

**VANDEBURGH COUNTY  
REZONING BOARD  
JANUARY 15, 2008**

The Vanderburgh County Rezoning Board met in session this 15<sup>th</sup> day of January, 2008 at 5:33 p.m. in room 301 of the Civic Center Complex with President Jeff Korb presiding.

**Call to Order**

President Korb: Do I call this meeting to order? Okay, we're going to call this meeting to order. Are you ready to go on the tape recorder there, Ms. Grayson? Great. We are going to have the Vanderburgh County rezonings. Good afternoon.

**Final Reading: VC-15-2007: Petitioner: Habermel Investments LLC  
Address: 12700 Old State Road  
Request: Change from AG to C-4 with UDC  
Action: Deferred Until 1/29/2008**

Janet Greenwell: Good afternoon.

President Korb: How are you? We're going to have Ms. Greenwell make the presentations.

Janet Greenwell: Okay, the first rezoning we have on your petition, on your agenda tonight is 2007-35-PC VC-15-2007, 12700 Old State Road. This is Habermel Investments. They're requesting to rezone the property located at 12700 Old State Road from Agricultural to C-4 with a use and development commitment. The commitment included as part of this rezoning request prohibits billboards, identifies uses to be prohibited on this site, and addresses lighting and drainage. This is a one acre lot located at the northwest corner, I think we have the right one, of Old State and Boonville-New Harmony Road. In December, 2007, the petition for rezoning of the properties adjacent north and west of this site was approved by this board, extending the C-4 zoning classification and the potential for commercial development east to Old State Road. With the approval of the adjacent land north and west, the rezoning of this one remaining corner lot on the north side of Boonville-New Harmony is consistent with the overall development plans. The Area Plan Commission recommended approval of the amended petition at their meeting on January 10<sup>th</sup> with nine yes votes, zero no votes, and the one abstention.

President Korb: The petitioner's attorney is here with us. State your name.

Chris Wischer: Good evening, Commissioners. Chris Wischer, Bamberger Foreman Oswald and Hahn, here on behalf of Habermel Investments, the petitioner on this rezoning. Are you all ready? This property is located at 12700 Old State Road, there at the corner of Old State Road and Boonville-New Harmony. As was previously explained, the property is pretty much what's left on that block there at Boonville-New Harmony, between 41 and Old State. The property immediately to the west and north was rezoned in the last 60 days, leaving this small corner, which was not part of that. It's under separate ownership, under ownership of Habermel Investments. We, with the petition to rezone C-4, we filed a use and development commitment. That use and development commitment mirrors the use and development commitment that was submitted with the previous rezoning of the adjoining property, in all respects, except two. That is, there was a limitation about access to Old State Road. The information we received from the Plan Commission

is that the access to this property should be from Old State Road, and limited to Old State Road. So, we removed that limitation, as well as there was a limitation requiring buffers adjacent to residential property. This property, except for there's a small residential piece directly across the street, there is no residential property that adjoins this property. So, that was removed. With that, I think this one's pretty straight forward. Obviously, if there are any questions, or any remonstrators, I'm here to address any of those issues. As was stated, the Plan Commission did unanimously recommend this, and we ask for your approval.

President Korb: I'm just curious, what's Mr. Habermel wanting to do with this?

Chris Wischer: Well, initially, when we filed the petition, his initial thought was he may move his own office into that location. That's why it was originally filed as a CO-2. At that point, that property had not been rezoned around it. So, there would be a gap, and CO-2 seemed to make sense, but we didn't feel comfortable going forward with C-4 at that point, until the property surrounding it, now, for development purposes, quite frankly, the property could be, you know, he sees it as a retail bank location, or some form of business location. Frankly, it makes most sense for that to be combined in some way with the adjoining property in the Schnuck's development. Either Mr., either Habermel Investments would acquire some additional real estate from them, or he would sell to them. There has been some interest expressed, but until the rezoning, we think once the rezoning's done, maybe we'll approach them for that.

President Korb: Okay.

Commissioner Tornatta: Now, you said there was not an adjoining house or residence, are we not looking at an adjoining residence?

Chris Wischer: There are houses there, but now that that's all been rezoned C-4, my expectation, those will be a part of that Schnuck's development.

Commissioner Tornatta: That house has been rezoned?

Chris Wischer: Yes. Immediately to the west? Right. That's the best map to see, everything in the purple is C-4. So, you can see, the only thing that's left that's not C-4 would be immediately south of that corner, but that's the last piece.

President Korb: Can you use the little, red pointer?

Commissioner Tornatta: So, just for clarification—

Chris Wischer: Sure.

Commissioner Tornatta: —so, that property, what is it, west—

Commissioner Nix: That was part of what, Hahn came in?

Commissioner Tornatta: Now, does Hahn own that?

Commissioner Nix: I don't know if he owns, I think that he does, because when he came through a month and a half ago, or whenever that was.

Commissioner Tornatta: Do you know?

Commissioner Nix: That was all carved out–

Commissioner Tornatta: Yeah.

Commissioner Nix: –as part of that.

Chris Wischer: Right.

Commissioner Tornatta: Hahn would own all that property in the purple, correct?

Chris Wischer: All of that is zoned C-4. This was zoned, I don't know, two years ago, three years ago, some time ago. This was over here was zoned, I think, at that time or thereabouts. This was just rezoned in the last 60 days. This is the last piece of the puzzle for that, what would be that development. We believe, you know, if it could be worked out, that it would be ideal to be included in this, but it could be a stand alone business location as well.

President Korb: Okay. I'm sorry.

Commissioner Nix: Well, I'll wait for questions. I'm sorry.

President Korb: Any remonstrators in the audience? Okay, questions from the Commissioners?

Commissioner Nix: Okay, now? Janet, you had mentioned a use and development commitment, can you repeat that for me, please?

Janet Greenwell: The use and development commitment that was filed with this, like Chris said, sort of mirrors what the Schnuck's did, with the exception of a couple of things that he left out because it didn't apply to this site.

Commissioner Nix: Okay.

Janet Greenwell: The buffering adjacent to residential, there is no residential left adjacent. I'm assuming that Schnuck's will go forward once the land is transferred, and they'll be tearing down all the houses, probably fairly soon. The access to Old State, this, as a stand alone lot, needs access, and Boonville-New Harmony is, was determined to be a much busier and less safe access. It would be too close to the intersection.

Commissioner Nix: Okay, okay. My concern, as always, is double standards for two properties that adjoin each other. We've had that situation come up recently, and I don't think we ever need to go there again, so.

Chris Wischer: No, in fact, the purpose of filing the use and development commitment the way we did was to make it identical–

Commissioner Nix: Okay.

Chris Wischer: –in all respects. That's why we amended the rezoning from CO-2 to C-4 was to make it identical and compatible so that the, you know, it would be a compatible use to the surrounding property. Certainly, if all the rest of the property is C-4, which is the highest commercial use, it has no utility as a residential property, at that point.

Commissioner Tornatta: Right, and then my question would be, would they fall under this same rule? Because, at one time, we went through the zoning, there was going to be one outlet on Old State Road. If they now have an outlet, now we've kind of let that whole project have two outlets. So, I guess, what my question is, if they were to go into an agreement with the rest of the properties, would they also agree to the condition of the rest of the property?

Chris Wischer: I would expect that to be the case. I mean, if the property becomes, if it becomes part of their development, it's going to be out of our hands at that point. But, they made that commitment, and I would expect that that would be—

Commissioner Tornatta: Well, but if you, if we go into this agreement with giving you a cut off of that road—

Chris Wischer: Uh-huh.

Commissioner Tornatta: —then you would still have a cut off that road.

Chris Wischer: Right, and if there is no agreement, and there's not been anything discussed to my, I was just basically giving a hypothetical of what we think this property would be used as. It's a stand alone piece of property, and it has to have its own access. So—

Commissioner Nix: But, I guess, to go along with what Commissioner Tornatta is saying, is if, in fact, we approve this today, you've got an entrance off of Old State—

Chris Wischer: Yes.

Commissioner Nix: —and we've limited one entrance off of Old State already. If this piece of property is purchased as part of that bigger parcel that was rezoned last month, will we now have two entrances? I guess, that's a concern I have too. That was a concern that the neighbors had out there originally, was that access be limited.

Chris Wischer: Right, and at this point, given that my client owns this property, and there's nothing at all definite at all that it would be transferred, I think that's right, at this point.

Commissioner Nix: But, that's not any assurance to this board right now to make this approval today.

Chris Wischer: I can't give you any assurance, I don't think, at this point, that, from our perspective, if it stays under our ownership, we have to maintain an entrance on Old State, unless we could reach an agreement for ingress/egress access from there.

Commissioner Nix: I'm just wondering from a legal standpoint—

Commissioner Tornatta: We're not worried as a separate entity—

Chris Wischer: Right. What I'm saying is—

Commissioner Tornatta: But, if it was transferred into the bigger unit, we do have an agreement with that unit.

Chris Wischer: Yes.

Commissioner Tornatta: So, I guess, the legal question is, is there a way to bind them to that in a use agreement? Or would that have to be done at a separate time? Or would they have to come back with that? Or how would that be accomplished?

President Korb: I think he was looking at you, Mr. Ziemer?

Ted C. Ziemer, Jr.: And, I'm thinking, Mr. Korb. I think it could be in the use and development commitment that the, I mean, I know it could be in there that if the property is ever sold to the adjoining property owner, that in order to keep only one access on Old State Road, this access would no longer be available. But, it's not in the use and development commitment today. Otherwise, if they're permitted an access to Old State Road, they are.

Commissioner Tornatta: Well, and I think that that's the one thing that we heard, limited access on Old State Road. If that were the big unit of which Mr. Hahn is working with Schnuck's on, we only want one access. So, I guess, I would be more comfortable, I don't have a problem with the project, I don't have a problem throwing it into the mix. Don't know if that's something that would have to happen in the next week, two weeks, but I would be very comfortable to know that it's in the use and development, if that were sold to the bigger unit, that, at that point they would not have access. So, they could not sell that with access in the interim as well.

Chris Wischer: Right.

Commissioner Nix: I think, one big issue, and I don't know that you could even do it, unless, because the parcel is that small, but the entrance would have to be pretty far to the north anyway—

Chris Wischer: Yes.

Commissioner Nix: —just because of spacing—

Chris Wischer: It would have to.

Commissioner Nix: —and stuff off of the intersection. So, I mean, would your client be acceptable to agreeing to something to that nature? If, in fact, he is going to develop this as one parcel, I don't think, it sounds to me like we're pretty well in agreement that you have to have access to your property—

Chris Wischer: Right.

Commissioner Nix: —but, if he is, in fact, going to sell this as part of this bigger parcel, I just don't think you need, we don't need another entrance there. I mean, that was a big sticking point on the rezoning, on the prior rezoning—

Chris Wischer: Right.

Commissioner Nix: —for this bigger parcel there.

Chris Wischer: Right, right.

Commissioner Tornatta: We can hold this off, if you need to make a call to your client. Go to the next petition, and, if you have to come back and give us an answer. I don't know why we couldn't do that.

Chris Wischer: Well, why don't I do that. I mean, let me, I think what ultimately, if, and I think it's quite likely that he would be agreeable, but if he was we would have to postpone, I think. Am I right, Mr. Ziemer? That we would have to file a different use and development commitment?

Ted C. Ziemer, Jr.: I think so. We would have to change the use and development commission, commitment, you have to go back to Plan Commission.

Chris Wischer: So, I think, at this point, what I would suggest is that we table the matter and let me talk to my client about it, and amend the use and development commitment, if that's what we agree to do.

Commissioner Nix: You do understand the concern, Mr. Wischer?

Chris Wischer: I do understand the concern.

Commissioner Nix: Okay.

Chris Wischer: And, it has crossed my mind, understandably, there's, just from the standpoint of that access.

Commissioner Nix: I guess, the other thing that, a little bit of a concern that I have is that, let's just say that he does develop this on his own, as a commercial, and there's not curbs, or there's not a hard surface, or there's a way that somebody could cut through there and get back to Schnuck's, that's something that, a concern I have also is that, you know, they would be using this as an entrance. So, I think that that needs to be taken into consideration too.

Chris Wischer: And, you're bringing those to our attention, we'll certainly, I think, go back and consider that and find a way to address the issue. There's no intent, understand, on the part of my client to circumvent that access issue.

Commissioner Tornatta: No.

Chris Wischer: That may have been raised in the last one.

Commissioner Tornatta: Right.

Chris Wischer: But, I understand that. We'll, you know, I think we have some time, so, we'll look into that.

Commissioner Tornatta: I mean, if that's okay.

Chris Wischer: I don't know how. I don't think I can legally make it, even if he were agreeable, I can't make a commitment here that would bind him to that on the record. So, it would be best if we amend the UDC, it would seem to me.

President Korb: By tabling this, Mr. Ziemer, do they incur any costs? We're just tabling this as Commissioners, asking for clarification, is that correct?

Ted C. Ziemer, Jr.: I don't know about additional costs. When they go back to Plan Commission, they don't have to re-advertise do they?

Janet Greenwell: Yes.

Ted C. Ziemer, Jr.: Or, do they?

President Korb: That's what I was saying by additional costs.

Ted C. Ziemer, Jr.: Well, to change, that's the only way you can change the use and development commitment.

Janet Greenwell: They would have to amend the petition. There's an amendment fee of half the original fee. They would have to, it would have to be re-notified. They would have to re-notice all of the abutting property owners, and it would have to be reset for hearing by Plan Commission in the same form that you hear it for final hearing.

Commissioner Tornatta: Now, what's the other way we could do this?

President Korb: I don't think there is.

Chris Wischer: Okay, how about this? Let me—

Ted C. Ziemer, Jr.: I don't know, we could do it by private covenant.

Chris Wischer: We could, I think. I mean, it's not, but what I can do, if you'll allow me, I will go see if I can catch my client, and discuss this with him, and if he's willing to offer a private covenant to that effect, then I will commit to that—

Commissioner Tornatta: He's watching.

Chris Wischer: I don't know if he's watching or not. He had some—

Commissioner Nix: He's having dinner.

President Korb: He's choking on the chicken he was eating.

Chris Wischer: —back trouble today, or he would have been here. He wanted me to apologize, and I forgot to do that on his behalf.

Commissioner Tornatta: That's fine. If he can get me that, I'll be satisfied.

Chris Wischer: But, then we could put that private covenant together and get that recorded and save all of the time and expense of going back through the process.

President Korb: That's our goal.

Commissioner Tornatta: I'm agreeable.

Ted C. Ziemer, Jr.: Then, all we would be doing is putting this off until the next meeting of the Commissioners. You would have your private covenant by then.

Commissioner Tornatta: Or, if he finds out , oh, he would bring us back the private covenant?

President Korb: That's why I'm asking if we can table it?

Commissioner Tornatta: Okay, let's table it.

Ted C. Ziemer, Jr.: For that, yes.

Commissioner Tornatta: Then hear it on the 27<sup>th</sup>, yeah.

Chris Wischer: Would we then come back at the next meeting?

President Korb: On the 29<sup>th</sup>.

Chris Wischer: On the 29<sup>th</sup>? That would be good.

President Korb: That way you don't have to re-advertise it, and go to that extra expenditure.

Chris Wischer: I'm glad we talked this all out and found a way, but–

President Korb: You're comfortable with that then, Mr. Wischer?

Chris Wischer: Yeah, I'm comfortable with that.

President Korb: Great.

Chris Wischer: We'll come back at the next meeting with something to present to you at that time.

Commissioner Tornatta: Motion to table it until our next Commissioners meeting.

Commissioner Nix: Second.

President Korb: Discussion? A motion has been made and seconded. All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign.

Commissioner Nix: Thank you.

President Korb: The motion passes. We'll see you on the 29<sup>th</sup>.

Chris Wischer: Thank you.

President Korb: Thank you. Did I hear the tape? Do we have to redo the tape?

**Approval of the November 20, 2007 Rezoning Meeting Minutes**

Madelyn Grayson: No, but we do need to approve the minutes from November 20th.

President Korb: Okay.

Commissioner Tornatta: Motion to approve minutes from November 20<sup>th</sup>.

Commissioner Nix: Second.

President Korb: A motion has been made and seconded to approve the minutes of our past meeting. All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. Okay.

Janet Greenwell: Thank you, Madelyn.

**Final Reading: VC-16-2007: Petitioner: Randall Johnston  
Address: behind 7801 Old State Road  
Request: Change from AG to R-3 with UDC  
Action: Denied 3-0**

Janet Greenwell: The next rezoning on your agenda is VC-16-2007. It's the property behind 7801 Old State Road. Randall Johnston is requesting to rezone the property. It's a 12 acre site located at the southeast corner of Eissler and Old State. The petition was heard November 8<sup>th</sup> at Plan Commission, as a petition to rezone the 12 acre site from AG to R-3. It was recommended for denial, with one yes vote, eight no votes, and one abstention. Then it came back an amended on November 19<sup>th</sup> and Mr. Johnston added a use and development commitment. I believe we have a signed copy of that in the record with both the owner and Mr. Johnston's signature. So, that was a little issue that we were having a little trouble with. Not on this particular petition, I'm sorry. The new use and development commitment states that there will be single story condominium units with a density not to exceed 52. A copy of the document was included with our report. Mr. Johnston submitted the conceptual site plan that includes 14 multi-tenant condominium buildings. Site review and sub-review will address the access requirements upon submission of the plans. I know there was a lot of discussion about the access, but sub-review and site review will address the access adequately. The rezoning, it was brought up at the rezoning that there were a bunch of parcels that were illegally split, and that's being taken care of through the subdivision process. It's been filed, and it's proceeding through to correct that issue also. The future land use map of the comprehensive plan does recommend this area for residential use. So, that the change to R-3 for the 12 acre site is consistent with the comprehensive plan. The Plan Commission recommended approval of the amended petition, with the use and development commitment, at their meeting December 13<sup>th</sup> with eight yes votes, zero no votes, and one abstention. I believe it was continued from last month's meeting to straighten out some issues with the use commitment between the owner and the applicant. So, we're back tonight with, hopefully, a final hearing.

President Korb: The petitioner representative is Krista Lockyear. Ms. Lockyear, welcome.

Krista Lockyear: Thank you. Good afternoon, members of the Commission. My name is Krista Lockyear of Rudolph Fine Porter and Johnson. I'm representing Randy Johnston, who is the petitioner on this property. I do want to point out that

he is not the landowner. The illegal split that has been referenced, we really haven't been involved in that. The landowner, it's my understanding, has been proceeding to do that subdivision, and we've been kind of "hands off" on that. It doesn't really involve our rezoning request. Randy is under option to buy this property. This rezoning is a contingency of that option. As Janet from Plan Commission pointed out, the history of this property, we had originally filed for R-3 without a use and development commitment. Remonstrators at the November hearing, in front of Plan Commission, greatly emphasized concerns about density. In fact, there were even signs posted out on the property, "stop the apartment buildings". Mr. Johnston has developed several properties here in Evansville as condominium units. This is a consistent request with what he does, and we presented that. But, Plan Commission member pretty unanimously felt that, hey, let's, in case Mr. Johnston himself doesn't end up being the one in the end that develops this property, let's restrict it to condominiums, protect those neighbors against the possibility of a hundred, 200 unit apartment complex out there, which we did do. So, we are in front of you with a petition to R-3 with a use and development commitment. The commitment does limit it to a density of 52 units, and they must be condominium units, not apartment units. The December Plan Commission, after we had presented that use and development commitment did recommend this for approval, a unanimous vote. While, I know we still have some remonstrators that aren't happy about this, and they say that density was the main concern at that November 8<sup>th</sup> meeting, or their November meeting. It was everything to, you know, turkeys crossing the road, and we just like this being a field, and the things that we understand neighbors are concerned about. Rightly so. What we're trying to do, and what we're asking you to approve is a zoning, with a use and development commitment that is good land use. The commitment limiting to 52 units fits in our plan. We actually had the engineer take a look at it, and we could probably do 40 single family residential, without the rezoning. So, we're not increasing the density very much. If you look at the traffic patterns associated with condominiums versus single family residences, the condominium developments generally have fewer traffic trips per day, because of the demographics there being either, generally the younger without kids. You don't have teenagers driving and additional cars in the family. Or, elderly folks that are downsizing, and don't make too many trips during the day. So, given that 12 more units may be possible, the density factor here, as it affects traffic, is probably less than what could occur in a single family development. We ask for your approval. This is, as Janet pointed out, consistent with the comprehensive plan, the residential development. Condos in this community also have not had a negative impact. If you look at the developments that Mr. Johnston has done, and other condominium developers have developed, you know, they're positive things. This community likes condominiums. They've been good for the areas that they've moved into. It's new construction and that's often times better than what may have currently been existing, and a positive thing for the community. Although we recognize neighbors don't always feel that that's the case at the moment. For all of those reasons, and based on the Area Plan Commission's recommendation, we ask that you approve this ordinance, and rezone this property to the R-3 with a use and development commitment. Myself or Mr. Johnston are both here. We would be happy to address any comments. I know you have some people behind me that also want to speak.

President Korb: Well, do you want to, let's hold off on questions. Is that okay, Ms. Lockyear?

Krista Lockyear: Of course.

President Korb: That's great. I know we've got remonstrators. One of them was the one who was just throwing us bouquets, not ten minutes ago. So, what I would like to do, to be fair, let's just limit it to 15 minutes. So, get your heads together, speak concisely and clearly, and when 15 minutes is up, we're going to pull the plug and go back to allowing us to ask questions to both remonstrators and also to the petitioner. So, whoever starts at the microphone first, your 15 minutes starts then.

Nancy Laswell: Hello.

President Korb: Hi.

Nancy Laswell: My name is Nancy Laswell.

Bill Mattingly: Bill Mattingly.

Nancy Laswell: Right here we're going to base this on a reading from the County Commissioners from December 21<sup>st</sup> of '87. The reason being, it was when the petitioner, Garrison, he was wanting to develop that land out there. If you look up on the County records, the weight on the bridge is just six tons.

Bill Mattingly: It's on page four.

President Korb: Okay.

Bill Mattingly: A regular service truck, a van service truck, I drive one, it weighs 11,000 pounds. I mean, I'm just a thousand pounds less than what the bridge is rated. So, you have trash trucks, you have concrete trucks, you have tri-axles and stuff going down that road all the time. The bridge did have six ton limit signs on it, and they disappeared over the years.

President Korb: Can you, do you have the pointer there? The laser deal? Can you point out where that bridge is located on the map, please? Right about there?

Nancy Laswell: Uh-huh.

President Korb: Okay, great. Thanks.

Nancy Laswell: It's right off of Old State.

President Korb: Okay.

Nancy Laswell: It's barely off Old State.

Bill Mattingly: Then also you've got school busses that are traveling down that road now on a six ton bridge.

Nancy Laswell: We're also concerned about the existing sewer in the area. It was a 12 inch sewer. It's an eight inch sewer with a culminating access of 400 homes, and this is a 12 inch sewer. There are no problems that I know of. It's a new sewer run into cap and replaced sewage treatment plants in the Evergreen Acres Subdivision, approximately 12 years ago.

Bill Mattingly: This was said by Mr. Morley in '87. I guess, that was approximately 300 houses from Evergreen Acres, and then they've added to that sewer 25 houses

up Old State Road, they put the Villas on it, the new Buck subdivision, another 35 houses, and, I believe, they tied the Jagoe homes which were a hundred houses or so back there. There's illegal sewer tap on the property now that will have to be taken care of if this is done, and that will mean an extension of the sewer up Old State Road, which I'm sure the county or city will do, and that's another ten or so houses that will probably tap on to it there. Then you'll have the 52 condos, I guess, you're pushing close to 600 houses on that sewer there, plus whatever development is into it down below that (Inaudible) progresses.

Nancy Laswell: That's all on page seven. Also on page seven President Borries, at the time, he stated that on the Evansville-Urban Transportation Study report they mentioned that EUTS had evaluated the proposed subdivision, phase one, for transportation impacts. The proposed development along a long and narrow road which measures the pavement width at 17 feet. The site plans provided for the extension of Forest Trail and Fox Run Drive to the north for streets that tie into future development. EUTS recommends that the developer participate in the widening of Eissler Road to provide a minimum 20 feet wide pavement to accommodate increased traffic resulting from the proposed development. This improvement is for between Old State Road and the proposed development of approximately 800 feet in length.

Bill Mattingly: The 800 feet is from Old State Road, right there, to the yellow line—

Nancy Laswell: Right there?

Bill Mattingly: – well, back up just a little bit. The end of the development that we're talking about tonight.

Nancy Laswell: Oh, right there.

Bill Mattingly: Approximately 800 feet.

President Korb: So, their suggestion was to have the developer, back in '87, make that road wider?

Nancy Laswell: Uh-huh.

President Korb: Okay.

Bill Mattingly: Right. Right. That was all with Garrison, that Mr. Borries was talking to him about.

Nancy Laswell: Then, Mr. Willner, down at the bottom of the page,;

“I'm going to work hard toward widening the road. I'm sure that Mr. Borries intends to do the same thing. The fact is, I would like to see the County Highway at least do the work, and maybe the developer can participate in the material needs.”

Bill Mattingly: This was all put together before The Villas, and before Jagoe Homes in the back, it was all supposed to be done before that. That was part of our problem with the traffic on Old State, or on Eissler Road. Yesterday morning was really bad, because nobody can get up Strawberry Hill, so they're all going out Eissler Road, you know, of the 400 houses that are back there, or 400 or more. What was

supposed to happen in that subdivision of Garrison's, there was supposed to be two roads go through to Mt. Pleasant Road, which would relieve the traffic, plus the widening of Eissler Road to take care of it. Since he defaulted, then it didn't get done, and then somebody built The Villas and it didn't get done, then they built the Jagoe and none of this got done.

Nancy Laswell: This one would be directly, you know, right on to there. But, the next page there, Mr. Garrison said;

“We would like to see Eissler Road widened. We realize that is an enhancement to us, and would be an enhancement to the neighborhood.”

I don't know, it just needs to, they need to take that into account. Then, Mr. Willner, on page nine:

“Move that ordinance number VC-23-87 be approved with the following stipulations that have been set here tonight, and have asked the developer to work with the County and any other areas of problems that we know of to work through with us.”

Bill Mattingly: And none of that was ever done, and they've already built two complexes out in there, and it still hasn't been done. Now we're going to build another one right in the section of the road that they approved that all this would have to be done in '87 before they could even build the other two developments, and now we've built another development and still haven't done anything with the bridge or the road. We feel like, I mean, we had 400 signatures on this against R-3, and that should mean something to you for the amount of people that are against this. It seems like you should be listening to us. I know the first meeting they threw this thing out, it was almost unanimous in favor of us, then the next time with this commitment, I mean, I know you're thinking 52 units really helped the matter, but he does stipulate in there that he can rent them, and that could mean apartments, you know. It doesn't necessarily have to be condos, it could be apartments.

Commissioner Tornatta: I have a question. What, would there be something you would be comfortable with back in that area?

Bill Mattingly: Single family dwellings, because that's what's in the whole area.

Commissioner Tornatta: Okay.

Bill Mattingly: We would be comfortable with that.

Commissioner Tornatta: Okay, and just trying to go a little further, do you consider a condo a single family dwelling?

Bill Mattingly: Not when they're attached. It could be apartments too. I mean, he could rent every one of them, if he wanted to.

Commissioner Tornatta: Okay.

Bill Mattingly: In his commitment. It could be apartments.

Commissioner Tornatta: Okay.

Bill Mattingly: You know, we don't really know, you know, I mean, but that's what it could be.

Commissioner Tornatta: Okay.

President Korb: Would you be asking for the same sort of improvements, road-wise and bridge-wise, if this was a single unit, single family units being built?

Bill Mattingly: That should have been done a long time ago.

President Korb: That's not my question.

Bill Mattingly: Okay. What was your question then?

President Korb: Would you still be insisting on the road improvements and the bridge improvements if this was sold to a developer who was building 42 units, or 40 units of single family homes?

Bill Mattingly: Yes, we will, because that's what was approved in '87.

President Korb: Okay.

Bill Mattingly: They said they were going to do that.

President Korb: Okay.

Nancy Laswell: And, basically, at that time, those were all, you know, single family, whether it was in a subdivision, or, you know, or not.

President Korb: Uh-huh.

Nancy Laswell: And, you know, obviously, that bridge really needs some work done if they're going to have that much more traffic going across it.

President Korb: Okay. Anybody else?

Janice Wittgen: Yes.

Bill Mattingly: Thanks.

President Korb: Yep, you're welcome. Thank you.

Janice Wittgen: I don't have any statistics, and I'm not an attorney or anything like that.

Commissioner Tornatta: Name.

Janice Wittgen: But, one thing—

Commissioner Tornatta: Name.

Janice Wittgen: Oh, I'm Janice Wittgen.

Commissioner Tornatta: I know, we gotta do it, though. Part of the meeting, sorry.

Janice Wittgen: I'm sorry. Alright, the one thing that they keep saying this is inconsistent with planning and stuff. Now, I know that all of you probably have been out there. Do you see any condos very close? All those are homes. R-1, we wouldn't be upset about. R-3 is not what we want out there. Another thing, the thing where they are talking about the roads. It doesn't matter if you have a bunch of single homes, or whatever, you will have, you need to do something about that road, because it's tight out there. You people don't live out there. We do. So, I, you know, let's see if we can come to some kind of an agreement where we can all live together out there. Okay? Thank you.

President Korb: You're okay on time. I'm not going to pull the hook on you.

John Hendricks: Okay, I'm John Hendricks. Thank you for letting us speak. In high school I had a teacher who informed his class that we should never tell our doctor what's wrong with our body, because the power of suggestion. Regardless of how much, how intelligent he is, how much education or experience, professionalism, he could be swayed by the power of suggestion. There are two assumptions here that I've heard again and again that this property is not developed. So, it should be developed. It's a mind set. That's similar to somebody in the 1800's saying there's a field of buffalo, shoot them and skin them. Somebody needs to say, hey, wait a second, you know, there's something else to think about. The reason this is not developed, and this land is, is because there's something inherently difficult about that land. Okay? It's a lower level, right here, than our house, right there. If they put this in, it's going to be two feet higher than our property, which is already below the flood plain right here. It's right through here. So, all this water that comes down here, you know, you can say it's going to come down here, but it's going to have to stop, and it's going to back up. That flood we had a few years ago was right into our house. That's a consideration. There's two things, now, I've gotten off my notes, sorry. The idea of investments is one assumption. My wife and I are in the antique and collectible business, and, if we buy something for an investment, and we've made a mistake, it's just too bad. We lose. The owner of this property bought this as an investment idea, but it turned out to be a little less of an investment than some of this other land that they could have gotten. Let's see, okay, this land has a purpose, and, you know, as a natural thing for slowing water down and filtering it. That's a possibility. Then there's an alternative that I've brought up to several people, and most of them are very positive. That's if the 400 people that are opposed to this could get together and buy this property, and I've talked to the landowner, and she's favorable to it. She just wants to sell it, so she can be out from underneath the taxes and the upkeep, along with the mowing that has to go on. But, we could buy that and develop it into a wetland, natural preserve. That's a possibility. It would take care of the flooding that has been a result with water run off. That would take care of problems, if we could do that. Okay? I don't know, I don't want to put Mr. Johnston on the spot, but I was wondering if you've been provided with the pictures from the Area Planning Committee of his rental properties?

President Korb: I've seen those.

John Hendricks: Okay.

President Korb: I doubt that the other Commissioners have.

John Hendricks: Okay, I don't want to describe them, but it's pretty horrific. If he rents properties here, we don't want to see that kind of stuff right across our street. I think those pictures demonstrate that Mr. Johnston has not been a proper

developer, or citizen. I don't want to make him feel bad, but I don't want him doing that to this property too. Okay? The pictures are worth a thousand words. Alright? So, I urge you to vote no on this, because if he rents properties here, and there's a good chance he'll have to, because things are not selling very well right now. He has committed to having the right to rent them. I don't blame him, but if you'll stop this rezoning, I will devote myself to organizing, a banker said we could start a non-profit and we could get together with the owners, and I think we could build this and develop it into a natural preserve for all these people to come out here and take walks through the woods. We can get trees and shrubs and things from the state nursery. We've brought hundreds of things to develop our land and some land we have in Perry County with some things. So, I would appreciate it if you would turn him down on that. If the Commissioners haven't seen the pictures, they probably should, because it's just not right.

President Korb: Do we need to switch the tapes? Okay, hang on one second. Thank you.

**(Tape change)**

President Korb: Any other remonstrators? I'm going to give you a couple of extra minutes, just because we were, as Commissioners, asked questions, and we weren't really supposed to do that. We cheated. Are you coming up as a remonstrator? Okay. You know, remonstrator has such a bad connotation to it.

Commissioner Nix: It's kind of like a politician.

President Korb: It does, a whole lot like a politician. State your name please.

Anne Vaughn: Anne Vaughn. I live at 7616 Rock Creek Lane. That's right on the edge of that division. Right in there somewhere.

President Korb: It's not as easy to hold that thing steady as it looks, is it?

Anne Vaughn: No, it isn't. I just want to mention that there have been a lot of drainage problems. We live right along there. It was a flood zone before, but they supposedly raised it. But, the area behind us is still a flood zone. If they raise up that level, then where is all that water going to go? We already have issues with the drainage ditch behind our house, down the way. There was a lady who last week, Ms. St. Claire, and her drainage ditch is already eroding, and the county won't take care of it because they say it's her property. But, it's eroding because the subdivision up the way here, in The Villas, they have a retention pond with a big pipe that drains under the road and drains into our drainage ditch. So, we're getting the run off from other areas too that weren't originally there. Also, back in the area back in here, when I went to get petitions, and like they said, we had quite a few petitions, I don't think I had anybody that refused to sign it. Everybody that I talked to signed the petition that they did not want this. I may have had maybe two from the same household. Most of them were individual households, just one from a household. Several of those people said they had flooding in their street every time it rained. It wasn't just the 100 year flood, it was like every year. They couldn't get in their driveway. One guy said he had to take a boat to get in his driveway at the end of one of these subdivisions back in here somewhere. It's all because of the low drainage. If you build that up, this is going to put more water and drainage on our system that we can't really handle. Another thing, a lady back here said that when she built, she wanted to have access on her driveway to go out to Eissler, and she

was told she couldn't do it because there were already too many outlets on Eissler. But, yet, now we're going to have this whole division, this whole complex here have an outlet on there. It's very difficult to get out on Eissler in the mornings too, the way it is without these other ones. I know they say they're condos, I guess, I'm old, but, to me those are just duplexes. They're double family houses. That's not what this area's about. It's all single family houses, and we really don't want a big, rental property, you know, 26 things that look exactly alike in our backyard. I do think it will hurt our property value.

Commissioner Tornatta: Let me, this has been brought up a couple of times, this would go through drainage review, if it got that far, and they would go through a site review and all these different facets. So, although there are some drainage problems, maybe in some other areas, this would be the new drainage plan for this area, if that were developed in that way. So, that would accommodate what the drainage flow is, at this time.

Anne Vaughn: Okay, I just want to say that when the...oops, it's not up there anymore, but that subdivision that was. I think it's called The Villas.

President Korb: If only it were that easy.

Anne Vaughn: I'm sorry. I'm sorry, The Villas, no, maybe that's The Villas.

Unidentified: No.

Anne Vaughn: No, there?

Unidentified: No, you were right.

Anne Vaughn: I was right? Okay, The Villas. Sorry. There, okay, The Villas, when they were put in, it went through the Drainage Board and all that, my husband and I had to go to that Drainage Board meeting because, like I said, that retention pond from that area, despite what they said they were going to take care of, we ended up getting a lot of flooding. The person down here, Chapman, he doesn't live there anymore, whoops, over here, his basement would get flooded out, it would just come pouring from, there's a creek that runs through there. There's a creek that runs through there somewhere, and it would flood and just flood right into his back door, into his basement every time it would rain. So, they did build a bigger bridge down there, but the point is, you know, they always say they're going to take care of these things, yet, they really didn't. We had to have some, and the Hayden's, that live down in here, we had, in their backyard, a bell shaped pipe, I don't know the terms, I'm sorry, but a bell shaped thing to, the storm sewer, because it would come down that culvert behind our house so fast, the drainage ditch, that it would knock the top off it and go, and all that water would go down into that pipe and come into our houses. So, I know you're saying that, I'm just saying I wish I had more faith that that was actually going to happen.

Commissioner Tornatta: I understand.

Bill Mattingly: Can I help her out just a little bit here?

Anne Vaughn: Yes, I'm sorry, I'm not a public speaker.

President Korb: You've got less than 30 seconds.

Bill Mattingly: Okay, I'm a quick pointer. Before this was developed and this was developed, Carson's owned all that ground right there. And all of that water came down to Eissler Road, an inlet right down Eissler Road took it, this ditch right here. When they built this, they crossed the road with the water she's talking about and came down through here with it. Originally, all of this where the Carson estate was, where Deerfield and all of that, all drained right down through here, right down Eissler Road through the ditches at Eissler Road and went in the big ditch right here and came down. That's what she's complaining about. That never was there until they built The Villas.

President Korb: Okay. Thanks. Alright, now it's time for the Commissioners to ask questions of whoever you want to ask it to.

Commissioner Nix: I guess, if someone from the neighborhood would be a spokesperson, I do have, just to re-emphasize, you have no problem with single family at all? In other words, if someone came to this Commission and said we want to put up 80, or 90, or 100 homes there, as long as it fit within.....well, now, but, but....well, how many could they develop in this?

Commissioner Tornatta: She said somewhere around 40.

Janice Wittgen: (Inaudible) acres, about 40, yes.

Commissioner Nix: About 40? Okay, 40 homes then. The neighborhood wouldn't have a problem with that?

President Korb: Would that be about right? I know—

Janice Wittgen: There's 50 in The Villas. About 50.

Madelyn Grayson: Mrs. Wittgen?

Janice Wittgen: Yes?

Madelyn Grayson: You're going to have to come to the microphone.

Commissioner Nix: Please step up, yeah.

Janice Wittgen: Oh, okay. There's about—

Commissioner Nix: Hold, hold, wait.

Commissioner Tornatta: To the microphone.

Janice Wittgen: My name is Janice Wittgen. Anyway—

Commissioner Tornatta: You're learning.

Janice Wittgen: —The Villas there, there's about 50 of them. Now, I will tell you this, we also, those ponds get the drainage, we also get it from the Deerfield Estates, Dentino is developing that. That comes down in through those pipes, I mean, we get it all. We sometimes have flooding in the streets. So, it's not just The Villas that is causing it, I mean, you just get, you just have a lot of drainage out there. That used to be farmland and everything, so.

Commissioner Nix: And, once again, like Commissioner Tornatta–

Janice Wittgen: Yeah, you asked about the 80–

Commissioner Nix: –yeah, 42 homes, you would have no problem with 42 homes out there?

Janice Wittgen: No.

Commissioner Nix: Slab homes or whatever could be–

Janice Wittgen: But, what are you going to do about the street?

Commissioner Nix: Well, and, once again, that's not this board's decision.

Janice Wittgen: Oh?

Commissioner Nix: This board's decision is strictly rezoning. The Drainage issues is this board, but another meeting, streets all that type of thing are a completely other meeting.

Janice Wittgen: Oh, okay.

Commissioner Nix: You can't really mix them together.

Janice Wittgen: Okay, well.

Commissioner Nix: I guess, for Mrs. Lockyear, or Mr. Johnston, planned entrances, where are you, I know we saw somewhat of a sketch of like a preliminary layout. One off of Old State, and one or two off of Eissler?

Krista Lockyear: That sketch is as conceptual as you can get. What we did in the use and development commitment, limiting to 52 units is set in stone, if this is approved. This sketch could be shifted all around, and I did want to address that, you know, the remonstrators have talked about the 1987 zonings or subdivisions, I'm not sure exactly what that was, but John Stoll and Brad Mills, MPO, have both looked at this and said, you know, when we start to talk about entrances, we want input and will have input at site review. So, we don't know where the entrances will be, and it's going to be input from John and Brad as to where they believe that they should go.

Commissioner Nix: But, you feel like you're going to need more than one entrance, and that one or more entrances would be on Eissler, is that correct?

Krista Lockyear: I can't tell you that we even feel like that. I mean, it's going to be very dependent upon John and Brad's recommendations. I'll tell you, what John said was access points for the buildings, if we go with this conceptual plan, will need additional evaluation in order to determine if it can be relocated on to Eissler. That would be re-evaluated when a detailed site plan is submitted for review. MPO comments that access to the buildings at the corner of Old State and Eissler should be from Eissler Road, if the access will not conflict with the bridge approach on Eissler. So, I think there's a lot of planning, exactly where that would be located, and discussion between Randy's engineers and John and Brad.

Commissioner Nix: Okay, and, Janet, if, I should know this and I don't. I've been at it for three years now, a little over three years, do we allow, in R-3 do we allow condominium owners to rent? Or is that, is that something that, because I should know that and I don't.

Janet Greenwell: I don't believe that it is a land use issue. The issue is whether they can build structures, units, single family homes, whatever they are, the issue of whether it's purchased, leased—

Commissioner Nix: Yeah, because theoretically a home could be leased—

Commissioner Tornatta: Right.

Commissioner Nix: —just like a condominium is.

Janet Greenwell: Absolutely. Any one of the homes in the adjoining subdivisions could be leased.

President Korb: And that question was asked at the last Area Planning Commission, and I forget who the individual was, Mr. Jeffers brought the point up, anyway you own a home and “x” amount of corner, and Mr. Jeffers asked do you live there, and he said the respondent said no. The next question was do you rent, and the answer was yes.

Janet Greenwell: Directly across, it was one of the homes directly across Eissler.

President Korb: Yeah, okay.

Unidentified: (Inaudible).

President Korb: Not yet. Sorry. Hang on. I would like, I've got some questions for Ms. Lockyear, please. At the Area Plan there was some concern, maybe lack of communication between Mr. Johnston and the neighbors, has that been rectified? Have you reached out to the neighborhood at all? No?

Krista Lockyear: No, we have not had further communication with the neighbors. Things got a little hostile, and from my client's point of view the recommendations and the discussion of Plan Commission members was condominiums are—

President Korb: Appropriate.

Krista Lockyear: —acceptable to the Commission members. The other debates and discussions and name callings didn't really seem like the way to go. So, we have not had other discussions with the neighbors, and the restriction to the condominium is about the best we can do from a legal point of view in a use and development commitment. Anything else, I believe, has to be, a lot of things seem a lot worse before it actually happens. I don't know if these neighbors have actually driven and seen Mr. Johnston's other condominium developments. You know, again, we could probably talk and argue for hours, but we have not had any other discussions.

President Korb: Sure.

Commissioner Nix: I'm just curious, between the first meeting and the second, was there any participation from the neighborhood as far as things that took place, or was this all basically volunteered by the developer to do these things?

Krista Lockyear: Well, volunteered by the developer based on the discussions of the Plan Commission.

Commissioner Nix: But, the neighborhood didn't say we want to see these things and we'd be okay with it? As far as you know?

Krista Lockyear: No. At the Plan Commission, the neighborhood, the density was the predominant concern. Now, again, as you've heard tonight, there's drainage, there's road, a lot of emphasis on the road. There was an emphasis on wildlife, a lot of other things that as a developer, and as an attorney, quite frankly, in a use and development commitment, there are things that lend themselves to we can put that in the use and development commitment, and it was the use.

President Korb: Obviously, since you're here, everything has been ironed out between Mr. Johnston and the property owner in terms of conditions?

Krista Lockyear: That's correct. We are not under purchase agreement, we have an option.

President Korb: Okay.

Krista Lockyear: And this rezoning is a condition of our exercise of that option.

President Korb: Okay. Then, is your client prepared to, if this is not approved tonight, to potentially develop single family dwellings and build them in that area? That's a hypothetical question. I mean—

Krista Lockyear: Not prepared, at this point.

President Korb: Okay.

Krista Lockyear: You know, I don't know, again, you know, my relationship with Randy over the past several years, it's all been condominium development.

President Korb: Okay.

Krista Lockyear: That's his concentration right now.

President Korb: The approximate cost of these units as you're selling them on the market would be?

Krista Lockyear: The initial price would be \$130,000. Typically, a purchaser could come in and say I would like an upgrade granted, etcetera, etcetera, etcetera.

President Korb: Sure.

Krista Lockyear: There's definitely room for fluctuation there.

President Korb: Average cost of the current dwelling in those neighborhoods? Ball park?

Krista Lockyear: I don't have—

President Korb: Audience? 150,000, 170,000, 125,000?

Janice Wittgen: Well, I know there was one of them that went for 180 something.

President Korb: Is that probably on the high side though?

Janice Wittgen: Yeah.

President Korb: Okay.

Janice Wittgen: Most of the time you're in the 160,000, yeah 150,000 to 160,000.

President Korb: 150,000 to 160,000 range? Okay.

Janice Wittgen: Right now, because of the market.

President Korb: You guys can jump in with questions any time.

Commissioner Tornatta: Okay, of the remonstrators, where's our Ms. Witten?

Janice Wittgen: Wittgen.

Commissioner Tornatta: Okay.

President Korb: W-i-t-t-g-e-n.

Commissioner Tornatta: I'm just, I know. It's a bad mix.

Janice Wittgen: Yes, Mr. Tornatta?

Commissioner Tornatta: Okay, thank you. You said it right. One more time, we've talked about, they're talking about this condo situation versus a single family house. If there were people that would buy the condos, that still, to you, is outside of what you want to see in this development? Or what the group, I guess?

Janice Wittgen: I guess, the whole thing is that it's just, it does not fit in that neighborhood, condominiums. I mean, I don't care. I mean, you don't see any. The further, the closest condominium is over there on Petersburg Road on the lot that I grew up on from the time I was three to ten years old. They were put in there by Jeff Hatfield. He's got one unit there, I think there's two units there, and he's going to put up another one. Now, that's quite a ways, it's right across from Hamilton Golf Course. But, if you look at the area, I just don't see where condominium is the thing. Granted, the renting, there was houses a couple that were rented in The Villas, there isn't anything wrong with renting. You know, but, I think it's just the idea of, I don't know, condominiums. It's just not the area, and then the tightness, you don't, I mean, we're not talking just The Villas, and what he wants to develop. You go down the road you've got that Woodland back there, or the Sterchi thing, and the Strawberry Hill, like you say, sometime they have to come down Eissler because Strawberry Hill is a booger to try to get up on ice.

Commissioner Tornatta: Right.

Janice Wittgen: So, I mean, that's the whole thing.

Commissioner Tornatta: Mr. Johnston, is this kind of indicative of what that condo would look like?

Janice Wittgen: I've seen his condos—

Commissioner Tornatta: Okay.

Janice Wittgen:—over there on Burkhardt Road. I mean, there's nothing wrong with that, it's just they don't fit in our neighborhood. I mean, you've got to do something about the road, and then if you want to develop it. Why is it you always wait till the horse is out, and then you come and want to close the barn door? It's happened several times here in development. Excuse the farm, but, I grew up on a farm.

Commissioner Tornatta: Right. Okay, now, let me ask this question, if the road were fit to the specifications that you're telling me, the width and what have you, do we change our mind?

Janice Wittgen: Most likely we probably would where you'd make it safe where people could move and not worry about, and then your entrances and stuff. You know, your access or whatever you call it coming out onto the road. Because, I mean, that's tight along there. You know that, you've been there.

Commissioner Tornatta: Sure.

Janice Wittgen: So, think about it, guys.

Commissioner Tornatta: What, I mean, just narrowing down where our discrepancies are, where our differences are, does the group, and you can turn around and phone a friend, does the group feel like it's more of a road issue if they're only dealing with condos and single family housing more than it is the traffic or any of the above mentioned things?

Janice Wittgen: Okay, before I look around there, I want to know R-1 can he still put a condo in there? R-1 zoning can he put a condominiums in there?

Krista Lockyear: Sure.

Janice Wittgen: Can he?

Janet Greenwell: I can answer that question for you.

Janice Wittgen: Thank you.

Janet Greenwell: The concept of condominiums is that a landowner owns the land and sells the buildings that sit on the land, but maintains ownership of the land. Technically, it would have to be platted into individual lots, and then those lots, to build single family homes, it would have to be one house, one lot, and those lots would have to be subdivided and sold off individually.

Janice Wittgen: Yeah, well, I think the whole thing too is the R-3. You know, someday he may not be around, you know. Or, say that he doesn't get those all sold, what are you going to do? You know, I mean, there's stuff sitting around here in the

city. But, anyway, we would prefer single family, R-1 zoning please, or leave it agriculture.

Commissioner Tornatta: Okay, okay. Thank you.

Janice Wittgen: Thank you very much for listening.

Commissioner Tornatta: Can this gentleman speak? Go ahead, come on up.

President Korb: Pretend to ask him a question, Commissioner Tornatta.

Commissioner Tornatta: Can you speak?

John Spurgeon: Yes.

President Korb: There you go. Works for me.

John Spurgeon: My name is John Spurgeon. I live in The Villas of Deerfield.

President Korb: Thank you.

John Spurgeon: I don't know how this works, but—

President Korb: Just like that.

John Spurgeon: I live right there.

President Korb: Okay. On the corner?

John Spurgeon: On the corner.

President Korb: Okay.

John Spurgeon: I think it's not just one issue, it's a number of issues. One of which has not been mentioned and that's right, that intersection right there is very dangerous. In the last three months there's been two wrecks there. I don't know the, I know because both times I tried to get out or get in, and you can't. That typifies one of the major problems that we have out there, density of population and only two entrances. Three if you come over to the Bob Court area, then you can add Bob Court entrance, but you can't get there over to our area. So, it's, this is Bob Court, I think, in here, you can't get from there over to here. There's no street that connects. So, we live back in here and all these people, most of them come out this road in the morning, and come back in the evening. It's a number of school busses, and it's also, occasionally, sadly, the McCutchan Fire Department rescue people that are coming with their three or four vehicles to help someone who has been stricken with a heart attack or some other ailment. That further congests this and people can't get out then either because of those rescue vehicles. It's, if something seriously happens out in this area, a serious storm or something else that's of a terrible nature, there's going to be a lot of people wanting to get out and go somewhere else, and they're not going to be able to. Now, I moved there, I bought a house there knowing that, or now know it, so, I'm to blame for that congestion, I recognize that. But, it doesn't minimize the importance of the problem. You are elected officials, and you have to accept that responsibility for adding to that congestion, if you choose to do so. So, I'm asking you to think about that seriously. One last comment about are

we just against multi-family, and would we be against single family homes? Well, the Buck, the new Buck thing is right up in here off of the chart. Buckingham Estates, I think is what he's calling it. It accesses off of Old State Road. I think it's 36 homes he's going to build back there. Nobody raised a peep about it from our neighborhood. No pickets out in front during the construction. We haven't said a remark about adding to our neighborhood with single family homes. I think that testifies to the fact that we don't have anything wrong with that.

President Korb: Which is the confusing part to me, because the main complaints that I'm hearing are traffic—

John Spurgeon: Yes.

President Korb: —safety—

John Spurgeon: Yes.

President Korb: —congestion—

John Spurgeon: Yes.

President Korb: —bridge safety.

John Spurgeon: Drainage.

President Korb: And drainage. Okay, I mean, I'm sure there are other things.

John Spurgeon: Uh-huh.

President Korb: If I remember correctly, you're the gentleman who came with the wildlife?

John Spurgeon: I was the tree hugger, yeah.

President Korb: The tree hugger.

Commissioner Nix: I was glad you said that and not him.

President Korb: I was getting ready to. No, I didn't want to get sued. I'm learning. See, this is a process for me.

John Spurgeon: Yeah.

President Korb: But, if this is denied for Mr. Johnston, and another person comes in and buys this and develops it, you're still going to have traffic, congestion, safety, drainage, the bridge issue.

John Spurgeon: That's true, but we won't have as much.

President Korb: Yeah, you will.

John Spurgeon: We'll have 42 homes, although I don't think any reasonable developer is going to get 42 homes on that plot of land. This out here is about, maybe two—

President Korb: Okay.

John Spurgeon: –frontage on Old State, two. If they're the same lottage as the house right here, maybe one. That's a big plot of land there. If someone wants to buy that and build a nice, big home on it, they may buy the whole plot, but, two at most there. This, nothing, that's the creek. Maybe six along there, and maybe two or three there.

President Korb: But, the reality of it is, a developer could come in and plop down 40 homes. I mean, you and I, within reason, go, oh, there's no way you can put a home there. A developer can do it. They'll find a way to do it. We're looking at, if you're looking at, in my opinion, as we're looking at this, we're not looking at that many more vehicles with the process of a single home versus a condominium. My personal experience with this, and I told this to the remonstrators when they came to Area Plan, I had the exact same thing happen to my neighborhood. I totally freaked out, because I'm thinking, oh, my gosh, I don't want condos in my neighborhood. And, it's actually worked out better for us. They came in higher than 130, it's enhanced property values. I'm not saying that would happen here. The other question I have is, the comment was made that there is, if this does not work, there would be a petition by the neighbors to purchase the land themselves. Then who pays the taxes? How is that assessed?

John Spurgeon: That was Mr. Hendricks.

President Korb: Yeah, I know, but, you're part of the neighborhood, so.

Commissioner Tornatta: Well, they could form a neighborhood association, if they wanted to do that, and they would take care of it all.

President Korb: I totally get that part, but, here's my thinking on that, if the seller of the land is really desiring to get out from underneath this, it's not worked out the way he or she planned, then we're going to come back here at some point in time and really be viewing the exact same arguments. I'm sorry, to me, you can't differentiate, I know you can, because you don't really think the condos fit there, but in terms of safety, traffic, bridge, all those things that are concerns of yours, in my mind don't change, because we're not adding, "A", that many more cars. Actually, my experience with condominiums, at least in my neighborhood, has been that traffic is less, you have people who are not there six months out of the year. So, that's my concern, because, I'm thinking, you're really punishing the developer for something that could potentially go in there anyway, which is single family homes. That's my biggest argument. That's the biggest problem I'm having with sifting the difference between condominiums, which they potentially could rent, except for the fact that we've already determined at least one of those residences is being rented right now, and I would be willing to bet ya' everything I own there's more than that one that's in that neighborhood, and all those neighborhoods we've talked about, that are being leased. So, do you see where I'm coming from? You may not see where I'm coming from on this, but I'm trying to, in my mind, have this make sense. Right now, it kind of isn't.

John Spurgeon: I don't understand your–

President Korb: You're talking about how many condos, 42?

Unidentified: No, 52.

President Korb: 52? So, you're talking about potentially 24 more vehicles in the neighborhood, if each of those condos has two vehicles. I'm going, well, now, wait a minute, Mr. Buck is adding potentially 72 more vehicles, and you're not complaining about that.

John Spurgeon: But, that accesses off of Old State Road.

President Korb: And, I totally understand that, but, at the same time, you can't tell me those people will never come down and use your roads and that bridge.

John Spurgeon: I don't, if they wanted to come to a Saturday morning garage sale, I guess. But, no reason to do it other than something casual or personal like that.

President Korb: Okay.

John Spurgeon: Not to go to school, or work. There aren't any work places back there or schools back there that they have to go to. I still question the density of single family residences that's possible there, but, I'll close my remarks. You've been patient with me, and I appreciate it.

President Korb: Not a problem.

John Spurgeon: The quality of living is important to us, and that's what we're talking about too. I thank you for hearing us.

President Korb: Ms. Lockyear, how many more additional entrances and egresses will you have out of there?

Commissioner Nix: She doesn't know.

President Korb: You don't know? That question was asked while I was, going to the restroom, to be quite honest with you.

Krista Lockyear: Quite alright. We don't have a definitive site plan at this point.

President Korb: Okay.

Krista Lockyear: The only thing that's set in stone is we can't do any more than 52 units.

President Korb: Okay.

Krista Lockyear: John Stoll and Brad Mills both have weighed in and expressed that, hey, we want some input on the entrance and exits.

President Korb: Okay.

Krista Lockyear: That's where we're at.

Commissioner Tornatta: Can we have a motion for summation?

Commissioner Nix: We've got one gentleman, so, maybe just—

Commissioner Tornatta: Oh, sorry.

President Korb: Sure, come on, we've gone this long, but you're the last one.

Brian Vaughn: My name is Brian Vaughn. I just wanted to find out that, when we first started this thing, I mean, we've been down here several times. I mean, you've been to every one we've had, so—

President Korb: Do I qualify for a medal or like a lunch or something out of the deal?

Brian Vaughn: You might.

President Korb: I guess not. Madelyn says no, okay.

Brian Vaughn: Anyhow, it was the idea that when it first started, okay, they asked the developer, you know, to step up to the plate with something. Okay, so he comes back, we wanted to have the Commission even ask him, or the Area Plan Commission asked him to specify what he's going to do. The whole talk that time was that we didn't want renters—

President Korb: Uh-huh,

Brian Vaughn: —and things like that. He came back, and said, I'll do this many units. That's, you know, that's fine, but, I mean, it's the idea that now he's saying that he has an option. You know, we have to step up to the plate. I think they should. They're not putting up anything. He's not taking any chances on the area. We're taking all the chances. He's getting up here and saying, well, okay, I've got an option, if I don't take that option it's still R-3, right? Therefore, we have apartments behind us the next week, because the fact that he decides he didn't want to do it because it's a hassle. The landowners walk out, sell it to whoever who can build any apartments they want. Is that correct or not? R-3 gives them, if this is approved—

President Korb: The use, it's my understanding, the use—

Brian Vaughn: He's got an option, he don't have to take it, right?

President Korb: That's correct. If he does not take the option, then the landowner can put the property, continue the property up for sale.

Brian Vaughn: As R-3?

President Korb: No. As R-3, if we pass it as R-3? Okay, right.

Janet Greenwell: With a use and development.

Brian Vaughn: But, that's somebody else's, isn't it?

President Korb: Can you enlighten us?

Janet Greenwell: When I said that there was some confusion earlier about the use and development commitment, what I was referring to is the fact that the petitioner had signed it, but what we found out is the petitioner and the owner signs it, it goes with the chain of title. If it is approved as R-3, that use and development commitment is there no matter who develops it. It can only be used in, as the use and development commitment limits it.

President Korb: As condominiums?

Janet Greenwell: As condominiums limited to 52 single story units.

President Korb: Okay.

Janet Greenwell: Yes.

President Korb: Mr. Ziemer?

Ted C. Ziemer, Jr.: Well, you just have to read the whole use and development commitment. Essentially, there are two provisions, number one and number two. You just, that's what they can do there.

President Korb: Okay, yeah, you're welcome. Ms. Lockyear, you get summation.

Krista Lockyear: Sum quickly, right?

President Korb: Whatever.

Krista Lockyear: Okay. I indicated previously that I've worked with Randy, I've done condominium declarations for a number of years, and Mr. Ziemer has probably read condominium declarations for a number of years. What, I think, a lot of the neighbors aren't understanding, is these condos, ownership of a condominium is more restrictive than ownership of a single family, you know, two story, three story home. One, the declaration itself says an association is developed, you will pay dues into the association, and that association will maintain the grounds. It also goes on to say that you will or won't, you won't have your car parked out, it's got very detailed restrictions on how an owner can use that property. Why? Because Randy wants to be able to sell all of those units. And, he doesn't want somebody to come in and to buy one and to put junk, so to speak, out front, and run off another neighbor. So, use of a condominium and what you, what an owner can do with that condominium is much more restricted than if you buy a single family home. You may have your covenants for your overall subdivision, but the condos are a lot tighter, a lot more restrictive. They've got a lot more enforcement mechanisms than the covenants and restrictions do. Bottom line, with the condominiums, we're talking pride in ownership, just as you do with a single family residence. A condominium is a single family residence. It's just, as Janet explained, the bricks and sticks is what a person buys as opposed to all the land that's underneath the bricks and sticks of that unit that they live in. We're talking about traffic and drainage, and I think you Commissioners are, I mean, I think you all understand that it sounds like single family condominiums is not going to make a whole lot of difference with that traffic. Even if we do have 12 more units of condominiums than we would single family residences, again, think about who buys the condos. It's not a family that's got two teenage kids that also are driving in and out of that development. So, your traffic patterns with the condominium development are most likely much fewer trips per day ingress and egress than what you have with a general single family development. Land use, we're talking about the same thing, single family versus condominiums. The use and development does run with the land. If Mr. Johnston doesn't buy it, or God forbid something would happen, and somebody else would develop this property, still limited to 52 units. Condominium units, not apartment units. The land use is appropriate, and Plan Commission members all agreed and recommended this for approval, and we ask that you do pass this ordinance.

President Korb: Commissioners, I need a motion to approve or not approve, or discussion first? Between us.

Commissioner Nix: I would say the biggest concern I have about this is the width of Eissler Road and improvements. It appears that it's, what, 16, I saw that back here. 16 ½ feet, is that correct? Is that what I'm reading here? Which is considerably, to me it's a narrow road. I know that this is, we've got quite a few county roads that are like this, but I just have a concern that, you know, there's going to have to be at least one, and probably two entrances on Eissler. I don't know that I would approve this if it was single family, under the circumstances, because of that. So, I would like to make a motion that we deny.

President Korb: We have a motion on the floor. Comments? Go ahead.

Commissioner Tornatta: I will, I too would like to see, and I've gotten more letters and more information e-mailed--

President Korb: Hang on.

**(Tape change)**

Commissioner Tornatta: I've gotten a lot of correspondence over the period of time of the last two or three months from people that are not pleased with the fact that this would be a multi unit type of situation. I think condo, as we've all been brought to the understanding, they can be single, standing condos. They can be multiple unit condos. We've seen them of all varieties, but, at the end of the day, that's not what this neighborhood wants. And, you know, I'm pretty, I stick pretty close to the neighbors. They know about their area. They know what different things are out there, what they're looking for in a neighbor, and what they would like to see in a group of neighbors. At this point, I would be okay with an R-1, but would not be okay with R-3. So, if R-3 was in question, I would second the denying of the motion.

Commissioner Nix: I guess, from a technical standpoint--

Ted C. Ziemer, Jr.: The motion ought to be a motion to approve, and then you have your discussion, and then you vote on it. If you want to deny it, you vote no. It shouldn't be a motion to deny. A motion to approve, and then you vote however you wish.

Commissioner Tornatta: I'll take back my second.

Commissioner Nix: I'll rescind that. Motion to approve.

President Korb: Are you going to second that?

Commissioner Tornatta: Well, I don't have to.

Ted C. Ziemer, Jr.: These microphones.

President Korb: Boy, I hope we didn't get that on tape.

Ted C. Ziemer, Jr.: I hope we did. We need to do something about these microphones.

Commissioner Tornatta: It's gonna happen.

President Korb: We're working on it.

Ted C. Ziemer, Jr.: No, all we're doing now is making a motion, and that is not a vote. So, the motion, the appropriate motion would be, on any zoning issue, a motion to approve, and then a second, and that simply gets it on the table. Then you call for a vote, and you vote yes or no, as you wish.

Commissioner Tornatta: Okay.

Commissioner Nix: Motion to approve.

Commissioner Tornatta: Second.

President Korb: Discussion? We've already had that, but, guys, one more chance? Do you want it? Nope?

Commissioner Tornatta: Then, my question is, this is zoned, at this point, zoned what?

Commissioner Nix: Ag.

President Korb: Ag.

Commissioner Tornatta: Agricultural. At no point could it be zoned R-1 in this meeting?

Ted C. Ziemer, Jr.: Correct.

Commissioner Tornatta: It could not?

Ted C. Ziemer, Jr.: It could not.

President Korb: That's right, because that's not what the petitioner's asking for.

Commissioner Tornatta: Fine and dandy.

President Korb: Okay? So, we have a motion on the floor and a second.

Ted C. Ziemer, Jr.: To approve the petition as it was filed, which is asking for R-3, and that's the only thing you can vote on.

President Korb: That's right. We have a second. Roll call vote.

Commissioner Nix: It's just yes or no.

President Korb: Sorry.

Commissioner Nix: All in favor.

President Korb: It is?

Commissioner Nix: Isn't that right?

Commissioner Tornatta: Well, it doesn't matter. You could call a roll call right now.

President Korb: Roll call vote. Mr. Nix?

Commissioner Nix: No.

President Korb: Mr. Tornatta?

Commissioner Tornatta: No.

President Korb: And Commissioner Korb votes no. So, the motion is denied.

**Final Reading: VC-17-2007**  
**Petitioner: James K. & Jacqueline L. Johnston**  
**Address: 3816-4016 & 4032 Heckel Road**  
**Request: Change from AG and R-1 to R-3 and R-4 with UDC**  
**Action: Approved 3-0**

President Korb: The next item, docket number 2007-43-PC VC-17-2007.

Janet Greenwell: The next item on your agenda is—

Madelyn Grayson: Janet? I turned your microphone off. I'm sorry.

Janet Greenwell: Thank you. The next item on your agenda is VC-17-2007 for the properties at 3816 to 4016 and 4032 Heckel Road. James and Jacqueline Johnston are requesting to rezone the properties located at those addresses from Ag and R-1 to R-3 and R-4.

President Korb: Folks, I'm sorry, if you all could kind of just carry that, those conversations outside. Please.

Janet Greenwell: Thanks.

President Korb: Thank you.

Janet Greenwell: Okay, this, the rezoning on Heckel Road is requesting 17 plus acres of R-3 and 65 acres of R-4. It is tied down with a use and development commitment that limits the R-3 to condominium housing or other traditional type housing, not apartments. The proposed R-4 is limited to the assisted living facility, and single family, but no other apartment style housing. Lesser uses, including single family and duplexes or condominiums would be allowed on both the R-3 and R-4. The comprehensive plan calls for residential. It is in compliance with the comprehensive plan. It is adjacent to a 49 acre parcel rezoned a few years ago, in 1996. It is zoned for multi-family. It has not been developed. So, there is a very large chunk of multi-family land out there. The Plan Commission did vote for recommending approval of the amended petition at their meeting January 10<sup>th</sup> with nine affirmative votes, zero no votes, and one abstention. Providing that the rezoning is approved tonight, we will need to have a signed use and development commitment prior to recording and executing the zoning.

President Korb: We don't have that now? Okay. My understanding is that Maria Worthington is the petitioner's representative.

Maria Worthington: That's correct.

President Korb: Good evening, again.

Maria Worthington: Good evening. Good afternoon members of the Commission. My name is Maria Worthington. For the record, I'm an attorney with the law firm of Kahn Dees Donovan and Kahn at 501 Main Street. I'm here on this rezoning application with our clients, James and Jacqueline Johnston. They are here to answer questions this evening, as well as I can try to answer any questions that come up also. This real estate, again, is located on Heckel Road. This is right near the Goebel Soccer Complex. There's another picture that we might be able to put up, so you can see where the Goebel soccer facilities are. We have worked extensively with our neighbors on this property, and I believe we have addressed all concerns. I do note, in the audience, we have one neighbor who is here, and you'll hear from, that I believe the concern is over drainage. So, after he has a chance to speak, I'll address that as well. The Johnston's are requesting a rezoning from a combination of what is currently Ag and R-1 property to a combination of R-3 and R-4. 17.76 acres of R-1 along the front, or south side, would go to R-3, serving as a buffer between the Keystone Subdivision and the back acreage of development. Then, the back acreage is 41.398 acres of R-1 that would go to R-4, and then another 23.865 acres that would go from Ag to R-4. As we worked with the neighbors and addressed their concerns, we ended up filing an amended use and development commitment. We addressed a couple of concerns, and I want to kind of outline for you what the two most significant concerns were. Initially, when we filed this application, that front acreage along the south side....yes, that area, was about, it was a little over six acres. The neighbors indicated that what they would like to see between this development, the R-4 development and their neighborhood to the south, which is Keystone, they wanted that to be bigger. They indicated how big they wanted it, and we tripled that in size. Now, that is almost 18 acres that will be R-3 buffering between Keystone and the back acreage. The back acreage, the plans for that, right now, are to be assisted living facilities. The second concern that the neighbors wanted addressed was they wanted to make sure that this doesn't turn into an apartment complex, if the developer decides not to the assisted living facilities. That was easily accommodated in the use and development commitment. So, they now have assurance that not only will there be no apartment style housing in the front, south acreage, there will also not be apartment housing in the back acreage. We noted, at the Area Plan Commission, just to keep the record clear, we felt that the staff field report didn't convey what we were trying to convey in the use and development commitment initially. It indicated that, we interpreted it as saying we could only put in assisted living facilities or condos. Really what the use and development commitment is intended to say is that in the R-3 south acreage it can be the condos or other traditional style housing, such as houses, but not apartments. Then, in the R-4 area, it could be assisted living facilities, not apartments, or it could be a lesser residential use. I believe that's okay with all the neighbors. As I said, we had two meetings with the neighbors, and I just felt I should make the record clear. We also reorganized the language in the use and development commitment to make that more clear. So, it's not, it's really not limited to just assisted living facilities, for example, in that back acreage. It's, if it is assisted living facilities, it will not exceed three stories in height. If the developer, or owner decides it's not going to do assisted living facilities, as long as it doesn't do apartments, it could do another use that would be allowed in such zoning. I believe the neighbors are happy with that. Just so you kind of have an idea of the level of working with the neighbors that we did, we had our initial meeting that consisted of the usual requisite, you know, notifying the contiguous neighbors, and getting together with them, and then we

thought perhaps we should get a broader base of feedback. We didn't have a lot of unhappiness, or anything of that nature, but we just felt it would be better, since there were a couple of concerns, to notify more. So, we notified over 100 houses in the Keystone neighborhood, just to make sure that we got everybody covered. So, we had a second meeting, and this is the use and development commitment that we have. To clarify a point that was made earlier, you don't have a signed use and development commitment, only because, just as a matter of practice, I don't have that signed until the rezoning and commitment is actually approved. That way we don't have a recordable document floating around that's not approved. So, should you approve our petition tonight, we'll get that executed immediately and delivered to Madelyn for recording. Do you have any questions of me at this time?

President Korb: I don't think so.

Maria Worthington: Okay.

President Korb: Our remonstrator, I'm sorry, go ahead.

Maria Worthington: Okay, and the Johnston's are here as well.

President Korb: Great.

Maria Worthington: I would like to have a seat and let you hear from the remonstrators. I could go ahead and go into what I think their concerns are, but I would rather just have a seat and let you hear it from them.

President Korb: Yeah, we'll just do that, and leave the questions for you. Is that okay?

Maria Worthington: Yes, that would be great.

President Korb: Thank you, Ms. Worthington. Appreciate it. Remonstrator(s), plural?

Ralph Effinger: I'm Ralph Effinger. I live at 629 East Columbia Street, Evansville, Indiana. I have this farm, or my heirs do, I should say. It's in a trust. I have ground that's, their parcels are east and south of me. I have 40 acres here. I was up before you's before on the Drainage Board, and I tried to explain to you the water situation here. I'm concerned about the water, as far as this parcel, and parcels in the county that's keeping getting on the flood plain and diverting the water to somebody else. Now, I understand that since '37 there was no water on this 40 acres that I have. But, since then we've had water that keeps a creepin' up. Every time it comes it gets bigger. So, my point is, these people are going to put up catch me basins, and it's going to take care of the water that falls on this piece of ground and their rooftops. Are they going to build a lake big enough to take care of what this 80 acres takes out of the flood plain? That's what I want to know.

Commissioner Nix: Mr. Effinger, I guess, that really doesn't pertain to this meeting today. That's a drainage issue.

Ralph Effinger: Okay, I wanted to get the drainage to tell me something then, and I didn't get it done.

Commissioner Nix: Yeah. I don't know, that would come before the Drainage Board when the development is actually, when it's actually been designed.

Ralph Effinger: Well–

Commissioner Nix: I mean, we can't address drainage issues. This is for rezoning. It's either for or against the rezoning.

Ralph Effinger: Well, I'm against the rezoning as far as the water is concerned. Now, I would like to know how I can help myself. I'm at three men's discretion. Am I going to be able to save my 40 acres and grow a crop on it or not?

Commissioner Nix: Once again, that's an issue that has to be taken up in front of the Drainage Board. Before these people develop this, these will come before the Drainage Board. I mean, we can't mix, as far as, we can't mix the issue between a rezoning and a drainage issues. Because, to me that's, it's not the same.

Ralph Effinger: Okay, then can I ask this question? Am I going to be notified that when this Drainage Board meets, that I can voice my opinion, and voice why this should not be approved?

Commissioner Nix: What's the protocol for noticing that, Janet? Do you know?

Janet Greenwell: I don't do the Drainage Board.

Commissioner Nix: I understand, yeah. As far as how Mr. Jeffers notices–

Janet Greenwell: I really couldn't tell you.

Commissioner Nix: Okay.

Janet Greenwell: I do know though that the subdivision review committee will have to approve this.

Commissioner Nix: And, Mr. Jeffers sits on that.

Janet Greenwell: And, Mr. Jeffers is a member of the subdivision review committee. Mr. Jeffers assured our Commission that he would look very carefully and closely at the drainage, the ordinances that went into effect in recent years requires that all the drainage be maintained on that property. That it cannot go anywhere else. Mr. Jeffers was very clear in that he takes it very seriously–

Commissioner Nix: Oh, yeah.

Janet Greenwell: –and that he definitely would look into the issue before he approves a drainage plan.

President Korb: Mr. Effinger, are you just asking for the opportunity to appear before the Drainage Board?

Ralph Effinger: Yes, I would like to appear so that I can voice my opinion.

President Korb: Sure.

Ralph Effinger: And explain to how many others in this county is going to get hurt by the "x" many acres being taken out of this flood plain and putting against the other people that doesn't have, don't build a mound.

President Korb: Sure.

Ralph Effinger: Now, you're building a mound, or raising this ground, and you're putting it on "x" many more people. Now, these subdivisions right on the other side of Heckel Road has done part of that is done that away. And, it's putting it always more on somebody else.

President Korb: What I would like to do is enter into the minutes to specifically ask Mr. Jeffers to contact you, Mr. Effinger. So, if you would, just into the microphone, just give us your name and correct spelling of your last name and your address and a phone number. We'll ask specifically that Mr. Jeffers contacts you. I would be more than happy to have you come to the Drainage Board. That way you'll know that you are going to be notified. So, go ahead.

Ralph Effinger: Thank you.

President Korb: You're welcome.

Ralph Effinger: I'm Ralph Effinger. My last name—

President Korb: E-f-f-i-n-g-e-r?

Ralph Effinger: Yes, sir.

President Korb: Okay.

Ralph Effinger: My mailing address is 629 East Columbia Street.

President Korb: The zip?

Ralph Effinger: 47711.

President Korb: Okay.

Ralph Effinger: Telephone number, 812-424-7847.

President Korb: Did you get that, Madelyn? I really think that Mr., well, we'll make it a point for Mr. Jeffers to contact you. Because I know you've been dedicated as heck to be at all these meetings.

Ralph Effinger: I want you to understand one other thing.

President Korb: Sure.

Ralph Effinger: This, you're County Commissioners, you've seen this subdivision coming up just ahead of this one. Now, I have another piece of ground that's on 41, this ground is east of what this subdivision is that all these big subdivisions that's been built in there. I'm experiencing the same problem there with water coming and overflowing my land, where it wasn't before.

President Korb: Okay.

Ralph Effinger: Now, in this county, water is a big issue. You're hurting a lot of people. Not just me as one individual. There is a lot of individual farmers, property owners that just own a lot gets water in their homes the same way.

President Korb: Well, let's just have you take that up with Mr. Jeffers when you meet with him.

Ralph Effinger: I tried to explain some of these things to him.

President Korb: Okay. Well, you'll have your chance when you get invited to that meeting.

Ralph Effinger: That's right. I think, you have engineers, and you have a lot of other people that try to advise you—

President Korb: Uh-huh.

Ralph Effinger: —but, I will tell you one thing, I've been familiar with this area for better than 50 years. I know what water does. On paper it don't work all the time. Think about it.

President Korb: Thank you, Mr. Effinger. Other remonstrators?

Unidentified: Sir, I have something else that is not on this parcel?

President Korb: Okay, then we can't discuss that right now. It's in regards to?

Unidentified: Well, sir, I have a suggestion to make about Green River Road extension of Burkhardt.

President Korb: You know, this is not the time to do that, because it's not on our agenda. I appreciate what you're saying.

Unidentified: Okay.

President Korb: Address that at our next Commissioners meeting? Mr. Ziemer?

Ted C. Ziemer, Jr.: You could hear public comment and then.

President Korb: Okay, come on. You're here. Oh, no, stop, stop, stop. We'll come back to that. We'll come back to that. Ms. Worthington?

Maria Worthington: Thank you.

President Korb: No other remonstrators? Questions by the Commissioners to Ms. Worthington?

Commissioner Tornatta: Has there been any type of questioning from the city or the Parks Department about the proximity to the Soccer Complex?

Maria Worthington: We haven't received, actually, the only inquiry I got, Dan Schall, who happens to be my brother-in-law, asked me a little bit about the project, and I

gave him the information. He also got packets and notifications of the meetings on behalf of the Parks Department. But, as far as any concerns being raised, I didn't hear any.

Jim Johnston: I'm Jim Johnston, and my wife and I own that property. We have had discussions with David Dunn, but I think those improvements out there on the back burner of the soccer park, and I'm not sure how they're all going to be drawn up or developed. But, we are kind of at a standstill because of what you're doing on Green River Road. I think, by the time that we get Green River Road completed, that maybe the soccer complex would be, have a better idea of what they want to do. But, right now, I think, you probably know they've put the baseball diamonds in Wesselman Park ahead of the soccer fields. So, you probably know more about that than we do.

Commissioner Tornatta: Well, I didn't know if they had asked that there be any type of berming or any type of division between the two properties?

Jim Johnston: No, we're going to tolerate them.

Commissioner Tornatta: Okay.

President Korb: Did you mean the other way around?

Commissioner Tornatta: Yeah, that's a better comment right there.

President Korb: Mr. Tornatta?

Maria Worthington: We didn't get any notice.

Commissioner Tornatta: There you go.

Maria Worthington: We didn't get a request like that.

Commissioner Tornatta: Okay, okay. That's just a simple question.

Maria Worthington: Sure. I would like to know if any of you Commissioners have concerns. We would be happy to try and address those. We would like to call for a vote tonight, but, as a matter of practice, again, if you do have concerns, we would like to take the time to deal with those.

President Korb: Commissioners? No? Okay. Your summation? Or, do you want to quit while you're ahead?

Maria Worthington: Hey, I think I'll do that.

President Korb: There you go. Works for me. I need a motion to approve, please.

Commissioner Tornatta: So moved.

Commissioner Nix: Second.

President Korb: All those in favor, oops, roll call vote. I need a roll call vote. Mr. Tornatta?

Commissioner Tornatta: Yes.

President Korb: Mr. Nix?

Commissioner Nix: I vote yes.

President Korb: Mr. Korb votes yes. Congratulations.

Maria Worthington: Thank you very much.

President Korb: You're very welcome.

Maria Worthington: We'll get that executed—

Madelyn Grayson: I have it right here if you want to do that now?

Maria Worthington: Okay, we'll go ahead and do it.

Madelyn Grayson: Because I'm a notary also.

Maria Worthington: You're a notary? Mine's expired.

**Public Comment**

President Korb: Alright we're ready for public comment.

Commissioner Tornatta: I will make a motion. We are kind of restricted on time.

President Korb: We won't do that. Come on up here.

Commissioner Tornatta: Put your mic. toward him.

President Korb: Here you go.

William Ritzert: William J. Ritzert, 3645 Voight Road. Last year, last spring I was here about elevating Millersburg Road, because three or four inches of water overflows and then all the water—

Commissioner Nix: The city has it up to, or the city is taking it up to a point now. So, go ahead.

William Ritzert: Okay, but anyway, the traffic is going down Oak Hill now. Then, also I mentioned about bringing Burkhardt north. Okay, my suggestion is now, since you're going to do with Green River Road, with all of your temporary work, bridges and things like that, if you would bring Burkhardt north and put a permanent bridge up there, make it nice, just like you do a 100 year plain, because you have Heerdink Road that's already in. It's a very nice road, and you have that easement and right-of-way all the way down there. You have it past up to Olmstead Road here. There's Olmstead all the way, you have all those roads right there. All you would have to do is put a bridge in there, a 100 year bridge, and you would have Burkhardt connected and the whole north side would be connected. You would have two ways in, as far as traffic and Keystone would have three ways out. If when you shut down Green River Road, they could either filter to Burkhardt or over to Oak Hill.

Commissioner Nix: They're not going to shut it down.

Commissioner Tornatta: Yeah. Green River Road will not shut down.

William Ritzert: Well, I know it won't shut down, but look at all the temporary work and things that you're going to be doing.

President Korb: We'll be happy to pass these on to the County Engineer. I can't make any promises to you.

William Ritzert: Well, I know, but it's just an idea, you know.

President Korb: Sure.

William Ritzert: I'm here to save dollars for the taxpayers.

President Korb: Got it.

William Ritzert: And me too.

President Korb: Great. Thanks for waiting this whole time.

William Ritzert: Oh, that's alright.

President Korb: It was nice to meet you.

William Ritzert: Mr. Nix, thank you.

Commissioner Tornatta: Motion to—

President Korb: I need a motion to adjourn.

Commissioner Tornatta: Motion to adjourn.

President Korb: Second?

Commissioner Nix: Second.

President Korb: All those in favor?

All Commissioners: Aye.

President Korb: We're out of here.

**Those in Attendance:**

Jeff Korb

Ted C. Ziemer, Jr.

Chris Wischer

Bill Mattingly

Anne Vaughn

Maria Worthington

William Ritzert

Bill Nix

Janet Greenwell

Krista Lockyear

Janice Wittgen

John Spurgeon

Ralph Effinger

Others Unidentified

Troy Tornatta

Madelyn Grayson

Nancy Laswell

John Hendricks

Brian Vaughn

Jim Johnston

Members of Media

**VANDERBURGH COUNTY  
REZONING BOARD**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS  
JANUARY 29, 2008**

The Vanderburgh County Board of Commissioners met in session this 29<sup>th</sup> day of January, 2008 at 5:02 p.m. in room 301 of the Civic Center Complex with President Jeff Korb presiding.

**Old Business:  
Final Reading: VC-15-2007: Petitioner: Habermel Investments  
Address: 12700 Old State Road  
Request: Change from AG to C-4 with UDC & Private Covenant  
Action: Approved 2-0**

President Korb: Old business, rezoning of VC-15-2007, 12700 Old State Road. Welcome back.

Chris Wischer: Thank you. Excuse me.

President Korb: State your name for the record, please.

Chris Wischer: Chris Wischer, Bamberger, Foreman, Oswald and Hahn. Here tonight on behalf of Habermel Investments LLC. John Habermel's in the audience with me. As we go, he can answer any questions that I can't, I'm sure. To be, kind of briefly recap where we were two weeks ago. We were here on a petition to rezone the property in the white outline at 12700 Old State Road, the corner of Boonville-New Harmony and Old State Road. Yeah, that's a good map. The, as you can see from the map it's completely surrounded to the north and to the west with C-4 property, which, the final leg of that was done in November. When we were here two weeks ago, the issue came up as to access to this real estate. Oh, thank you. I think the issue, as I understood it, was whether or not the access to this property could then be utilized in some future case as a direct access to the greater Schnuck's development, which is what we understand the remainder of the property to be zoned for. I think that, in some instances came about from my statements about the potential use of this property, which I need to say for the record, was clearly hypothetical on my part. There's, at this time, no interest been expressed on either side about that happening, about any combination of this property with the Schnuck's property. I'm not even sure Schnuck's owns it at this point. It's my client's intention to utilize this property as a single lot. In that event, what we've done is we've come up with a private covenant that we believe addresses the concerns. I know my client has spoken with each Commissioner individually to gauge their concerns, and I'll submit this. What you have before you is a private covenant that my client would agree to execute, in the event that this rezoning ordinance is approved. Paragraph one is the access paragraph. As you can see from the map, right now there's actually two curb cuts on the property. It's the recommendation of the County Engineer and others that there be one access, and that it be, my understanding is, as far north, probably in this area.

President Korb: Right.

Chris Wischer: We've committed in this paragraph to that there would only be one access along that property line, to make it clear that that's our intention, or my client's intention. Further, that the access to this property would be exclusively for the purposes of access to this property. I've had several conversations with John Stoll, we believe that once folks are on this property, it makes sense not to have them dump back onto the road, and have the possibility, if it ever works out, if, you

know, moving from here to there. This wouldn't necessarily preclude that, but what it would preclude is this access being used as a direct access for the rest of the property. If it can be used for this property and the uses by the occupants of this property. That's the intention. Just clear for the record. Additionally, the covenant would be enforceable by the County Commissioners, and the covenant could be modified by agreement of the property owner, and a majority of the County Commissioners. So, if, once the property is developed, if there becomes some other intention for the property, this thing isn't necessarily set in stone. We could conceivably come back and ask again that it be expanded or changed. But, at this point, I think we've attempted to be clear, as to what this access would be for.

Commissioner Nix: I guess, I'm the one that raised the flag last week, or two weeks ago. I guess, the concern, when the other parcel was rezoned was that there not be more than one access on Old State. What I didn't want to see happen was that the development take over this parcel, and then there would be another entrance into the larger development there.

Chris Wischer: Right.

Commissioner Nix: So, that was the concern I had. But, if, in fact, there's a common roadway, or a drive between the two, I don't necessarily have a problem with that.

Chris Wischer: Okay.

Commissioner Nix: I just did not want to see two accesses off of Old State. That was one of the concerns that the, in the rezoning that we heard before.

Chris Wischer: Right. I think that there's no intention for this access to become some second access. I know there were statements made about their being one access by the Schnuck's folks in their rezoning. This is certainly in no way intended to circumvent that commitment.

President Korb: I guess, my question is, in the event, I know that you've said, right now, there's not a deal in the offing between you all and Schnuck's.

Chris Wischer: Right.

President Korb: If that develops, is that language in here that does not become a double access for them?

Chris Wischer: Well, I think what they would, it's exclusive for this real estate. What, the way I intended that to be, was, I mean, it's possible that Schnuck's could acquire the real estate. And, again, possible in the sense of, you know, within the realm of possibility, but, again, there's no intention there, at this point. And, if so, it would have to be, they could not convert it to a main entrance, or a primary entrance, or even a secondary entrance for the development. It would have to be used for access to that lot. So, if they decided....one reason that we opted not to commit to eliminating it if they own it is, what if they own it with the intent of creating and using it as a separate out lot, as we have it. We don't want to foreclose that possibility. It could be acquired and then sold as an outlot. As long as it continues as an outlot the access would be there for that property. So, my reading of it is, it would prohibit them using it as a direct ingress/egress from this road to their property.

President Korb: Okay. Mr. Nix, does that satisfy you?

Commissioner Nix: Yes.

President Korb: Okay, great. Any other questions?

Chris Wischer: I think that's in line with their commitment. So, that shouldn't have been an issue with them anyway.

President Korb: Mr. Ziemer, does this look okay for you?

Ted C. Ziemer, Jr.: Yes.

President Korb: Okay, great. Do we need this in the form of a motion? Any other public comment about this? Seeing none.

Commissioner Nix: Move approval.

President Korb: Second. All those in favor say aye.

Commissioner Nix: Aye.

President Korb: Aye. Opposed same sign. It passes. Congratulations.

Chris Wischer: Thank you. We'll execute and record this.

President Korb: Ah, roll call vote. Okay. Mr. Nix?

Commissioner Nix: Yes.

President Korb: Mr. Korb? Yes. The motion passes.

Chris Wischer: Thank you.

President Korb: You're welcome.

Madelyn Grayson: I will need a copy of the private covenant.

President Korb: There you go.

**Those in Attendance:**

Jeff Korb

Ted C. Ziemer, Jr.

Dave Rector

Roger Lehman

John Stoll

Mike Sitzman

Others Unidentified

Bill Nix

Marissa Nichoalds

Marsha Abell

Bill Pedtke

Chris Wischer

John Shrode

Members of Media

Bill Fluty

Madelyn Grayson

Cheryl Kuchna

Z. Tuley

Willard Shrode

Larry Cavins

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

(Reported and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY  
REZONING MEETING  
FEBRUARY 19, 2008**

The Vanderburgh County Rezoning Board met in session this 19<sup>th</sup> day of February, 2008 at 5:45 p.m. in room 301 of the Civic Center Complex with President Jeff Korb presiding.

**Call to Order**

President Korb: I would like to open the Area, the Vanderburgh County Commissioners, to have two first readings, please, to approve rezonings. Mr. Nix, would you please read those for us please.

**First Readings: VC-1-2008: Petitioner: Sterling Properties LLC  
Address: 7900 E. Morgan Avenue  
Request: Change from Ag to M2 with UDC**

**VC-2-2008: Petitioner: Bill Englebrecht's Orchard & Farm Market LLC  
Address: 16820 Petersburg Road  
Request: Change from Ag to C-4 with UDC**

Commissioner Nix: Excuse me, the first reading is docket number 2008-8-PC VC-1-2008. The petitioner is Sterling Properties LLC. The address is 7900 East Morgan Avenue. The complete legal is on file. The nature of the case, the petitioner requests to rezone from agricultural zone to an M2 zone with a use and development commitment. I would like to make that in the form of a motion.

Commissioner Tornatta: Second.

President Korb: Discussion? Seeing none. All of those in favor say aye.

Commissioner Nix: I guess, for the first.

President Korb: Aye. I'm sorry, we don't have to do that, do we?

Ted C. Ziemer, Jr.: Yes.

Commissioner Nix: Yes.

President Korb: We do? Okay, second.

Commissioner Nix: We need a roll call vote.

President Korb: Mr. Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes.

Commissioner Nix: The second first reading is docket number 2008-11-PC VC-2-

2008. The petitioner is Bill Engelbrecht's Orchard and Farm Market LLC. The address is 16820 Petersburg Road. The complete legal is on file. The nature of the case, the petitioner requests to rezone from an agricultural zone to a C-4 with a use and development commitment. I make that in the form of a motion.

Commissioner Tornatta: Second.

President Korb: Discussion? Hearing none. All of those in favor say aye.

All Commissioners: Aye.

President Korb: I'm sorry, roll call vote. Mr. Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes.

**Approval of the January 15, 2008 Rezoning Meeting Minutes**

Madelyn Grayson: Can you also just make a motion to approve the January 15, 2008 rezoning minutes?

Commissioner Tornatta: So moved.

Commissioner Nix: Second.

President Korb: Discussion? All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign.

Commissioner Nix: Motion to adjourn.

Commissioner Tornatta: So moved. Second.

President Korb: Meeting adjourned.

Commissioner Tornatta: Sorry.

(The meeting was adjourned at 5:47 p.m.)

**Those in Attendance:**

Jeff Korb

Ted C. Ziemer, Jr.

Members of Media

Bill Nix

Madelyn Grayson

Troy Tornatta

Others Unidentified

**VANDERBURGH COUNTY  
REZONING BOARD**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY  
REZONING BOARD  
MARCH 18, 2008**

The Vanderburgh County Rezoning Board met in session this 18<sup>th</sup> day of March, 2008 at 5:50 p.m. in room 301 of the Civic Center Complex with President Jeff Korb presiding.

**Call to Order**

President Korb: Go ahead.

Janet Greenwell: Yes, I do. Are we ready?

President Korb: We are, let's go.

**Approval of the February 19, 2008 Rezoning Meeting Minutes**

Janet Greenwell: I'm Janet Greenwell with the Area Plan Commission. The first item on our agenda, we would ask you to approve the Rezoning minutes from the last meeting.

Commissioner Tornatta: So moved.

Commissioner Nix: Second.

Commissioner Tornatta: Jeff?

President Korb: I'm sorry. I'm having a vegetated state here. Discussion? All of those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. Congratulations!

Janet Greenwell: Our minutes are approved.

**First Readings: VC-3-2008: Petitioner: Gerald Reddick  
Address: 12615 N. Green River Road  
Request: Change from AG to C-4 and R-1**

**VC-4-2008: Petitioner: Hirsch-Martin Development, LLC  
Address: 1501 N. Burkhardt Road  
Request: Change from AG and C-4 to C-2 with UDC**

**VC-5-2008: Petitioner: Ken Zint  
Address: 140 E. Inglefield Road  
Request: Change from AG to M2**

**VC-6-2008: Petitioner: Dauby Properties and Investments, LLC  
Address: 7445 N. Green River Road  
Request: Change from R-3 and C-4 to R-3 and C-4**

Janet Greenwell: I would like to first do the first readings. We have four new rezonings filed for May. The first one is docket number VC-3-2008, petitioner, Gerald Reddick, who's requesting to rezone a parcel on Green River Road from C-4 to R-1. That's at 12615 North Green River Road. VC-4-2008, petitioner, Hirsch-Martin Development is petitioning to rezone acreage at 1501 North Burkhardt from agricultural and C-4 to a C-2 zone with a use and development commitment. VC-5-2008, petitioner, Ken Zint is requesting a rezoning for his property at 140 East Inglefield Road to be rezoned from agricultural to M2. These are first readings.

President Korb: Great, thanks.

Janet Greenwell: And, VC-6-2008, petitioner, Dauby Properties and Investments, LLC, requesting to rezone, a kind of tricky rezoning, a piece of land from R-3 to C-4, and a piece of land from C-4 to R-3 at 7445 North Green River Road. The explanation of that will be next month.

Commissioner Nix: Thank you. Move approval.

President Korb: Second?

Commissioner Tornatta: Second.

President Korb: Discussion? All of those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. I need a roll call vote on this. Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes.

**Final Reading: VC-1-2008: Petitioner: Sterling Properties, LLC  
Address: 7900 E. Morgan Avenue  
Request: Change from AG to M2 with a UDC  
Action: Approved 3-0**

Janet Greenwell: Okay, we have one petition on tonight's agenda for final hearing. That's the property, it's docket number VC-1-2008, the property at 7900 East Morgan Avenue. Sterling Properties is requesting to rezone the property from agricultural to M2 with a use and development commitment. This is a 13 acre site located on the north side of Morgan Avenue between I-164 and the Warrick County line. It is to be joined with the site that was rezoned, about 17 acres rezoned by them in 2007 to M2. The overall site is planned to be about 30 acres for industrial development planned for Sterling Boiler and Mechanical. The petition includes a use and development commitment. It identifies uses to be prohibited; lighting, trash areas, landscaping, paving. All the commitments will run with the land for 30 years. We do need signatures of both the owners and the petitioners on the use and development commitment. The petition was heard at Plan Commission on March 14<sup>th</sup>, and received nine affirmative votes. Any questions?

President Korb: No, I don't have any, but I'm assuming we have an attorney here, and remonstrators here. Yes, Ma'am. Maria, please come up. If you would, just introduce yourself, and for the record.

Maria Worthington: Good evening, Commissioners. I'm Maria Worthington, and I'm an attorney with Kahn Dees Donovan and Kahn at 501 Main Street, and we represent Sterling Boiler and Mechanical, Inc., and Sterling Properties, LLC. Fortunately, Dan Felker was able to attend with me tonight. His schedule changed again. I'm glad he's here with me. He's the president of Sterling. What we plan to do this evening is quickly reintroduce you to what we think is a very exciting development for Vanderburgh County. I believe all of you have heard about this project before. Mr. Korb was present at our Plan Commission meeting last week, and the other Commissioners heard of this project last summer when we rezoned 7800 Morgan Avenue, that is the property immediately to the west of this parcel. It's a little bit bigger tract than this one. I want to just mention some of the professionals that have been associated with this project. Mike Shoulders is responsible for a beautiful concept design of what the new facilities will look like, and Jim Farney is the engineer who has been working diligently on this project. I am going to hand out for you just a couple of things that I'll refer to in my presentation. The property that we are going to be seeking final approval on tonight is 7900 Morgan Avenue, above, on the overhead where it says proposed M2, and then the existing M2, as I mentioned before, we rezoned last summer. This is almost to the Warrick County line in eastern Vanderburgh County. You might be familiar with it as the site of the Tee Time Golf Range. The purpose of the request is to pave the way for new facilities for Sterling Boiler and Mechanicals main operations. Sterling would like to break ground on these facilities within, around the next year. Last summer we were saying about a year and a half. So, it would be about the same timeline, about a year from now, maybe a year and a half. One thing I would like to note is that this zoning request includes a use and development commitment, which provides our neighbors with certain assurances that they have requested. The first thing that you'll see in your handout, just to backtrack a little bit, I think most of you are familiar with Sterling Boiler and Mechanical and what they do, but I've given you a short history of the company, just so you can get an idea of what they do. Then, I would like to say a few words about the company too. Dan Felker began Sterling

Boiler and Mechanical about 25 years ago with very modest operations on 7<sup>th</sup> Avenue in Evansville. Today, Sterling Boiler and Mechanical is one of the top 100 construction companies in the U.S., serving mainly the growing power and energy industry. Sterling generates an annual payroll of over \$62 million, and employs, on average, 750 employees, over jobs sites in Indiana, Pennsylvania, Ohio and other states. These employees include skilled craftsman, all the way to management and office personnel. Dan will be available to answer any questions that you have, and, hopefully, we'll be able to cover all of those, but, if you have any remaining concerns this evening after we finish our presentation, we would like for you to let us know about those, and see what else we may need to do to satisfy any questions or concerns. When we filed this rezoning petition originally on 7800 Morgan Avenue last, it was November of '06, and we finished it up in July of '07, we had quite a few meetings with our neighbors to address and resolve their concerns. We think we've crafted a project that will not only meet Sterling's needs, but one, a project that would be both acceptable to our neighbors, and a very handsome addition to the far east side of Vanderburgh County. When I first met with Dan Felker about this project a couple of years ago, I listened to him talking about what he dreamed for these new facilities, and how far he had come from his days on 7<sup>th</sup> Avenue. What we started out with was a campus that included five different buildings. Over a series of many meetings with our neighbors, what we came up with was a single, basically, a single facility campus. If you look in your packet you'll see what we expect that to look like. It's holding up the drawing that it is. What the neighbors really wanted to see was as little activity as possible on the site. So, Mike Shoulders took the five buildings and condensed them into one building. So, it's more the case that everything's under one roof, and the neighbors won't have to see a lot of activities at the site. The next thing that happened was the neighbors, across Telephone Road there are some residences, and the neighbors felt that they would be happier if we would flip flop the operations inside the buildings to keep, to put the office functions closest to Telephone Road. So, we did that as well, and they were very pleased with that. Finally, one of the major changes that the neighbors requested on the 7800 Morgan Avenue zoning, which we've also accommodated on this project, if you look at the drawing that's on the overhead now, at the northern most tip it says Ag. There's a little, right there, that, they wanted that to stay Ag, that's the closest to their residences on Telephone Road. Then we buffered, you can see the tree line buffer, the pine tree buffer, they wanted that buffer, and then they wanted that northern most tip to remain Ag. So, we amended our rezoning, and our legal description to keep that Ag for the neighbors. Then, we did the exact same thing when we did 7900 Morgan Avenue. We cut out the northern most tip of the property. So, now, all that provides an Ag buffer to the neighbors to our north. Many of the neighbors expressed that they really would like to have sewer services. They requested that to help them reach that goal, they wanted Sterling to extend its sewer line to a location that they selected. We have accommodated that request. Sterling, as I mentioned, is working with Bernardin Lochmueller and Associates, and engaged its engineers to study, each neighbor who is interested, we did a study of their individual accommodations and what they would need to tap into the line, and provided each one of them with data and cost information, and we've agreed to bring the line to a couple of certain points that they had requested, so that they can easily tap in. Whenever we did the 7900 Morgan Avenue, there were additional folks interested, one in particular that wanted the same kind of treatment. So, we did that for that neighbor as well. The use and development commitment that we filed talks about limitations on the building materials that we can use. It stretches out for 30 years, rather than the 25 we originally proposed. It speaks to access from Telephone Road being just very limited, emergency only type of gated entry, and will have a frontage road on the highway. It speaks to quite a number of benefits to our

neighbors, and we believe all of our neighbors are happy with that. I did mention at the Plan Commission meeting that we did have an inquiry from one neighbor at Sticks and Stones down the way, just generally inquiring about drainage questions. They did not attend the neighbor meeting that we held on this property, but they did attend some of the last ones. I believe they're here with a couple of comments on the drainage. So, I'm going to reserve my comments on that subject until after they go, if that's alright with you? Any questions of me?

President Korb: Questions for Ms. Worthington? Seeing none, remonstrators? People who are not real excited about this?

Mark Miller: I'm sorry, Mr. Korb. I shouldn't stand up, because my clients are excited about the project and are not asking that the zoning be denied.

President Korb: Great, but?

Mark Miller: But, the issue is, as Ms. Worthington referenced, is an issue about the drainage.

President Korb: Okay.

Mark Miller: They just asked me to, called me today, which explains my very casual attire.

President Korb: You look great, but you need to tell the record who you are.

Mark Miller: Okay, I'm sorry, Mark Miller. They just asked me to come in and express their concerns on the record.--

President Korb: Okay.

Mark Miller: --of this proceeding. I had them take some pictures. As all of us know, it's raining quite heavily today.

President Korb: No? Did you take those pictures today, Mr. Miller?

Mark Miller: Yes, sir.

President Korb: Did you?

Mark Miller: Yes.

President Korb: Okay.

Commissioner Nix: Good timing.

Commissioner Tornatta: Thank you.

Mark Miller: I might give Mr. Jeffers a copy.

President Korb: Thanks.

Mark Miller: (Inaudible) Ms. Worthington (Inaudible).

President Korb: And, the people you're representing, Mr. Miller, are?

Mark Miller: Sticks and Stones, the owners of the company are here. Basically, what the photographs show, the first photograph on the first page, if I may walk over to the screen?

Commissioner Nix: There's a pointer, Mr. Miller.

Mark Miller: Do you have a pointer?

President Korb: We couldn't find it earlier.

Unidentified: Bill's got it.

President Korb: Mr. Jeffers?

Mark Miller: The first picture is this area right here.

President Korb: Yep.

Madelyn Grayson: Mr. Miller, can you stand closer to the microphone, because we type these verbatim.

Mark Miller: Yes, I'm sorry. Is right here, and the lower, it would be the southwest corner of the first parcel that's already been rezoned. The picture below that, you really can't see it on this photograph, but if you extend down the access road, it would be approximately in this area here. There is a little bit of a high spot, as you can see in those two photographs, between those two low points. There is some green space there in the midst of the water today.

President Korb: That's just west of the, what appears to be a clubhouse?

Mark Miller: That would be west of our office building? Southwest of the office building.

President Korb: Yeah, okay.

Mark Miller: Yes, Mr. Korb. Then, oh, great, then the picture on the top of the second page is their retention area, which has overflowed its design today, as a result of the rain. It's in, you know, in the center area, excuse me, in the center area of their parcel, approximately there. The third picture is just showing that there is a drainage area, that they understood would be on their property, and it's just really showing the back end of their property, okay? So, the only issue that they would like to express on the record, and is something that they have communicated, is my understanding anyway, I've not had a chance to speak to Ms. Worthington, since I did just find out about this today.

President Korb: Okay.

Mark Miller: But, they have had discussions with her, expressed these concerns that the development of their project take into consideration the issues that are in place today. It is noted in the Area Plan Commission staff report that most of the subject site is in a flood zone, and that is going to push this water somewhere. We understand, and my clients understand that that is not a matter that is perhaps

properly before you today, that that is a Drainage Board matter, that that would be addressed and should be addressed. They are simply asking that I make you aware of the concerns and the problems in this area, and ask that Sterling Boiler be sensitive to that.

President Korb: Sure. Did, Mr. Felker, do you have these pictures?

Mark Miller: He does now.

President Korb: Okay, great. Would you mind, Mr. Felker, coming to the microphone? Mr. Miller, if you don't mind just standing there. Maria, please don't freak out, we're not going to ask any legal questions.

Maria Worthington: Can I come with him?

President Korb: Yeah, come on. This is a dorky question, but—

Mark Miller: He can handle it.

President Korb: Yeah, I figured he can, but, here's what I'm thinking, I mean, you've been gracious enough to extend sewer lines, which are not cheap to the neighbors, which is pretty cool. I've got to believe that when you see pictures like this, doing the business that you do, that you're going to help address that. Am I imagining that? Or is that, I don't expect you to fix it totally, but, give me some feedback on that.

Dan Felker: When we started to put this together, we will have our own on-site drainage system that we're putting in.

President Korb: Okay.

Dan Felker: There is a retention pond already planned.

President Korb: Okay.

Dan Felker: We're going to have a retention pond that will then feed into the city storm sewers.

President Korb: Okay.

Dan Felker: I thought, and I still think that we have, we've accounted for that.

President Korb: For this, what we're looking at here?

Dan Felker: Yes, sir.

President Korb: Okay.

Dan Felker: I mean, we can't fix problems that are off of our property—

President Korb: Absolutely.

Dan Felker: — that was already there, but we're certainly not going to add to them. We're, what we're going to build is an in-house drainage system.

President Korb: Because, I think what Mr. Miller's concerned about is exactly that, dumping onto your client's property.

Mark Miller: That's their concern.

President Korb: Sure. It's a valid one. Absolutely. Guys?

Commissioner Nix: Well, I just want to emphasize the fact that every time we approve these drainage plans for a development, we're comfortable that within the development itself we've helped the situation, not hurt it. The only concern I want to raise is that seeing this and seeing the area out there before, Mr. Felker can do everything in the world on his 27 or 37 acres, 20, and is that right?

Dan Felker: Somewhere around 30.

Commissioner Nix: 30 acres? I think you're still going to see some of this down the road. Correct me if I'm wrong, Mr. Jeffers. So, I just want to make sure that you think because he's doing this development it's going to solve all these problems out there. I don't know that that's necessarily true.

Mark Miller: Mr. Nix, I have explained to my clients, and they have also spoken to Mr. Jeffers, that the objective of the drainage ordinance, as Mr. Felker just graciously said, is to not make the situation worse.

President Korb: Right.

Mark Miller: It is not—

President Korb: To fix it.

Mark Miller: —(inaudible) obligation, nor are we asking it be, of Mr. Felker to solve a much bigger problem.

Commissioner Nix: As long as that's clear, because I think we've seen that before, a developer comes in and does all the things they are asked to do, by law and by the things that we ask them to do, and people still have water problems. They say, we made this development and now we still have this water problem. Why didn't it go away? That's the concern I have.

Mark Miller: I think one of the purposes of being here today was not only to express the concerns that the situation not be worse, but get everybody familiar with each other, and an understanding that we're all going to try to accomplish that, but there's no magic solution when you're in a flood zone.

Commissioner Nix: Good. Okay.

President Korb: Super.

Mark Miller: Thank you.

President Korb: As long as your client understands it, that's great. Great. Good. Gentlemen, any other questions of Mr. Miller? We see none. Maria, if you want to rebutt, you can, but I think you'd be smart just to stop where you are and ask for a vote. Just guessing off the top of my head.

Maria Worthington: Yeah, I think that sounds like a good idea. Although, I did want to ask for verification.

President Korb: Absolutely.

Maria Worthington: One of the comments that Dan made was that working with Bernardin Lochmueller and, you know, the process that we'll need to go through with this development to have an appropriate drainage plan, we'll do what we're asked to do, and maybe over and above that, but the retention pond on our property isn't going to do anything to help what's down here in these pictures. I don't believe. I think one of the comments that he made, just maybe if you take it literally how he said it, may have sounded like there is something we can do on this site to fix that site, and I don't think that there is.

President Korb: No, as I understand the comments from Mr. Felker, that was, that's what Commissioner Nix was talking about.

Maria Worthington: Yeah, I appreciate that.

President Korb: It's like, hey, we're not going to make this problem worse. I mean, today, it's obviously a pretty unusual event, not unusual anymore, according to Mr. Gore it would be unusual, but what we've got going on is a situation where this is not going to fix the total problem. I understand that, Mr. Jeffers agrees with that. That was a dig. Global warming. But, anyway, no, I think I understand—

Maria Worthington: Okay.

President Korb: —and I just want to be sure you all understand that him doing his work is not going to totally fix the Sticks and Stones thing.

Maria Worthington: It's probably not going to fix it at all.

President Korb: Okay.

Maria Worthington: I'm just being frank about it.

Commissioner Tornatta: But, the deal is, you're going to go through the process of Drainage Board—

Maria Worthington: Yes.

Commissioner Tornatta: —and all those facets. This is not what we talk about at this function. He brings that up, but, really it's just for note. We're not holding you on the spot for anything that you say in this meeting with that capacity, because it goes through Drainage Board.

Maria Worthington: Great.

President Korb: Right.

Maria Worthington: I just want to make sure that—

President Korb: Okay. Any other comments?

Maria Worthington: No, thank you very much.

President Korb: Oh, you're welcome. Last chance, Mr. Miller. I'm sorry, Commissioner Nix?

Commissioner Tornatta: Motion to approve.

President Korb: Okay.

Commissioner Nix: Second.

President Korb: All those in favor say aye. Opposed same sign. The motion passes.

Commissioner Tornatta: Roll call vote.

President Korb: Roll call vote, okay. Sorry. Commissioner Nix?

Commissioner Nix: I vote yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes. Congratulations, Mr. Felker.

Maria Worthington: Thank you very much.

President Korb: Thank you, Mr. Miller, and Sticks and Stones for coming. I need a motion for adjournment.

Commissioner Tornatta: So moved.

Commissioner Nix: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: We're out of here.

(The meeting was adjourned at 6:10 p.m.)

**Those in Attendance:**

Jeff Korb

Clay Havill

Maria Worthington

Others Unidentified

Bill Nix

Janet Greenwell

Mark Miller

Members of Media

Troy Tornatta

Madelyn Grayson

Dan Felker

**VANDERBURGH COUNTY  
REZONING BOARD**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
REZONING BOARD  
APRIL 15, 2008**

The Vanderburgh County Rezoning Board met in session this 15<sup>th</sup> day of April, 2008 at 5:40 p.m. in room 301 of the Civic Center Complex with President Jeff Korb presiding.

**Call to Order**

President Korb: Welcome. Thanks for coming. Let's go ahead and get this rezoning petition going.

**Approval of the March 18, 2008 Rezoning Meeting Minutes**

Janet Greenwell: My apologies, I was just informed that you may not have received the minutes. I have no knowledge of why that would have happened. You have them? Okay, good. In that case I would ask that you approve our minutes from our last meeting.

Commissioner Tornatta: So moved.

Commissioner Nix: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. They are approved.

Janet Greenwell: Thank you.

President Korb: You're welcome.

**Final Reading: VC-2-2008: Petitioner: Bill Engelbrecht's Orchard & Farm  
Address: 16820 Petersburg Road  
Request: Change from Ag to C-4 with UDC  
Action: Continued Until 6/17/2008**

Janet Greenwell: I'm Janet Greenwell with the Area Plan Commission. We have only one rezoning on tonight's agenda. It's VC-2-2008, 16820 Petersburg Road. Bill Engelbrecht's Orchard and Farm Market is requesting to rezone a 1.64 acre part of his property at 16820 Petersburg Road from agricultural to C-4 with a use and development commitment. The site is on the west side of Petersburg Road just south of the Highway 57 intersection. Mr. Engelbrecht has indicated plans to establish an orchard on the parent parcel of this agriculturally zoned acreage. He proposes to rezone a part of the site to allow an orchard market. A preliminary site exhibit was submitted at the Area Plan Commission meeting, and I've scanned that plan and it's part of tonight's presentation. It should be coming up on your screen momentarily. The use and development commitment submitted as part of the rezoning request eliminates most commercial uses typically allowed in a C-4, allowing uses that were identified by Mr. Engelbrecht as possible future commercial activity on the site, and commercial uses related to the produce grown on the site. The C-4 classification will allow sales of incidental items like candy, bakery items, novelties, those types of things that are not within the scope of a permitted roadside

agricultural stand that's allowed in an agricultural district. Our future land use map and the comprehensive plan indicates the area along Petersburg west of 57 as an area of agricultural with scattered residential. The east side of Highway 57 is industrial. The orchard and the roadside stand for agricultural products are permitted in the existing agricultural district. This request is to rezone just a small portion, 1.64 acres, to C-4 with a commitment limiting the uses to sales and service, uses typically associated with the primary use of the property as an orchard. At APC I think they referred to it as agri-tourism uses. The Evansville MPO indicates that the orchard market should not have a significant impact on any transportation network currently or proposed, and Area Plan Commission voted to recommend approval at their meeting on April 10<sup>th</sup> with eight affirmative, one negative, and one abstention vote. If you have any questions, I'll be glad to try to answer them.

President Korb: Essentially, Janet, what we're looking at here is rezoning from agricultural to C-4?

Janet Greenwell: With a use and development commitment.

President Korb: With a use and development commitment, and that's primarily because they're wanting to put a store on the property to sell their products?

Janet Greenwell: They want the ability for the store to sell a few additional items, in addition to the produce grown on the site.

President Korb: Gotcha. Okay. So, if we can, we will first hear from the petitioner representative, Jim Morley, Jr., from Morley and Associates who is serving as the professional for this petition.

Jim Morley, Jr.: Jim Morley, Jr., Project Engineer with Morley and Associates. I'm going to provide you also a map that shows the area that they want to rezone, and then the area that's existing, has already been planted in trees, and the area that they plan on planting trees in the future. The request in front of you tonight is to allow, they've already got trees planted in the area that I've shown there in the red square, and they plan on increasing the size of the orchard into the two yellows. The yellow behind the rezoning area would be a u-pick facility, and the intent is then that there be a store in front of the u-pick facility in which they would be able to sell the products from this orchard. Then, the rezoning would allow them, if they wanted to sell candy or pies or something like that, they need the C-4 zoning. It is pretty typical to do this kind of thing. You can't afford to put 80 acres of orchard in a commercial zoning area, so, you have to zone the orchard mart in the agricultural area. We received a positive, one negative and one abstention vote at Area Plan Commission.

President Korb: What was the vote again?

Jim Morley, Jr.: The vote at Area Plan Commission was eight positive, one negative, and one abstention.

President Korb: As we're looking at this sheet you gave us, which we did not have at the Area Plan Commission meeting, you have two additional proposed locations for the orchard?

Jim Morley, Jr.: That's the area that they would expand into in planting. That doesn't have to be rezoned. That's just trees.

President Korb: Okay, and do the Engelbrecht's currently own those two plots of land?

Jim Morley, Jr.: The parcel behind the rezoning area would be part of the purchase.

President Korb: Part of this deal?

Jim Morley, Jr.: Part of this deal, and the other part would be based off of a lease.

President Korb: Okay. Questions for Mr. Morley? None? Thanks, Mr. Morley. Remonstrators? People who are not in favor of this? Come on up, and if you would just, please, state your name. One at a time.

Ryan Hart: My name is Ryan Hart. My residence is 16740 Petersburg Road, which would be to the southwest of the rezoned piece of ground.

President Korb: Can you show us where that is on the....not you–

Ryan Hart: Oh.

President Korb: –but, the pointer.

Ryan Hart: It's the green, right there. Yeah.

President Korb: Right there?

Ryan Hart: Yeah.

President Korb: Okay.

Ryan Hart: That's my ground. One of the major concerns we have with this whole thing is the traffic increase on Petersburg Road. If my wife or my aunts, who walk down the road, they might, five cars tops might pass them on an afternoon walk. Another concern is there are some sharp curves on the road, and people who aren't familiar with the road, take it too fast and end up in the ditch, which might be in my neighbor's front yard, or my front yard, for that matter, if they're going too fast anyway. Another thing would be Highway 57 traffic, the industrial parks that are already south of us on Highway 57 have widened this highway and put turn lanes in for industrial traffic. Would there be that access at Petersburg Road, or at Baseline Road, which would just be to the south of the Petersburg exit off of 57? Another thing, in the Area Plan Commission last week, the Engelbrecht's stated that they had no other alternative on the property that they were proposed to rezone. I spoke with the land owner, Steve Wheeler, and he said that he would have no objections to giving them more land to rezone, or moving it away from the Donner's property, being that the building site is only 50 foot off of their property line right now. His only concern would be if he would just leave him enough road frontage for whatever his children would want to do in the future, because he himself says that he has no plans to do anything with that agriculture land, you know, while he still owns it. That is all I have to say.

Commissioner Nix: This gentleman you're referring to, he lives where now?

Ryan Hart: Steve Wheeler?

Commissioner Nix: Yeah.

Ryan Hart: He lives in St. Louis.

Commissioner Nix: Okay.

Ryan Hart: But, he is the owner of the agricultural land that they are leasing now.

Commissioner Nix: Okay. Thank you.

Ryan Hart: And their orchards are on. To my knowledge, he's the owner of the land that they're wanting to rezone. To my knowledge.

Commissioner Nix: You'd mentioned something about access to the industrial park there. Currently, the only access is if you go on up 57 and come back around, or go back down, there's no back entrance to the industrial park at this time, are you saying that you heard, or you sensed that there will access to the back of the industrial park at some time?

Ryan Hart: The industrial park up there now?

Commissioner Nix: Yes.

Ryan Hart: No, I don't think that there will be a back entrance to it. I'm saying that—

Commissioner Nix: Okay.

Ryan Hart: —turn lanes off of Highway 57, they were put in for the industrial park, but if they're going to put, you know, a commercial lot on a residential road, would they need turn lanes off of the State Highway 57?

President Korb: So, if I'm understanding what you're saying correctly, since the Area Planning Commission meeting, which was last Thursday, you've had conversations with Mr. Wheeler?

Ryan Hart: Yes, on the—

President Korb: So, as we're looking at this map, the one that you're looking at has got the white deal—

Ryan Hart: Yes.

President Korb: —you're saying that Mr. Wheeler has said that he would sell them different property just to the left of where that, help me understand where Mr. Wheeler's.....because my understanding was, that if Mr. Wheeler was going to do that, if I'm wrong on this please tell me, that it would be at a higher price to the Engelbrecht's.

Ryan Hart: Well, I mean, it might be, whatever his price would be, if he wants to sell them more land, you know, extend that part that they want to rezone, or just move that chunk of land down a little bit away from the Donner's.

President Korb: And, that's my question is, is that what Mr. Wheeler told you that he would agree to do?

Ryan Hart: Yes. He is willing to look at it again, and try and get it a little bit further away from the Donner's.

President Korb: Because that would then, does that cut up his parcel of land? I guess it would.

Ryan Hart: Well, he wouldn't want to leave, still own a little piece between the Engelbrecht's and the Donner's. He might want to expand what they want to rezone.

President Korb: Got it.

Ryan Hart: To my knowledge of what he told me.

President Korb: Okay.

Ryan Hart: But, you know, the only thing that his concern was, was to leave him enough road frontage, you know, so he doesn't, you know give all that up.

President Korb: Well, then that pushes the property closer to your residence, wouldn't it?

Ryan Hart: Yes, it would.

President Korb: And, you're response to that is?

Ryan Hart: If it goes through I'll be moving.

President Korb: Okay. Okay. Alright, anybody else? Thank you.

Ryan Hart: You're welcome.

Christina Donner: Hi, my name is Christina Donner, and I live at 16900 Petersburg Road, and that is the area that we've been talking about that abuts to the property that he's wanting to zone C-4. I can tell you that I have been a resident in Vanderburgh County for at least 25 years. We've lived there 25 years in rural Vanderburgh County and in Scott county or district, because we just like it out there. The school system was really good. I can tell you that I raised two kids there. I can also tell you that I lost my son and my granddaughter in the tornado that went through the trailer park. One of my grandsons lived. This is the only thing now familiar to him. The only place. They lost their trailer completely. He lost everything. He likes coming out there because it is familiar. He stays in his dad's bedroom, things like that. I asked them to please put up a fence in the back of the yard, because they are wanting to do an apple u-pick orchard that is just right behind our house. I said, that way it would keep our kids and our dog in, and would keep kids and people, you know, from coming into our yard. I was told by Bill Engelbrecht that he couldn't afford it, or just didn't see why it was feasible. Then he told me that he could put up poles and barbed wire. This leads me to tell you that the spring of 2004, we did buy from Terry Wheeler part of the land that is on the corner, or the hill that is just past their house, if you're going the other direction. My daughter and her husband lived there for about two years, wanted to move, so, in 2006 we decided to sell. Mr. Engelbrecht came to us, approached us, and he wanted to buy that land, because he said it was precious to him, his grandmother or somebody had lived there, and he really liked that area. So, he gave us \$9,000, in cash, for this area. So, as far as being able to afford anything, being, you know, the land going up, or

he might be able to have to put up a little bit more money, is, I don't know, it doesn't make sense to me. So, he said that he would like to put a store up there, on the hill, but he was told that it would cost him, for two acres of land, and a large, block building barn that is already there, that it would cost him \$80,000. Okay, and this land was owned by, he said his cousin, one of the Wheelers. We bought this from Terry Wheeler when we bought our land, did not include that. In the long run, because he said it was not feasible to buy that, he would have to make some improvements to it, said it wasn't feasible to do that. In my opinion, I think that in the long run, that it would make more sense to buy that property, and, you know, recondition it, or whatever he would have to do to meet his standards. I would think that building there does need more work to the store, but it's easy access to his crops, there's plenty of parking area. The caretaker that does live in the small house that we sold to him would be right there on that property. There is very good visibility there, from Highway 57, because it is way up on a hill. So, the view and the atmosphere there would be perfect for an orchard. It is also a good area for hayrides, which he said that would probably happen there. Now, you tell me that \$80,000 and a cousin that doesn't want to sell, or is asking this amount of money would really be something that a man of this stature could not afford? Okay, so, he'll come up here in a moment, okay, and I know that he will talk fast, he'll talk loud, and he'll counter attack everything, of course, that I'm saying, and all I have said that the cousins who own the land and they don't want to sell, the store would look very nice that he wants to build. Oh, it will be landscaped and it will look nice and it will fit right in. This is just a good idea as to where he might be able to put this. I'm not saying, of course, that he could. There's plenty of land out there that could be zoned for him to put his orchard. I'm not really opposed to him having one, but I don't want one put where 50 foot from my property there would be a large, commercial building, and if there was a privacy fence there, I would either be, I would come in at night, say in my driveway, pull in, and instead of seeing the deer that I see in that field, I would see a large, commercial building, and/or a privacy fence, lights, people, whatever. I would rather, in my mind, I would rather see the deer, I would rather be able to see the sunset, that I've looked at for 25 years. That is what really bothers me. I think that, he did tell Joe, his son, that he wants to, you know, give him a chance, just like his father gave him a chance. Well, he, his dad is teaching him something, he is teaching him how to look at the almighty dollar, the bottom line is no regards for people or the residences that are being negatively affected by his selfish actions. So, Joe did keep telling my husband and I, when he came to our house, that he did not want to force us out of our home. The thing that I do care more about is that I would rather see the deer. So, I don't really have anything much else to say, but I believe that all of you would much rather see some deer and sunset, than you would a large, commercial building and/or a private fence. That's all I have to say.

Commissioner Tornatta: Could you please show me where you live again?

Christina Donner: I live just adjacent--

Commissioner Tornatta: Okay.

Christina Donner: --right there. There's a large, log home that we built there 25 years ago.

Commissioner Tornatta: Alright.

Christina Donner: And, you're looking at my house right now.

Commissioner Tornatta: And that entire parcel is yours?

Christina Donner: Yes. Our parcel goes all the way back, it would be adjacent to where he wants to—

Commissioner Tornatta: Right.

Christina Donner: —stop right there at the back.

Commissioner Tornatta: Okay, and then initially you said something about him building a fence, and now you're not at all interested in a fence?

Christina Donner: He, yes, we're interested in a fence, very.

Commissioner Tornatta: So—

Christina Donner: If that, if he would have to build that building there—

Commissioner Tornatta: Uh-huh.

Christina Donner: —then we would want a privacy fence.

Commissioner Tornatta: Okay.

Christina Donner: You know, and they have said, I believe that they would agree with that. So, at, you know, if I look out, I'm going to see either the privacy fence and/or this large building.

Commissioner Tornatta: Was that in the use and development?

Christina Donner: I'm sorry?

Commissioner Tornatta: It was not?

President Korb: The fence?

Commissioner Tornatta: Uh-huh.

President Korb: No. That was basically a gentleman's agreement at the Area Plan.

Christina Donner: That was, yeah, and what he had told us at first was that instead of a fence, they wanted to put pine trees up. Well, you know, I don't know about you, but it takes a long time for pine trees to grow up enough to obstruct your view of things. So, I think that they have said that a privacy fence could be something that they would, you know, talk about, they would agree with.

Commissioner Tornatta: And, how tall of a privacy fence would you be looking for?

Christina Donner: Well, what four to six foot. About a six or even eight. That's still not gonna—

Commissioner Tornatta: I mean, normally you're talking eight or twelve.

Christina Donner: Okay. A lot taller than me.

Commissioner Tornatta: Twelve's a little big, I guess.

Christina Donner: A lot taller than me.

President Korb: Did you say twelve?

Commissioner Tornatta: I was going to say eight foot. Like a six to eight foot.

Christina Donner: Yeah, so even though, you know, if you can imagine from our point of view, yeah, you're going to have a privacy fence, but you're going to still see that big building right there. Like they said, it's only going to be 50 foot from our property. We measured that, and that's not very far away from my house, or my property. So, it would be hard to not have a fence also in the back. I have a dog, I have grandkids, and they wouldn't even be able to get out and run around. The dog is so friendly, you know, she wouldn't hurt nobody, she would probably run, jump and, you know, lick them to death. But, they would have a problem going out and playing, even if there's barbed wire and poles in the backyard.

Commissioner Tornatta: Right.

Christina Donner: So, that's basically what I have to say.

Commissioner Tornatta: Alright.

Christina Donner: Okay?

Commissioner Tornatta: Thank you.

Christina Donner: Thanks.

President Korb: Any other remonstrators?

David Donner: Hi, my name is David Donner, and I live at 16900 Petersburg Road. The same one she lives at. She didn't leave me a whole lot to say. I would like to talk about the fence. I know Joe gave me a piece of paper here earlier about a fence, but regardless of a fence or not, what they're planning to do here is put a commercial site right next to a residential site. I just can't perceive that you guys would let this happen on a residential place. If you could just come out there and look at the land and everything, and look at the area and see what they're planning on doing. I'm going to be boxed in, all the way around. They're going to put a u-pick orchard behind my house, and then this commercial lot right here. Across the street there's a commercial lot that's abandoned. So, you know what's it going to do to the price of my land. It's going to go straight downhill. I will be able to get nothing. Now, I don't know about you, but when I built this house out here, I built it by hand. Nothing was given to me. I built the house myself, and it's got to be worth some money now, but now this is going to happen, and I've got a feeling that it's just going to go right downhill. It's going to be worth little to nothing. I've lived in Vanderburgh County all my life. I know Bill hasn't, and his son don't, they live in Warrick County. I feel like I've paid my taxes, I've paid my dues, I don't think that this should go on. There's plenty of places to put it, even if he would expand it over to at least get it away from me some, you know. I mean, there's only 50 foot off of my property this is going to go on. Like I know Ryan said that the Wheeler's said they would give him more room, that would be great for me. I'm not opposed to the apple orchard being there. I think it's a great thing. I just don't want it right on top of me, you know. Last

week at the Area Planning Commission, one of the Commissioners was sitting there talking about how great it was to have the orchard on the north side, I grew up on the north side in the North Park area, and, believe me, they didn't build that building and everything right next to the residential people, it's up on the hill away from everybody, and everybody can enjoy it. That's not what's going to happen here. All I ask is that if you can, come out and look and see what's going on, and, please, don't put this right next to my house. Anything else?

Commissioner Tornatta: That's it.

David Donner: Okay.

Commissioner Tornatta: Thank you.

Connie Engelbrecht: I'm that other orchard. I'm Connie Engelbrecht. I was in front of you guys a while back rezoning for the same thing as a C-4 status. I also have a lot of education in what they are trying to do in agri-tourism. That was always what we did at Evansville. Their store was more of a high end market. It's a very nice market, but we had two different ideas. My concern for these people are, when I got the phone call today, is that property was C-4 property up there in Newburgh, and when things got bad it got developed. You're setting a C-4 property that could very easily turn into something else if things go bad, and it's going to be right next to two residential areas. My other concern is, I looked up who owns the properties, and I don't see Bill Engelbrecht or Joey Engelbrecht on any of the properties, at all. I do know there is a lease, and that lease is with some certain cousins, and I can tell you right now my mom's probably having a fit. She was a Wheeler, and that's her homestead. What I had suggested today was, as an agri-tourism business, this is something that's going on right now in Indianapolis with a friend of mine, there is no need to rezone Ag. Agri-tourism, under Indiana statutes is considered a sustainable agriculture. Okay? It's not considered a by-product or fantasy land, it's actually for education purposes for people to be able to come out and enjoy a farm, farm experiences, corn mazes, you know, apple festivals, apple butter, I mean, that's the kind of thing, apple picking, of course. Alright, that's the kind of the thing that they recognize with agri-tourism. Quite honestly, I'm just totally blown away by this, because of the fact we did separate, and I really don't think there's going to probably be some legal concerns on my end. This isn't concerning you. My concern is for these people who are also shirttail relation of my mother, and of the Wheeler ground, and I can tell you right now the main person who owns that property that would be ideal, where the homestead was, probably wouldn't sell it. She probably won't sell it. She's not here because she's in Tennessee. She owns almost all the Ag ground around besides Steve Wheeler, who I think is well ill-informed of what's going on. Because the family agreement was he stays in Warrick, I stay in Vanderburgh. So, I just want you to look at the fact that he owns none of that ground in his name. That house he bought is in a lady's name, a Ms. Gresham, it happens to be his mother-in-law. The piece of property he's trying to rezone is in his sister-in-law's name. This concerns me. That's all I got. Thank you.

President Korb: Any more remonstrators? Summation? Or, actually questions from Commissioners?

Commissioner Nix: I do have one to Mr. Morley or Mr. Engelbrecht.

President Korb: Sure, go ahead.

Commissioner Nix: I guess, what I'm having a hard time understanding, and this was your pleasure to do, but why exactly right there?

Bill Engelbrecht: Okay.

Commissioner Nix: I mean, why not over 50 feet to the west? I mean, I'm looking at this parcel here, and I don't know that there's ten feet between the edge of the house, and if there was a fence put up where that fence would be.

Bill Engelbrecht: Okay, let's go back to some of the things that were said.

Commissioner Nix: Please answer my question.

Bill Engelbrecht: I'm going to answer that question, yeah.

Commissioner Nix: Okay.

President Korb: I'm sorry, your name for the record?

Bill Engelbrecht: Bill Engelbrecht.

President Korb: Great.

Bill Engelbrecht: The property that Mrs. Donner was describing as on the hill, where the dairy barn used to be, the property right there, I did try to buy that corner from Tim, Tom and Terry Wheeler and Rosemary Wheeler, which is up on, where she was talking about—

Commissioner Nix: Show me where that's at.

Joe Engelbrecht: It's mostly everything outside of the red—

Bill Engelbrecht: No, wait a minute. He's talking about the house.

Commissioner Nix: Janet, if you could please. Well, do we have a pointer? I don't know if a pointer would even work, but maybe if we could scan down.

Joe Engelbrecht: It's just south of the bottom red line there.

Bill Engelbrecht: See where the curve is there on the red line there?

Commissioner Nix: I don't see red, so I —

Bill Engelbrecht: Right there where the pointer is now.

President Korb: Look on your screen.

Bill Engelbrecht: That property right there where the pointer is.

Commissioner Nix: It just all looks grey to me.

President Korb: Oh, you don't, you're color blind?

Commissioner Nix: Yeah.

President Korb: Okay.

Commissioner Nix: Okay, I got ya'.

Bill Engelbrecht: That was the property that Mrs. Donner was talking about there.

Commissioner Nix: On the east side of Petersburg Road?

Bill Engelbrecht: Right, right.

Joe Engelbrecht: West.

Bill Engelbrecht: On the west side, I'm sorry.

Commissioner Nix: West side, okay.

Bill Engelbrecht: We tried to, we talked to Rosemary Wheeler, Tim, Tom and Terry Wheeler, which is her sons, who own that property. We wanted to buy that property there and take that dairy barn and remodel it into a market, and then build another barn behind it for our packing and grading and cold storage. They said they did not want to sell at any cost right now. They have plans that they want to keep that all open for future development someday possibility. So, they would not sell it to us. The ground that she was talking about, they said that they would take two and half acres across the road, which is on that curve, which everybody said was dangerous, and they would sell that for \$90,000 for two and a half acres. For agricultural ground I thought that was a little steep. Okay? I am doing this so we, I'm going about the answer about the ground, so, I got with Steve and we talked about, what our idea was to put the market back on the farm where the orchard is. Where you see it there in the, right there in that area.

Commissioner Nix: North of the proposed on this drawing I've got?

Bill Engelbrecht: Yes, well, it's to the west and northwest. But, the Planning Commission guy told us that we would have to put a 24 foot concrete road and a new bridge across the ditch to go back to the market to rezone it C-4. You can see that's probably better than a quarter of a mile back to that building. That would be a very expensive road. Okay? So, I was talking to Steve, and I didn't want to put the building on the curve, like they said, that's a dangerous curve right there, so, we went up to the straightest area on Petersburg Road that was property that Steve still owns to put our market there. The reason we picked the spot where the market is on your papers there, was because west of that is very low ground. Where all your drainage runs to, it's very, very low. Where this property is it sits high enough where we could do proper drainage for the building, the market, and the houses that are in that area. Does that answer your question?

Commissioner Nix: Okay.

Bill Engelbrecht: Okay. Can I go on with some other stuff? Or, do you have any other questions?

President Korb: I'm just curious, and it's been kind of muddied up here a bit, do you own the proposed area that we're talking about rezoning?

Bill Engelbrecht: We are going to purchase it—

President Korb: From Steve?

Bill Engelbrecht: –from Steve if we can get it rezoned.

President Korb: Okay.

Bill Engelbrecht: That's why we haven't purchased it yet, because I didn't see any use in buying it until we had it rezoned.

Commissioner Nix: This area just to the north of that, who owns that?

Bill Engelbrecht: Steve.

Commissioner Nix: Steve owns that also?

Bill Engelbrecht: Uh-huh.

Commissioner Nix: Okay. Will that be part of the option to purchase?

Bill Engelbrecht: Yes, we will purchase that.

Commissioner Nix: But, you don't need to have that rezoned because that will be–

Bill Engelbrecht: You're talking about would be–

Joe Engelbrecht: Can I come show you?

Commissioner Nix: She's got a pointer right there.

President Korb: Sure, come on up.

Commissioner Nix: This right here.

Joe Engelbrecht: (Inaudible).

Commissioner Nix: And this will remain agricultural, because all you will have on there is, okay. Gotcha.

President Korb: Okay.

Bill Engelbrecht: Any other questions on–

President Korb: So, Steve is family, right?

Bill Engelbrecht: He is my cousin, yes.

President Korb: Okay.

Bill Engelbrecht: He is my uncle and aunt's son.

President Korb: Alright. Well, you know what the next obvious question is?

Commissioner Nix: No?

President Korb: Go ahead and ask it. If I'm going directly to my left, is that west?

Commissioner Nix: Yes.

President Korb: I mean, you said the other night that you would be willing to put up a fence, right?

Bill Engelbrecht: Yes. We have a letter stating that we will.

Joe Engelbrecht: Joseph Engelbrecht. (Inaudible).

President Korb: Okay, what happens if we ask Cousin Steve to move that property line a little bit more over to the left, or to the west, which gives the Donners some breathing room? How much more cost is that to you?

Bill Engelbrecht: Well—

Commissioner Tornatta: He says it's a drainage issue.

Bill Engelbrecht: —it's a drainage issue. But, it could probably be moved over somewhat, you know, maybe another hundred feet. But, the reason we put it there is because—

President Korb: Sure.

Bill Engelbrecht: —Steve said he wanted enough area there in case someday his children decided to develop that or what they wanted, he wanted—

Joe Engelbrecht: He didn't want to be landlocked.

Bill Engelbrecht: He didn't want to be landlocked where he couldn't get back to that other property.

Commissioner Nix: Can you set that to scale? Show me a hundred feet if you could.

President Korb: Do you see where we're going from with this?

Bill Engelbrecht: I know what you're going with, yeah, but he told me that he wanted what 200 feet?

Joe Engelbrecht: Yeah.

Bill Engelbrecht: He wanted at least 200 feet from Mr. Hart's property to where our property would be.

Commissioner Tornatta: I've got a question for Mr. Morley, if you guys—

President Korb: No, go ahead.

Commissioner Tornatta: On a situation where there's a privacy issue between a C-4, whether it's heavy manufacturing or anything of that capacity, what type of buffer zones have you seen in the past? Whether it be pine trees and a fence, or, I mean, what is going to diminish the building being so close to them, diminish the effects of that building being so close?

Jim Morley, Jr.: On previous projects, I can tell you I've seen everything from nothing to the berm and fence that you see around the Target on the east side, and that would probably be the two extremes. Obviously, trees grow taller than fences do, which I think is what they proposed to begin with. From the Area Plan Commission meeting that wasn't received favorably. The way I understood it, they said they would rather have a fence than trees. But, obviously, trees grow taller, so they obstruct more view of a building.

Commissioner Tornatta: At what point? I mean, I guess, we're talking about putting in small trees to start, and at some point that's going to take care of it. In the interim it probably is not going to take care of any line of sight issues. So, I guess, what I'm saying is how do you propose that buffer when a tree is not going to get the job done?

Bill Engelbrecht: Well, let me explain something. I'm open to options on that. The only thing is, you cannot put a berm along there because that would flood his property. We have to worry about his drainage—

Joe Engelbrecht: Mr. Donner's front yard.

Bill Engelbrecht: —Mr. Donner's drainage coming across to go across on down through the field, okay? So, we don't want to do that. So, it was Mr. Donner's and Mrs. Donner said they would like a privacy fence up there. We agreed to that. Then, outside, I guess, when she was talking about a fence on the north end of her property, she was talking about her dog and all this stuff, and, you know, we were just talking, and the only thing that's going to be behind her is a u-pick orchard, a small one, not a big one, that's going to be open two months of the year, and that's it. I told her that I would be willing to put anything up there they wanted. If you want me to put a barbed wire up, I would. I would put up anything you wanted me to put up back there as far as a fencing, but I wasn't going to put a high, expensive wooden fence across the back end of the property. That's her dog, not my dog, okay? You're supposed to keep your dog on your property anyway, I think that's a county ordinance. So, but I would be willing to work with her, because I've got some fence in the barn we could probably put up there to keep the dog in her yard. I could give it to them and they could put it up. If they wanted to keep the dog out of the orchard. There was some other issues that I wanted to address, if that's possible.

President Korb: Sure.

Bill Engelbrecht: Okay, on, when Mr. Hart was up here, he was concerned about the curve, and so was I. That first piece of property up there is on a curve, and it would make it a little more dangerous. The second piece of property they talked about across the street that the other Wheeler's were willing to sell is on the curve. The third piece of property the other Wheeler's wanted to sell me was on the right hand side, but it was still \$90,000 for two and a half acres. So, I talked to Steve and we came to an agreement that we would put it on the straightest stretch, where that market sits at there's a big, long straight stretch of road right there. If you can't see anybody turning in and out of that place, you shouldn't be on the road. Okay? I wouldn't, you know, I was going with, I don't have a problem with moving it further away from the Donner's house, if Steve agrees to it. Now, evidently he talked to Steve today, and maybe he's had a change of heart about it, but when I talked to him and set all this up this was what he wanted, okay? Also, other than the price, with Mr. Hart that's about all I had to discuss with that. I don't plan on doing any hayrides. I don't know where that came from. Maybe Joe said something, but that

would be, this is going to be Joe's farm. This is not Bill Engelbrecht's farm. This is going to be Joe's farm. Eventually it will be named a different name than Bill Engelbrecht's Orchard and Farm Market. Okay? This is my son's opportunity, and I'm trying to watch his dollars and cents, because he's 25 years old, he has no money, and he's starting from scratch. He's got to borrow this money to build this building, and to set up his orchard. Okay? So, it is a family, fourth generation standing here to go on with the orchard. Now, I did live in Vanderburgh County, just for the record, for 22 years. I was raised on the other farm on the north side, worked there until I was near 50, and then dad passed away and some things happened with the family and stuff and I no longer have anything to do with it. Okay? Warrick County has been developed, I paid dearly to do that with my family. We're going to keep a market there as an outlet for Joe's products, because my youngest daughter wants to run that market in Newburgh. We want to be able to sell our own products, grow our own fruit, our own vegetables, and that's why we came out to where Steve's property is. As far as the agreement Connie was talking about, that has nothing to do with Joe, and I'm not sure what it is myself. I thought just differently that my mom, being that she grew up on this property as a child, for all her young years, that she would be kind of proud. In fact, Uncle Bill, which is Steve's father, worked for my dad for many years. He was really into the orchard business of his own. I don't think he would be too disappointed with it either. So, that's about all I have to say. If there's any other questions you might have, I would be glad to answer them.

Commissioner Tornatta: I mean, I think the problem I have with it as it sits here, and, of course, we just got this 35 minutes ago, but I would like to see some type of substantial buffer between the housing that's there, existing today.

Joe Engelbrecht: What would you recommend?

Bill Engelbrecht: What would you recommend?

Commissioner Tornatta: Not this. This is what we're approving. I mean, that's, unfortunately that, I'm not going to, I can't build for you, but, and not to be short with that answer, but, I mean, that's something for you to determine. But, this right here is not-

Joe Engelbrecht: It is very vague. It's something more along the lines I think that Mr. Donner and I, you know, we need to come to a somewhat (inaudible) on that, a middle ground there.

Commissioner Tornatta: Right, and it's something you can do. I don't mind progress. I don't mind having these types of things. I think they're wonderful out in the community. But, at the same time, this proposal right there lends me to not look favorable on it, just for the fact-

Joe Engelbrecht: It was more or less me showing that I will do something. You know, something on paper that you guys could see that I will do something to buffer those two properties.

Commissioner Tornatta: Right, well, and, I guess, still I'm talking about the initial property and initial rezoning where you have it there, being so close to that house. It doesn't lend me any satisfaction that I know what that buffer's going to look like, or how far it's going to be back, and that it is going to be away from that house, and it is addressing just some issues that people have. With the expanse amount of land

that's out there, that it's crowding these houses that have been there for a period of time. So, that's really where my worry is at this point.

Commissioner Nix: Not trying to reinvent the wheel here, have you looked at where you show this proposed, this area, just to the west of there with a parcel that would accommodate that, with a lane going back?

Bill Engelbrecht: It's too low.

Commissioner Nix: This is all too low?

Bill Engelbrecht: To the west of that property.

Commissioner Nix: Right back here?

Bill Engelbrecht: Yes, that's all too low.

Commissioner Nix: Even as orchard, and then with a drive going back otherwise? I guess, to share the same concern Commissioner Tornatta's got, and I mentioned it a minute ago, there's a lot of ground out there and to plop this thing down within ten feet of somebody's house just really bothers me.

Joe Engelbrecht: The biggest thing was to have road frontage, you know.

Commissioner Nix: I understand that, but I know if I was a neighbor I would be upset. I know that if someone was wanting to do this next to one of you guy's houses, I think you would be upset too. To me it just doesn't make sense. It looks to me like there's other options to do this. I'm not against this at all. I think it's a great idea, but I'm looking here right now and I don't, on this drawing I don't see any space between the edge of this house and the property line. That just doesn't make any sense. I mean, there's all kinds of ground out here to develop, and why you would put this right here where it's at is just beyond me.

Bill Engelbrecht: Okay.

Commissioner Nix: I'm familiar with the area out there. I am.

Bill Engelbrecht: The number one reason, our number one goal was from the people at the market to be able to see the existing orchard from the site. Okay? That's why we wanted to put—

Joe Engelbrecht: (Inaudible).

Bill Engelbrecht: —I know, but that's why, see that big, existing orchard in red there?

Commissioner Nix: Uh-huh.

Bill Engelbrecht: That is very visible from where this location is.

Commissioner Nix: I understand that.

Bill Engelbrecht: That's on a hill there. Anything to the west of that proposed property is too low to put anything, as far as orchard trees. You can't put trees in low ground, they won't live. They'll get wet feet and they'll die.

Commissioner Nix: Okay.

Bill Engelbrecht: So, you have to put it on a knob, a hill where you get some reasonable drainage to drain these trees so that they will live. Because fruit trees, especially peach trees don't like wet feet. You know, stone fruit just does not like wet feet, which, I mean, roots being wet.

Commissioner Nix: I understand.

Bill Engelbrecht: Okay? So, if you go from there, and you go across the street or down the street to the other Wheeler property, we're talking \$90,000 for two and a half acres, or \$20,000 for two and a half acres. That makes a big difference on a young man's pocket book.

Commissioner Nix: I understand that.

Bill Engelbrecht: Okay? To me, I don't know if you went and tried to put a market up on the east end of the proposed in yellow there, there's no way to get to it, because there's property in front of that and it's kind of landlocked back there.

Commissioner Tornatta: Who owns that property that you're saying would be landlocked?

Commissioner Nix: That's the area you're calling the proposed orchard?

Bill Engelbrecht: Well, the proposed orchard is also part of the Wheeler Trust, okay?

Commissioner Tornatta: Yeah, but the bigger proposed is what I'm looking at.

Joe Engelbrecht: Then everything on the other side—

Bill Engelbrecht: Pardon me?

Commissioner Tornatta: The bigger proposed orchard.

Bill Engelbrecht: Oh, that's Steve Wheeler's property too.

Commissioner Tornatta: Is that too low?

Joe Engelbrecht: You're still a quarter mile from the road.

Bill Engelbrecht: You're still a long ways to get from the road. See where the rock road goes back there off the curve.

Commissioner Nix: That's not a maintained road is it?

Bill Engelbrecht: No, that's just a rock driveway.

President Korb: And, you've been told if you put that store there, you're going to have to build a concrete road?

Bill Engelbrecht: Yeah, a 24 foot one, and a new bridge across the ditch. You guys know how much that costs?

Commissioner Nix: We sure do.

President Korb: Well, I mean, I disagree with you two guys in that I think they've gone to every possible length to make this thing work in a different direction than plopping it right down next to the Donner's house. I really don't think that if Mr. Wheeler were to even give you an extra hundred foot to the west, not give, but lease or sell, that that would really bring any kind of relief to the Donner's. I mean, I think there would still be issues. Then you've got Mr. Hart who's saying that if this thing passes he's going to sell his land anyway. Did I hear that right, Mr. Hart?

Ryan Hart: Yes, sir.

President Korb: So, if we vote yes tonight, there's a "For Sale" sign in your yard within a month?

Ryan Hart: As soon as I can get it.

President Korb: Okay. So, I mean, the question becomes is this appropriate land use? I totally recognize the fact that there is an emotional drag here on this. There just is. I mean, you can't get away from that.

Commissioner Nix: I don't disagree with the term "appropriate land use". I disagree, with what I'm looking at right now, with where it's at. With where it's at. I mean, I think if this was either to the west of that, the area on the north side of there, or somehow working there with a lane going back, I think this would be very appropriate and I wouldn't have a problem with it. But to put this right there where it's at, I just, I wouldn't want it next to my house.

Ted C. Ziemer, Jr.: You know, you have about three options. One is for somebody to make a motion to pass, and then you vote on it. Another would be to table this, and you do want to take action, of course, within 90 days of the Plan Commission meeting, or the Plan Commission vote automatically stands. Or, refer it back to the Plan Commission--

Commissioner Nix: Without a vote?

Ted C. Ziemer, Jr.: Yeah, without a vote. Refer it back to the Plan Commission, in which case it would start again, would give an opportunity for the petitioner to continue to maybe to work with the remonstrators who are here, and, at least, expand the use and development commission, commitment to provide for this fencing, or trees, or both, or whatever. Right now there's nothing in the record, except your willingness to do that, but nothing that would require you to do that. So, those are your options.

Commissioner Tornatta: What, my question is, and I know we've dealt with this before, but, at what point are they starting all over again, versed, at what point are they just pausing?

Ted C. Ziemer, Jr.: If it's tabled, we're pausing. If it's referred back to the Plan Commission, they start over again, publish notice and have an opportunity to amend the redevelopment, the use and development commitment. So, they would give new notice. If this could be done by tomorrow, as I was checking with the Plan Commission, it can be heard at the May meeting. That's most unlikely. So, it would

have to be refiled for the June meeting. That's just the options that are available to the Commissioners.

President Korb: As I'm looking at the existing orchard, those are trees that have already been planted, guys?

Bill Engelbrecht: Yes, sir.

President Korb: And, as I'm looking at proposed orchards, those are, nothing's been planted?

Bill Engelbrecht: No.

Joe Engelbrecht: That's the farthest thing off the yellow part.

Bill Engelbrecht: The yellow part—

President Korb: Right.

Bill Engelbrecht: —we discussed with Steve that in the future, if we wanted to expand our peach production—

President Korb: Right.

Bill Engelbrecht: —there's a big hill right there, it's a nice knob to put another orchard, he said he'd be willing to lease that to us too also.

President Korb: Okay. Alright.

Commissioner Tornatta: As not to restart this train, I would open to continue this.

Commissioner Nix: To table it?

Commissioner Tornatta: To table it.

President Korb: But, I guess, my question would be, what's the possible outcome there? I mean, you've got, obviously, family issues here, which is unfortunate, but, you've also got the Donner's, and you've got Mr. Hart, and even if they did adjust that a hundred feet to the west, that gives you the buffer that you all are looking for, but does that really help take care of the Donner's in the way that they want? Obviously, Mr. Hart will go ahead and put his land up for sale.

Commissioner Tornatta: Well, I guess, what I'm looking at is, I think the Engelbrecht's here see a pattern of a way that something might go, and they might be more inclined to make other things work with the neighbors if they're going to do so, or adjust their request, and, if that's the case, then they can choose to do that if they want to proceed with this business.

President Korb: Donner's, what happens if they put a 100 foot buffer there, or a 50 foot buffer, instead of right on top of your door? I mean, I know it's not palatable, but how do you feel about that? So, really, anything they decide, or anything that we're able to accomplish is not going to be satisfactory to you? That's the bottom line.

David Donner: (Inaudible).

Commissioner Tornatta: Could you move to the mic? I'm sorry.

David Donner: I would have to actually get out there and look at it and see, you know. I stepped off whatever it was, two hundred and something feet there, to me this looks, there's a lot out of, what you're looking at is a lot of out of scale. Because once you step off at the head there, there's a lot of land between Hart's and us right there. I would think there's at least 400 feet there, 600 feet, wouldn't there?

Bill Engelbrecht: There could be. I don't know.

David Donner: Four to six hundred feet right there. Yeah, I mean, we would have to scale it off, I don't know. Yeah, if they could put it in there, and Steve would still have his 200 foot buffer in there that he needs for his land back there or whatever he's going to do.

Commissioner Tornatta: Okay, now, and you were the house closest to the proposed rezoning?

David Donner: Yes. I'm right there at 16900 Petersburg Road.

Commissioner Tornatta: Okay, and we'll have to get permission from the other Commissioners, of course, but, I guess, what I'm curious about is, how much dialogue have you had with Mr. Engelbrecht, and could there be on-going dialogue with Mr. Engelbrecht?

David Donner: How long have we been talking?

Commissioner Tornatta: Yeah, to come to some type of consensus.

David Donner: About zero, but we have talked to Joe once.

Commissioner Tornatta: Okay, would you feel more comfortable if some initial dialogue, or maybe continued dialogue would go along, and then we could hear back from you?

David Donner: Sure, sure.

Commissioner Tornatta: I mean, I guess, if you're not desperately opposed—

David Donner: Like I said, I'm not opposed to the orchard happening here. I mean, it's a wonderful thing, but, you know, this right here, right on top of me, I mean, there's not 50 feet off my barn there to where he's going to have his pole barn. You know, to me that's a commercial lot. I mean, what if I would decide to sell someday? I mean, what's my place going to be worth?

Commissioner Tornatta: Well, then you would have to not be in favor of the project?

David Donner: Right.

Commissioner Tornatta: I mean, that's what advice I'd give you, but on the other hand, if you think it would help and would be an asset, at some point, then you would, at that point, be in favor of the project. If it were me, I would be trying to work out my best scenario with the developer.

David Donner: Right.

Commissioner Tornatta: At that point. So, I guess, what I'm saying, and, you know, the wishes of the Commission—

David Donner: I would have to see what he comes up with.

Commissioner Tornatta: —that I would like to see dialogue between not only you, but some of the other remonstrators to see if there's any amicable way of working some of these issues out before it comes back here. That's one opinion of three.

David Donner: Right.

Commissioner Tornatta: So, if we were to continue this, and that's just been proposed, and you could get together and talk about some of these issues and see if we could come to some type of consensus, that would be what we would like.

Ted C. Ziemer, Jr.: Then you would have the option during the period that it's continued, the next Commissioners meeting is May the 13<sup>th</sup>, if in talking to the remonstrators we did come up with a plan of action that's agreeable to everybody, and if they want that in writing, then you would have to amend your use and development commitment, which would mean, essentially starting over with the Plan Commission. Then it wouldn't be heard on May the 13<sup>th</sup>, you would be starting over, and, so, that's what your option would be. It would be June sometime before you would get your final answer.

President Korb: Commissioner Nix?

Bill Engelbrecht: You know, we're probably a year or two years before we even start construction, okay? There's a lot to be done before we get to that point.

President Korb: So, you're not wanting to start this like next month?

Bill Engelbrecht: We're not going to start this this year. You're not going to see, because there's a farmer that still has a lease on that ground until the end of the year. So, I can't even touch it until he's done with his lease, the farmer that's leasing the property from Steve now, okay? His lease terminates at the end of the year.

Commissioner Tornatta: So, that would give you ample opportunity to work out any of the issues with the neighbors or what have you.

Bill Engelbrecht: Yeah, I mean, I'm not trying to make anybody mad here, and I don't want to start off with having ill feelings with my neighbors. That's the last thing I want to do.

Commissioner Tornatta: Right.

Bill Engelbrecht: They don't believe it, and they don't think I've tried everything. They think I've got all this money, you know, I don't. You know, whenever you own your own business everybody thinks you have lots of money. If anybody's looked out lately, the economy's pretty bad, development's pretty poor right now. So, it's not there, Mr. Donner. This is going to be his financing, not mine.

President Korb: Uh-huh.

Bill Engelbrecht: I'm trying to set this up for my son, not for me. Believe me, if I had my way, I would have retired and got a job at Ace Hardware or something. Do you know what I'm saying? I've already put in two orchards, this third one is a tough one for me, I'm getting older, okay? So, I have exhausted every possible place to put a farm market on property that he can afford, that would be practicality for a little u-pick orchard behind it. That's the key. It's not the market. If we just wanted to put a market there, we could probably go up on 57 there, find a little spot to slide it into. But, we're trying to put six acres of apple trees back there where people don't have to drive to the orchard, they can walk out behind the market, go pick their apples, and pick a few pumpkins, and come back to the market, that's what he's trying to accomplish.

Commissioner Tornatta: Right.

Bill Engelbrecht: Okay? And, to go west of there it's all too low from that spot. That is the highest point on that piece of tract of 36 acres there that you could do this on. So, we're kind of at a landlock as far as what we're trying to do with it. We're not putting up a fancy building. It's going to be a pole barn with a dressed up cedar front, with a porch, a front porch. Okay? It's going to have a parking lot, which they require us to do in the front for so many parking spaces. It will be asphalt, it will have a rock driveway around it. It's only going to be open probably what, nine months of the year? It's not going to be open 12 months a year. It's not a Wal-Mart.

Commissioner Tornatta: Right.

Bill Engelbrecht: You know, I don't know if we'll have any traffic out there at all. Being as they might be all mad at me and nobody will come, but, you know, I'm just trying to get Joey set up here is what I'm trying to do, guys.

Commissioner Tornatta: I understand. Okay, just—

President Korb: Yes, come one.

Connie Engelbrecht: (Inaudible).

Commissioner Tornatta: Hold on, you've got—

President Korb: You've got to speak into the mic.

Connie Engelbrecht: (Inaudible).

Commissioner Tornatta: Hold on, hold on, you'll just have to come up here.

Connie Engelbrecht: My point is, for Joey's sake, he would be better off leaving that land zoned Ag. He could put a farm market, you can sell direct markets, you can sell everything you grow, and you can sell anything grown locally at these markets without rezoning.

President Korb: But, that doesn't take care of the problem with the Donner's and Mr. Hart.

Connie Engelbrecht: My sentiment is, they have a huge market in Newburgh as a year round market. The problem is simply this, this town, this area, you're going to have probably two orchards going out and no orchards left if we end up in this battle.

I believe Joey's a good grower, I think he does a good job, he's my nephew, I wouldn't have a problem working along with Joey on that property, maybe even leasing some of my store space to him. That's what I'm looking towards. The point is, leaving it Ag, he's going to be able to go in and get Rural Development grants, Rural Grower grants, he can actually do something with it, and not cost him a fortune, because he's a first timer. This is rural development.

Commissioner Tornatta: Right.

Connie Engelbrecht: I had to rezone, let me tell you, I had to rezone C-4 because I'm in the city limits. I didn't want to do it. I had to in order to obtain a loan. I was non-conforming, non-conforming agriculture does not get a loan, okay? I tried everything. That's where James Sr. of Morley and Associates zoned me C-4 on the top area there, and, basically I gave ten feet to the city for Christ Road and ten feet to Weaver Road, and I gave a lot of stuff up. I mean, there's no car lots, no gas stations, nothing like that, and I did that just mainly because it was the only way for me to obtain a loan. With what Joey's doing, he would be better off, I would feel, he needs to look into it, into the Rural Development grants and the Rural Development loans and the FSA loans—

Commissioner Tornatta: Hold on, hold on, we're getting way outside—

Connie Engelbrecht: I know—

Commissioner Tornatta: —the box here.

Connie Engelbrecht: I'm just trying to say there's other options.

Commissioner Tornatta: I do appreciate that, but we're just kind of cruising outside of what we're looking at here, and we're looking at a rezoning.

Connie Engelbrecht: There's also two people that aren't here that are involved.

Commissioner Tornatta: If that's the wishes of the petitioner, then they can do that in front of this body.

Connie Engelbrecht: Just as a suggestion.

Commissioner Tornatta: Thank you.

Connie Engelbrecht: Also, there's a couple of people that aren't here that I think should be.

President Korb: Well, I feel like that tabling it doesn't do us much good. Simply because the Donner's won't be happy with anything that goes in there, and Mr. Hart's going to sell no matter what goes in there, if this gets rezoned.

Commissioner Tornatta: I don't, I didn't hear that sentiment. They haven't talked. So, at this point I don't know that that's the case. Mr. Donner, I guess, led me to believe that he would like to talk with the Engelbrecht's.

President Korb: I mean, I don't mind tabling it, that isn't what I'm saying. If there is some wiggle room here, and you all can work this out amicably, then that would be the greatest way to do that.

Commissioner Tornatta: Yeah.

President Korb: But, clearly, it's not going to work out with Mr. Hart because he wants nothing there.

Commissioner Tornatta: Well, he has an opportunity to talk to Mr. Engelbrecht, if that's the case or not, that's his wishes.

President Korb: Right.

Commissioner Tornatta: We're going to let, we would, in that capacity, we would let these individuals talk. If he came down and decided that he wanted to work something out, that's, you know, a day change, your minds change. So, sometimes that will happen. Not knowing if that's the case, not to put any words in your mouth, however, it would give some time to let some things air out and see if there's some type of agreement that can be met. At this time I would make a motion to continue this hearing.

Commissioner Nix: Until what time? I mean—

Commissioner Tornatta: There's a 90 day stipulation. It's a statute.

Ted C. Ziemer, Jr.: Well, the statute says, when was the meeting of the Plan Commission?

Janet Greenwell: The Plan Commission recommended approval on the 10<sup>th</sup>.

Ted C. Ziemer, Jr.: Of?

Janet Greenwell: Of this month.

Ted C. Ziemer, Jr.: Of April? If, April, May, June, July, if by the 10<sup>th</sup> of July this body has not acted, it will be automatically approved, because the Plan Commission did it.

Commissioner Nix: We can request that it come back to this body before then.

Ted C. Ziemer, Jr.: Sure.

Commissioner Tornatta: Yeah.

President Korb: Mr. Morley, I mean, you've kind of, I'm going to ask you to be the neutralizing factor here. I don't know how much experience you've had in dealing with the Donner's or Mr. Hart, and really that's immaterial to me, but do you feel like there is some room for adjustment? I mean, obviously, Joe and his dad want to open a market, and I understand why that is. I mean, I don't have a problem understanding the economics of it all, and have no desire to put Joe into a situation financially where he gets in over his head. That would be a terrible thing to have happen. So, help me understand, as their professional, what do you think?

Jim Morley, Jr.: It really is, most of the, I believe this would be most like all other things when it comes to rezoning and happening next to you, it becomes usually more of an emotional issue than it is anything else. That varies by person. I mean,

maybe something can be worked out, and maybe nothing can be worked out. It really would depend on the flexibility and how much people have their heels dug in.

President Korb: Am I hearing, Commissioner Nix and Commissioner Tornatta, basically say if there was a larger buffer this wouldn't bother you as much? Here's why I'm asking, not asking to bait, but, I mean, I feel like they've got to have some sort of a benchmark of where to start and where to get to.

Commissioner Nix: I would like to hear the other, the families that live around that, that discussion to take place. But, once again, there's a lot of property out there, and I know you've explained the circumstances here, but I wouldn't want that right next to my house, and that's the reason why I feel the way I do. I mean, it's just as plain and simple as that.

Commissioner Tornatta: I think you're building consensus. If you can bring the neighbors along, not your sister, in this case, but, if you can bring the neighbors along, I think that's the most important. That's what I'm going to look for.

Bill Engelbrecht: Well, I should have brought the one neighbor that lives next to Mr. Hart. He's really in favor of it, okay? He's all excited about it. So, not everybody out there is against it.

Commissioner Tornatta: Right.

Bill Engelbrecht: If I had known that all this was going to happen tonight, I would have brought my army with me.

Commissioner Tornatta: Right.

Bill Engelbrecht: But, you know—

President Korb: Well, I think those are your marching orders is to next time bring your army with you.

Bill Engelbrecht: Yeah, I guess so.

President Korb: And, I will say, as we're each weighing in with our personal opinions, I have zero use for family involvement here. Sorry, it's just my past, and this is a business deal. So, the opposition is welcome to come or wherever, but that personally falls on my deaf ears. I think that if you're able to build consensus with the neighbors, and if you come back to us and have made, at least in my opinion, have made the effort to speak with the Donner's, and something is acceptable to them, or is not acceptable to them, that's going to weigh on what decision, I mean, how I vote. Obviously, I'm one of three, but I just feel very strongly that given our past record, I mean, take the emotions out of it, it's no different than any other decision we've made in the past. I, obviously, am not speaking for the other two Commissioners. So, we have a motion on the floor to table this—

Ted C. Ziemer, Jr.: The only—

Commissioner Nix: Until the 17<sup>th</sup> of June.

Ted C. Ziemer, Jr.: Thank you, Ted.

Bill Engelbrecht: Do we need to come back here on the 17<sup>th</sup>?

Commissioner Tornatta: The 17<sup>th</sup> of June.

Bill Engelbrecht: Will they notify us?

Commissioner Nix: We need to make sure that that is on the agenda for that day.

Commissioner Tornatta: Yes, yes.

Commissioner Nix: No, but I'm saying it will be put on the agenda.

Commissioner Tornatta: She is putting it on the agenda.

Madelyn Grayson: That is actually a rezoning night. Should it fall on the Commission meeting, or the Rezoning agenda?

Commissioner Tornatta: Rezoning.

Janet Greenwell: (Inaudible).

Commissioner Tornatta: Which would be the 17<sup>th</sup>. That was as in the form of my motion.

Commissioner Nix: I will second that.

President Korb: There's been a motion made and seconded. Discussion? To bring this back by the 17<sup>th</sup> of June.

Bill Engelbrecht: And we will be notified of the time?

President Korb: It will be about the same time, about 5:45.

Bill Engelbrecht: Okay.

Commissioner Nix: Are we going to vote on that?

President Korb: Yeah, absolutely we're going to vote on it. Just having discussion here.

Commissioner Nix: Okay, thank you.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. Okay, so we'll see you all back on the 17<sup>th</sup>.

David Donner: (Inaudible).

President Korb: Sure.

David Donner: I didn't quite understand what you were talking about on the we table it to the 17<sup>th</sup>, but if me and him can't come into agreement, then you okay it anyway?

Commissioner Tornatta: No, no, and that's a 30 day, so, or a 90 day, which would put it to July 10<sup>th</sup>, okay?

President Korb: But, I think we're going to vote yes or no before the July 10<sup>th</sup> deadline.

Commissioner Tornatta: On the 17<sup>th</sup>, that's why we're bringing it back quite a bit early of that date to be able to give a judgement at that point. Then, the same remonstrators can come, if they feel like they haven't been handled properly, or taken care of, they can come back at that time. Will there be anything sent out? Or will they have to, I don't think there will be.

David Donner: No, well, I mean—

Commissioner Tornatta: So, I mean, just mark this date in your calendar on June 17<sup>th</sup>.

David Donner: June 17<sup>th</sup>.

Commissioner Tornatta: It will be after our Commissioners meeting. I'm sorry.

Ted C. Ziemer, Jr.: The one thing that could change that, the petitioners would have the option to decide that they want to put something additional into their use and development commitment, and if they want to, they need to then start over with the Plan Commission, and they would do that officially, in which case it would not happen on June the 17<sup>th</sup>, and the entire proceeding would start over again with the Plan Commission. Then it would come back to us after the Plan Commission acts.

David Donner: Okay.

Commissioner Tornatta: Sorry.

David Donner: That's good enough.

Commissioner Tornatta: Right, and if it would start over, you would be notified.

Bill Engelbrecht: By starting over meaning that if we decided to move the property or something like that?

Ted C. Ziemer, Jr.: No, you can amend your petition, if you have other property that you want to rezone. Or, you can still go with the same property, but in trying to develop some consensus with the neighbors you could put in your use and development commitment that you're going to build a fence of a certain kind, that you're going to plant pine trees or whatever trying to develop the best possible buffer that you can. That may not satisfy the remonstrators, but that is an option that you have.

Bill Engelbrecht: The letter that Joey gave them tonight is no good? I mean, that doesn't work?

Ted C. Ziemer, Jr.: No, it's a nice gentleman's agreement, but the fact of the matter is it's not worth the paper it's written on in so far as the neighbor's trying to enforce that.

Bill Engelbrecht: Okay.

Ted C. Ziemer, Jr.: If the zoning were approved and you later decide you don't want to do what you had written out, there's nothing legal to require you to do that.

Bill Engelbrecht: So, you're saying all we need to do is add this on to the Planning Commission's use and development and it will be a part of the record?

Ted C. Ziemer, Jr.: You would go talk to the Plan Commission and they'll explain to you how you would do that. Mr. Morley knows that.

Bill Engelbrecht: Okay.

Commissioner Nix: Are we ready to vote?

Commissioner Tornatta: Motion to adjourn.

President Korb: We've already voted.

Commissioner Nix: Oh, we, okay.

President Korb: Yeah. Motion to--

Commissioner Nix: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Meeting adjourned.

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

**Those in Attendance:**

Jeff Korb

Ted C. Ziemer, Jr.

Jim Morley, Jr.

David Donner

Joe Engelbrecht

Bill Nix

Janet Greenwell

Ryan Hart

Connie Engelbrecht

Others Unidentified

Troy Tornatta

Madelyn Grayson

Christina Donner

Bill Engelbrecht

Members of Media

**VANDERBURGH COUNTY  
BOARD OF COMMISSIONERS**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
REZONING BOARD  
MAY 20, 2008**

The Vanderburgh County Rezoning Board met in session this 20<sup>th</sup> day of May, 2008 at 5:42 p.m. in room 301 of the Civic Center Complex with President Jeff Korb presiding.

**Call to Order**

Commissioner Tornatta: Good afternoon.

Janet Greenwell: Are we ready to go? Okay, I'm Janet Greenwell with the Area Plan Commission.

**Approval of the April 15, 2008 Rezoning Meeting Minutes**

Janet Greenwell: I guess, first I will ask you to approve our rezoning minutes from the last meeting.

Commissioner Nix: So moved.

Commissioner Tornatta: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes.

**Final Reading: VC-3-2008: Petitioner: Gerald Reddick  
Address: 12615 N. Green River Road  
Request: Change from AG and C-4 to R-1  
Action: Approved 3-0**

Janet Greenwell: Okay, the first rezoning we have on for hearing tonight is Mr. Reddick's rezoning on North Green River Road. Mr. Reddick's requesting to, I'm sorry, is requesting to down zone his property from C-4 and Agricultural to R-1. I'm sorry, I'm wearing two hats tonight. I'm doing both, and the left hand doesn't know what the right hand is doing sometimes. Basically, Mr. Reddick has a 1.6 acre residential lot, zoned C-4, and he is needing to down zone it to bring it into compliance so he can sell it. It's, the down zoning is consistent with the residential use. This is the zoning map, I believe the house falls within the C-4, and Mr. Reddick has run into a snag with the banks. It is definitely a house, and he's wanting to bring it into conformance so that he can sell it.

President Korb: So, it will go from C-4 to R-1, is that what you said?

Janet Greenwell: C-4 and Agricultural to R-1. The Plan Commission voted May 8<sup>th</sup> to recommend approval with eight, with seven affirmative votes.

Commissioner Nix: What road is that in front of there? I'm sorry, the one right up there.

Janet Greenwell: It's Green River.

Commissioner Nix: Okay, that is Green River.?

Janet Greenwell: Yes.

Commissioner Nix: I didn't see it on the map.

Janet Greenwell: Actually, the access to this property is right at Green River where the railroad tracks kind of V.

Commissioner Nix: Thank you.

Janet Greenwell: It's a little difficult to see.

Commissioner Nix: Okay, I've got it now.

Commissioner Tornatta: Is anybody here to remonstrate?

Commissioner Nix: No remonstrators?

President Korb: I've got one coming up. No, he's not?

Commissioner Tornatta: Okay. I make a motion to approve.

Commissioner Nix: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes. Congratulations, Mr. Reddick.

Commissioner Tornatta: Roll call.

President Korb: A roll call vote?

Commissioner Tornatta: Uh-huh.

Commissioner Nix: That was on first reading.

President Korb: Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes.

Commissioner Nix: That's first reading though, is that correct?

President Korb: No.

Janet Greenwell: This is for final reading.

Commissioner Tornatta: It's final reading.

Commissioner Nix: Okay, I'm sorry. I'm sorry.

President Korb: Final reading.

Janet Greenwell: Second and final.

Commissioner Nix: Okay, I've got it here.

Commissioner Tornatta: You were looking at the—

Commissioner Nix: The top one, right.

Commissioner Tornatta: —out of order.

President Korb: Okay, great. Is that all we have on that one?

Janet Greenwell: That's it.

President Korb: Alright.

**Final Reading: VC-5-2008: Petitioner: Ken Zinn  
Address: 140 E. Inglefield Road  
Request: Change from Ag to M2  
Action: Approved 3-0**

Janet Greenwell: The next rezoning is VC-5-2008, the property at 140 East Inglefield Road. Ken Zinn and Tri-State Module are requesting to rezone their property from agricultural to M2. It's located just west of the corridor, the 41 corridor that's designated for industrial. Tri-State Module owns and operates the business adjacent east. I believe that's a little bit better shot. That's their business, and they're proposing to rezone the house. They're proposing a building across the back of the property. The M2 will facilitate the expansion and will allow them to build their new building. The Plan Commission voted at their meeting on May 8<sup>th</sup> to recommend approval with seven affirmative votes. That's about all I have on it.

President Korb: What is that piece of property currently? Not the one we're rezoning, but the other one, is it currently zoned C?

Janet Greenwell: It's zoned M2. The machine shop was, well, I think I have some pictures of it. Again, I apologize, I'm not, it's a machine shop that was built around 1978.

President Korb: Okay.

Janet Greenwell: Expanded in '91. The first time they added an additional parcel. This will be their second expansion. I believe, at Plan Commission they said Tri-State Module operates a business that rebuilds t.v. insides, and that they're in dire need of some warehouse space. They're proposing to rezone the house next to their business and expand. The house will become legal, non-conforming, and it will

be subject to the non-conforming restrictions, but they plan to build behind the house.

President Korb: Okay. Do we have any remonstrators with regards to this? Discussion amongst the Commissioners?

Commissioner Tornatta: I make a motion to approve.

Commissioner Nix: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes. Janet, real quickly–

Commissioner Tornatta: Roll call.

President Korb: Roll call vote. Is Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes.

**First Reading: VC-7-2008: Petitioner: Dale Barker Wright  
Address: 12640 State Road 57  
Request: Change from C-2 to C-4**

President Korb: Did I miss the first reading for Dale Barker Wright?

Janet Greenwell: I apologize.

President Korb: That's okay. I just, we've done that before.

Janet Greenwell: We do have a first reading, our docket number 2008-22-PC, VC-7-2008, Dale Barker Wright is proposing to rezone C-2 to C-4 the property at 12640 State Road 57. It's for a dog kennel. That's just a first reading. You'll be seeing it soon.

Commissioner Nix: So moved.

Commissioner Tornatta: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes.

**Final Reading: VC-6-2008: Dauby Properties and Investments  
Address: 7445 N. Green River Road  
Request: Change from R-3 and C-4 to C-4 and R-3  
Action: Approved 3-0**

Janet Greenwell: The last rezoning on your docket tonight is VC-6-2008, Dauby Properties and Investments. This is a little tricky for me.

Ted C. Ziemer, Jr.: You're doing a good job.

Janet Greenwell: I'm doing two things at once, and I'm not used to it. Dauby Properties and Investments is requesting a very unique rezoning. They're rezoning a couple of strips, one from C-4 to R-3, and one from R-3 to C-4. The blow up shows you a little bit of the two different little strips. What I've done is overlaid the Hunter Chase Subdivision that was approved at our May 8<sup>th</sup> meeting, and you'll see that the R-3 and the C-4 are really kind of out of sync. The rezoning, aw, come on, the rezoning, this is the subdivision that was approved, and the zoning once it is approved has all of the four lots in the front zoned commercial and the back part is all R-3 for a condominium development. Basically, it's an exchange, a little piece of R-3 became C-4, it had originally been intended as the frontage for the condos. Their plans changed and they moved the access point to the center of the property, platted the lot, divided it into four commercial lots, and then the public roadway, which will cul-de-sac at the condos, then become private from that point, was all platted together as Hunter Chase Subdivision. The zoning just pretty much cleaned up the little pieces that were mismatched.

President Korb: They've already started construction on the models, haven't they, Janet?

Janet Greenwell: Actually, they, we've issued a permit for the first condo building.

President Korb: Okay.

Janet Greenwell: What you see up, going up out there is the condominium building.

President Korb: That's what I thought.

Janet Greenwell: The first one.

President Korb: Okay. Because, it's basically, it looks like it's either a duplex or a four plex. Yeah, it's all garage up front.

Janet Greenwell: Yeah.

President Korb: Got it. Okay.

Commissioner Nix: What was the recommendation of the Plan Commission?

Janet Greenwell: I'm sorry. The Plan Commission heard the rezoning at their meeting on May 8<sup>th</sup> and recommended unanimously, with seven affirmative votes, for approval.

President Korb: Discussion amongst the Commissioners?

Commissioner Nix: Do you want to ask for remonstrators?

Commissioner Tornatta: Remonstrators?

President Korb: Remonstrators? Seeing none. A motion?

Commissioner Tornatta: Motion to approve.

Commissioner Nix: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes. Congratulations.

Commissioner Tornatta: Roll call vote.

President Korb: Roll call vote. Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes. Great. Thank you.

Commissioner Tornatta: Motion to adjourn.

Commissioner Nix: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. Meeting adjourned.

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

**Those in Attendance:**

Jeff Korb

Ted C. Ziemer, Jr.

Others Unidentified

Bill Nix

Janet Greenwell

Members of Media

Troy Tornatta

Madelyn Grayson

**VANDERBURGH COUNTY  
REZONING BOARD**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
REZONING BOARD  
JUNE 17, 2008**

The Vanderburgh County Rezoning Board met in session this 17<sup>th</sup> day of June, 2008 at 6:10 p.m. in room 301 of the Civic Center Complex with President Jeff Korb presiding.

**Call to Order**

Janet Greenwell: Good evening, I'm Janet Greenwell with Area Plan Commission.

President Korb: Hi, Janet.

**Approval of the May 20, 2008 Rezoning Meeting Minutes**

Janet Greenwell: We ask that you approve the rezoning minutes from the last meeting.

Commissioner Tornatta: So moved.

Commissioner Nix: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes.

Janet Greenwell: Thank you.

**Final Reading: VC-4-2008: Petitioner: Hirsch-Martin Development LLC  
Address: 1501 N. Burkhardt Road  
Request: Change from Ag and C-4 with UDC to C-2 with UDC  
Action: Approved 3-0**

Janet Greenwell: We have just one petition to come forward tonight. It's VC-4-2008, 1501 North Burkhardt Road. Hirsch-Martin Development is requesting to rezone approximately 190 acres located at 1501 North Burkhardt from agricultural and C-4 with a use and development commitment, to C-2 with a use and development commitment. This site is located on the east side of Burkhardt Road over to I-164, and from Columbia Street to Oak Grove Road. This site is located in an area designated on the future land use map and the comprehensive plan as an area of mixed use, including residential, commercial and industrial. The use and development commitment included as part of the rezoning ordinance addresses traffic and infrastructure improvements. With these commitments in place, the rezoning is consistent with the comprehensive plan. The petition was heard at the June 12<sup>th</sup> Area Plan Commission hearing, and was recommended for approval with seven affirmative votes.

President Korb: We, thank you very much, Janet. We obviously have someone here. Hello, Steve, how are you?

Steve Martin: Alright. How are you?

President Korb: I'm good. State your name for the record please.

Steve Martin: Steve Martin, 8201 Carolwood, in Evansville. I would like to take just a moment and tell you a little bit about what we're doing. I know you've all three been very involved in the process, and very supportive, and I really appreciate that, but I thought I would take a few moments, and we'll make it fairly quickly. Let me give you some information here.

President Korb: Thank you.

Steve Martin: We really did appreciate Area Plan passing that unanimously last week, and appreciate the community support. I'm here today as a Managing Member of Hirsch-Martin Development LLC. I want to thank you for all the support that you've given us, and taking time to talk about our C-2 zoning. Before we get into that, I wanted to take a moment to share a brief vision with you, and our concept of The Promenade. It's been my honor over the last 18 months to get to know the Hirsch family, and the partnership that we've formed. They are a great family, and very community involved. I'm sure many of you know them as well. I've also had the opportunity to work with my father for the last 31 years, and we've had some fun putting this project together. We've got a great team in Jim Farney at Bernardin Lochmueller, and Don Fuchs at Bamberger Foreman Oswald and Hahn, and we also hired a firm called Bird Houk Collaborative that does master planning. We've really been thrilled with that. So, we've put a great team together, and the concept of the team is let's make sure we do this right. We're doing something here at the entrance to Evansville. Let's take our time and plan. We've taken the last 18 months to do that. Our goal here is to create a special place that further establishes Evansville as a regional hub for retail, for entertainment, for medical, for a 75 mile area around us. We want a development that helps retain youth, attract talent, and attract new companies for the residents of Evansville. People ask me all the time, is this development possible? It really is possible. We are tremendously encouraged by all the support that we've gotten throughout the community in that endeavor. I've given you those books, you can take them with you. I'm going to also show you here, I'm going to point here a little bit as I go through and just give you a little break down of what is going to, what we anticipate developing out at The Promenade. First is retail. That is really the catalyst of what we're trying to accomplish. It's the, we're trying to create a people place. The town center is going to have six to eight hundred thousand square foot of development. The retail study that we did shows that that is possible for Evansville. In that town center, which is located right here, this area, this is Burkhardt, to kind of get your bearings. This is Burkhardt, this is Oak Grove, this is 164. So, this is the town center area, and inside of there, in addition to six to eight hundred thousand square foot of retail, we're going to have 80 to 100,000 square foot of office, and 100 to 200 units of apartments. They would be on the second story of that town center. The Greene in Dayton, Ohio is a very similar development in a community that's very similar in size to Evansville. They have done this, on their first phase, and they are now starting the second phase it's been so successful. It's been very successful. In addition, we're going to have a multi-family area right here. In that multi-family area we anticipate there being 100 to 200 for sale condos being available as well. There's going to be a hospitality, convention area, which is right in here, close to the entertainment zone, and it will have 225 to 300 rooms with 30,000 square foot of conference center. We have an office area, which is right along Vogel right here, and that area is going to have 120 to 150,000 square foot of office. This area between Cross Pointe, which you mentioned earlier is about to start construction and 164, this area here, is a campus area. We are hoping to see corporate headquarters located there, as well as

possibly medical and educational type campuses that can utilize that proximity to 164, future I-69. Again, what we're trying to do is create a special people place that emphasizes architecture and the cultural aspects of construction. We will set an architectural standard that will be adhered to and will be monitored by an architectural review board, and we want to encourage environmentally friendly buildings. We're trying to create a development that will last for generations. We anticipate that it will create significant new jobs, and a lot of money, obviously, in taxes will be spent and brought into the community. Property taxes alone will increase by over ten million dollars a year on this site, once it's fully developed. So, that's, and that's in today's dollars, that's not in future dollars. When the Greene town center was developed in Dayton, Ohio, it created 3,000 jobs in phase one, and added 400 million dollars, had a 400 million dollar economic impact. So, obviously, there's going to be a lot more of that here, because this is a little bit bigger site than what they did there. In addition, the sales tax that we anticipate, just from the retail, will be in excess of ten million dollars a year as well. These are all dollars the county will have in their county budgets, the schools will have to increase the schools, the educational system we have here in Vanderburgh County, these are all dollars that will come into Vanderburgh County. In addition, other types of taxes, like Innkeepers Tax will help with tourism and other types of tax as well for the county. I could go on, but you get the idea of what the economic impact this development is going to have. Let me wrap up by just sharing with you, Evansville, a vision of what we're trying to create here is a new development where Evansville citizens get new amenities that we don't have now, and opportunities that we have to go to Louisville, Indianapolis, Nashville, St. Louis to enjoy now. It will attract new talent, new companies, help retain youth, and lastly we want The Promenade to further establish Evansville as that regional center it has been in the past, for the medical, retail and entertainment for the people in a 75 mile radius. I want to thank all three of you for all of your support. You've been tremendous. We appreciate all your help. Don Fuchs and Jim Farney and dad and I are here to answer any questions you have. So, thank you.

President Korb: Steve, I'm assuming this is going to be done in phases?

Steve Martin: It will. It's totally dependent on, there will be a variety of developers involved.

President Korb: Okay.

Steve Martin: Multi-family, and as we bring them in, but it definitely will be done in phases, yes.

President Korb: Your, any concerns about the economy and the shape that it's in right now? Does that impede the process?

Steve Martin: It probably slows us down a little bit. But, we've been in a planning process, and we still have some of that to go--

President Korb: Okay.

Steve Martin: --and getting infrastructure in. So, we're hoping it will be over with by the time we get there. Maybe we'll see some benefits of putting that infrastructure in actually from it.

President Korb: Okay.

Commissioner Tornatta: Where do you see starting first?

Steve Martin: Well, obviously, the area that we think will start first, we don't know, but the area along Burkhardt will be, we have activity on that now. People are wanting to do things along there. We believe that coming down Vogel in here, we're having a lot of activity right in this area, and we have activity here and down here right now, people wanting to get involved in different things. So, this area, once the town center starts, it will come deeper into the property. That's probably three years out, a good three years out I would suspect.

Commissioner Tornatta: Okay, and then at one point we had talked about on Burkhardt Road maybe putting the medians into the project. Have we put anymore thought to that? Then, is that going to be potentially one of the things that's gonna cross it?

Steve Martin: I think that we can, as we develop the association that's going in here, we can probably pull that into the entire association, to tie that into the theme of what we're doing. We think it's a great idea. I don't think we could do it until we have this component involved in that. I think once we know who this, and we're talking to three different groups right now, when that is determined, then I think we can look at that real seriously.

Commissioner Tornatta: Okay.

Steve Martin: I think it's a very good idea.

President Korb: I'm sorry, what's the idea with the town center?

Steve Martin: The idea is that this area along Burkhardt, where there is landscaping, the county has to maintain now, and if we tie that into the theme, as it has a feel as it's coming into our development, and it wouldn't be, since we have a lot of landscaping we're going to be taking care of on here it won't be that much additional that we could work out some kind of maintenance to take care of that as well, and tie it into ours.

Commissioner Tornatta: Well, there's not really any landscaping.

Steve Martin: There's a couple trees.

Commissioner Tornatta: There's not many.

Steve Martin: There's mulch and plants.

Commissioner Tornatta: Right, there was an issue. So, in looking at that, if that was a possibility.

Steve Martin: Sure.

Commissioner Tornatta: Thanks.

Steve Martin: Any other questions?

President Korb: And what's going in the town center, Steve?

Steve Martin: Pardon?

President Korb: The town center, that's going to be?

Steve Martin: That will be, well—

President Korb: I know where it is, but what's gonna—

Steve Martin: Well, down here you'll kind of see, this is the land, but down here you can see there will be things such as department stores, a lot of shops. There are, it will all be retailers, with above it office and multi-family apartments.

President Korb: Gotcha. Okay. Great. Thank you. Any questions, any further questions for Mr. Martin or his? Mr. Fuchs, you're going to get off here easy tonight. Yes, sir. I think we need to call the question, gentlemen, unless you have any other questions?

Bill Jeffers: Did you call for remonstrators?

President Korb: I haven't, but I will. Mr. remonstrator?

Bill Jeffers: Bill Jeffers, Vanderburgh County Surveyor. I noticed the project will be started along Burkhardt Road, and just wanted to announce to the developer and to the Commissioners, that yesterday we were able to revise the flood plain map to reflect the most recent Morley report that was approved by DNR, that contains the floodway within the culvert that the County Commissioners spent about a million and a half dollars to put along Burkhardt Road. So, that means that any construction that this development wishes to proceed with will not have to have permits, and go through that half year process, because the floodway is within the culvert, previously, until yesterday, it showed out across the field. So, that's a plus. I believe this project prevents leap frogging of development into Warrick County, that a lot of us were apprehensive about. This will anchor this development in Vanderburgh County. It not only in fills the Hirsch 190 acres, but it may by its, you know, attractiveness and commercial appeal, backfill that area between Burkhardt and Green River Road that's kind of been leaped over. This will, you know, give a reason for people to commercially develop that area that's lying idle, already zoned between those two roads. I truly look forward to working with this developer on drainage issues. A very creative design. I hope they're going to use dual purpose, the lake, not only for detention, but for recreation, etcetera. I don't foresee any problems with drainage. I have a very high respect for Bernardin Lochmueller and Association and their ability to plan the drainage very well. I look forward to that. So, I just wanted to throw a few ideas in there for you on that, in that regard.

President Korb: That really wasn't what I was expecting to come out of your mouth, since you were remonstrating. Maybe I totally missed it, but—

Bill Jeffers: Well, remonstrators can be positive too, can't they?

President Korb: Rarely. Not that I've been here. So, but, yeah, thank you very much. Okay, I'm breathing easier.

Ted C. Ziemer, Jr.: Steve, I think you need to include him in your list of thank you's to all the people that are helping you with this.

President Korb: Yeah, poinsettias at Christmas.

Steve Martin: I would agree. That was the best remonstrations I've ever seen.

Commissioner Tornatta: That was his summation. So, motion to approve.

President Korb: You know, every now and again you like to throw us curve balls, don't you, Mr. Jeffers? Atta boy.

Commissioner Nix: He was hired for the summation, so, I guess, that's where we're at.

Commissioner Tornatta: No, I said, when he came up, that was the summation.

Commissioner Nix: I will second the motion.

President Korb: There has been a motion made and seconded. Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. Congratulations, gentlemen, make us proud.

Commissioner Tornatta: Roll call vote.

President Korb: Oh, roll call vote. Okay, Mr. Nix?

Commissioner Nix: Yes.

President Korb: Mr. Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes. Now you're free to go.

Madelyn Grayson: Mr. Martin, I will need you to sign the use and development commitment so I can record that with the ordinance.

Commissioner Tornatta: Starting Drainage Board immediately, please.

President Korb: Meeting adjourned.

(The meeting was adjourned at 6:22 p.m.)

**Those in Attendance:**

Jeff Korb

Ted C. Ziemer, Jr.

Steve Martin

Members of Media

Bill Nix

Janet Greenwell

Bill Jeffers

Troy Tornatta

Madelyn Grayson

Others Unidentified

**VANDERBURGH COUNTY  
REZONING BOARD**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
REZONING BOARD  
JULY 15, 2008**

The Vanderburgh County Rezoning Board met in session this 15<sup>th</sup> day of July, 2008 at 5:41 p.m. in room 301 of the Civic Center Complex with Vice President Bill Nix presiding.

**Call to Order**

Commissioner Nix: Okay, Janet, we'll go ahead and get started. I would like to call to order the Vanderburgh County Commissioners Rezoning meeting. It's, July 15<sup>th</sup>, it's 5:41. Good afternoon.

**Approval of the June 17, 2008 Rezoning Meeting Minutes**

Janet Greenwell: Good afternoon. I'm Janet Greenwell with the Area Plan Commission. I guess, first we would like approval of our minutes.

Commissioner Nix: I'll entertain a motion.

Commissioner Tornatta: So moved.

Commissioner Nix: Second. All in favor?

Commissioner Tornatta: Aye.

Commissioner Nix: Aye. Opposed same sign. Thank you.

Janet Greenwell: Thank you.

**Final Reading: VC-2-2008:  
Petitioner: Bill Engelbrecht's Orchard & Farm Market  
Address: 16820 Petersburg Road  
Request: Change from Ag to C-4 with UDC  
Action: Approved 2-0**

Janet Greenwell: We have only one rezoning on your agenda tonight. It is Bill Engelbrecht's Orchard and Farm Market, VC-2-2008. They're requesting to rezone a part of the property at 16820 Petersburg Road from agricultural to C-4 with a use and development commitment, limiting uses to sales and services typically associated with the primary use of the acreage as an orchard. The C-4 classification will allow sales of incidental items such as novelties and bakery items, things that are outside the scope of a regular permitted roadside stand. The petition was continued from your April 15<sup>th</sup> County Commission meeting to allow an amendment. It was a last minute amendment. It came back to Plan Commission. The legal has been amended to a larger size lot, 3.65 acres. The use and development commitment has stayed the same. They have increased the setback distance from the residence to the east. The Plan Commission recommended approval of the petition with eight affirmative votes.

Commissioner Nix: Thank you.

Commissioner Tornatta: Last time, what was the score?

Janet Greenwell: Plan Commission?

Commissioner Tornatta: Right.

Janet Greenwell: Plan Commission voted six, one and one abstention.

Commissioner Nix: Okay. Thank you, Janet. Are the petitioners here? Please step forward and state your name and address for the record please.

Joseph Engelbrecht: Joseph Engelbrecht, 7966 Andy Drive, Newburgh, Indiana, 47630.

Bill Engelbrecht: Bill Engelbrecht, 7999 Vann Road, Newburgh, Indiana, 47630.

Commissioner Nix: Gentlemen?

Bill Engelbrecht: Hi. We took to heart what you all told us at the last Commissioners meeting, and we tried other alternatives. We even tried to purchase ground up on 57 from some people that just didn't want to sell. So, we did talk to my cousin, Steve Wheeler, the owner of the property, and he agreed to sell us more acreage. So, as you can see in the new drawing there, it looks quite a bit different than the other one. It puts us about 200-250 feet from his house. We sat down with the Donner's and Mr. Hart at the Donner's house one evening and discussed this with them. The Donner's were very pleased with it. I think Mr. Hart still wasn't happy with it. Okay? I notice that now he has his house up for sale. But, other than that, I haven't heard any other feedback about it. I think it's our only last alternative that we can do.

Commissioner Nix: Thank you. You can be seated now, if you're through. I would like to call any remonstrators.

Ryan Hart: My name is Ryan Hart. I live at 16740 Petersburg Road, Evansville, Indiana, 47725. They did move it, and, apparently, the Donner's were, I don't know, okay with it, but I'm still not, just for the fact of, you know, the traffic it's going to bring out there, the people, and just the commercial building. They have left their selves, you know, to sell pretty much anything they want to, I guess, and do anything they want with that property once it is rezoned. Just for the neighborhood fact, I don't like it. I don't like farm ground being destroyed myself, but I just grew up that way. The traffic on 57, the entrance there on Petersburg, you know, off of Petersburg Road, onto 57, it's, you know, it's a little tricky, because people are coming off of 164, if they're heading south on 57, pretty quickly. You know, it's right there, not, you know, not easily seen. Just, and our road, you know, it's lightly traveled now, and there will just be too much traffic and too much going on. So, thank you.

Commissioner Nix: Thank you, Mr. Hart. Just for the record, too, you had said that once this is rezoned commercial, anything could be used for it. There is a use and development commitment. Janet, I don't know if you want to speak to that, as far as the uses for the facility?

Janet Greenwell: The use and development commitment that the Engelbrecht's entered into as part of this zoning, limits the uses to those, I believe they used the term "agritourism" type uses.

Commissioner Nix: Okay.

Janet Greenwell: Anything that would be typically associated with the operation of an orchard, but added to it the ability for them to sell bakery items, novelty items in their little store. Items produced on site, maybe a few incidental items brought off site and sold in their orchard market.

Commissioner Nix: Okay, thank you. So, are you clear on that then, Mr. Hart?

Ryan Hart: Yeah.

Commissioner Nix: Okay, thank you.

Darlene Welte: My name is Darlene Welte. I live at 16226 Petersburg Road. I live farther down, around the corner, but I have the same concerns that Ryan did, as far as turning the traffic off of 57. It's not like a 90 degree turn. It's more than that, if you're going south. You would have to look at the map so you could see. So, you really have to be very careful. People coming off of 164, they're picking up speed when they come off of that. So, you really, you have to pay attention, you know, anytime I drive down that, or 57, and I'm going to turn, I have to pay attention if there's a semi or anybody behind me, because sometimes I won't even turn there, I'll go all the way down to Baseline and turn, because they are picking up speed, and you've really got to watch that. I had also called the attorney asking him if there, I mean, you've got 80 acres of ground there, it seems like instead of putting it in between houses, you know, right up on the road, you can put it back off the road farther, okay? When they come out and was putting up trees and everything, we always thought that was going to be a good thing, but we kind of expected, I guess, that when they did the, you know, where they're going to sell everything at, that it would be down their lane towards the barn and everything like that, or up on the hill where their people live as far as that take care of the ground and everything like that. It would put it back off the road a little bit, because the people that live there would be in front of it, okay? You know, the last time you were talking about, you know, his dad's acreage and everything like that, and people live right beside of that. That's true, but I think a lot of times his dad's farm was there a lot sooner than a lot of the houses that were built up around it. So, it was them coming in, saying, "Yes, I'll build up around this.", you know. At his dad's place, it wasn't a commercial building, per se. I mean, it was included in the barn and everything like that. So, you know, it looked more like a home place when you drove into it, you know. So, you know, I'm just concerned with all the traffic on it and everything like that. Yes, you know, they pleased the Donner's by moving it farther away, but as they moved it farther away, of course, they went closer to Ryan and Brooke's house, you know. So, you've got a problem there, but it just seemed like, you know, Steve's got 80 acres in through there, their orchard is back off the road and everything like that, it would have been nice if they would have put the commercial building off the road quite a bit farther.

Commissioner Nix: Okay, thank you. Are there any other remonstrators? Would you like to do a summation?

Bill Engelbrecht: Several things, a couple things that she stated, as far as where the orchard is, it's where our first wishes was to put the market was back where the orchard was. But, talking to the Plan Commission people, you know, the new laws and the ordinance now when you have a commercial building C-4, you have to put a 24 foot road back through there, we would have had to put a new bridge across there. It wouldn't, to do it for them, it wouldn't be cost effective to be able to do that. That's why we didn't go back there. As far as where one of my employees live on the hill there, we did try to acquire that ground, and they will not sell it to us, okay?

They wanted to keep it as all one tract. As far as the commercial building, as far as my dad's place, it's going to be pretty much the same. We're going to have a big barn with a packing shed, a cold storage facility, a grating facility, and that's what we're going to start selling out of at first, until we can get enough money together to build the market in front. It will be a farm market type look. It will not be one of those commercial type buildings you see up and down the highway. That's all I need to say.

Commissioner Nix: Thank you.

Bill Engelbrecht: Thank you.

Commissioner Nix: Commissioner, do you have any questions? I'll entertain a motion.

Commissioner Tornatta: I thank all three groups for coming out tonight. I think that before we had an issue where we were crowding, and we did ask this individual to move it away from the one existing house. We appreciate that happening. So, looking at what's here, I don't see any reason why we can't go with this. So, I make a motion to approve.

Commissioner Nix: I second. All in favor?

Commissioner Tornatta: Aye.

Commissioner Nix: Aye. Opposed same sign. Thank you.

Ted C. Ziemer, Jr.: Roll call.

Commissioner Nix: Excuse me. Roll call vote. Commissioner Tornatta?

Commissioner Tornatta: Yes.

Commissioner Nix: And I vote yes. It passes. Janet, do you have anything else?

Janet Greenwell: No.

Commissioner Nix: We stand adjourned.

(The meeting was adjourned at 5:52 p.m.)

**Those in Attendance:**

Bill Nix

Madelyn Grayson

Joe Engelbrecht

Others Unidentified

Troy Tornatta

Janet Greenwell

Ryan Hart

Members of Media

Ted C. Ziemer, Jr.

Bill Engelbrecht

Darlene Welte

**VANDERBURGH COUNTY  
REZONING BOARD**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
REZONING BOARD  
AUGUST 19, 2008**

The Vanderburgh County Rezoning Board met in session this 19<sup>th</sup> day of August, 2008 at 6:25 p.m. in room 301 of the Civic Center Complex with President Jeff Korb presiding.

**Call to Order**

Commissioner Tornatta: One spot of rezoning. Two spots.

Commissioner Nix: Thank you, Mr. President.

**First Readings:**

**VC-8-2008: Petitioner: William G. Greif, Virginia Development Group, LLC  
Address: 508 Kimber Lane  
Request: Change from Ag to C-4 with UDC**

**VC-9-2008: Petitioner: Red Bank Development, LLC  
Address: 545 Dugan Trail  
Request: Change from R-4 to C-4**

President Korb: Docket 2008-29-PC VC-8-2008, the petitioner is William Greif, Virginia Development Group, LLC, address, 508 Kimber Lane, nature of cause, petitioner requests to rezone from an agricultural zone to a C-4 zone with a use and development commitment. The next docket is number 2008-31-PC VC-9-2008, the petitioner is Red Bank Development, LLC, the address is 545 Dugan Lane, the nature of the cause, the petitioner requests to rezone from R-4 zone to C-4.

Commissioner Tornatta: Motion to accept both.

Commissioner Nix: That's on first reading?

Commissioner Tornatta: Uh-huh.

Commissioner Nix: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. Do I need a roll call vote?

Commissioner Nix: Yes, sir.

President Korb: Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes.

**Approval of the July 15, 2008 Rezoning Meeting Minutes**

Madelyn Grayson: And you need to approve the 7/15 rezoning minutes too.

President Korb: All those in favor of approving, I need a motion.

Commissioner Tornatta: So moved.

Commissioner Nix: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign.

Commissioner Nix: Thanks.

President Korb: The motion passes.

Commissioner Tornatta: For the 7/15 board meeting, right? The minutes?

Commissioner Nix: Motion to adjourn.

President Korb: Second. Oh, I can't–

Commissioner Tornatta: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign.

(The meeting was adjourned at 6:30 p.m.)

**Those in attendance:**

Jeff Korb

Kathryn Schymik

Members of Media

Bill Nix

Madelyn Grayson

Troy Tornatta

Others Unidentified

**VANDERBURGH COUNTY  
REZONING BOARD**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
REZONING BOARD  
SEPTEMBER 16, 2008**

The Vanderburgh County Rezoning Board met in session this 16<sup>th</sup> day of September, 2008 at 5:50 p.m. in room 301 of the Civic Center Complex with President Jeff Korb presiding.

**Call to Order**

President Korb: Area Plan or Drainage Board first?

Janet Greenwell: Area Plan.

President Korb: Area Plan looks like what it is. Smart woman.

**Approval of the August 19, 2008 Rezoning Meeting Minutes**

Janet Greenwell: Good evening. I'm Janet Greenwell with the Area Plan Commission. First of all we would like approval of the minutes, please.

Commissioner Nix: So moved.

Commissioner Tornatta: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes.

**First Readings**

**VC-10-2008: Petitioner: Majestic Place LLC  
Address: 333 S. Eickhoff Road, 201 and 351 S. Roesner Road  
Request: Change from AG to R-3, R-4 & C-4 with UDC**

**VC-11-2008: Petitioner: RCR Westside Holdings LLC  
Address: 5001 New Harmony Road  
Request: Change from C-4 and AG to M1 with UDC**

**VC-12-2008: Petitioner: Esquire Properties LLC  
Address: 6312 Petersburg Road, 420, 440, 522 Cannelton Court and  
430, 431, 448, and 514 Derrington Drive  
Request: Change from R-3 with UDC to R-3 with Amended UDC**

Janet Greenwell: Okay, we have three new first readings to read into the record. 2008-36-PC VC-10-2008, the petitioner is Majestic Place LLC for the property located at 333 South Eickhoff Road, 201 and 351 South Roesner Road. Now, those addresses we issued strictly for the purpose of rezoning the lots. Some of the parcels have addresses, some do not. We issued the addresses to give the general public a better idea of about where, it's a very large project. So, about where it's at. The second rezoning is 2008-37-PC VC-11-2008, petitioner, RCR Westside Holdings LLC, a petition to rezone the property at 5001 New Harmony Road. The third petition is 2008-38-PC VC-12-2008, petitioner, Esquire Properties LLC, a petition to rezone the property at 6312 Petersburg Road, 420, 440, 522 Cannelton

Court and 430, 431, 448, and 514 Derrington Drive. If we could have a motion for first reading to assign it to the hearings in November.

Commissioner Nix: So moved.

Commissioner Tornatta: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes.

<p style="text-align: center;"><b>Final Reading:</b> <b>VC-8-2008: Petitioner: William G. Greif: Virginia Development Group LLC</b> <b>Address: 508 Kimber Lane</b> <b>Request: Change from AG to C-4 with UDC</b> <b>Action: Approved 3-0</b></p>
--

Janet Greenwell: Okay, we have one rezoning for tonight. It's 2008-29-PC VC-8-2008. Virginia Development Group is requesting to rezone the two acres at the northwest corner of Kimber Lane and Virginia Street from agricultural to C-4 with a use and development commitment. The address of the site is 508 Kimber Lane. The rezoning was heard at the September 11<sup>th</sup> Area Plan Commission meeting, and was recommended for approval with 11 affirmative votes. I have to correct that. I think it was ten affirmative votes.

Commissioner Nix: It says ten here.

Janet Greenwell: Yeah, one of our members had stepped out of the room. I'm sorry. The use and development commitment included as part of this petition addresses the uses to be allowed on the site, and it further commits to widening Kimber Lane to the entrance of the commercial development. The comprehensive plan projects the area as commercial. The change in zoning from Ag to C-4 with a use and development commitment is consistent with the overall development plan. Do any of you have any questions? Good.

President Korb: Discussion on that item, gentlemen? I need a motion please.

Commissioner Nix: Well, do we have someone here to speak to this?

President Korb: I'm sorry. Do we have anybody to speak against or for this? There you go. Just state your name.

Justin Shofstall: Justin Shofstall with Easley Engineering, representing the Virginia Development Group. It would just wish that the Commissioners go ahead and move forward with the recommendation for approval on this rezoning.

President Korb: Thanks, Justin. Any remonstrators? Questions from the Commissioners? Summation? Just about says it all. I need a motion to approve please.

Commissioner Nix: So moved.

Commissioner Tornatta: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes. Roll call vote.  
Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes. The motion passes. Is that all you got? Wow! Bless you. Have a great night. Thank you everybody.

Commissioner Nix: Want to start Drainage Board?

President Korb: Drainage Board.

Commissioner Tornatta: Adjourn this meeting. Motion to adjourn.

Commissioner Nix: Second.

President Korb: All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. (Gavel). The motion passes.

(The meeting was adjourned at 5:55 p.m.)

**Those in Attendance:**

Jeff Korb  
Janet Greenwell  
Justin Shofstall

Bill Nix  
Ted C. Ziemer, Jr.  
Others Unidentified

Troy Tornatta  
Madelyn Grayson  
Members of Media

**VANDERBURGH COUNTY  
REZONING BOARD**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY  
REZONING BOARD  
OCTOBER 21, 2008**

The Vanderburgh County Rezoning Board met in session this 21<sup>st</sup> day of October, 2008 at 5:55 p.m. in room 208 of the Civic Center Complex with President Jeff Korb presiding.

**Call to Order**

President Korb: We have got a rezoning issue that, Mr. Shively has another appointment, and we are going to accommodate him with that. So, Les, come on up.

**Approval of the September 16, 2008 Rezoning Meeting Minutes**

Les Shively: Thank you.

President Korb: You're welcome.

Les Shively: I think I'm also going to accommodate the staff of the Plan Commission, too, because this is the only action item I believe tonight.

President Korb: That's fine.

Madelyn Grayson: Other than approving the minutes of the previous rezoning meeting.

Commissioner Tornatta: Motion to approve.

Commissioner Nix: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes.

**Final Reading: VC-9-2008  
Petitioner: Red Bank Development LLC  
Address: 545 Dugan Trail  
Request: Change from R-4 to C-4  
Action: Approved 3-0**

Les Shively: Mr. President and members of the Board of Commission, this is a rezoning for the remaining part of lot 17, right off of Boehne Camp Road, in that commercial area. Just to make a long story short, part of that lot was sold to the developer of the Copper Creek Apartments, they never used it. They sold it back, it never got rezoned. So, it's going back into the original subdivision, the same classification as all other commercial lots in that subdivision, subject to all the restrictions, use and development commitments. It was a unanimous vote at the Plan Commission. There were no remonstrators. It just basically goes back to the way it was intended in the beginning.

President Korb: Great, so, you're just asking us to go back to that original rezoning?

Les Shively: Right.

President Korb: Are they going to put more condos in? Is that the plan?

Les Shively: No, no, no, it's going the other way.

President Korb: Going backwards?

Les Shively: It's going, it was supposed to be part of the apartments, now it's going back to the commercial development. They didn't need the property.

President Korb: Got it.

Les Shively: So, it's been deeded back, but now we've got part of a lot that's R-4 and the other part is C-4. We want to make it all the one commercial classification.

President Korb: What's going in there, Les? Or do you know that?

Les Shively: Don't know. We're trying to make it more marketable. It's very hard to market a lot that's got two zoning classifications. That's the real reason we're doing that.

President Korb: Sure. Are there any remonstrators in the audience for this issue this evening? No?

Janet Greenwell: Obviously, I'm not a remonstrator. I'm just needing to tell you—

President Korb: You never know in this business.

Janet Greenwell: No.

President Korb: For the record, your name?

Janet Greenwell: I'm Janet Greenwell with the Area Plan Commission.

President Korb: Thanks, Janet.

Janet Greenwell: Plan Commission did unanimously vote to approve this.

Commissioner Tornatta: On the recommendation of the Planning Commission, I make a motion to approve.

Commissioner Nix: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes.

Les Shively: Thank you for accommodating my meeting this evening.

President Korb: No problem. Thanks, Les, see you later.

Commissioner Nix: Roll call vote.

President Korb: Roll call vote. Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Jeff, or Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes.

**First Reading: VC-13-2008  
Petitioner: James K. and Jacqueline L. Johnston  
6611 N. Green River Road  
Request: AG to C-4 with UDC**

President Korb: We also have a first reading, docket number 2008-40-PC, the petitioner is James K. and Jacqueline L. Johnston. The address is 6611 North Green River Road. The nature of the case is the petitioner requests to rezone from an agricultural zone to a C-4 zone with a use and development commitment. Janet, do you wish to come up and comment on this, please?

Janet Greenwell: There's really no comment. We just ask that you assign it to Plan Commission for hearing.

Commissioner Tornatta: Motion to approve.

Commissioner Nix: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes. Roll call vote. Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes. I need a motion to adjourn.

Commissioner Tornatta: So moved.

Commissioner Nix: Second.

President Korb: We love those quick meetings.

(The meeting was adjourned at 5:58 p.m.)

**Those in Attendance:**

Jeff Korb

Joe Gries

Madelyn Grayson

Others Unidentified

Bill Nix

Ted C. Ziemer, Jr.

Les Shively

Members of Media

Troy Tornatta

Marissa Nichoalds

Janet Greenwell

**VANDERBURGH COUNTY  
REZONING BOARD**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY  
REZONING BOARD  
NOVEMBER 18, 2008**

The Vanderburgh County Rezoning Board met in session this 18<sup>th</sup> day of November, 2008 at 5:20 p.m. in room 301 of the Civic Center Complex with President Jeff Korb presiding.

**Call to Order**

President Korb: Redevelopment it is.

Commissioner Tornatta: Rezoning.

President Korb: I'm sorry, rezoning.

Janet Greenwell: It looks like we arrived just in time. I didn't expect your meeting to be so quick. I'm Janet Greenwell with the Area Plan Commission.

**Approval of the October 21, 2008 Rezoning Meeting Minutes**

Janet Greenwell: We have two first readings, I guess, I need to ask for your approval of our minutes.

Commissioner Tornatta: So moved.

Commissioner Nix: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes.

**First Readings:**

**VC-1-2009: Petitioner: Tim Moll of T&T Development, Inc.  
Address: 15901 Petersburg Road  
Request: Ag to C-2 with UDC**

**VC-2-2009: Petitioner: Porterfield Development LLC  
Address: 8220 Telephone Road  
Request: Ag to R-4**

Janet Greenwell: We have two first readings, VC-1-2009, petitioner Tim Moll of T&T Development is requesting a rezoning at 15901 Petersburg Road from agricultural to C-2 with a use and development commitment. VC-2-2009, Porterfield Development is requesting to rezone from agricultural to R-4 the property at 8220 Telephone Road. Those are first readings to be assigned.

Commissioner Nix: I'll make a motion to approve docket 2009-1-PC VC-1-2009 for first reading.

Commissioner Tornatta: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes.

Commissioner Nix: Roll call vote.

President Korb: Roll call vote. Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes.

Janet Greenwell: Thank you. The first petition we have–

Commissioner Nix: Let me go ahead and make the second motion there.

Janet Greenwell: Okay.

Commissioner Nix: This is for 2009-2-PC VC-2-2009, I make a motion to approve first reading.

Commissioner Tornatta: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. Roll call vote. Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta.

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes.

Janet Greenwell: Sorry, jumping the gun.

**Final Reading: VC-11-2008**  
**Petitioner: RCR Westside Holdings LLC**  
**Address: 5001 New Harmony Road**  
**Request: Change from Ag and C-4 to M1 with UDC**  
**Action: Approved 3-0**

Janet Greenwell: We have two rezonings for final hearing. 2008-37-PC VC-11-2008, the property at 5001 New Harmony Road. RCR Westside Holdings is requesting to change the zoning from agricultural and C-4 to M1 with a use and development commitment for a 1.23 acre site at 5001 New Harmony Road. It's the northwest

corner of New Harmony and Detroy. The gas station that was built on that site was built around the 1950's. The Plan Commission did grant a permit in September of 2008 to Reisinger Custom Rebuilding to allow a limited car repair service to operate. They have filed a rezoning requesting M1 to allow them to add engine overhauling and rebuilding, auto painting and body work, and automobile parts to their uses to be permitted on the site. The use and development commitment eliminates all the use group 14 industrial uses other than those associated with auto repair. It was heard at Plan Commission November 11<sup>th</sup> and recommended for approval with eight affirmative votes.

President Korb: Discussion? So, they're not adding on, they're just wanting to expand their services? Okay.

Brian Carroll: I'm attorney Brian Carroll.

President Korb: Hi, Brian.

Brian Carroll: Good evening members of the County Commissioners. I'm here representing RCR Westside Holdings. For the record, my address is 2230 West Franklin Street. RCR Westside Holdings is the title holder to this property, and they lease it to Reisinger Custom Rebuilding. Pat Reisinger is the principal for both LLC's. This property has been used as a service station for many years. I think it was vacant for the last two or three. Most recently, before Reisinger Custom Rebuilding started operating, it was a service station and a 24 hour towing business. RCR purchased the property in August of this year. They did quite a bit of work regarding the environmental. They took out the tanks, they replaced the roof. Their business, Reisinger Custom Rebuilding is what you would think, a custom rebuilding and restoration of classic automobiles. We're asking tonight that the zoning classification be changed from C-4 to M1 to add the uses that were mentioned earlier that are only allowed in M1 or an industrial use. That is having to do with basically rebuilding, painting, and body work and overhauling. So, again without our changing it to M1, we can't basically do any painting or major overhauling on these vehicles. So, tonight we're asking, again, for the change of the zoning use. We have filed a use and development commitment, which does, basically, prohibit any of the industrial uses that are added by the M1 zoning to just those four uses.

Commissioner Tornatta: Brian, you said something about the environmentals. They're totally clean at this point?

Brian Carroll: Yes.

Commissioner Tornatta: Or is there a remediation process?

Brian Carroll: No, it's totally clean. They've done all the testing, they've taken out the tanks.

Patrick Reisinger: (Inaudible. Not at microphone.)

Commissioner Tornatta: Can you come up to the microphone, please?

Patrick Reisinger: I'm sorry.

Brian Carroll: Dr. Reisinger, Pat Reisinger is the principal.

Patrick Reisinger: There was traffic down by the museum.

Commissioner Tornatta: That's fine.

Patrick Reisinger: Pat Reisinger, 2012 Diefenbach Road.

Commissioner Tornatta: Okay, just curious about the clean up. I know Walt's had it at one time, and he—

Patrick Reisinger: When we bought it, before we bought it everyone recommended any service station do some due diligence before you commit. So, they did 16 bore holes in random places, and those were pretty clean. Then we pulled the tanks, and our part was pretty clean, all the tanks and everything, but there's evidence from old tanks that were there before that there's a few spots. I was just talking to Mark Phillips from EMC today, or yesterday, and he said he's not sure if he'll have to do anymore digging. The water wells that they've placed are all running clean. So, there may be some kind of a spot thing to kind of like stabilize it in place. But, overall, I mean, it's going the right direction.

Commissioner Tornatta: Okay.

Patrick Reisinger: I'm not unhappy right now.

Commissioner Tornatta: Okay.

Patrick Reisinger: I understand these environmental things can be a real, really involved and we're doing okay.

Commissioner Tornatta: Well, I guess—

Patrick Reisinger: It's been a big cost for the project—

Commissioner Tornatta: Yeah.

Patrick Reisinger: —is the environmental, obviously.

Commissioner Tornatta: Right, and what I want to make sure is that we're not overwhelmed with the environmental that we decide to back out on it and then we approve the change.

Brian Carroll: It sounds like the environmental is very minor at this point.

Commissioner Tornatta: Okay.

Brian Carroll: Particularly if the water wells are showing clean, it must be just localized to a few areas, and they may be able to just remediate in place, or, since it's not affecting the ground water they may be able to just close it as is.

Commissioner Tornatta: Okay.

Patrick Reisinger: Yeah.

Commissioner Tornatta: Well, just, I want to get that on the record.

Brian Carroll: It sounds like it's very minor.

Commissioner Tornatta: Okay.

Patrick Reisinger: We're going to be pretty, it's kind of, we want to do the high end restorations.

Commissioner Tornatta: Right.

Patrick Reisinger: Right now we'll do anything, but we want to get to where we do like Duesenbergs and things like you see, like Jay Leno's collections.

Commissioner Tornatta: Yeah.

Patrick Reisinger: Nice things. So, anybody that's got a Ferrari that needs restored, that's fine.

Commissioner Tornatta: I think it's a perfect spot.

Patrick Reisinger: Oh, yeah.

Commissioner Tornatta: It's been sitting dormant for a while, so.

Patrick Reisinger: We're trying to go with that 50's kind of art deco—

Commissioner Tornatta: Yeah.

Patrick Reisinger: —not art deco, but I can't remember the right period for that, but, anyway kind of a little bit glitzy, but like you would see when you would watch Back to the Future and he goes back to the past. That's the look we're looking for.

Commissioner Tornatta: Okay.

Brian Carroll: There's only, what, how many vehicles you plan on working on at one time?

Patrick Reisinger: To do a complete restoration top to bottom, it takes three years. So, we're not going to move a lot of cars through there. We turn off customers, they're like, you know, I've got a '55 Chevy that's been in my family since it was new, could you guys knock that out in a month? You know, because Overhaulin' does it in one week. Well, we're like we can't do it as fast as they do it on t.v. You want a top to bottom job it's going to be an involved deal. We can't do a lot of things on site. You know, obviously, engine rebuilding and stuff like that, major engine work that goes one place, sandblasting and clean up, we can't do that kind of work there, we have to send that down to a facility that's good at that, rechroming that goes to Nashville to Advanced Plating. So, but we do need to be able to paint a car, obviously.

Commissioner Tornatta: Right.

Patrick Reisinger: There's a lot of steps involved.

President Korb: Any remonstrators in the audience this evening? Great, seeing none. Questions from the Commissioners?

Commissioner Nix: I have none.

President Korb: Hearing none. Summation, we'll spare you the grief, Mr. Carroll.

Brian Carroll: Thank you.

President Korb: That's great. Motion to approve please.

Commissioner Tornatta: So moved.

Commissioner Nix: Second.

President Korb: Discussion? Hearing none. All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes. Roll call vote.  
Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes. Congratulations, guys.

Commissioner Nix: Thank you, guys.

Brian Carroll: Thank you, appreciate it.

**Postponement of VC-10-2008 Majestic Place Rezoning  
to January 20, 2009**

Janet Greenwell: My apologies, we probably should enter, for the record that VC-10-2008, Majestic Place, the property on Eickhoff is continued to the January 20<sup>th</sup> County Commissioners meeting. That probably should be put in the record.

**Final Reading: VC-12-2008: Petitioner: Esquire Properties LLC  
Address: 6312 Petersburg Road, 420, 440, and 522 Cannelton Court  
430, 431, 448 and 514 Derrington Drive  
Request: Change from R-3 with UDC to R-3 with Amended UDC  
Action: Approved 3-0**

Janet Greenwell: The other rezoning that we have for hearing tonight is 2008-38-PC VC-12-2008. It's, Esquire Properties is requesting to rezone the 25 acre site located at 6312 Petersburg Road. There's properties on 420, 440 and 522 Cannelton Court, and 430, 431, 448 and 514 Derrington Drive. Those were residences that have already transferred, have been built on this property. The property was rezoned R-3 with a use and development commitment in October 1999. It was the site of the Hamilton Creek Condominiums. The use and development commitment at that time limited it to 50 condominium units comprised of single and two family buildings. It

prohibited apartments and multi-tenant units and group homes. The new use and development commitment, this is a rezoning from R-3 to R-3, with a changed use and development commitment. The new commitment commits to a maximum of 45 single family homes. Esquire Properties submitted a subdivision plat, Hamilton Creek Estates. It was a 42 lot residential subdivision that was heard at the same time as the zoning. The petition and the accompanying subdivision plat were heard at Plan Commission on November 11<sup>th</sup>, and they were recommended for approval with nine affirmative votes. I probably should add that the new use and development commitment continues to prohibit apartments, multi-tenant units and group homes.

President Korb: Petitioner representative? Justin? Just, if you would, state your name.

Justin Shofstall: Justin Shofstall with Easley Engineering, representing Hamilton Creek rezoning and Esquire Properties LLC. Just to reiterate what Ms. Greenwell had stated was that we are changing the use and development commitment on the existing R-3. We are maintaining the R-3, but we're changing the use and development commitment and backpedaling that from a 50 unit condominium complex down to a 45 unit single family residential lot use. So, at this point what we're asking for is maintaining still the same R-3 zoning, but allowing the approval for the UDC for a less dense single family subdivision.

President Korb: Remonstrators in the audience? Seeing none, questions from the Commissioners?

Commissioner Nix: I have none.

Commissioner Tornatta: No.

President Korb: Summation we'll spare you.

Justin Shofstall: Alright.

President Korb: Motion to approve.

Commissioner Nix: So moved.

Commissioner Tornatta: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes. Roll call vote. Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes. Congratulations.

Justin Shofstall: Thank you.

President Korb: Yep, you're welcome. Janet, is that it? Okay, great, thank you very much.

Janet Greenwell: Thank you.

Commissioner Nix: Drainage Board?

President Korb: Drainage Board it is.

Commissioner Tornatta: We need a motion to adjourn.

Commissioner Nix: Motion to adjourn.

Commissioner Tornatta: Second.

President Korb: Discussion? Hearing none. All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes.

(The meeting was adjourned at 5:32 p.m.)

**Those in Attendance:**

Jeff Korb

Kathryn Schymik

Brian Carroll

Others Unidentified

Bill Nix

Madelyn Grayson

Patrick Reisinger

Members of Media

Troy Tornatta

Janet Greenwell

Justin Shofstall

**VANDERBURGH COUNTY  
REZONING BOARD**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY  
REZONING BOARD  
DECEMBER 16, 2008**

The Vanderburgh County Rezoning Board met in session this 16<sup>th</sup> day of December, 2008 at 5:40 p.m. in room 301 of the Civic Center Complex with President Jeff Korb presiding.

**Approval of the November 18, 2008 Rezoning Meeting Minutes**

Janet Greenwell: Good evening. I'm Janet Greenwell with the Area Plan Commission. I would ask that you approve the rezoning minutes.

Commissioner Tornatta: Motion to approve.

Commissioner Nix: So moved.

President Korb: Second.

Commissioner Tornatta: Well, I approved, you second.

Commissioner Nix: Oh, I'm sorry. You're still President, aren't you?

President Korb: Oh, I am. I'm sorry. I zoned out.

Madelyn Grayson: No pun intended?

President Korb: Yeah, no pun intended. All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes.

**First Readings:**

**VC-3-2009: Ramsey Development Corp. Of Indiana**

**Address: 8530 Middle Mt. Vernon Road**

**Request: Change from R-1 to R-4 with UDC**

**VC-4-2009: Ramsey Development Corp. Of Indiana**

**Address: 8530 Middle Mt. Vernon Road**

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

---

Janet Greenwell: We have two first readings, docket number 2009-3-PC VC-3-2009, and 2009-4-PC VC-4-2009. On both petitions is Ramsey Development Corporation of Indiana. They are petitioning to rezone the property at 8530 Middle Mount Vernon Road. A portion of it in the first petition to R-4, and a portion of it in the second petition to C-1. That will be before you at a future date.

Commissioner Tornatta: Motion to approve.

Commissioner Nix: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes. Roll call vote.  
Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes.

**Final Reading:**

**VC-13-2008: James and Jacqueline Johnston**

**Address: 6611 North Green River Road**

**Request: Change from Ag to C-4**

**Action: Approved 3-0**

---

Janet Greenwell: We have one petition coming forward for final hearing. It's 2008-40-PC VC-13-2008. James and Jacki Johnston are requesting to rezone their property located at 6611 North Green River Road from agricultural to C-4. It's a half acre lot located on the east side of Green River between Heckel and Millersburg. Public sewers have been recently extended to the area, and the county has plans for widening Green River Road at this location. The comprehensive plan future land use map has not yet been updated to reflect these improvements, which will make the future development at the area more likely to occur. The petition was heard at the December 11<sup>th</sup> Area Plan

Commission hearing, and was recommended for approval with ten affirmative votes. That's it.

President Korb: Hello.

Maria Worthington: Hello. Good afternoon, Commissioners. I am Maria Worthington of Kahn Dees Donovan and Kahn, 501 Main Street. I'm here on behalf of the applicants for this rezoning, the Johnstons. With me tonight is Mrs. Johnston, here in the audience. As mentioned we were before the Area Plan Commission last week on this request. It's to zone from Ag to C-4 in a corridor that's being developed towards the commercial side. This is located on North Green River between Heckel and Millersburg. I'm going to plan on not being too long winded. We do not have any remonstrators, and we did receive a unanimous, positive recommendation at the Area Plan Commission level. I am prepared to give a longer presentation, if you would like one. However, I do think—

Commissioner Tornatta: I vote no.

Maria Worthington: Okay. I thought that might be the case.

President Korb: And you want to do that because?

Maria Worthington: Only if you would like.

President Korb: We don't.

Maria Worthington: If you have any questions or concerns, I would be happy to address those.

President Korb: Any questions, gentlemen, to Ms. Worthington? A motion please.

Commissioner Nix: (Inaudible).

President Korb: Public comment? A motion please.

Commissioner Nix: Move approval.

Commissioner Tornatta: Second.

President Korb: Discussion? Maria, anything you want to say?

Maria Worthington: No.

President Korb: Great. All those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes. Congratulations.

Maria Worthington: Thank you.

Commissioner Nix: Roll call.

President Korb: Roll call vote. Commissioner Nix?

Commissioner Nix: Yes.

President Korb: Commissioner Tornatta?

Commissioner Tornatta: Yes.

President Korb: Commissioner Korb votes yes.

Commissioner Tornatta: Just saved that legal bill, didn't we?

President Korb: Dang it!

Commissioner Tornatta: Sorry, Maria.

Bill Jeffers: I think she's charging (Inaudible) time, and I understand the Lloyd is closed.

President Korb: Is it really?

Bill Jeffers: They had a wreck on every overpass.

President Korb: Wow!

Bill Jeffers: If you're out there watching t.v., slow down, if you're going to drive.

Commissioner Tornatta: Yeah, in your car.

Bill Jeffers: If you're watching t.v. in your car, you're already in trouble.

President Korb: That's bad.

Commissioner Tornatta: Okay, we need to, motion to adjourn.

President Korb: Adjourn.

Commissioner Nix: Second.

President Korb: Discussion? Hearing none, all those in favor say aye.

All Commissioners: Aye.

President Korb: Opposed same sign. The motion passes. We are adjourned.

(The meeting was adjourned at 5:45 p.m.)

**Those in Attendance:**

Jeff Korb

Ted C. Ziemer, Jr.

Maria Worthington

Bill Nix

Janet Greenwell

Others Unidentified

Troy Tornatta

Madelyn Grayson

Members of Media

**VANDEBURGH COUNTY  
REZONING BOARD**

---

**Jeff Korb, President**

---

**Bill Nix, Vice President**

---

**Troy Tornatta, Member**

(Recorded and transcribed by Madelyn Grayson.)