Road. I have lived out in this area for over 20 years. About 23 or 24 years and it's an area that is booming and I would just like you to consider some planning that would go into preserving what we've got out there. The airport chopped away the south side. We've got 41 on the west side. We've got this on the east side. They're coming in at us at the north and this was the area that was very beautiful at one time and someone else had said earlier we don't want it to look like the east side. We want our own community. It's really too bad that years ago we didn't incorporate so we wouldn't be here tonight like Darmstadt did, but I would really like you to consider keeping the area, keeping the beauty, keeping the birds, keeping the deer. There are a lot of deer there. My daughter is back here, she hit one a year ago. You know, it's just...it's a rural area and I would like you to consider keeping it beautiful. I was in Nashville this last weekend and drove through an area and I know it's a very exclusive area and I've been told, oh, you live in McCutchanville, you're all rich out there and that's not true. This area was a very exclusive area of Nashville, they had an enormous park. The speed limit was 35 miles an hour with a boulevard, it was well patrolled. It was gorgeous and this is what I feel we had in McCutchanville and I don't want it lost. That's all I had to say.

Robert Maxedon: My name is Robert Maxedon and I live at 2444 Viehe Drive. I grew up in this area. I have been out there ever since birth and you'll have to pardon me, it's a little bit like hallowed ground to me. It is a very nice area. Most of the people that have moved out there and have lived out there for years have located there because of the large lots, because of the nice country area, the nice country setting out there. I'm not opposed to the development per se, but I think this development is, for lack of a better term, an absolute monstrosity. I barely showed up here this evening and I don't feel like I live my life in a paper cup on the highway, but I barely got here. I feel like if the people in this area knew what was being proposed or had any idea, I have just been awestruck from the minute I started listening to this and looking at the size and the saturation of this development. I think there is so much more concern that needs to be put into this. I think there are so many more people that need to be made aware of this in this area. I just...I think the saturation of this development is just overwhelming. I don't think it fits with the area. I'm not going to sit here, and frankly I haven't done research on the traffic flow, etc., etc., and all the technical aspects of it, but I really don't think it fits with this area and I would like for you to consider it and vote no against it. Thank you.

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

Carol Bridges: My name is Carol Bridges, 11550 Petersburg Road. Everything ditto. I have to take exception to the fact the they're saying the PUDs would be mainly for the empty nesters and this kind of thing. This lady addressed the two cars and that makes sense, but I know I work in town at two of the hospitals and I know a lot of people who when you say you live in McCutchanville, oh, I would love to live out there. Well, these are single mothers and I really take issue with the fact that there wouldn't be children and a lot of them in the PUDs. These would be available at a better...at a price that people of one income could afford whether it's a father and one child or there is a mother and three. I'm just saying...and they want the rural setting, why shouldn't they? But I'm saying that is not always available because it is costly to get out of the city into a nice rural setting. I think that you're...it's very

shortsighted to think that these people will not take advantage of these sites. That's good in one respect, but you've got...I just can't see that's the main course that you're going to get there is empty nesters and retired people. No, if they can afford to retire, which a lot of people can't nowadays, they're going to want some space. Not necessarily a lot of yard, but I'm just saying not in the middle of that. So then the problem of where do these...okay, say you do have a mother with two little ones. Okay, you've got a two bedroom little PUD or one or whatever, you make do with what you've got. That's what single parents do. Okay, where are her children going to play? Where is his little boy going to play? There are wonderful parks over in the...just like straight through as the crow flies, but these are little ones. They are not going to go through the fields and all and they're not going to drive. Mom and dad or mom or dad or somebody is going to take them over there. Where are they going to go when they go outside their home? Those retention ponds, they have to be there, but they also are deadly and we all know that. That is my thoughts.

Don Wengler: My name is Don Wengler. I live at 2901 Brink Drive in Eagle Crest Subdivision. We was very happy that subdivision was here in that area. I moved here about a year ago. From what I've seen I'm not convinced that we're looking at developments in the McCutchanville area for sewage and for water runoff. If you look at the plot there is about a two and a half foot ditch that goes down on one side between this subdivision and the Eagle Crossing East because I know that is outside of my backyard. We haven't done a good job of water drainage in Eagle Crest on that border because there is a water runoff that comes down through my backyard. So I think that you need to make sure that we're doing a good job, that the schools are there. My kids are all grown, but it sounds like the schools are getting overloaded and we're not planning for the schools. Granted, even seven years down the road by the time you build one you need to be starting now. The sewage system, everything that I am hearing and I don't any facts, the lady that spoke a while ago, she had her act together. From what I am hearing I don't see anybody coming out saying that this is going to work, that I'll put my name behind it. That needs to be looked at before. Look at all the subdivisions around here. East of the Hornet's Nest there is one that is almost completed. It has been built since I moved here, it was just starting. Eagle Crossing. There is the one just to the west side of Petersburg Road that is just starting up. There is one down Boonville-New Harmony Road that they're starting up. I can't believe that the area is not saturated and the sewer system is going to be able to handle it.

Glen Schlensker: Glen Schlensker, 3926 Kansas Road. Just not that I'm for and not that I'm against it, but I sit here and I try to keep my calm. I'm not a calm person at the time, but in regard to a lot of the comments and in talking about the Commissioners and the tough decisions that they have to make, let me say to those behind and those who have spoken, and I don't want to make anybody mad, but I liked it the way when I was a kid and lived there. (Audience applause.) I don't think you people know what I told you. Think about it for a minute. Were you there?

Commissioner Mourdock: Mr. Schlensker, with a comment like that you should run for office. He made a comment that was totally interpreted to be favorable by two totally different groups of people and you don't even know it. I understand what he meant.

Kent Burress: My name is Kent Burress and I live at 11210 Petersburg Road. I would like to reiterate what Glen said, Mr. Schlensker. He has been out there a long time. I, myself, have been out there...I'm not as old as Glen, but I have been out there 42 years basically. I'm from a farming background. I kind of feel sorry for Glen

and his brothers. They move their equipment around with all these cars running around. I would be scared to move some of that big stuff when they got all these people running around with these roads that are as narrow as they are. I'm surprised and hope they never have an accident, but it is pretty dangerous. I, myself, pull farm equipment and sometimes people try to run me off the road. I've got my lights on, my slow moving vehicle signs on and all that stuff. They either give me the finger or they just give me...or else, you know, yell at me when I am trying to get stuff down the road. I'm trying to provide at least a little agricultural output from what I do. That's one of the things that I get kind of mad at is people that don't respect some of the people that have already been out there before. Another thing is, like I said, the sewage systems and these other county facilities is already, I think, they're going to be maxed, so I don't know how they are going to handle these 321 units or houses that are coming out here. I just think if they want to live in the city they can live in the city. The city has got some brown areas they could develop in there. Why come out here and start over in a new spot when there are areas in town. I think Evansville has got some places maybe they could clean up and build some of these houses and not have to use up new ground all the time or you're never going to grow anything again. All you're going to be growing is asphalt. So that's my two cents.

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

Robert Maxedon: I have a question?

President Jerrel: Uh-huh.

Robert Maxedon: Is there any type of proposed barrier between the subdivision and the park or any wet areas?

President Jerrel: Do you want to speak to that?

Robert Maxedon: Some of these houses that back up to the park and back up down in here.

Commissioner Mourdock: For the record that was Mr. Maxedon.

Robert Maxedon: Maxedon.

Commissioner Mourdock: Maxedon.

President Jerrel: Robert Maxedon.

Marco DeLucio: And this is Marco DeLucio answering that. No, there is no proposed buffer other than the setback requirements that are required by the covenant. The creek itself, too. I think you do have the creek that separates those two properties and the tree line there, too.

President Jerrel: You want to just stay up there so if there are any questions anyone would like to ask. You know, it is philosophically a difficult thing for...Mr. Schlensker touched upon it. When people own land and they want to sell their land or develop their land it's hard to say this one over here, but you can't over here. It really is a difficult issue and Mr. Schlensker took you to the original stage of that issue where many of you have now built your home because someone wanted to sell that land so you could add Eagle Crossing or whatever subdivision is there. Is there anyone

that would like to ask Mr. DeLucio a question? Yes.

Robert Maxedon: I would like to know why the saturation? I've heard a lot about commercial development out there and I'm not concerned with the commercial development as much as I am the oversaturation of what I would consider more upstart homes in an area that has traditionally been, you know, nicer homes on larger lots. I'm concerned more, much more, with that saturation than I am commercial.

Commissioner Mourdock: Before you answer the question, Mr. DeLucio, anyone else who has any questions, I think your voice will carry enough to our microphone and that was, again, Mr. Maxedon and anyone else who has a question please come to the mike so that we can get it on tape. Okay, Marco.

President Jerrel: Do you want to respond? I don't know--

Marco DeLucio: I think I can respond to that. Number one, I've heard the neighbors continually say this is a beautiful area. We would absolutely agree with that statement. It is a beautiful area and that's why people want to live there. People of all economic backgrounds and people of all ages want to have the opportunity to live in an area like this and what these PUDs provide and despite, you know, some assertions to the contrary, Jagoe has a history in who buys their lots and they track it, it's part of their business purpose, and it is, pursuant to what I gave you tonight, it is the younger, first time home buyers and it is the empty nesters that buy these properties and they want the opportunity to live in this area as well. And you know what, I guess I take some issue with the fact, I mean, we keep hearing the term density. What that means is there is a lot of houses right there, but again as I indicated in the PUD units themselves those are generally one or two persons that live there as opposed to a regular subdivision that may be elsewhere in there where you have a family of four or five people.

President Jerrel: We have a question in the back. Would you want to come up? You want to just stay up here, Marco, in case they want--

Jeff Dumes: My name is Jeff Dumes. I live at 10800 Eagle Crossing on the golf course. Basically, I live next door to the developer, okay. I don't know where you guys are going to live, but I live right next to the developer, three of the developers basically. They bought some property that was years ago kind of destined to be a golf course. The original owner that had it proposed one year ago and hoped to someday develop it, he never made it. They did not take their property and cram 300 homes into that area so they could line their pockets with some other subdivision. Basically, they did a nice job with the subdivision, the drainage, the DNR. I don't know all the names, but they were out there. They had silt fences up, they had drainage tiles put in. I'm sure they're going to do that, too, but they did a responsible thing out there by building a nice subdivision, a nice golf course and provided homes for...I mean, I've got neighbors that have babies. I've got neighbors that are retired. There is a broad spectrum of people out there. Like I said, my developers lived in the subdivision and they did not cram 300 homes in a small plot of property. Thank you very much.

Marco DeLucio: To the extent, I guess, that was a question let me respond by saying Jagoe is a responsible developer. They have a track record here in Vanderburgh County of being a responsible developer. They not only develop the property, but they build the houses on the property, they provide ten year warranties to the

residents so while they may not live in a house here they do live in that subdivision over a period, from development to the end of the ten year warranty runs out. I dare say that's ten to 20 years, wouldn't you say. I think that they're there. I think that they're present. They're here in Vanderburgh County in various locations and they're here to stay.

President Jerrel: Mr. Seib has a question.

Richard Seib: Richard Seib, 10707 Seib Road. If Mr. Jagoe is so responsible how can he put all these houses on a road that is so narrow?

Marco DeLucio: Mr. Seib, I think the answer to that question is the principle access is going to be on Kansas Road and they are building at least three roads, I think there are three or four roads...three roads within the subdivision itself that will handle the traffic and those roads are 29 feet wide. Really, we do not believe, and we put that additional access in for safety reasons so that you have another access point into the subdivision, but we believe that most of the traffic is going to exit onto Kansas Road.

Richard Seib: He is so responsible that he is going to leave an 18 foot road exactly the way it is without improving it? Just leaving it the way it is. That doesn't hurt his conscience at all?

Marco DeLucio: Well, he is actually relocating Seib Road. I think the testimony--

Richard Seib: I'm talking about all of Seib Road.

Marco DeLucio: Well, again, he is relocating a big portion of Seib Road and making that 24 feet...that will be 36 feet wide on Seib Road from that standpoint and that was done at the request of the county and that's at a substantial expense, so I think that's a responsible thing that Jagoe is doing in that regard.

Carla Hynes: I know you're probably sick of looking at me, but I think we're kind of missing the point here. Yes, I love McCutchanville. Yes, I have ten acres. Yes, I wish it could stay a cornfield across the street, but that is not what I am asking you to do. What I am saying is infrastructure is not in place. According to our Comprehensive Plan we cannot develop without infrastructure being in place. There are no plans to improve infrastructure and so I just I don't know why I am here again. I mean, you know, this is a very responsible developer. I have no qualms about that. This is a wonderful engineering firm. That's not the point. The points are their houses are pretty. There is nothing to do with that. The point is it has been stated by your agencies these roads cannot handle this traffic. They aren't safe as they are. The schools can't handle it. The sewers can't handle it. There is drainage issues, so that's the point and I know it's a hard decision, but, you know, all aside, you know, we can't sit here and say, well, it's pretty keep it that way. You guys can't make a decision based on that, but we've brought you a lot more than that. So that's what I am asking you to remember and it's nothing personal with these developers. They have been as responsible as they have been asked to be and I would like everybody to remember that, too. They haven't been asked to do any of these improvements. They've done what they've been asked to do. So, thanks.

Marco DeLucio: I guess to respond to that, again, I'm not sure what infrastructure isn't in place. The sewage is available out there. We know that there is going to be an upgrade of the Malibu station. We've agreed as part of the subdivision process

to pay a portion of the cost, prorata share along with anybody else that is developing out there for the increased capacity in the Malibu lift station. I think your...the County Engineer and EUTS have not said that the roads are not safe to handle this subdivision. I think it has been exactly the opposite. I think they believe...if they didn't believe it was safe I think you would have seen that in the reports. That's not there. In fact, I think we've been told that the relocating of Seib Road increases the safety in the area and if this isn't done then you're still going to have Seib Road in a dangerous condition right there, so I think Jagoe is doing responsible things to help with the infrastructure out there. I have given you the information on the School Corporation and what the comments were from Mr. Herrin and I have every reason to believe that the School Corporation isn't going to let children learn outside.

Donna Miles: My name is Donna Miles and I live at 2701 Waterstone Drive which is in Windemere Farms. The only thing...comment that I have, I sympathize and I agree with the problem on Seib, but he keeps saying he is going to direct the traffic to Kansas. I have to get out on Kansas, so I don't want all the traffic out on Kansas either one. So, you know, thank you.

Dale Wright: I'm Dale Wright, 1083 Eagle Crossing. I apologize. I'm not familiar with the master plan or Comprehensive Plan. He says things are there. She says things are not there. I would like to know who is right?

President Jerrel: Mrs. Cunningham, that is your department, so you can just speak to that.

Barbara Cunningham: Thank you very much.

Commissioner Mourdock: I think the key to that question, and it is a valid question, is define things.

Barbara Cunningham: Yeah, what kind of things?

Dale Wright: Okay. The things that we've been talking about. The infrastructure. The sewage capability. Who got the...he says the traffic report is not correct. She says that it doesn't...that it will not...that it is correct. That it will not...this development will cause problems with travel or traffic.

Barbara Cunningham: Well, let me talk infrastructure.

Dale Wright: So the sewage and the traffic systems.

Barbara Cunningham: Sewage and water are infrastructure as are streets, as are drainage. Now this has been reviewed by the technical staff. The Sewer and Water Department has reviewed and says there is capability for sewer in this area. They are going to do an upgrade of the Malibu lift station. This would be part of the Letter of Credit. When we do a subdivision there is such a thing called the Letter of Credit where the developer puts up the money to ensure that the improvements that are promised are put in. Okay.

Dale Wright: He said prorata.

Barbara Cunningham: Well, and that's how it always is with a lift station.

Dale Wright: Okay, okay. So he is going to put up a share?

Commissioner Tuley: Right.

Dale Wright: And are the capabilities there without the lift station improvements?

Barbara Cunningham: In a lot of areas. With a fast growing areas, no, they are generally not there and that's why you have the Letter of Credit that ensures that it will be upgraded to take care of that.

Dale Wright: Okay.

Barbara Cunningham: Infrastructure sometimes comes after the improvement and it comes with the Letter of Credit with the subdivision. Okay, now as far as the road improvements we have where EUTS and the County Engineer both say that they feel that the change in Seib Road will direct more of the traffic on Kansas Road and I don't think that will help the lady on Kansas Road, but the letter that our traffic experts tell us is that they feel that the majority of the traffic will use the internal street to access Kansas Road thereby negating the need for the developer to participate in improving Seib Road. The County Engineer and EUTS both agree that Seib Road between Boonville-New Harmony Road and Kansas will need major improvements to address the hills and narrow pavements, but that's not the responsibility of the developer. If you look at not only Seib Road or Kansas Road, if you look at most of the county roads, and I'm sure the Commissioners will agree with me, we have a lot of 18 and 20 foot roads out there. Some of them I remember that are even less than that, you know, so there are quite a few of them out there. As far as...let's see, we've got water and sewer and we've got streets.

Dale Wright: What about the floodplain issue?

Barbara Cunningham: The floodplain issue is addressed by both the Building Commissioner and the Surveyor's Office who brings the drainage plan to this Board under the guise of the Drainage Board. I think they had preliminary approval on the total subdivision--

Commissioner Tuley: Right.

Barbara Cunningham: --last month or before it went to Plan Commission last time, so this is being reviewed all the time by technical staff and what you find tonight is the Staff Field that doesn't reflect just Area Plan Commission or the Comprehensive Plan, but it reflects all these departments that have an opportunity to look at the subdivision. You might want to look, the plat that is facing the Commissioners, those are subdivisions since 1990. Those are subdivisions in the yellow that have happened since 1990. As far as the schools, we do have a member on the Plan Commission from the School Board and they are adamant, and I know people don't agree with this because I know Scott School is at capacity, but they say they will take care of the children. We can't tell the School Board what to do. You all can tell the School Board what to do, you know. They're not...you can tell them. You can go to the School Board.

Dale Wright: Two little children in my daughter's third grade class at Scott Elementary were discharged and sent to somewhere else because the classes are too big.

Barbara Cunningham: They didn't live there probably.

Dale Wright: No, they did.

Barbara Cunningham: Did they? Well, I can't answer for the School Board. I do enough to answer for Plan Commission.

Commissioner Mourdock: Your one other question, Mr. Wright, was about the wetland issue and that is also a state issue in that anything that would happen out in that area might, depending on exactly whether it's a floodway or floodplain, could also require state permitting.

Dale Wright: I understand there has been a lot of development out here and I'm not one of the original settlers out here, okay.

Commissioner Tuley: Very few of them are.

Dale Wright: I don't mean that in a...I'm not trying to be funny, but I understand that I am kind of hypocritical here but I accept that. I want you to know that I know I am hypocritical standing up here talking about wanting to deny him his right when I would probably get upset if someone wanted to do the same thing to me, but, man, this has got to stop somewhere. I just happen to be lucky enough to have gotten out there when I did.

Commissioner Tuley: First.

Dale Wright: You know, that's just the way it is, but that doesn't justify it. Just because there has been all this development doesn't justify his development. His development has to be justified on its merits not just (inaudible). I've been sitting here for the last hour or so and the question that keeps coming back to me is why? Why? Why must we have it? I mean, all the benefits seem to me to accrue in only one direction and that is their direction. There are no...I cannot for the life of me find the benefit that benefits McCutchanville or the area directly surrounding this proposed development. I cannot determine what single benefit would be for having this development out there.

Marco DeLucio: I appreciate that, and I think the answer to that question is with any subdivision that goes up what is the benefit to the area? Well, the benefit to the area is number one, and I'm looking at area greater than the McCutchanville area, I think you're giving people an opportunity to live in what you guys believe is to be, and I do, is a beautiful area. That's the benefit to the community as a whole. You know, there is going to be an additional tax base out there that's going to assist in some of the improvements to be made in the area, but I think to answer your question I'm not sure it's fair to say what is the benefit community in this surrounding property. I think you need to look at the larger community and the larger community is you provide some alternative housing whether it be in the subdivision or in the PUD itself and provide those opportunities for people who want to live in the area just like many of you do.

Commissioner Tuley: Marco, before you leave I thought I heard the figure somewhere around \$80,000 to \$120,000. Was that the PUD units or was that the residential?

Marco DeLucio: That's the PUD units.

Commissioner Tuley: What about the residential units?

Marco DeLucio: The residential units go from about one and a quarter to one...there are two types of residential units. One is 60 foot lots and then you have 70 foot lots. Tom, is that what you...this is Tom Hansen from Jagoe.

Tom Hansen: The 70 foot lots will have homes on it from anywhere from \$130,000 to \$170,000. Some can go higher than \$170,000. The 60 foot lot would be \$110,000 to \$130,000 and some can go higher than that depending on what the buyer chooses.

Commissioner Tuley: Chooses for options, so to speak?

Tom Hansen: Yeah.

Commissioner Mourdock: If I can go back to Barbara for a second. Barbara, about an hour and forty minutes ago when you were first talking about this you said something was withdrawn or would be continued until next month. What was that?

Marco DeLucio: The subdivision.

Barbara Cunningham: The subdivision. The subdivision did not get approval.

Commissioner Mourdock: The subdivision as a whole, so everything--

Barbara Cunningham: The whole subdivision.

Commissioner Mourdock: --around that--

Barbara Cunningham: Uh-huh.

Marco DeLucio: I think it should be pointed out that it did not get denied either. It was six votes for.

Barbara Cunningham: That's right.

Commissioner Tuley: It just wasn't a--

Marco DeLucio: We were one vote lacking--

Commissioner Tuley: To get approval. I really think the feeling was there was a lot of apprehension from the Board members to wait and see what happened here first. I should...I mean, they just wanted to see what we were going to do. They weren't going to approve the subdivision, I think, without the Commissioners--

Barbara Cunningham: I would never say that.

Commissioner Mourdock: But the subdivision that you're speaking of is the area surrounding that central...or the northernmost PUD area?

Barbara Cunningham: Yeah.

Commissioner Mourdock: Correct?

Commissioner Tuley: I think because the PUDs...they were waiting to see if this body would...I didn't state that very well.

Barbara Cunningham: Well,--

Commissioner Tuley: What they were waiting, I think, was to see what would happen with the PUDs first.

Barbara Cunningham: What the subdivision code allows is it allows lots of 6,000 square foot, sixty foot frontage and 100, where your PUD is coming in and it's offering a different type of housing. It's offering a smaller lot and we've got maybe eight or ten PUDs around the community in various places. Outer Covert, we've got them outer Morgan Avenue, by Stockwell School. You know, there are quite a few of them around. Not all are Jagoe's, but most of them are.

Commissioner Tuley: And infrastructure, too, back on the roads. I had a pretty good conversation with the County Engineer after the Area Plan meeting last week. Primarily, and he is trying to get the numbers together for me, he talked that in terms of priority in the three roads that we keep making reference to: Boonville-New Harmony, Kansas and Seib, that Boonville-New Harmony because of all the other subdivisions that are feeding into it would have to be improved first. You snort and the reason you do that, I don't know if any of you have been here, but there has been a proposal twice since I have been sitting in this chair to improve Boonville-New Harmony Road, you know, only to get beat up by the residents on Boonville-New Harmony who don't want it improved, okay, so that has happened to me twice since I've been sitting here. But then in terms of traffic and what have you Kansas Road would be the next road that he would recommend would be improved and lastly would be Seib, of those three roads. Seib Road will be a very costly project just by virtue of the fact it's not, as you well know, it's not a flat, straight road. I mean, it has a lot of hills and what have you and it's going to require a lot of acquisition of land to widen it to the standards that you're talking about, mowing down of some of the hills and filling in some of the valleys. So, I mean, he is aware. He will be bringing projections to us as to cost and hopefully, and I hate to say a time table because it is all dependent upon funding and most of the money that we have earmarked right now are federal aid projects such as Lynch Road, Burkhardt Road and the things on the east side that you have talked about that we're trying to address, so all of these roads then are going to have to be built with solely local money.

President Jerrel: Okay, and then in the back, please.

Dale Wright: That seems to beg the question then with so many unknown--

Commissioner Mourdock: For the record this is Mr. Wright.

Dale Wright: Oh, I'm sorry. Dale Wright, 1083 Eagle Crossing. That seems to beg the question then with so many unanswered questions that how could this development possibly be approved at this point?

Commissioner Tuley: It meets the subdivision code, I guess is the reason. It qualifies for approval. I'll phrase it that way. And then we still have to go back, and I know sitting up here this is going to sound...it's like you said, I don't want to be a hypocrite either, but when I look at this map and see all these homes, the existing problems on Kansas and Seib and what have you were not the result of the horse and buggy days. They were not the result of this proposed development. An awful lot of you that have got up here and spoke against this at the Area Plan Commission and that spoke at this one live in subdivisions that are probably five years or less in

age. Now I realize you keep saying, well, draw a line somewhere and that sounds good when you're sitting out there. You're in your house. You're in your new subdivision, but to deny someone else what sounds like may be affordable housing as an alternative, to live in that little piece of heaven that you guys got out there--

Raelene Smith: I have a response to that. Yeah, a couple of people, he twice and you once, have--

Commissioner Mourdock: And for the record this is Raelene Smith.

Raelene Smith: I'm sorry, Raelene Smith, 3000 Long Iron Drive. I have felt like I've been painted as a snob. Again, as the rich people who live in McCutchanville. I want to tell you something. I don't mind them having nice homes and you're right, Jagoe does great work and they do a lot of good developments. I worked, my husband and I, for five years. I worked until 9:00 every single night. Busted my rear end for five years and I don't have kids. I would have loved to of had kids five years ago. We've been stockpiling our money and working and slaving hard to enjoy this little piece of heaven as you call it. I'm not a snob. I deal with real people every single day, so I do...I don't appreciate that. So besides that answer can you give me an answer as to why couldn't you just, I think it would make everybody else happy, to do another form of a Breckenridge or to do...let go of the PUDs. Do some nice...could you not make the same amount of money on nice ranch homes that could be \$120,000 to \$150,000 to \$180,000?

Marco DeLucio: I'm not sure we wouldn't hear some of the same comments even if we were doing a subdivision out there tonight because the issues that I've heard are traffic, and drainage, and infrastructure. Those aren't going to go away if we put up that type of housing there. You're still going to have a number of units in there. You're still going to have a good population. What we're trying to do here is to create and there is a market out there for houses and this type of thing. There is a market for these kind of houses for people that want to live in that area. I did not mean, and it's not my purpose up here to refer to anybody as a snob.

Commissioner Tuley: I think that was directed a me.

Commissioner Mourdock: I think it was.

Marco DeLucio: Well, she was looking at me.

Commissioner Tuley: Okay.

Marco DeLucio: And that's not our intention. What we simply want to say is that people like the area like you like the area and, you know, these aren't shotgun houses. They are \$80,000 to \$120,000 houses and people are going to be working hard. They are going to be working families that are living in these houses as well and I think...I mean, that's the answer to why we think they should be.

Jeff Simpson: Jeff Simpson, 2708 Dog Leg Court. In answer to Mr. Tuley's not answer, but, you know, your comment. I think there is a point where it has to stop. We moved in there maybe in the last five years in our piece of heaven, but from what I'm understanding there comes a point where the infrastructure gets overloaded. There is nothing wrong with those of us who moved there early. To me that's the point. I am hearing Mrs. Cunningham say that we're going into this thing knowing that the infrastructure is not there, but we're going to do it after the fact.

Barbara Cunningham: No, no.

Jeff Simpson: That's what I understood her to say as far as the sewer.

Barbara Cunningham: I'm sorry if I misunderstood. No, generally the sewer improvements are done after the sub...at the time of subdivision.

Jeff Simpson: But I understood you to say the subdivision will overload it.

Barbara Cunningham: No.

Jeff Simpson: Oh, okay.

Barbara Cunningham: I said that they were going to participate in an upgrade of the sewer system.

Jeff Simpson: The second thing I would like to see is who the traffic engineer is that can look at this and tell me that the majority of these people are going to go all the way down here when there is a road coming out on Seib Road. I don't know who it is that can look at this. If I lived here I don't think I'm going to do that. If I lived anywhere here I think I would go out on Seib Road. To me, that's the majority of people.

Marco DeLucio: No, what we said earlier is we think there would be 60 lots or so in that northeast corner that would tend to access that especially if they're going to go north on Seib Road, but, again, if you're going to be going down Kansas Road and going that way you're going to access those internal streets which, again, are 29 feet wide or 36 feet wide.

Jeff Simpson: If you're going around the neighborhood that's fine, but sooner or later you're going to get on another road.

Marco DeLucio: Sure, you're going to have to go--

Jeff Simpson: I just see most of these people going out on Seib Road and I just don't understand how they would go in here. I wouldn't.

President Jerrel: Could we agree that after Carla speaks...we've had 19 speakers and four of them have spoken at least three times, so is that...we can draw to a close?

Carla Hynes: I'll be quick. This is Carla Hynes on Seib Road. What Mr. Tuley said about it meeting subdivision code, it probably does, but we are not here to okay this plat. You know, I'm not sitting up there so I'm not going to tell you your job, but you are here to listen to three rezonings. We're not saying that this property should never be developed. We're just saying do not rezone it this dense because infrastructure cannot handle it. Take out the sewers, let's just talk about the roads. That's infrastructure. That's a big thing. What I want to do...want to see you do and what I think my neighbors want to see you do is say no to the rezonings for the reasons that we've talked about on, and on, and on last time, this time. Have them go back and redesign this subdivision so that it fits with the community, it's a safe subdivision for the community, work with the county, have infrastructure in place before we okay any subdivision. It probably does meet subdivision code, but that's not why we're here, right? The way I understand it is you are here only to say that

these zonings, yes or no. We've given you multiple reasons to turn down the zoning. Multiple reasons that follow the Comprehensive Plan. You know, even though Ms. Cunningham said that infrastructure often comes in place after the fact that's totally against our Comprehensive Plan. You know, you're hearing from people that live in the neighborhood and I sometimes think common sense needs to rule. You know, even though a traffic engineer may have said they are going to out on Kansas Road we live there and we know what the fastest route is. Kansas Road isn't a better route anyway, so we're talking about two bads. Two wrongs don't make a right, so that's all I am saying to you. I am not saying...I'm not going to come in here again and say don't put a subdivision there. I'm only going to come in here and say don't put anything there until infrastructure plans or infrastructure is improved, so that's why I am here tonight. I'm not saying I don't want their houses there. I'm not saying we need to plant the cornfield back because I know that's not going to happen, but we are here to rezone two sections of over 100 homes in a very small area and a five acre C-4 commercial rezoning. I think...Mr. Tuley, I think this is enough. I mean, I think I really urge you to make a decision tonight and not go back to Area Plan Commission because I feel like there will be some changes made if the rezoning is turned down. If the rezoning is turned down they will have to go back and redo the whole subdivision, I'm pretty sure. So that's what I am asking you and I think my neighbors are. It's just a very confusing system, but I think the rezonings are what everybody is saying it's too dense, you know, so anyway. Okay.

Marco DeLucio: And that's not what I'm hearing. I'm hearing that they are opposed to the subdivision. They are opposed to the rezoning. They are opposed to the land use. I think what we have here is what we've tried to design is to keep the traffic going onto Kansas Road which the technical people have told us that we should do and we've done what we have been asked. We have developed an internal...one thing we didn't mention, you know they talk about walking along the roads and park entrances, there are park entrances and there is going to be an internal trail system that goes along Eagle Valley that connects all of these subdivisions. About a three and a half mile route around there so people can have a pathway to walk on the sidewalks that are being built. Lastly, I continue to disagree that the infrastructure is not available and is not ready for this out there. I think your people, your technical people at Sub Review, EUTS and County Engineer, have all said that while infrastructure may not be perfect it is adequate for this type of development and we would ask your approval for this this evening. Thank you.

President Jerrel: Are there any questions that the Commissioners would like to ask?

Commissioner Mourdock: I just have one question I want to clarify through counsel because I have been confused by this in the past. I want to be certain here as we are voting tonight there are three separate parcels with two separate types of rezoning, but those would be voted on as one issue, correct? Because we have had them in the past where we split them.

Joe Harrison, Jr.: They are voted on as one issue. That's how they were voted on at Area Plan. That's how it was submitted.

President Jerrel: Okay, is there a motion to bring this to the floor?

Commissioner Mourdock: I'll move on final approval VC-15-99 which is 3000 Kansas Road, at the northwest intersection of Kansas and Seib Road.

Commissioner Tuley: Second.

President Jerrel: There will be a roll call vote. Commissioner Tuley?

Commissioner Tuley: It's just like I started tonight, these are the things that makes this so difficult. I wish that we could live in a world where everything was perfectly in place and set up and in place before development happens. It's not going...that's not reality. That's not going to happen. Yes, EUTS and the engineer said, as Mr. DeLucio pointed out, they didn't say you can't do this because the roads can't handle it. They're not ideal and I think you could take most of the roads in the county, if you wanted to develop on them, and that same statement could be made. There are a lot of 18 foot wide roads and what have you. It's unfortunate that we have an area that is very attractive...I don't know if it's Toyota or what but suddenly the north side of Evansville has just become the hot spot. Everybody wants to live on the north side. I moved into the west side last...two years ago in a subdivision, an older subdivision, that looked...there were 20 lots that never were developed in it when I looked at my house and I looked at those lots. Now I sit here two and a half years later and there are 14 homes out there right now. There is growth in this community right now. There is another just to the north of me, Booker Road. There is 15 or 20, 30, 40 more homes going in up there. All of these are emptying out on Red Bank Road. People are looking for affordable housing and I think this is one way to meet it and I'm going to vote yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Well, this is why I love this job. Um, you've heard me say it twice tonight, thus far, and that is I strive to be consistent. I've heard comments that what's being proposed here isn't consistent with the Comprehensive Plan. I've heard, and I especially and quite respectfully say, Mr. Wright, I do appreciate your comments because what you were saying in effect you sensed you were being a bit of a hypocrite is in fact what Mr. Schlensker was saying. What I heard him say was that all of you who live there now weren't living there when he was a kid and he wished it was like it was when he was a kid. There has just been a tremendous amount of change up there. The question of infrastructure is one that is obviously an obligation of the county. We put together more plans, I think, in the last few years to deal with infrastructure than we have ever strived to do in the past. It is a constant battle to find funding to do it, but I know Pat made the comment during the Area Plan Commission hearing, because I read it in the notes over the weekend, that if we went out ahead of an area where there was no building going on and we put in all the streets and all the sewers and did everything that it needed to be for that time to come we would all be accused of being idiots for speculating with the county's money. I said in our first vote tonight I had to be consistent and I said it in the second vote that I had to be consistent. As I read our technical staff's comments it ends with this comment:

"The proposed development plans for this site appear to be consistent with the overall plan for the area."

I understand Carla Hynes has said as she has read the Area Plan...Comprehensive Plan rather and that it's not consistent and I heard you say a moment ago that Barbara has counseled us to go against the Comprehensive Plan. Mrs. Cunningham, I think, is probably the expert in this community on what is in that Comprehensive Plan. She was there when it was written and she has been there to help us interpret what was meant when it was written, so there are parts of this that honestly I am somewhat unsettled with, but I think to be consistent I have to vote yes.

President Jerrel: Having the two votes I'll make the third yes to make it unanimous vote because it has passed anyway.

Unidentified: Your minds were already made up.

Unidentified: We wasted two hours.

Commissioner Mourdock: Oh, I love this job.

Unidentified: Your mind was made up before anybody ever came.

Commissioner Mourdock: Not quite, lady.

Dale Wright: How can you shake your head like that, like we're the ones that don't get it. How can you do that?

Commissioner Mourdock: I did not do that, Mr. Wright. I shook my head at the comment that our minds were made up when we walked in here.

Dale Wright: Well, they were.

Barbara Cunningham: Oh.

Commissioner Mourdock: That's not right.

Unidentified: Having one area bear the brunt for the whole community.

Dale Wright: Who do you guys write the check for?

Final reading	VC-16-99	Tim J. Zeller
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Barbara Cunningham: Are you ready? Tim Zeller is the representative for this petition to rezone a .92 acre part of a five acre site which was rezoned to R-3 in 1970...I need to keep those as part of the record...acre part of a five acre site which was rezoned to R-3 in 1979. This site was never developed as apartments and the agricultural use of this site for crops has continued over the years. Ray and Tim Zeller are the current owners of the site located at 5100 Upper Mount Vernon Road. This is a request for rezoning from R-3 to Agricultural. The Zellers plan to construct an agricultural barn on this site and therefore are requesting that the zoning be changed back to the original classification to allow this agricultural use on this site. Due to the absence of utilities and the existing agricultural land in the area the Comprehensive Plan designates this area to remain residential and agricultural. The rezoning to agricultural is consistent with surrounding zonings and uses. The entire site lies within the floodplain. The Comprehensive Plan encourages agricultural use of floodplain land and the County Commissioners took a bum rap for something that they worked hard on.

President Jerrel: Are you through?

Barbara Cunningham: Do you want me to say some more?

President Jerrel: No, I would just as soon you wouldn't.

Commissioner Tuley: I think enough has been said.

President Jerrel: Is there a representative here for the Zeller property?

Joe Harrison, Jr.: Do you swear...or anyone here on this particular issue would you please raise your right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Tim Zeller: My name is Tim Zeller. I live at 5308 Upper Mount Vernon Road. I currently bought this 11 acres just to try to farm it, crop farming, and I have a few horses. I'm trying to keep the apartments and everybody out so I took my own initiative and bought it. I'm trying to put it back to the way I want to keep it, so that was the only thing I could do.

Commissioner Tuley: You know what we told him at Area Plan? Sit down.

President Jerrel: Are there any questions that you would like to ask Mr. Zeller? Are there any questions you would like?

Commissioner Tuley: No.

President Jerrel: Is there a motion?

Commissioner Mourdock: On final reading I would move approval of VC-16-99 to rezone from R-3 to Ag 5100 Upper Mount Vernon Road.

Commissioner Tuley: Second.

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

Commissioner Tuley: Without any explanation, yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: And I will only say that I am again being consistent because this is the recommendation of the staff here, so I will also vote yes.

President Jerrel: And I'll vote yes.

Tim Zeller: Thank you.

Tape change 9:40 p.m.

Final reading	VC-18-99	Casey's Enterprises, LLC
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Charlene Timmons: Okay.

Barbara Cunningham: Bill Barrett has changed into Carol McClintock and is the representative for petitioner Casey's Enterprises, Inc. in this petition to rezone the

northwest corner of St. Joe and Allens from Agricultural to C-2. Thomas Alexander is the current owner. It's a request to rezone .8 acre of a larger 11 acre tract from Agricultural to C-2. The parent tract has also filed a petition to rezone which is to be heard next on this same agenda. The request for the parent tract is to rezone 10.6 acres to C-4 for unspecified commercial development. For the purpose of filing this rezoning petition this .8 acre, eight-tenths of an acre, that's better, eight-tenths of an acre site was assigned the address of 3100 North St. Joe. The lot must be platted as a one lot minor subdivision prior to any development on this site. This eight-tenths of an acre lot is the only part of the complete site that will not require excessive fill. The site is located in an older area, very mixed zonings and uses. The 1996 Comprehensive Plan Future Land Use Map 2015 indicates that commercial development is projected along St. Joe Avenue south of Allens Road. North of Allens Road at this location is designated as agricultural and residential. The agricultural classification is considered a residential district in that it permits single family development of the same size and intensity as the R-1 zoning classification. Mr. Mourdock, all three other corners are zoned commercial.

Commissioner Mourdock: Thanks.

Carol McClintock: (Inaudible comments made away from mike.)

Barbara Cunningham: Sure.

(Inaudible conversation between Carol McClintock and Barbara Cunningham made away from mike.)

Commissioner Tuley: Where the cross lines are the C-2 designation is that--

Carol McClintock: Well, this is the C-2, the dark is C-4.

Commissioner Tuley: I'm sorry. Barbara's hand, is that the Walmart/Wesselman's or Kmart/Wesselman's and all that property?

Barbara Cunningham: Yeah, but they had the Kmart and the Wesselman's in here and then there is another 40 acres just along here. This is commercial also.

Commissioner Mourdock: And the subject property is that?

Barbara Cunningham: The subject property right...what we're doing, what you're looking at right now is the corner. You're not looking at the whole thing. You're looking at the corner right there.

Commissioner Mourdock: Just the eight-tenths of an acre?

Barbara Cunningham: And this area is going to be (inaudible comments made away from mike).

Carol McClintock: And there are no single family homes here or here at this point.

Commissioner Mourdock: Right.

Joe Harrison, Jr.: All those who wish to speak with respect to this matter please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Carol McClintock: Good evening, I'm Carol McClintock. I'm here to represent REI Enterprises and the two principals, Gene Hahn and John Habermel who are with me this evening. We are here first on a rezoning for Casey's Enterprises which proposes to rezone .8 acres from Ag to C-2 for the purpose of the construction of a convenience store with gas pumps. This property is located at the corner of St. Joe and Allens Lane in a commercial area across from a marine shop and across the corner also from a Citgo gas station. Although the Comprehensive Plan indicates that the area north of Allens Lane should remain as agricultural and residential as you can see from the exhibit and from our previous discussions, and there are photographs that should be traveling along here that Barbara...those photographs are this land over here that's adjacent to our rezoning and then these photographs are of the commercial that is up and down St. Joe and Allens Lane. There are a number of commercial and industrial activities north of St. Joe. St. Joe carries, according to the 1996 EUTS plan or report 13,650 cars a day and Allens Lane 1,289 cars a day. You Commissioners are very familiar with this particular area because I know that you get to visit the County Garage which is at the other end of St. Joe at the corner of Mill and St. Joe. There are a number of commercial entities that run along St. Joe all the way up past Mill. Are there any questions regarding this C-2 rezoning for the .8 acres?

President Jerrel: Any questions?

Commissioner Mourdock: Not right now.

President Jerrel: Is there anyone here that wishes to speak to this? Is there a motion?

Commissioner Mourdock: On final reading I would move approval of VC-18-99 for 3100 North St. Joe Avenue from Ag to C-2 for eight-tenths of one acre parcel.

Commissioner Tuley: Second.

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

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes. Motion carried.

Carol McClintock: Thank you.

Final reading	VC-19-99	REI Properties
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Barbara Cunningham: Do you want me to go to the next zoning?

President Jerrel: Uh-huh.

Barbara Cunningham: Carol McClintock again is the representative for petitioner REI

Properties in this request to rezone the remaining 10.6 acres of the tract owned by Thomas Alexander from Agricultural to C-4. The site wraps around the northeast corner of the intersection of St. Joe and Allens Road, the site that was just rezoned. This entire site lies within the floodplain. Locust Creek is located along the western boundary of the site and a floodway for Locust Creek was established in the special flood hazard information report prepared by the Corps of Engineers in 1981. Most of the rest of this site is in the designated Locust Creek floodway. Substantial fill would be required. The Building Commission has determined that as much as 15 feet of fill would be required on some places on the lot. The FPG is 380 and the elevation at the top of the creek is 365, so between five and 15 feet of fill would be required for most of the site. Placement of fill in the floodplain can impact adjacent areas that do not normally flood. Also, any fill or construction activity within the floodway requires a DNR floodway construction permit. This site is located in an older area of very mixed zonings and uses. The 1996 Comprehensive Plan Future Land Use Map indicates that commercial development is projected along St. Joe south of Allens Road. Approximately 70 acres south of Allens Lane and west of St. Joe Avenue is zoned commercial and has only a lonely Wesselman's Store and a vacant Kmart and some assisted living houses now in that area. North of Allens Road at this location is agricultural and residential. The Comprehensive Plan calls for compact commercial areas and avoidance of new or expanded strip commercial development. To be consistent with their policy any commercial development north of Allens Road must be limited to the St. Joe Avenue intersection. The proposal for 10.6 acres of unspecified commercial would create a commercial strip along Allens Road over 1,000 feet long.

Joe Harrison, Jr.: Do you swear and affirm that the testimony...oh, I'm sorry. All those that wish to speak with respect to this petition please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Carol McClintock: Commissioners, this ten acres was part of the original parcel that...or is the original parcel that included the .8 acres that you just rezoned. The developers had purchased that for the purpose of putting the Casey's there at the corner, so they now have this ten acres. It is our understanding that the entire site is not in the floodplain and it is not our intention to develop the entire site. I have given you this evening the proposed commercial subdivision at the northwest corner of St. Joe Avenue and Allens Lane. If you will note on there the corner or Lot 1 of this proposed subdivision is the Casey's which you just rezoned. There would be four other lots in this subdivision, one to the north on St. Joe and then three to the west, so the total subdivision would be 350 feet from St. Joe along Allens Lane and 395 feet north along St. Joe. So less than or approximately half of this will be developed commercially and would consist of four lots in addition to the one that was just rezoned. We've heard a lot about this Kmart and this 70 acres that is available for development. That property is not for sale nor is that property for lease and knowing a little bit about the real estate business and as I said in the Area Plan Commission if property is sitting and it is not developed there is one of three reasons: price, location or condition. So there must be some conditions with that property that don't cause the owners of that property to even want to develop it for any reason. Because those people don't want to develop their property should not be a reason to prevent the owners of our property from developing the corner of St. Joe and Allens Lane. As Barbara has indicated to you, and I'm sure you went there to look at this rezoning, there is assisted living being constructed across the street

from this. What the intention of the developers is is to sell to retail outlets that would appeal to...I mean, obviously, they want end users that would be coming from this assisted living, so they would propose end uses like beauty shop, barber shop, drug store, professional offices, end uses that would be compatible with the assisted living across the street. To the west of this property that is all owned by Deig Brothers Construction Company and that is currently used as a barrow pit and storage, and that is some of the photos that you saw, for their construction company. Even though it is agricultural or residential there are no homes on it and it is currently not...I don't want to say anything negative about the Deig Brothers, but it's not the most attractive use to be made of that property. North of that property is vacant land. There will not be billboards constructed in this property because it is within 200 feet of a residential zoning. So, you know, it is our hope to be able to develop this. The developers are willing to if the Commissioners...the other thing that I gave you in the information I provided you this evening is the restrictions that they would file with their subdivisions which would restrict the uses of these lots within the subdivision.

President Jerrel: I don't have that.

Carol McClintock: It doesn't have my yellow on it.

President Jerrel: Okay, here I'm sorry.

Carol McClintock: If you turn to page two--

Barbara Cunningham: Did I get one of those?

Carol McClintock: Yeah, I sat one right down there.

Barbara Cunningham: I don't see it. I think he stole it.

Carol McClintock: Okay, if you'll look on page two, item three, no noxious or offensive trade or activity should be carried on in this subdivision nor shall anything be done there in which may be or become an annoyance or a nuisance. The following uses will be prohibited: a massage parlor and then there is a whole list of uses that will be restricted in this particular subdivision.

Barbara Cunningham: Who is this with, Carol?

Carol McClintock: Pardon?

Barbara Cunningham: Who enforces this? Who is this with?

Joe Harrison, Jr.: Do you have a complete document? This is a couple pages of a four or five--

Carol McClintock: This is their subdivision, um, their subdivision restrictions.

Joe Harrison, Jr.: So this isn't anything that has been filed?

Carol McClintock: No.

Joe Harrison, Jr.: Okay.

Barbara Cunningham: Okay, and this isn't valid until the subdivision is filed?

Carol McClintock: Right.

Barbara Cunningham: Okay. I forgot to tell you it was denied ten to zero by Plan Commission. Sorry. Sorry, Gene.

Carol McClintock: That's because Gene wasn't there.

Barbara Cunningham: I know. Gene is sitting in the front row.

Commissioner Tuley: Gene called me today and said that we would be seeing this tonight. I don't normally vote often. I usually abstain a lot sitting on Area Plan knowing that it's going to be coming, if it is something that is coming to here, but I guess now seeing this it made me feel a little better that there would be these restrictions, but I'm a little, I guess, questioning...I'm sorry, let me lean up here so everybody can hear what I am saying. I guess, seeing the layout and Carol's description of it why all of it if we're only going to make four additional lots and then the other question becomes the uses that you describe that you plan to try to attract here sound more like something that a C-1 or maybe C-2 would work.

Commissioner Mourdock: And one other question with that, just as a matter of timing, when this was voted on at Area Plan was this document presented as well?

Carol McClintock: No.

Commissioner Tuley: No.

Commissioner Mourdock: So you, Pat, and those at Area Plan thought at the time you were voting for...well, you were voting for the whole acreage without the benefit of seeing what this subdivision--

Commissioner Tuley: Yeah, I got in trouble earlier for speaking for the rest of the plan members, but basically I think what we looked at was a blanket C-4 without seeing, you know, what appears to be lots or uses not prohibited actually at that point.

Commissioner Mourdock: I understand.

Commissioner Tuley: Yeah. It's a little cleaner tonight, maybe. Maybe not quite legal yet, but it's plainer than what we had at Area Plan.

Carol McClintock: Can I ask a question? You know, the developers obviously would like for Casey's to be able to move forward with their construction. Would it be possible if they would agree to withdraw this rezoning and come back with a reduced size of just what they were going to do and C-1 or C-2 and the restrictions, can they go ahead forward with a minor subdivision? What do they need to do or do they even need a minor subdivision?

Barbara Cunningham: You can amend and go back to Plan Commission, you have that option now to go back. Casey's already has it.

Carol McClintock: Right, I'm asking about the next step. I understand that.

Barbara Cunningham: Okay.

Carol McClintock: I'm talking about the next step. Okay, now do we have to do a subdivision to get Casey's started?

Barbara Cunningham: You have to do a minor subdivision, yeah.

Carol McClintock: But a minor subdivision can be passed without going to Area Plan, right?

Barbara Cunningham: Not necessarily. It depends on what street it's on that goes to Plan Commission. It still has to go through Sub Review process and all that.

Carol McClintock: I know it has to go through Sub Review, but it may not have to go to Area Plan.

Barbara Cunningham: The procedure has been that those on major streets all go to public meetings.

Carol McClintock: But we can go ahead and do that and then come back, if the developers agree, which I'm going to go talk to them in two seconds, and amend the petition and go back to Area Plan?

Barbara Cunningham: (Inaudible, mike not on) amend the petition.

Carol McClintock: Okay, and we could be first on the agenda?

Barbara Cunningham: I can't promise that.

Carol McClintock: This is our major concern! Would this be then considered, and you can understand why we care, under old business?

Barbara Cunningham: I cannot promise that, can you?

Commissioner Tuley: I was getting ready to say, I've got to sit there.

Carol McClintock: It would be old business, wouldn't it? Can we have a second?

President Jerrel: Time out.

Carol McClintock: Okay, what we would like to do is withdraw the petition--

Barbara Cunningham: (Inaudible, mike not on.)

Commissioner Tuley: Continue.

Carol McClintock: Oh, no. We would like to continue--

Joe Harrison, Jr.: Amend.

Carol McClintock: Amend. It's late. Well, just tell us what we would like to do. We would like to amend the petition to reduce the size of the request because we're not going to include that which we're not going to develop. It's in the floodplain. To provide a Use and Development Commitment as to what we're going to restrict in

there and to take this zoning probably to C-2.

Commissioner Mourdock: You are certainly free to do that. There are a couple of ladies who raised their hand to speak to this issue and they've been here just as long tonight as you have and you might want to hear their comments.

Carol McClintock: Sure.

(Inaudible comments made from audience.)

Commissioner Mourdock: You need to come to the mike please. You need to state your name and address.

Donna Nelson: My name is Donna Nelson and I live at 3205 North St. Joe. I think...I basically had a question and I think it has kind of been answered here. My question was why this one little corner was C-2 and the rest of it C-4 because it seems like C-4 would be allowing larger developments, more industrial type developments which I do not like at all. I have no problem with a convenience store. It's kind of convenient, you can walk across the street, but any other kind of larger type of development like industrial, and I don't mean like big factories, I'm just saying industrial development I would definitely want to question that.

President Jerrel: Why don't you give--

Commissioner Tuley: I think it's confusing. I think the C-4 request of what was approved was the convenience store on the corner and what they're going to do...I think what they just asked us to do was to amend their petition to reduce the size and then come back and the rest of that, I believe, may be down to C-2.

Donna Nelson: C-2 was the corner.

Commissioner Tuley: No.

President Jerrel: No.

Commissioner Tuley: No, just the opposite. C-4.

Carol McClintock: C-2 is the corner.

Commissioner Tuley: Was it C-2?

Carol McClintock: C-2 is the corner.

Commissioner Tuley: The gas station is C-2?

Commissioner Mourdock: Yeah.

Commissioner Tuley: I'm sorry. I'm sorry, I'm the one that is confused.

President Jerrel: Why don't you--

Donna Nelson: The corner was C-2--

President Jerrel: Give her your name and phone number so when they come back--

(Inaudible comments made from audience.)

President Jerrel: Okay, you all know each other, okay.

Donna Nelson: That was my question. I didn't understand why you want to divide it into C-2 and C-4. I just, I would like limitations and not have some really big, you know, semis cruising in and out of there every hour and stuff like that, so that was all I had to say.

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

Commissioner Mourdock: I move that we continue VC-19-99 per the request of the petitioner.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Final reading	VC-20-99	Timothy J. Kempf
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President Jerrel: The last petitioner.

Commissioner Mourdock: That can't be right.

Barbara Cunningham: I'm getting out of here early! No, that's part of the record. Allison Comstock...who is here representing this petition? Keith Poff, Timothy Kempf? Is anybody here? Timothy Kempf...Keith Poff, I saw a familiar face, is the representative for petitioner Timothy Kempf in this request to rezone the property located at 6312 Petersburg Road from Ag to R-3 with a Use and Development Commitment. This is a 25 acre site located on the north side of Petersburg Road west of Greendale Avenue. Mr. Kempf is requesting this change in zoning to R-3 to allow construction of approximately, I hate that word approximately, 50 condominium units on this site. A Use and Development Commitment is included as part of this rezoning petition which limits use of the property to single and two unit condominium buildings and a community clubhouse. The commitment has restricted apartment dwelling units, boarding houses, multiple dwellings for three or more families, group homes and community residential facilities, supervised group living. Mr. Kempf's submitted conceptual site plan indicates that a single access point is planned on Petersburg Road approximately 500 feet west of Greendale Avenue to serve as access to the approximately 50 condominium units planned on this site. Careful consideration should be given pertaining the entrance for both sight distance and turning movements. Access will be addressed by Site Review and Subdivision Review Committee. County Engineer John Stoll states that depending on the final number of dwelling units a right turn deceleration lane may be required on Petersburg Road at the entrance to this development. The 1996 Comp Plan Future Land Use Map recommends this area for residential use. The step up in zoning to R-3 for this 25 acre site is consistent with the overall plan for the area. This proposed site is located north of the Hamilton Golf Course. The Comprehensive Plan recognizes that multi-family is an appropriate buffer use adjacent to single family residential.

Joe Harrison, Jr.: All those who wish to speak concerning this petition please raise their right hand. Do you swear and affirm that the testimony you're about to give is

true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Okay.

Timothy Kempf: My name is Timothy Kempf. I am the petitioner for the rezoning tonight. I know you've been here for quite a long time so we'll make this quick. Hamilton Creek is the name we chose for this private development. It will be a private development not for public use. It will be a gated community, upscale condominiums. To answer Barbara's question of approximately 50 is down to 41 and that's firm.

Barbara Cunningham: I've got that on the record.

Commissioner Mourdock: Forty-one units?

Timothy Kempf: Forty-one units, right. They will be single family dwellings. They will not be attached. A lot of times in this town we say condos or condominiums and everybody thinks of a huge building with a big parking lot, carports and shared type of amenities. This will be very much like that of an upscale subdivision when you drive through and see the homes. They will be single level and multi level, some with basements and some a story and a half and some two story. The site that we chose is very challenging. It does have some topography challenges to that. I brought with me tonight a development team which consists of my partner and builder, Donnie Denton. My engineer, Keith Poff with Sitecon. Legal counsel, Mike Schopmeyer with Kahn Dees Donovan & Kahn (inaudible). For any questions we're available for your questions.

Commissioner Tuley: Tim, if you don't mind I think at Area Plan you spoke in terms of \$350,000 price range, is that right?

Timothy Kempf: We feel there will be an average of about \$250,000 on the low end to \$400,000 plus, so that leaves about \$325,000 for an average.

Commissioner Tuley: Okay.

Timothy Kempf: Not knowing exactly where we are going to land with those, Donnie and I are working on floor plans that are going to fall within that range of \$250,000 to \$400,000.

Commissioner Mourdock: A technical question, if these are all single family units why is it R-3 as opposed to just R-1.

Timothy Kempf: I'll let Mike answer that.

Mike Schopmeyer: Because that's the way in which our zoning code has been drafted. I would debate that as well. I think the code needs to try to be changed. We have with the Use and Development Commitment for all practical purposes rendered this an R-1. If you look to the elimination of apartments and so on from the list. Does that answer your question, I hope?

Commissioner Mourdock: I think so.

Timothy Kempf: Any other questions?

President Jerrel: Is there anyone in the audience that would like to speak to this?

Chris Wischer: My name is Chris Wischer. I'm here...I'm with Fine & Hatfield and here to represent Mrs. Norman Jean Havens of 6424 Alameda Drive which is on the map northwest of the proposed development. Mrs. Havens has worked with the developers and their attorneys. They have reached an agreement which has been confirmed today in writing by their attorney, Mr. Schopmeyer, and at this time Mrs. Havens feels that her needs (inaudible). Thank you.

President Jerrel: Is there anyone else that would like to speak to this issue? Any Commissioners...any more questions from the Commissioners? Is there a motion?

Commissioner Mourdock: On final reading I will move approval of VC-20-99 for the property at 6312 Petersburg Road to be rezoned from Ag to R-3.

Commissioner Tuley: Second.

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

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes, so the motion carries.

Mike Schopmeyer: Thank you very much. As a sidebar, two or three Fridays ago there were about 50 of the neighbors and we met. While these things go smoothly I do think it's important and I hope the Commission understands that we met with those folks and I think met most of their requests. I hope all of them. Sometimes that's opaque, you don't see that and realize that that's why--

President Jerrel: Are you intimating that--

Joe Harrison, Jr.: We would have been here until 12:00?

Mike Schopmeyer: We could have been here until 12:00.

President Jerrel: --we should have been here a lot longer because were on another case?

Commissioner Mourdock: No, what he is saying is their firm did a great job in mitigating!

Mike Schopmeyer: Making sure you remember that.

Unidentified: (Inaudible) by the way.

Commissioner Mourdock: But on the other hand the schedule also works for you when it's ten after ten because only the true remonstrators hang in until then.

Mike Schopmeyer: We were here the whole time.

Commissioner Mourdock: No, we do appreciate the fact that you worked with the neighbors. That is a noteworthy effort and we do appreciate it.

Timothy Kempf: Thank you, folks.

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

Commissioner Mourdock: Hallelujah, I move adjournment.

Commissioner Tuley: Second.

President Jerrel: So ordered.

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

Those in attendance:

Betty Lou Jerrel
Patrick Tuley
Charlene Timmons
Les Shively
Mike Bredhold
Kent Burress
Jeff Simpson
Dale Wright
John David
Michael Lasher
Richard Seib
Sally Seib
Rhonda Gerst
Don Wengler
Jeff Dumes
Tom Hansen
Carol McClintock
Timothy Kempf
Chris Wischer
Members of the media

Richard E. Moudock
Joe Harrison, Jr.
Barbara Cunningham
Michael Bridges
Martha Vibul
Les Lantaff
Carol Bridges
Donald Wright
Marco DeLucio
Carla Hynes
Gina McCalister
Raelene Smith
Robert Maxedon
Glen Schlensker
Donna Miles
Tim Zeller
Donna Nelson
Mike Schopmeyer
Others unidentified

**Vanderburgh County
Board of Commissioners**

Betty Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
November 15, 1999**

The meeting was called to order at 6:40 p.m.

President Jerrel: I'd like to call the rezoning meeting to order for the Board of Commissioners of Vanderburgh County.

Approval of minutes

President Jerrel: Is there a motion to approve the minutes of the previous meeting?

Commissioner Mourdock: I'll move approval of the minutes of the October 18, 1999 rezoning meeting.

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

First reading VC-23-99 Terry Coon

President Jerrel: Under first reading there is petitioner one. Is there a motion?

Commissioner Mourdock: Yeah, on first reading I'll move approval of VC-23-99 for 13601 Highway 41 North from AG to C-4.

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

First reading VC-24-99 Dean Brinker

Commissioner Mourdock: Also on first reading I would move approval of VC-24-99 for the address at 1510 North Burkhardt Road, AG to C-4.

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

First reading VC-25-99 Donald and Mary Ann Claycomb

Commissioner Mourdock: And on first reading I would move approval of VC-25-99 for the address 14901 Highway 41 North, M-1 with Section 4 S.P. and AG to M-2.

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

Final reading VC-21-99 Sagamore Creek Development, LLC

President Jerrel: The next items are final readings.

Barbara Cunningham: We have two that I'm going to put together if that is alright with you?

President Jerrel: Sure.

Barbara Cunningham: Because they are both in the same development. The addresses are listed, Beacon Hill, Haver Hill Drive, and Raleigh Drive, and Beacon

Hill and they'll require separate votes, but we'll put them together. Krista brought visuals, thank you. Cambridge Subdivision was approved by Area Plan Commission on December 2, 1998. Section 1, the development which was the first 125 lots, was recorded September, 1999. Section 1 did include both of these segments that we're talking about tonight. To date the golf course, the water tower and the three proposed R-3 lots totaling 22 acres, the four proposed C-2 lots totaling 6.76 acres and 118 single family residential lots have been recorded and are being developed. These sites are located in northern Vanderburgh County and they are in an area designated for both commercial and residential development. The use and development of this overall site, if you can remember, Commissioners, they brought it in as an overall site and they told us at the time...and the overall site was addressed at the Cambridge Subdivision...subdivision approval for Cambridge and the four lots within the 296 lot subdivision which are proposed for C-2 are part of the overall development plan which included mixed land usage including single and multi family residential development. They're going to do a small village commercial area, a park recreation area and 166 acre golf course. The multi use community is consistent with the overall plans for the area and it's consistent with the subdivision plans already approved and recorded for this 344 acre site. Cambridge Subdivision was recorded and was approved with an extensive street network with two entrances on Volkman and one entrance on Old State. These four lots proposed for C-2 general commercial, golf clubhouse and apartments as well as the three lots proposed for apartments or condominiums are all interior to the overall subdivision site. Access to the individual developments will be addressed by Site Review Committee at the time of submission of plans for the development of the site.

President Jerrel: Did you swear anybody in?

Joe Harrison, Jr.: Well, I will now.

President Jerrel: Okay.

Joe Harrison, Jr.: You're okay. All those wishing to speak with respect to this petition please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Krista Lockyear: Good evening. My name is Krista Lockyear on behalf of the petitioner, Sagamore Creek Development. I'll start off with the petition to rezone the four interior lots of the subdivision to C-2. I would like to pass out to you each a page from the marketing brochures for Cambridge Subdivision. As you can see this subdivision has been marketed with kind of an old town concept. These four lots will constitute what we call in this brochure the village square. The idea, if you look at the visual that I brought, this up here, the drawing at the top, is the conceptual idea for the village square. The bottom lower levels of these buildings will be anticipated to be retail customers with lofts, condominiums, or apartments possibly in the upper level. Again, these are conceptual. The exact design of the buildings will depend on customers that wish to develop in these four lots, but this is the goal. I think this has been the design of Cambridge from day one which has been pretty highly...pretty well received by everyone. If you're also familiar with the location of Cambridge Subdivision, it is pretty far north out of town, so the goal here, again, is retail and restaurants will help cut down trips back to town for the residents. I'd be

happy to answer any questions you may have.

Barbara Cunningham: Krista, where do you say the clubhouse is?

Krista Lockyear: The clubhouse will be--

Barbara Cunningham: It's C-2?

Krista Lockyear: It will be C-2. It's this lot right here which I believe is 122. You really can't see it. It's on the golf course green on this plan. On your map that we submitted with the application it is lot number 122.

President Jerrel: There is just one course though, right?

Krista Lockyear: Yes.

President Jerrel: Is it a nine hole, 18 hole course?

Krista Lockyear: Eighteen hole, I believe. I'm not a golfer.

President Jerrel: I was going to ask you how many feet it was, but I won't ask it.

Krista Lockyear: But you can see it flows in throughout the entire subdivision.

Joe Harrison, Jr.: It's 18 holes.

President Jerrel: I know, but how many...the length of the course?

Joe Harrison, Jr.: How many yards?

Commissioner Mourdock: How many yards?

President Jerrel: Yeah, that's what I was--

Barbara Cunningham: I have it on my special use, but I don't--

President Jerrel: I was just...you know, some courses in town are very long and--

Joe Harrison, Jr.: It's probably 6,500 or so.

President Jerrel: That's not very long then.

Krista Lockyear: The question is out of my league. I don't know.

Barbara Cunningham: (Inaudible, mike not on.)

President Jerrel: Okay, alright. I won't ask it.

Commissioner Mourdock: On final reading, and do we need to vote on these just as one?

President Jerrel: Separate.

Commissioner Mourdock: Or vote as two? Okay, even though there was one

presentation, okay. First then on final reading I would move approval of VC-21-99 for 1120 Haver Hill Drive, 1121 Haver Hill Drive, and 1035 Beacon Hill, and 1034 Beacon Hill from AG to C-2.

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

Commissioner Mourdock: Yes.

President Jerrel: And I'm Commissioner Jerrel and I vote yes.

Final reading	VC-22-99	Sagamore Creek Development, LLC
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Commissioner Mourdock: And I would move on final reading VC-22-99--

Joe Harrison, Jr.: Why don't I do this, if you don't mind. Why don't I at least go over the fact that this is a separate petition and have her, if she wants to say anything at all she can, but we ought to have two separate readings.

Commissioner Mourdock: Okay.

Joe Harrison, Jr.: If anyone wishes to address this Board with respect to VC-22-99 from AG...the petition is from AG...the request is from AG to R-3, please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Krista Lockyear: Again, Krista Lockyear for the petitioner. Our request here is to rezone three lots from AG to R-3 for apartments and condominiums. If you can again look at probably the small map that we filed with the rezoning is a little easier to see the lots. These three lots are very large lots on the outlying areas of the golf course. Again, consistent with the overall plan for Cambridge these will allow higher density residential areas that would be separated by the golf course from the single family residential. Again, I would be happy to answer any questions you may have.

President Jerrel: Is there a motion?

Commissioner Mourdock: I'll move on final reading VC-22-99 for the addresses of 1232 Raleigh Drive, 1001 Beacon Hill, and 1000 Beacon Hill from AG to R-3.

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

Commissioner Mourdock: Yes.

President Jerrel: I'm Commissioner Jerrel and I vote yes. Motion carried.

Krista Lockyear: Thank you. Good evening.

President Jerrel: Good evening.

Commissioner Mourdock: Motion to adjourn.

President Jerrel: Second and so ordered.

The meeting was adjourned at 6:50 p.m.

Those in attendance:

Betty Lou Jerrel
Charlene Timmons
Others unidentified

Richard E. Mourdock
Barbara Cunningham
Members of the media

Joe Harrison, Jr.
Krista Lockyear

**Vanderburgh County
Board of Commissioners**

Betty Lou Jerrel, President

Richard E. Mourdock, Vice President

**Vanderburgh County
Rezoning Meeting
December 20, 1999**

The meeting was called to order at 6:42 p.m.

Approval of minutes

President Jerrel: I'd like to call the Vanderburgh County Rezoning Board to order. At this time I would like to call for approval of the minutes of the previous meeting.

Commissioner Mourdock: I'll move approval of the minutes from the Rezoning meeting of November 15, 1999.

Commissioner Tuley: I was in Colorado that week.

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

First reading VC-26-99 Jacob's Village, Inc.

President Jerrel: The first item on the agenda is first reading for Jacob's Village.

Commissioner Mourdock: And for the purposes of first reading I would move approval of VC-26-99, Jacob's Village on 7400 Vienna Road from AG to PUD.

Commissioner Tuley: Second.

President Jerrel: And is there anyone here that wishes to speak?

Commissioner Tuley: No, no, no. Not on first reading.

President Jerrel: You don't want anybody to talk?

Commissioner Tuley: Not on first reading. It's just a formality. We read into the record and the first real public hearing will be the Area Plan Commission.

President Jerrel: And I'll say so ordered.

First reading VC-27-99 Jagoe Land Corporation

President Jerrel: The next item on the agenda.

Commissioner Mourdock: I'll move on first reading VC-27-99, Jagoe Land, 3401 North Stockwell Road on the requested rezoning from AG to PUD.

Commissioner Tuley: On first reading I will second.

President Jerrel: Again, I'm going to say...I think a number of these people are here to speak to that and you're not going to permit them to speak?

Commissioner Tuley: Well, it's not that I'm not going to permit them. The normal procedure on first reading is just a formality of reading it into the record. The actual first public hearing won't be until the Area Plan Commission which will be January 5th. It's not that I don't want to hear them, but normal procedure is just to approve it on first reading.

President Jerrel: Well, could I see the hands of those that are here for the second item on the agenda. Nobody here for that? Okay, no problem. I'll say so ordered. Well, they're here for something.

Commissioner Tuley: Yeah, I don't know which one.

President Jerrel: Really.

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

Commissioner Mourdock: For first reading I'll move approval of VC-28-99, the petitioner being North Point Center, LLC. The address 12400 Highway 41 North and the request is from AG to C-4.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-29-99 Danny Vanhooser

Commissioner Mourdock: I would move approval on first reading for VC-29-99, petitioner Danny Vanhooser at 1740 Allens Lane. The request from AG to M-2.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-30-99 Mid-America Clutch Industries

Commissioner Mourdock: Move approval on first reading VC-30-99, Mid-America Clutch Industries. I believe that is Industries. It was I-n-d and it may have been meant to be incorporated.

Commissioner Tuley: I'm not sure.

Commissioner Mourdock: The critical thing is the address which is 5620 Upper Mount Vernon Road and the request is from AG to M-2.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-31-99 Marvin Randall McClaskey

Commissioner Mourdock: And on first reading I would move approval of VC-31-99, petitioner Marvin Randall McClaskey, 4601 Highway 41 South from AG to C-4.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Final reading VC-24-99 Dean Brinker
--

President Jerrel: We now go to final readings and the first on the agenda is VC-24-99, petitioner Dean Brinker.

Barbara Cunningham: I don't see Mike Mitchell. He represented petitioner Dean Brinker in this request to rezone the property located at 1510 North Burkhardt Road from Agricultural to C-4. This is a one acre site located at the southwest corner of Burkhardt and Oak Grove Road. The current owners are Ronald and Cherrel Underwood. The site is one of the few remaining residential locations south of Morgan and west of Burkhardt. The area on North Burkhardt is experiencing increased traffic due to rapid commercialization and the proposed change in zoning is consistent with the Comprehensive Plan if the commercial use is designed to minimize the number of access points eliminating access onto Burkhardt Road. Tonight we're addressing land use and we're not really deciding access although access does play a part in your...should play a part in your decision. The submitted site plan indicates a desire for a commercial access drive onto Burkhardt Road and both EUTS and the County Engineer, John Stoll, agree that there shall be no access onto Burkhardt Road. Alternative access such as frontage road or shared access should be pursued. The Comprehensive Plan projects the Burkhardt Road corridor between Morgan and Lloyd as an area of commercial development. Although this change in zoning to allow development of the site as a commercial use is consistent with the Future Land Use Map there are concerns about safe access to this parcel. The focus of the plan is to ensure that the transportation network system improvements necessary to accommodate traffic from new development are in place when needed. Unless the transportation issues are worked out the property should not be rezoned...unless they are worked out safely the property should not be rezoned. Piecemeal development along major roadways that does not incorporate the necessary transportation improvements to ensure efficient traffic flow and safe ingress/egress is discouraged. According to the Comprehensive Plan it is essential for development proposals along major arterials to be accompanied with commitments to construct the infrastructure improvements necessary to accommodate site generated traffic. No commitments have been submitted with this rezoning petition. The transportation plan on the easel over here is the one that was accepted by the County Commissioners and it shows Tutor Lane to Oak Grove. It shows the extension of Tutor Lane to Oak Grove. The extension of Tutor Lane was a matter of discussion at the Area Plan Commission. I'll show you Tutor Lane. Here. Is there a representative present for the Brinkers?

Beverly Behme: He is not over at City Council.

President Jerrel: They're at City Council now?

Beverly Behme: No.

Commissioner Tuley: They're not.

Beverly Behme: I checked--

Barbara Cunningham: She went over to City Council.

Beverly Behme: --to see if he was at City Council and he wasn't there.

President Jerrel: Well, I think it has been clear that we want to extend Tutor Lane and I don't...I mean, Barbara, what did you all do? You approved the site plan like this?

Barbara Cunningham: Oh, no. The site plan has not--

Commissioner Tuley: It's proposed.

President Jerrel: Right. I know.

Barbara Cunningham: This is just what is proposed and it was not...no, the site plan was not. This is just what they showed us as a way that they could use it. It was not approved that way nor will it. This is how they showed us how they could use the property. I don't feel comfortable. I thought there would be somebody else here.

Joe Harrison, Jr.: We need to wait until they get here.

Barbara Cunningham: I don't feel comfortable without a representative to present the petition.

Commissioner Tuley: Can we either--

Joe Harrison, Jr.: Well,--

Commissioner Tuley: We can go on with the next one and come back to this in case they show up.

Barbara Cunningham: Yeah, I feel that is better.

President Jerrel: We'll just move to the second one.

Final reading VC-25-99 Donald and Mary Ann Claycomb
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President Jerrel: VC-25-99, the petitioner Donald and Mary Ann Claycomb.

Barbara Cunningham: Les Shively is the representative for Donald and Mary Ann Claycomb in this petition to rezone their property located at 14901 Highway 41 North from AG and M-1 with a stipulated site plan to M-2. The Claycombs proposed a three acre plus M-2 site. It's located on the east side of Highway 41. I've got other maps for this and why don't I pass these.

President Jerrel: Okay.

Barbara Cunningham: I did have them. This is also the Commission adopted plan and I'll pass those along. The site is located along Highway 41 which is a...where the Claycombs' proposed 40 acre M-2 site located on the east side between...this is between Baseline and Inglefield Road. A 12 ½ acre part of this 40 acre site was rezoned in 1989 to allow equipment sales. The M-1 zoning was approved for that 12 ½ acre site with a section four commitment limiting the site to a stipulated site plan. The site is located along Highway 41 which is a controlled access thoroughfare. The proposed change in zoning is consistent with the plan if the industrial development is designed to minimize the number of access points on Highway 41. County Engineer John Stoll states that one, when this property is

developed a frontage road must be constructed. The frontage road must line up with the frontage road that was constructed in the Baseline Park Subdivision and this site will access Highway 41 at the median crossover that provides access to the Matrix site. When the turn lanes were reconstructed by Vanderburgh County at the median crossover the INDOT permit for this construction calls for the removal of the median crossover is a signal is ever warranted at the crossover. The petitioner will be required to obtain a permit from the Indiana Department of Transportation in order to reconstruct his access point on Highway 41. The Indiana Department of Transportation has also commented that any diversion of water or increase in the rate of runoff from the site into highway right-of-way will require on-site detention. On August 31, 1998 the County Commissioners adopted the US Highway...or accepted the US Highway 41 North Corridor Transportation Plan which shows the future road network plan for this area. This plan includes the frontage road referred to in the County Engineer's comments as well as an east/west road extending through the site from the opening on Highway 41 east to Peck Road. The State of Indiana Department of Highways has notified all communities that rezoning for outdoor advertising along state highways is contrary to the intent of the Highway Beautification Act and could jeopardize local or state highway projects. A petition to rezone this property to industrial along the state highway system without any specific use at this time could raise questions of compliance. However, after I stated that the new ordinance adopted on outdoor advertising by the County Commissioners would preclude that because a certain amount of the property would have to be developed prior to the installation of any outdoor advertising. The areas are identified in the Year 2015 Conceptual Land Use Map in the Comprehensive Plan as an area of industrial development. The proposed use is consistent with the concept in the plan to establish an industrial corridor along US 41 in northern Vanderburgh County. Surrounding it is a rural agricultural residential area experiencing a gradual transition to the long planned industrial development along the Highway 41 corridor. The Comprehensive Plan calls for road improvement necessary to accommodate development traffic to be constructed with the development. According to the Comp Plan it is essential for development proposals along major arterials to be accompanied with commitments to construct the infrastructure improvements necessary to accommodate site generated traffic. No commitments have been submitted with this rezoning petition.

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

Response: I do.

Joe Harrison, Jr.: Thank you.

Chris Wischer: My name is Chris Wischer. I'm here with Les Shively and Mr. and Mrs. Claycomb, who are the owners of the property, and they are asking that you, excuse me, approve their rezoning of the property from AG and M-1 to M-2. I want to pass out...what I have just handed out is just a few things that I may reference throughout the presentation which I think will help you in your understanding of why it's necessary and important that this property be rezoned to M-2. First of all, I would like to echo that the Area Plan Commission recommended the approval of this in a vote of 11 to nothing, 11 to zero I should say. Then to start off I would like to talk about the location of this property. This property is out, as we said, on North 41. It's entirely industrial area of the county. To the northwest is the Matrix, southwest is PPG, west is Southern Indiana Properties or SIGECO, the northwest is Azteca.

Most if not all of these properties were approved without specific Use and Development Commitments and have all complied as we intend to do with the 41 North corridor plan. Again, this rezoning is consistent with the Comprehensive Plan. The Comprehensive Plan, as Ms. Cunningham has said, calls for this to be an industrial corridor. That is how we, of course, intend to use this property and we feel as stated in the Comprehensive Plan that is a necessary zoning for Vanderburgh County. It also goes hand in hand with the community need for industrial use properties. One thing that I have in there, the second thing I think you'll find is an excerpt from a Vision 2000 report that was done by Deloitte & Touche which indicates, I believe that was done in 1997, the need for industrial properties in Vanderburgh County. The need for ready to go industrial properties. What I mean by that is that the property already be zoned and ready to go for industrial development. Also attached the first thing you'll find is a letter from Fred Barber of F.C. Tucker Realty. Mr. Barber has opined that it is absolutely necessary that this property be zoned M-2 prior to marketing so that the property can be properly marketed. If you've had a chance to look or look at the meetings, and I know Mr. Tuley was at the meeting, Mr. Ancona on the Area Plan Commission concurred with that opinion and stated in fact that it was absolutely necessary for a property such as this to go ahead and be zoned M-2 in order to attract an industrial development. That's really what Mr. and Mrs. Claycomb are looking for in this rezoning is to be able to market this property to industrial companies, people who want to develop this property the way it is supposed to be developed on the 41 corridor. Mr. and Mrs. Claycomb are not to be in the end users of the property. Like I've said, repeated I think a couple of times, that their intent is to market this property, to sell it to another person who will become the end user and, again, in order for that to happen the property needs to be M-2 right now. Just to highlight the 41 corridor plan which was mentioned by Ms. Cunningham we are aware and have reviewed the 41 corridor plan. We've hired Mr. Jim Farney. A letter from Mr. Farney is also attached, it was written prior to the APC hearing, in which he states our intent, our ability to comply with the 41 corridor plan. We've reviewed Mr. Stoll's comments regarding the frontage road and fully intend to comply with the necessity for that frontage road on the property. Basically, I have kept my comment brief, but I believe the important statements that I've made here are that it is consistent with the Comprehensive Plan. That this is the first step in Mr. and Mrs. Claycomb's ability to market this property and to be able to obtain their fullest value for the property. And, again, the community need, the importance that Vanderburgh County have industrial parks ready to meet the needs as we reach...go into the year 2000 and that this property is ready to accept an industrial development. Of course, today we're talking about the use of the property. When this property...if this property is rezoned M-2 down the road when we get to the development stage we will at that time be planning the property, addressing specific locations for access, specific ingress and egress problems as well as the frontage road. As Ms. Cunningham has stated, much...and as Mr. Farney states in his letter, much of what we're going to need to do along those lines is going to have to go through the Department of Transportation as well so there are sufficient...I'm losing my word there.

Commissioner Mourdock: Safeguards?

Barbara Cunningham: (Inaudible, mike not on.)

Chris Wischer: Right, thanks Ms. Cunningham. There are checks and balances with regard to this property so I think you can feel comfortable in allowing us to have this property zoned M-2 today. With that I'll leave it for questions or if Mr. Shively feels like he needs to add anything.

Les Shively: The only thing I would add in the record is the fact that in addition to having to go to INDOT for any permits for ingress and egress we'll also have to go through Site Review. Mr. Stoll sits on Site Review and he will be there to ensure that your thoroughfare plan as you have adopted for this area is adhered to in the development of this property whether we plan it or not, so you'll have those two checkpoints.

Commissioner Mourdock: I have a question, but before I have a question let me just make a statement here. The property that is immediately south of the subject property I see is listed here as being owned by Koester...what is it, 41 Properties. Since on several times during my tenure on this board it has become an issue that I work for Koester Companies, I just want to make the point that the entity I work for, Koester Companies, Inc., is simply a lessee of that property and nothing that I would do on this board is going to impact my company other than possibly raise the rent, I suppose. Having said that, my question becomes one I heard Mr. Wischer say and, Les, you just said it as well as far as complying with the plan, but it is my understanding your clients are not going to develop the property themselves.

Les Shively: No, they simply...they just recently...they held a portion of this property in their names for a sufficient period of time and they just recently acquired the rest of the 40 acres. Now they intend to market it and their timing is pretty good especially with the headline I guess it was in this morning's paper about Toyota's future expansion, their timing is pretty good. So, again, the marketing experts, Mr. Barber's letter and Mr. Ancona, who is a member of the Plan Commission and heads up the commercial division at Emge-Citizens, and both say the only way to market property is to have it classified correctly. The utilities are there by the way.

Commissioner Mourdock: I understand the utilities are there. The question I have and maybe it is one for our board or Joe and Barbara, are we receiving tonight the commitment to that road plan that would carry forward to another developer? I mean, obviously we cannot do conditional zoning, but I've heard Mr. Wischer and Mr. Shively say the intent is to comply with the plan that was adopted by this board and to work with John Stoll on the frontage road issue. Is there any wiggle room there for some future developer not to do that?

Barbara Cunningham: There is.

Les Shively: No, there is not.

Barbara Cunningham: Sure.

Les Shively: No, there is not because, Ms. Cunningham, as you well know with this corridor plan having been passed we have to go before Site Review before we pull any permits. Mr. Stoll sits on that. I dare say that Site Review is going to approve a plan that is not consistent with your thoroughfare plan, number one. Number two, we have to go to INDOT to get a commercial permit and I doubt INDOT is going to grant a permit that A, doesn't meet ASHTO standards and B, doesn't conform to your thoroughfare plan. All due respect, I don't think there is any wiggle room when you've got both the State of Indiana and your Site Review Committee reviewing any plans.

Barbara Cunningham: Well, I think there are always...I think this is good industrial development. I think it is ready for it. The infrastructure is in place. I think if they come in with a subdivision plat we'll get the frontage road. It could be developed as

one property and it would not need the frontage road. I mean, they could sell it as one use and it would not have the frontage road. They also would have a problem, I think, then because then the State of Indiana would probably come in and close that median if it was a large use at that thing.

Les Shively: We understand the risk of that and, again, this discussion was had at the Plan Commission meeting where they approved this 11 to zero and, again, the problem you have when you make specific use and development plans is that on the one hand when you rezone it you make it more marketable. When you make specific plans not knowing who the end user is going to be, what their needs are, you tie one arm behind your back. Your plan is in place and it's going to be adhered to and I think even if there is one...Mr. Farney at least has explained to me and I think if you read his letter even if you have one user you're going to have to do some type of frontage road system even if it's one user. The one user may in turn in the end want to subdivide the property or develop it for multiple uses and you're still going to need the frontage road even if there is only one owner.

Barbara Cunningham: You possibly--

Commissioner Mourdock: There are two issues, though. The frontage road is one road and I understand your argument there and I think it makes a lot of sense. The other issue is the connecting road that we've established with our plan.

Barbara Cunningham: To Baseline?

Commissioner Mourdock: Yes, right.

Barbara Cunningham: Go up to Baseline and one user could very easily it would make sense for them to tie into it, but you asked if there is a commitment and there is really not.

Les Shively: But there is a practical side too. We've already been told the state is going to close that median. It makes a lot of sense to connect wherever we can connect and follow that plan so we don't lose our access. You shoot yourself in the foot if you do that because the practical implications are probably one of the best safeguards as well.

Commissioner Mourdock: Okay. Joe, you have no comments?

Joe Harrison, Jr.: No, there are, as Mr. Shively has indicated, there are other forums that whoever purchases that property is going to have to go through to get the traffic patterns approved.

Commissioner Tuley: I think Mr. Shively made the commitment, even though it may not be in writing, at the Area Plan meeting and indicated they would comply and do everything they need to do. We've seen him many times in the past and I'm sure we'll see him many times in the future, so I believe that--

Commissioner Mourdock: Yeah, I don't have any question with what Mr. Wischer said, what Les has said or what the Claybaughs are saying they will do. My only concern is whoever they sell to, what are they going to do at that point? Obviously, we cannot make this conditional.

Les Shively: As I represented at Plan Commission, I mean, quite frankly we have a

duty and we'll continue to. These are all part of the public record and anybody that buys that property is going to be made aware of what has transpired in this meeting. The same questions you are asking now, the questions of the Plan Commission, and they are on notice that they buy this property it doesn't ensure them of any access other than that access the state will approve and the county will approve.

Commissioner Mourdock: And that is part of my point in raising the issue because any good attorney would make sure their client was aware of the minutes of this meeting.

Les Shively: Right.

Commissioner Mourdock: And I think this Commission has had a long-standing practice with APC to make sure that we have a good transportation system and that we continue to build on this plan that we've adopted.

Les Shively: And the nice thing is you have many of the industrial uses out there that are established and have followed that plan without any commitments and I see no reason for that direction to change.

President Jerrel: Well, for the record you know that is expected and it has been stated in the minutes, so the plan that was adopted earlier by--

Les Shively: (Inaudible.)

President Jerrel: --Highway 41 that we expect the plan to be continued and the people that purchase the property be made aware of it.

Les Shively: Yes, ma'am.

President Jerrel: Okay, having said--

Commissioner Tuley: Is there any others?

Commissioner Mourdock: Yeah, anyone else?

President Jerrel: Let me get this out. Having said that, is there anyone here that would also like to speak to this issue?

Commissioner Tuley: There were not any at Area Plan either.

Commissioner Mourdock: Okay. I will move approval on final reading of 99...I'm sorry, VC-25-99 for the rezoning of 14901 Highway 41 North as requested.

Commissioner Tuley: Second.

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

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Les Shively: Thank you.

Final reading VC-24-99 Dean Brinker (Continued)
--

President Jerrel: Okay, let's go back to the final reading of petitioner Dean Brinker.

Mike Mitchell: Members of the Commission, I apologize for being late, but ASA out of Atlanta is part to blame for that tonight. I'm glad I at least--

President Jerrel: We'll accept that.

Mike Mitchell: At least I got here.

Commissioner Mourdock: I can't imagine an airline being late. That sounds pretty weak.

Joe Harrison, Jr.: Everyone who wishes to speak with respect to this petition, it's VC-24-99, Dean Brinker, 1510 North Burkhardt Road, zoning request change from AG to C-4, please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Mike Mitchell: My name is Mike Mitchell and I am representing the petitioner, Mr. Brinker. He and his wife own this property. This comes to you with, I believe, a nine, one and one vote. I'm not sure, Barbara, from the Plan Commission approval, with Commissioner Tuley abstaining because he would vote tonight and I think Mr. Corn voted against it. All other members present voted for it. Basically, we are at the southwest corner of Oak Grove and Burkhardt which is the proposed new facility for Brinkers Jewelers when they move off of where they are now which is kind of difficult to get in and out of as the traffic picks up on Green River Road. Dean wants to build his new jewelry store at this location. The only issue which really isn't before the Commission, but I will address it and I did it a little bit at the Plan Commission is the curb cut on the south part of the property on Burkhardt Road which Mr. Stoll initially said that should be closed for traffic concerns and I think Mrs. Zigenfus concurred in that. I have since talked with Mrs. Zigenfus and have written to Mr. Stoll. My client has talked to Mr. Stoll and I think this will be addressed at Site Review. Is that where you normally would do that, Barbara?

Barbara Cunningham: (Inaudible, mike not on.)

Mike Mitchell: On that particular curb cut. The problem with what Mr. Brinker is proposing is to narrow it down to an 18 foot single curb cut with an exit only provision on it. A sign much similar to the post office over here where you can only come in and go out the other. One of the main reasons after talking with Mrs. Zigenfus was that at the light at Oak Grove and Burkhardt two cars will about block that entrance. That's the only entrance he has got off of Oak Grove and that is pushing that curb cut as far to the west as you can on his property line. I'll show you what I mean here. This is what they're proposing and this is what we're talking about narrowing

that with an exit only. That would be a flow to the right out. The median, of course, would preclude any traffic coming in from the other direction. The only way in will be at the light at Oak Grove. For safety factors it could be backed up if there are more than...as that property develops to the west Mr. Brinker is going to be really kind of almost landlocked at that light when more than two cars are stacked up waiting for the red light. I'm here to answer any questions. It's to a C-4 from Agricultural and this is just adjacent to the industrial park that has already been platted. Waterford Park, is the main industrial park that has been platted and is to the immediate west of this property.

President Jerrel: Are there questions from members of the board?

Commissioner Tuley: It doesn't sound like you've totally got your traffic flow figured out yet as far as Tutor Lane. The concerns that came out in the Area Plan Commission and the concerns I have right now is one, a curb cut onto Burkhardt which I know you tried to address with John by bringing that down a little bit, but I am also concerned about getting people safely moved in and out of there off that Oak Grove entrance. Like you said, two cars and you're backed up to the light.

Mike Mitchell: That's correct.

Commissioner Tuley: We've worked real hard to try to keep a traffic flow and a safe traffic flow out there.

President Jerrel: Well, this looks like there is no Tutor Lane.

Commissioner Tuley: There is no Tutor Lane that I saw.

Mike Mitchell: That is correct and what has been proposed is that Mr. Brinker has met with the owner and the developer and his in-laws own the property immediately to the west which would rip right through the middle of their lot onto Oak Grove and economically that would just...there is no way they could trade off or do anything else at this time. They have discussed it.

President Jerrel: Of course, that's how we got Tutor Lane started in the first place and Kimber Lane is the fact that we've tried to hold to the commitment to build those access roads.

Mike Mitchell: Yes, I understand that, Mrs. Jerrel. The Claymiers, they have anchor on here.

President Jerrel: Uh-huh.

Mike Mitchell: The Claymiers own this property here. The Underwood property is the property that is being subject to the rezoning tonight and the curb cut would be here. What they're talking about is this cutting right through the middle of their lot and his in-laws at this point cannot see the feasibility of that.

Barbara Cunningham: Where on this...about right here, is that where the farmhouse is?

Mike Mitchell: Yes.

Barbara Cunningham: About right there so what you're talking about is the parking

lot, is that right?

Mike Mitchell: Right.

Barbara Cunningham: This is their parking lot, is that right?

Mike Mitchell: Yes, ma'am.

Barbara Cunningham: And then this is a house which is--

Mike Mitchell: The Underwood house.

Barbara Cunningham: The Underwood and then there is another house that belongs to the Hirschs.

Mike Mitchell: That's correct. I think they are renting. The Hirschs are--

Barbara Cunningham: But I mean this is his parking lot and is this his, too, over here?

President Jerrel: That's Claymiers.

Mike Mitchell: The Claymiers.

Barbara Cunningham: Claymiers, yeah.

Mike Mitchell: They have Brinker on there, but the Claymiers are the ones that own it. He and his wife own one half of it but that is because of the Claymiers, so it's a three to one vote as far as...he tried to talk to the Claymiers about some kind of proposal of redesigning this lot and maybe, you know, trading with the owner and doing that kind of thing and right now--

President Jerrel: But you see what this is going to do? Do you see what that is going to do to the plan that we had in place?

Mike Mitchell: Uh-huh.

Barbara Cunningham: And it's going to make it come right here. The entrance--

Commissioner Tuley: That's the scary part.

Barbara Cunningham: The entrance is going to come here and then it will be somewhere in here, but this is just that little-bitty...this is where that farmhouse is. It's about right here on the line, isn't it?

Mike Mitchell: It's very close to the line, yes.

Barbara Cunningham: Yeah.

Mike Mitchell: The gift shop is what you call it.

Barbara Cunningham: Uh-huh. I think there are people here.

President Jerrel: Yes, I know. I just wanted to...

Commissioner Mourdock: I'm not sure if there are people here to speak to this.

President Jerrel: I know. I think these are drainage people. Is there anyone here that wishes to speak to this rezoning? Yes, sir. Do you want to swear these people?

Commissioner Mourdock: Yeah, they did not raise their hand to be sworn in previously so we need to do that.

President Jerrel: Come on up.

Joe Harrison, Jr.: Please raise your hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Ream: My name is Joe Ream, I'm the developer of Waterford Plaza. It's more or less an adjacent property. It does contain this outlot behind the Underwood lot and I would just like to say two things. One, is that we don't want to interfere with anything that Mr. Brinker is trying to do to develop this property, but the other thing is we would like to somehow cooperate with everybody to get Mr. Claymier on the corner of Tutor Lane, Oak Grove and Burkhardt which seems to be a pretty good place to be. It seems to me like there is a win, win, win in here.

President Jerrel: Can you describe what you call a win, win, win?

Joe Ream: Well, a win, win, win would be for Mr. Brinker to work out something with Mr. Claymier as far as his being able to get in and out of his property and it looks like he could. Here is his and here is his driveway right here. He could have parking in here or something. Then also Mr. Claymier would be, you know, on Tutor Lane here so he could get in and out here and get in and out here and Mr. Brinker could get in and out here. Again, what I was saying, you know, with Mr. Claymier I understand this may be (inaudible). You know, he could be on the corner of Tutor Lane, Oak Grove and kind of on Burkhardt because he could work out something with Dean for this area.

Unidentified: Dean could, you know, pave that lot for him and he is concerned about losing his parking here, but this will give him parking exactly adjacent to his Farmhouse Charm right there.

Mike Mitchell: I don't know if he is going to attempt to keep the farmhouse there or not, do you know? I wasn't involved--

Unidentified: He has put a lot of time and effort into the store and is finally starting to make a go.

President Jerrel: I wish Dean could have been here this evening so he could...Mike, because it really is important to us.

Mike Mitchell: Unfortunately Dean is--

Commissioner Tuley: It's Christmas, it's the time of year.

President Jerrel: I know. He is too busy. But this is very--

Unidentified: And his vote is only one vote in four.

Commissioner Tuley: Right.

President Jerrel: But this is very--

Mike Mitchell: He did meet with them. He is willing...I'm mean, Dean is willing to talk, but I think it's--

Unidentified: His father-in-law. He just doesn't want to change. He says, if they want to do it ten years from now when I am out of here, fine.

President Jerrel: I know, but we want--

Unidentified: But we can't wait for that to happen.

President Jerrel: We want to keep our plan moving and the way we've set it up makes sense that this is where we try to divert traffic and we want people to have access to their properties and enhance them. I mean, I think this would enhance theirs.

Mike Mitchell: You and I agree to that.

Unidentified: We all agree.

Mike Mitchell: Mr. Ream and I agree to that. The owner and I agree to that. I think Dean and I agreed.

President Jerrel: I'm going to turn my mike off right now.

Mike Mitchell: That's right.

Joe Ream: That's what Mr. Claymier said.

President Jerrel: Okay.

Unidentified: Dean and his wife own half of this.

President Jerrel: I think we would be making a big mistake not to.

Mike Mitchell: See, Dean has already purchased that so this--

Commissioner Mourdock: Excuse me, I don't mean to interrupt the conversation, but since Charlene has got to type all these notes she is going to have a tough time saying which voice is which as we go through, so you really need to identify yourself.

Joe Ream: Maybe just to sum up--

Commissioner Mourdock: And this is Joe Ream.

Joe Ream: Joe Ream, the developer of Waterford Plaza. Mike Mitchell has stated that Dean and his wife own half of the Underwood property--

Mike Mitchell: No, they own all of it.

Joe Ream: They own all of the Underwood? I'm sorry. They own all of the Underwood property and they own half of the Claymier.

Mike Mitchell: The Claymier property.

Joe Ream: Okay, they own half of the Claymier property where the proposed Tutor Lane would go through and we would just hope that somehow to get this win, win, win thing for Dean on the Underwood property and Dean and his wife and the Claymiers on their property in getting the road put through for these people that somehow we could work this out. I know that Fred and Lee wanted to be generous on everything, but, again, we don't want to hold up Dean's development, but it would be nice if we could get Tutor Lane through too and put Mr. Claymier and his daughter on the corner of Tutor Lane, Burkhardt and Oak Grove. It seems like a good plan to me.

Commissioner Mourdock: I heard Mr. Mitchell say a moment ago when he was at the front microphone that it was his personal opinion, and I stress the word personal, not necessary the opinion of your client, that there was a certain reasonableness here in the approach that this board has taken in the past and I think in trying to reach some accommodation in what Mr. Ream described as a win, win, win situation, so I guess would it be appropriate to want to consider a continuance on this? I think you're getting some read as far as what the County Commission's historic point of view has been.

Mike Mitchell: I have no problem. I knew that coming in, Mr. Mourdock, and I am faced with what Mrs. Jerrel's father's attitude was and Mr. Claymier's attitude seems to be. Did you meet with Mr. Claymier or was it just through Dean?

Unidentified: I've met with him a couple of times.

Mike Mitchell: Have you?

Unidentified: Yeah.

Mike Mitchell: And he is pretty...obviously, I would say at this point I need to consult with Dean so obviously we would want to continue it for a month. At that point whether we back off and wait the year, I don't know. It depends on what Mr...how Mr. Claymier digs his feet into the ground.

President Jerrel: Could you express our concerns about the plan we have and we hope to--

Mike Mitchell: I would do that with copies of the minutes of this meeting to Dean to deliver a copy to his father and mother-in-law.

Commissioner Mourdock: It is my general sense that if we took a vote tonight you would definitely be looking at a year.

Mike Mitchell: That's correct.

Commissioner Mourdock: Because it might well be a year before you could come back.

Mike Mitchell: I understand that, yes.

Commissioner Mourdock: I would think you might speed the process along by attempting those conversations.

Mike Mitchell: I'm glad you put that in the minutes, Mr. Mourdock. I was looking for that--

Commissioner Tuley: (Inaudible.)

Mike Mitchell: I was looking for a comment to that effect.

President Jerrel: That is a motion--

Mike Mitchell: That we continue for--

Commissioner Mourdock: Yeah, let me formally move that we defer this vote tonight on VC-24-99 and we'll leave it to Mr. Mitchell to possibly apply for next month's meeting.

Mike Mitchell: Do I need to do anything special?

Joe Harrison, Jr.: What you may want to do is to defer until next month might be...and then if for some reason you cannot come next month--

President Jerrel: Let us know.

Mike Mitchell: Okay.

Joe Harrison, Jr.: --let us know, but I think you're within the 90 days to come next month.

Barbara Cunningham: Till the first of March.

Mike Mitchell: So I have two more meetings.

Barbara Cunningham: By the end of February, yeah.

Mike Mitchell: And I would--

Commissioner Tuley: I'll second.

President Jerrel: And I'll say so ordered with that understanding that you'll get back with us if there is a reason you won't be here in January, it would be February.

Mike Mitchell: Well, it will depend how we're dealing. What procedure will I know when the minutes are...do you get a copy of the minutes? Okay, thanks, Barbara. Okay, thank you very much.

Joe Harrison, Jr.: Thank you.

President Jerrel: Okay, is there any further business to come before this board?

Commissioner Mourdock: No other business that I have for the Zoning Board. For the Zoning Board I'll move adjournment.

Commissioner Tuley: Second on adjournment.

President Jerrel: So ordered.

The meeting was adjourned at 7:25 p.m.

Those in attendance:

Betty Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Beverly Behme
Chris Wischer
Les Shively
Mike Mitchell
Joe Ream
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

Betty Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member