

**Vanderburgh County
Board of Commissioners
Rezoning Meeting
January 20, 1998**

The Vanderburgh County Board of Commissioners met in session this 20th day of January at 7:07 p.m. with Bettye Lou Jerrel presiding as President for the purpose of hearing rezoning petitions.

Call to order

President Jerrel: I would like to call the Rezoning meeting to order, please.

Approval of minutes

President Jerrel: The first item on the agenda is the approval of the minutes of the December 15th meeting. Is there a motion?

Commissioner Mourdock: I'll move approval of those minutes.

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

First reading VC-19-97 Robert Woodward

President Jerrel: The first item for action would be the first reading on petitioner Robert Woodward, VC-19-97.

Commissioner Mourdock: Just on first reading...that's alright. For first reading I will move approval of the zoning for VC-19-97, 5922 Vogel Road. The request being from AG to C-4, so on first reading I'll move approval.

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

(Petition approved on first reading 2-0)

Final reading VC-18-97 MJM Properties

President Jerrel: C is a final readings. The first one is VC-18-97, MJM Properties.

Joe Harrison, Jr.: All those who are going to speaking on this matter please raise your right hands. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Mark Fine: I do.

Barbara Cunningham: Mark Fine is the representative for MJM Properties in the petition to rezone 6.09 acres located on the south side of Old Boonville Highway between Burkhardt and Kotter Avenue from Agricultural to M-2. The common address of this site is 6001 Old Boonville Highway and at the Area Plan Commission hearing we learned that the owner is now MJM Properties. They've purchased this site from the Fraternal Order of Eagles. The Area Plan Commission voted at their meeting 11-0 to recommend approval of the project. MJM Properties rezoned this eight plus acre site adjacent to the east to M-2 in April, 1997. This six plus acre site that is before you tonight is located on

the south side of Old Boonville Highway just west of Burkhardt Road. It's located across Old Boonville Highway south of the Eagle's social club. Old Boonville Highway is a narrow road highly utilized by commercial and truck traffic due to the existing industrial and commercial zonings in use and there is no direct access onto Old Boonville from Green River Road and only north turn only onto Green River from Old Boonville. This restricted access at Green River resulted in increased traffic on the Burkhardt corridor. Information on the rezoning petition indicates the possibility of an industrial park on this site. If developed as more than one business or industry curb cuts and access should be designed to utilize one shared access point for the development and no additional individual curb cuts should be permitted. If the site is to be combined with the adjacent undeveloped eight acre site to the east, the entire parcel should be developed with shared access and without any individual curb cuts. If the site is divided into two or more lots a subdivision plat is required. This vacant agricultural site is within a rapidly developing area. It's identified on the 2015 map of the 1996 Comprehensive Plan as an area of industrial development. The proposed change in zoning is consistent with the plan if the industrial park is designed to minimize the number of access points on Old Boonville Highway. Quality site design including adequate buffer and green area should be maintained.

Mark Fine: Thank you. I'm Mark Fine and I am here on behalf of MJM Properties which is an entity that is wholly owned by Mark Miller from Miller Truck Equipment who owns property down Boonville Highway almost catty-corner just west and across the highway from it. He has acquired this property in conjunction with the other property that was rezoned in April for a total of 13 acres. Consistent with Ms. Cunningham's staff field report, it is going to be developed as one parcel with appropriate subdivision development and also consistent with the staff report, it will be handled in a manner that would minimize the number of access sites to Old Boonville Highway. This property is entirely industrial on all sides to varying degrees, I might add, and is consistent with the Comprehensive Plan which envisions industrial development. I might add that if you look at his property now which is across the street I think you'll find that he maintains a very nice looking facility and I think that is going to be consistent with what he has anticipated for this property. It is...I will admit it is speculative and he is trying to put an industrial subdivision in place and it will be a nice neighbor for him as for others in the area. I'd be happy to answer questions.

President Jerrel: Are there any questions? Is there a motion? Is there anyone here that would like to speak to this petition by MJM Properties?

Commissioner Mourdock: I'll move approval on final reading the change in zoning from AG to M-2 for the MJM Properties at 6000 Old Boonville Highway.

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

Commissioner Mourdock: Yes.

President Jerrel: I'll vote yes.

Mark Fine: Thank you.

(Petition approved on final reading 2-0)

Final reading VC-17-97 Curt Burwell and Eric Burwell

President Jerrel: The next item is VC-17-97, petitioner Curt Burwell and Eric Burwell.

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

Jeffrey Lantz: I do.

Barbara Cunningham: Jeff Lantz is the representative for petitioners Curt and Eric Burwell and owners Mildred Heerdink, Wyman Holder, Inez Holder, William Fiscus and Alvrone Sater in this petition to rezone 5.8 acres located at the southwest corner of Burkhardt Road and Virginia from Agricultural to C-4. Area Plan Commission voted 11-0 to recommend approval of this project at the January 7, 1998 meeting. One of the parcels of land included in this petition had previously requested rezoning to C-2. The petition to rezone the residence that is located at 410 North Burkhardt was denied by County Commissioners on April 24, 1997. On November 3, 1997 the County Commissioners voted to waive the one year time limit to allow a refile of the petition to rezone this site in combination with the residential lots adjacent both north and south and the vacant parcel adjacent to the west. These four parcels are being combined into one 5.8 acre site which will be developed as a single commercial project utilizing shared access and parking. Burkhardt Road from Lloyd to Virginia is currently being widened to four lanes with funding from a tax increment financing district established for the area. The Burkhardt widening project will directly affect this site located at the southwest intersection of Burkhardt and Virginia. The preliminary site plan for this site indicates one proposed access onto Burkhardt Road and two access points onto Virginia Street. Burkhardt Road has experienced extraordinary pressure from increased traffic resulting from the rapid commercialization along the Lloyd Expressway and the Burkhardt Road corridors. The County Commissioners this last fall or summer adopted a plan for access along the Burkhardt Road corridor. The plan shows a service road parallel and on the west side of Burkhardt through this site from Virginia to the Kmart parking lot. The site plan for the development should allow for the north/south movement through the site. Also, the development should line up one of their curb cuts on Virginia with the access on the project adjacent north across Vogel Road. We've been working with Mr. Lantz and the developers and they are agreeable to placing an easement on the property that is favorable to both the county and to the developer. County Engineer, John Stoll, states that a median will be constructed on Burkhardt Road as part of the county's Burkhardt Road widening project. This will prevent left turns in and out of this site's proposed driveway on Burkhardt. The developer of the site should provide a driveway connecting the property to the property south of this site and this is the easement that we have been talking about. Compliance with all code requirements including parking and access will be addressed at Site Review on submission of final plans for the development of the site. The Comprehensive Plan projects the Burkhardt Road corridor between Morgan and Lloyd as an area of commercial development. This site proposed for a C-4 zoning is located north of Kmart and south of Virginia Street. Development of these four or five lots as one commercial development eliminates the potential for three commercial driveways within a short distance which would increase congestion and vehicle conflicts and inhibit traffic flow. The entire site should be designed to share access and curb cuts and has been with the preliminary...or the proposed site plan that they're showing us. The Comprehensive Plan calls for limiting the number and consolidating curb cuts when possible. The plan stresses that transportation and utility systems necessary to accommodate new development are in place when needed to mitigate development

impacts.

President Jerrel: Mr. Lantz.

Jeffrey Lantz: My name is Jeffrey Lantz. I represent Curt and Eric Burwell. Curt Burwell is here to answer any questions should you have any. I think the site plan that we've tendered to you gives you an indication as to what my clients are intending to do with this particular piece of property and I would tell you that of all the rezonings that I've done over the years in front of you and the City Council, I think the Burwells have impressed me in the fact that what they've done, they've come in and they wanted to know exactly what the County Commissioners wanted to do concerning Burkhardt Road. They met with Ms. Cunningham and Rose Zigenfus and John Stoll to find out exactly what they needed to do with this particular piece of property and the site plan that you see is their proposal. I know before we went before the Area Plan Commission our clients brought in several of their staff members and met with the people that I've indicated to you and are very amenable to working with our local people and local agencies in accomplishing what needs to be done here. I would also like to introduce Mr. Heerdink. This is Mildred Heerdink's son who is also here. He was here when we fought the first battle and lost and we appreciate you allowing us to reopen this and include the Heerdink portion of the property with the other proposals because I think this accomplishes what your intent was in developing this particular area. It develops it so that it would be beneficial to the public residents in that area and the public that it will be servicing in this area. The reason we have gone to C-4 is, as you can tell, there are requirements under C-4 concerning car washes and lube places and that's also what is proposed in the site plan. I'll be happy to answer any questions that you might have if you have any or Mr. Burwell will.

President Jerrel: Is there anyone else that would like to speak if there are no questions?

Commissioner Mourdock: I have no questions.

President Jerrel: I have none. Is there a motion?

Commissioner Mourdock: I'll move approval on final reading of the lots at 410 North Burkhardt, 500 North Burkhardt and 400 North Burkhardt submitted as VC-17-97 to change zoning from AG to C-4.

President Jerrel: I'll second and this is a final reading and so for the roll call vote, Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: I'll vote yes.

Jeffrey Lantz: Thank you.

(Petition approved on final reading 2-0)

Final reading VC-15-97 The Referral Company

President Jerrel: The next item on the agenda is VC-15-97, The Referral Company.

Joe Harrison, Jr.: Everyone who wishes to speak on this matter please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Drew Platt: I do.

Barbara Cunningham: I have Marco DeLucio as the representative and I know that is not your name.

Drew Platt: Drew Platt. I work with Fred Barber at F.C. Tucker.

Barbara Cunningham: Oh, okay, the representative for The Referral Company in this rezoning request for the property at 3401 North Green River Road. Hirsch Land Trust is the owner. This is 57.88 acre site on the east side of Green River north of Spring Valley Road which was rezoned in February of last year for unspecified commercial use. The approval of the C-4 classification was subject to a Use and Development Commitment which was made part of the ordinance. Extensive commitments were made including road improvements, buffering and landscaping on this site. The Referral Company is now requesting a reversal of the zoning. A petition to rezone from C-4 with the Use and Development Commitment to Agricultural. The effect of this rezoning petition is to restore the agricultural zoning classification which existed on the site prior to the approval of the limited and restricted C-4 designation and to remove the restriction of the Use and Development Commitment. No commercial use has been established on the site. Area Plan Commission voted nine yes, zero no and one abstention to recommend approval of this project at the December 3, 1997 meeting. The site is located on the east side of Green River Road south of the Lynch Road extension project. The Comprehensive Plan designates a limited strip of land across the east side of Green River for commercial development of the future land use map of 2015. The area to the east of this future commercial strip is designated for residential use. The proposed continued use for agricultural should require no new access and should have no traffic impact on Green River Road. Before I quit, even though we are taking off all of the commitments, if the property comes back I'm sure we're going to be asking for the same things because if you'll remember one was an extension of Cullen that went up to Lynch Road and then we talked about the extension of Spring Valley. It's not necessary for the AG use, but if commercial comes back the Hirsch Land Trust...is that...yeah, the Hirsch Land Trust should be on record that there are going to be commitments asked for.

Commissioner Mourdock: As a practical matter, they could not come back for any type of rezoning for another year if they opted to go from...?

Barbara Cunningham: If they're denied they can't come back, but I'll have to read whether they...if they're denied they can't come back, but I don't know that they could not--

Commissioner Mourdock: I suspect it's a moot point, but it's not very often we see them doing a retrograde zoning like this.

Barbara Cunningham: No, we don't usually have this kind happening.

President Jerrel: While you're looking, would you like to comment?

Drew Platt: Fred asked me to read a statement for him.

“The Referral Company desires to have this tract of land rezoned back to Agricultural. This was our agreement with the property owner, Bill Spurling, the adjoining property owner, if we did not go through with the purchase of the Hirsch land. We did not proceed with the sale.”

President Jerrel: Okay, is there anyone else that would like to speak to this?

Commissioner Mourdock: On final reading I'll move approval of the rezoning from C-4 to AG for 3401 North Green River Road and that's number VC-15-97.

President Jerrel: I'll second and as a final reading I would call for Commissioner Mourdock's vote.

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Drew Platt: Thank you.

(Petition approved on final reading 2-0)

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

Commissioner Mourdock: I will move for adjournment.

President Jerrel: Second and so ordered.

The meeting was adjourned at 7:25 p.m.

Those in attendance:

Betty Lou Jerrel
Richard E. Mourdock
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Mark Fine
Jeffrey Lantz
Drew Platt
Others unidentified
Members of the media

**VANDERBURGH COUNTY
BOARD OF COMMISSIONERS**

Betty Lou Jerrel, President

Richard E. Mourdock, Vice President

**Vanderburgh County
Rezoning Meeting
February 23, 1998**

President Jerrel: I would like to call Vanderburgh County Rezoning Meeting to order.

Approval of minutes

President Jerrel: The first item on the agenda is the approval of the January 20th minutes.

Commissioner Tuley: I'll move approval of the minutes from the January 20th meeting.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

First reading

VC-1-98 Jeri Buchanan 620 Kimber Lane

President Jerrel: The first item on the agenda is a first...or two first readings. The first one...

Commissioner Tuley: I'll move approval of VC-1-98, Petitioner, Jeri Buchanan. The address is 620 Kimber Lane. The request is from AG to C-02. Request approval on a preliminary first reading.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

First reading

**VC-2-98 Red Bank Development LLC 650 S. Boehne Camp
Road**

President Jerrel: The second first reading.

Commissioner Tuley: I will move approval on first reading of VC-2-98. The Petitioner is Red Bank Development LLC, Inc. The address is 650 South Boehne Camp Road and the request is from AG to R-4.

Commissioner Mourdock: I will second the motion.

President Jerrel: I'll say so ordered.

Final reading

VC-19-97 Robert G. Woodward 5922 Vogel Road

President Jerrel: The next item on the agenda is the final reading for VC-19-97.

Barbara Cunningham: Jeff Lantz is the representative for petitioner, Robert Woodward, and owner, Marcellus Hirsch Life Estate, in this petition to rezone a five acre site at 5922 Vogel Road from Agricultural to C-4. This vacant parcel of land is located on the north

side of Vogel Road between Royal Avenue and Tudor Lane and on the maps that I've passed out to you it is to the left of the yellow line on that property. I gave Mr. Lantz a copy of this, too. Or it is including and to the left of the line. Mr. Woodward is requesting a change in zoning to C-4 to allow development of this for commercial use. Its submitted conceptual site plan indicates a number of commercial buildings are planned on this site. Buffer areas must be maintained adjacent to the agricultural uses remaining adjacent north and east of this site at least while they are still agricultural. The western part of the lot along Stockfleth Ditch lies within the floodplain. Approximately five feet of fill will be required to raise building pads to the flood protection grade. Additionally, Stockfleth Ditch is a legal drain and according to the County Surveyor's Office all development must be set back at least 75 feet from the top of the bank unless the developer receives a variance from this requirement. This five acre site with 330 feet of frontage is located on the north side of Vogel Road in an area experiencing rapid commercial growth. Vogel Road has experienced increased traffic in recent months as it is an alternate route for commercial traffic between Green River Road and Burkhardt Road and helps to ease congestion on both Green River Road and the Burkhardt/Lloyd intersection. The property adjacent west to this site was rezoned to C-4 in December, 1997. If this property is developed as more than one business, curb cuts and access should be designed to utilize one shared access point for this development and no individual curb cuts should be permitted and this would be in line with the property that has been rezoned to the east of this site. The site has 330 foot of frontage on Vogel Road. With this limited frontage a single shared access would improve traffic flow and not contribute to the proliferation of commercial curb cuts. The transportation plan, and that's what I passed out this evening, for the Burkhardt Road corridor presented to the County Commissioners in 1997 shows a road extending from Oak Grove to Vogel along the eastern boundary line of this site. The city and the county have obtained the cooperation of developers, property owners, in dedicating right-of-way in constructing the necessary local road network in this rapidly growing area. This cooperation is essential to provide adequate access and alternative routes to disperse traffic and relieve congestion. This same statement was said at the Plan Commission meeting and I don't remember if it was ever addressed. I don't believe it was addressed during the meeting. The Comprehensive Plan projects this area between Lloyd and Morgan as an area of commercial development. This change in zoning to allow development of the site as a commercial use is consistent with the overall development plan as long as proper infrastructure is in place to take care of any commercial growth that would occur.

President Jerrel: Did you have a response?

Joe Harrison, Jr.: Can you hang on one second. Do you swear or affirm...all those who wish to speak on this matter, please raise your right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Jeffrey Lantz: My name is Jeffrey Lantz. I represent Robert G. Woodward in this rezoning. Robert G. Woodward, Jr. is present with me. Barbara, can you...I don't mean to appear ignorant, can you explain to Bob and I what you've highlighted here. Are you indicating that the road needs to be extended along the eastern edge of that piece of property? Is that--

Barbara Cunningham: That was where...when this Burkhardt Road corridor study was

done and this was the proposed road alignment that was given to the County Commissioners. I don't know if it was adopted, but, yes, that is where it is. We referenced that on the Staff Field from the beginning that there needs to be a road network in place.

Jeffrey Lantz: So does that entail taking some of the property that we are trying to buy? Is that...or do you know?

Barbara Cunningham: I don't know. I'm just telling you that this is a proposed roadway network system and this was what was presented to the County Commissioners and I am just bringing it to their attention that this is what was proposed for the area to furnish a transportation network between Vogel Road and Oak Grove Road in this area.

Jeffrey Lantz: Well, I don't know what you want me to comment on. The rezoning we're seeking is to go from Agricultural to C-4. I think we attached on our petition the design of how the property would sit. The only thing you might, you know, note in the site plan there is a ditch, and it's also shown on...well, it's not shown completely on what Barbara passed out to you, but the ditch just south of Vogel Road crosses over and then cuts through our piece of property. What we're proposing with, of course, the permission from the appropriate authorities is that we would take the ditch at the right angle and then run it down the western edge of the piece of property so that there would be culverts and everything along that line. I'll be happy to answer any questions that you might have regarding that, this rezoning.

President Jerrel: Barbara, do you have any...I mean, you didn't have any problem with the moving of the ditch?

Barbara Cunningham: The ditch will be in your bailiwick at Drainage.

Commissioner Jerrel: At Drainage time, but I am saying you were aware of that?

Jeffrey Lantz: Yeah, we told that to the Area Plan Commission.

Robert Woodward, Jr.: We've had conversations with Mr. Jeffers, too, so he is aware of it.

Commissioner Mourdock: Let me say what I think is the unspoken concern. The unspoken concern is if the road is ever...what is the road that will be going north/south called?

Barbara Cunningham: It could either be Kimber or Metro. It's kind of between the two of them.

Commissioner Mourdock: Okay, if that road ever goes through there it would appear that property might be needed off this property. Some right-of-way might be needed because it would run up...as shown it would run up the east side of this property. Obviously, we can't mandate that it happen at this time since this property doesn't connect all the way up to Oak Grove Road, so, I mean, it is very conceivable that this property would never be developed beyond what is shown on the drawing. In other words, it may not connect with any other acreage and the only access to it would be off Vogel. That's the concern.

Robert Woodward, Jr.: The property to the north there is still Mr. Hirsch's residence. It is expressed he doesn't have any intention to sell.

President Mourdock: Probably takes care of that.

Robert Woodward, Jr.: It is my understanding, and Barbara you may be able to explain this better, but the property to the west there, haven't they platted that with Kimber Lane going through the property to the west?

Barbara Cunningham: Well, it was at one time when they zoned it, it was Kimber Lane and it was to go on the west side of the property south of Vogel and again north of Vogel and since then they have come back before this body and had that condition removed. Part of it was because of the ditch. It was one of those things that was done during a meeting. We don't do that any more, one of those change in conditions during a meeting and so they were putting it...the attorney that presented it that night was putting it in Stockfleth Ditch. I mean, this was some years back. So there is...Kimber Lane at this time was not there. Metro is proposed to go all the way up, you know, at some time.

Robert Woodward, Jr.: Maybe that's what it was, okay.

President Jerrel: We still had...Joe, did you want to make a comment, please?

Joe Ream: Thank you. My name is Joe Ream, I represent Griffen, Guagenti and Ream. They are the present owners of the Bernardin Lochmueller building. That's on the property immediately adjacent to this five acres, so it is right to the east. It's immediately adjacent, and also East Park Development which is the rest of the property in that 55 acre tract between Vogel and Columbia and Burkhardt. It's all kind of one big chunk there from, more or less, the ditch to Burkhardt.

President Jerrel: You're--

Joe Ream: Okay, there's Vogel...yeah, right.

President Jerrel: Here is the property.

Joe Ream: Yeah, I'm looking for Columbia on here. Yeah, here...Columbia isn't on here. Our property is right here. This area, so here is Bernardin Lochmueller. Actually, Bernardin Lochmueller goes down to here like that and then here is the rest of the property.

President Jerrel: Thank you.

Joe Ream: I really just have one concern and that's about the property values and the value of the property in the area. When we asked for rezoning any developer would probably rather have C-4. Then you can kind of do what you want. You can maintain quality and if you have use that is C-4 you can do it in such way to still maintain you're quality, but we were denied that. We were only granted C-2 and if my recollection is correct the thinking was that helped ensure that it would be more of a quality development. It eliminates some things. I'm not a zoning expert, but the C-4 category, I believe, permits billboards, things like truck loading docks and things like that. I imagine you've all been by our area. You know, it's developing nicely. We've got two more office buildings going...excuse me, an office building and a retail store going in between Bernardin Lochmueller and Tudor Time as well as Stephen Libs Chocolates, etc. We're not opposed to anything. We want to be reasonable, but we're just saying that we would rather you all be consistent in your treatment of this zoning application

consistent with the previous treatment which was the Commissioners granted us C-2 then if we had something that came up that was C-4, like the tire store was a good example. You know, at first glance, you know, you would think a tire store wouldn't look too good. We got a C-4 zoning on that case-by-case, lot-by-lot basis because it did look good and it was consistent with the area.

Commissioner Mourdock: When was the C-2 issued, Joe?

Joe Ream: In 1990.

Commissioner Mourdock: Okay.

Joe Ream: For what it worth we also paid for this Vogel Road, so our investment is mounting and we want to continue to invest in that area and we want to continue to do a quality job and that's our only concern that the developments that are very close to us maintain that quality and zoning is one way to accomplish that. For example, with the C-2 and a chance for them to go to a C-4 if, you know, they come up with something that's consistent with the area.

President Jerrel: You're specifically concerned about billboards?

Joe Ream: Billboards and loading docks.

Barbara Cunningham: Billboards can go in a C-2.

Joe Ream: Can they?

Barbara Cunningham: Yeah, and a C-1.

Joe Ream: No kidding, gee, that's a bad rule.

Commissioner Tuley: Unless you're in the billboard business!

Joe Ream: Yeah, right. You know, the bottom line was, you know, I'll use the tire store example. Even a tire store can look good, so that's what I'm really saying.

President Jerrel: Do you have a comment?

Robert Woodward, Jr.: I agree with Joe wholeheartedly and you're going to see us keep up the quality of the neighborhood just like we have in all of our other developments. You know, when you look at the Lloyd Office Park or if you look at the Washington Avenue Professional Concourse, both of them are very nice developments.

President Jerrel: Are you going to put up billboards?

Robert Woodward, Jr.: I'm not going to rule it out. I can't say that we have any plans for it and there is not enough traffic on Vogel Road right now to justify it, but I wouldn't rule it out.

President Jerrel: Do you have any idea what you're going to have in there?

Robert Woodward, Jr.: The first building that is going to go in is going to be an Earth Grains. It's a Colonial Bread retail bakery store just like they've got on Covert Avenue and they've got one on Green River Road right across from Rafferty's. That is the first one that is going to be going in.

Jeffrey Lantz: Excuse me, the other concern that was voiced by Mr. Fine at the Area Plan Commission was, of course, most of their buildings have this red brick with the green roof and we're cognizant of that and we were thinking along the same lines in that regard to follow with the motif that they have already established.

President Jerrel: Can you hear...did you know that?

Joe Ream: First of all, let me say that I've known Bob, Sr. for a long time and I respect him and, again, we're just trying to keep everybody's property values up including the five acres that he is probably going to buy. Does Earth Grain, does it have a loading dock?

Robert Woodward, Jr.: Yes.

Joe Ream: Yeah. You know, we don't think that lends to the quality of the area. Just to show how reasonable we are we wouldn't even be against that if the building was somewhat away from our property where if there was a road in between our property and if you promised you wouldn't put any billboards up. We're...this is just my opinion. I don't think billboards are attractive. You know, other people may have other opinions.

President Jerrel: Well, we just found out we don't have any control over billboards for C-1, C-2 or C-4. However, good neighbor policies do tend to work. You've made your point and you've heard it and we've heard it.

Robert Woodward, Jr.: The issue about the loading dock, there will be a loading dock there, but the loading dock will be placed at the back of the building. It will be screened. Of course, it's not going to be a loading dock where you are going to have trucks backing in off the road or anything like this. You know, it will be well landscaped and it will be a nice building. That's all I can say. There are a lot of buildings around with loading docks that are very, very nice buildings. Some retail applications need loading docks.

President Jerrel: Do you have any questions?

Commissioner Tuley: No, but I think C-4 versus C-2 in terms of loading docks, billboards and what have you, C-2 you can have a grocery store and I don't know a big grocery store that doesn't have a loading dock.

Barbara Cunningham: What is that a warehouse?

Robert Woodward, Jr.: No, Earth Grains is the new Colonial Bakery. The Colonial Bread retail outlets, the bakery stores.

Barbara Cunningham: So it's a retail store?

Robert Woodward, Jr.: It's a retail bakery store.

Commissioner Tuley: It's not a bakery?

Robert Woodward, Jr.: No, it's not a bakery or anything like that. It's a retail bread and Danish and things like that, that you walk in and buy your baked goods.

Commissioner Tuley: No different than some of the other ones we've seen around town.

Robert Woodward, Jr.: True.

Barbara Cunningham: It could be a retail store, a drugstore with an area...or a grocery similar to a supermarket with an area of more than 3,000 square foot specializing in the sale of food or grocery items. Is that it?

Robert Woodward, Jr.: Correct, yes.

Barbara Cunningham: So that could be allowed in a C-2, C-3, C-4, M-1.

Robert Woodward, Jr: Uh-huh.

Barbara Cunningham: Yeah.

Robert Woodward, Jr.: And as you'll note, this piece of property has C-4 to the west of it. It has M-2 that touches it to the north, so it is an area of rapid commercial development. I don't think C-4 is too high a zoning for the area.

Commissioner Tuley: Joe, was Mr. Fine representing you at Area Plan?

Joe Ream: Mr. Fine? Mark Fine?

Commissioner Tuley: Mark Fine.

Joe Ream: Yes, he is.

Commissioner Tuley: Okay. I'm sorry, Mark Fine was representing you.

Joe Ream: Yes.

Commissioner Tuley: I know, as Mr. Lantz pointed out, there was questions about the rooftops and the quality of the buildings and I think Mr. Woodward said there that they would be very cognizance of the surrounding properties.

President Jerrel: Does that mean that you're going to follow that decor?

Robert Woodward, Jr.: Well, it doesn't mean we're going to follow green roofs and red brick exactly. I don't think we want to build the whole east side of Evansville out of red brick and green roofs, but they will be very high quality buildings. Of course, we have to make money by renting them out, so we have to make them desirable for people to go in and they'll be very nice buildings for that purpose.

President Jerrel: Is there anyone else that wishes to speak to this? Is there a motion from the Board?

Commissioner Mourdock: I'll move on final reading the approval of VC-19-97.

Commissioner Tuley: Second.

President Jerrel: This is a roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Sometimes I get to use my grandmother's old expression at Drainage Board meetings and Zoning meetings, which is the two things most people never live to see are their greatest hopes and their worst fears and I think this is probably one of those. I certainly hope so because I think everybody...every developer and, obviously, Joe is and the Woodwards are, I think it's only logical that everyone is going to make this a good development, so I will vote yes.

President Jerrel: Okay, and I'll vote yes.

(Petition passed on final reading 3-0)

Adjournment

President Jerrel: Is there a motion to adjourn?

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

The meeting was adjourned at 7:24 p.m.

Those in attendance:

Bettye Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Jeffrey Lantz
Joe Ream
Robert Woodward, Jr.
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

-

Bettye Lou Jerrel, President

-

Richard E. Mourdock, Vice President

-

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
March 16, 1998**

Call to order and approval of minutes

President Jerrel: Let me use your agenda. Right. The Vanderburgh County Rezoning meeting minutes are in your packets and the first item on the agenda, as I call the Zoning Meeting to order, is the approval of the minutes.

Commissioner Tuley: I'll move approval of the minutes from the February 23rd meeting.

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

First reading

VC-3-98

NFH, Inc.

1500 North Burkhardt Rd.

President Jerrel: The first item on the agenda is a first reading, VC-3-98. The petitioner is NFH, Inc., 1500 North Burkhardt Road. Is there any information you would like to give us?

Barbara Cunningham: It's on the agenda for--

Commissioner Tuley: First? Yeah, I'll just move approval on first reading and forward it to Area Plan Commission.

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

Final reading

**VC-2-98
Rd.**

Red Bank Dev. LLC

650 South Boehne Camp

President Jerrel: The next item is a final reading, VC-2-98. The petitioner, Red Bank Development and the address is 650 South Boehne Camp Road. A request from AG to R-4. Is there a representative?

Barbara Cunningham: Do you want--

Joe Harrison, Jr.: Before you start, all those who wish to speak on this matter please raise your right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Carolyn McClintock: I do.

Barbara Cunningham: I do. Carol McClintock is the representative for Red Bank Development Limited Liability Corporation in their request for a change in zoning from Agricultural to R-4 for an approximately 22 acre site located at 650 South Boehne Camp Road. The site is located on the east side of Boehne Camp Road between Lloyd Expressway and Middle Mount Vernon Road. Owner of the site, per the petition, is General Growth, Inc. The Area Plan Commission unanimously recommended this petition for approval at their March 4th meeting. Boehne Camp Road is a rural residential collector street. Information submitted by Red Bank Development indicates that the proposed apartment community is planned in conjunction with a large

commercial development to the north with access for the apartments proposed onto a commercial frontage road and a second access directly onto Boehne Camp Road. County Engineer, John Stoll, stated that due to the large volume of traffic that will be generated by this development Boehne Camp and Red Bank Road will need to be improved and widened by the developer. The developer will also need to work with INDOT, Indiana Department of Transportation, in order to determine if a traffic signal will be warranted at State Road 62 and Boehne Camp Road. The undeveloped acreage between Red Bank Road and Boehne Camp Road along the south side of the Lloyd Expressway was rezoned to allow a shopping center development in 1971. This plus 22 acre site proposed to be rezoned to R-4 for an apartment complex is adjacent south of the existing undeveloped C-4 parcel. Red Bank Development's submitted conceptual site plan indicates that the commercial and apartment developments are planned as a single development. No information has been submitted by Red Bank Development which addresses the number of units proposed for this site. The 1996 Comprehensive Plan Future Land Use Map 2015 indicates that the south side of Lloyd Expressway at this location is proposed to be an expansion of the existing commercial strip development west to approximately Boehne Camp Road. This proposed multi family site is adjacent south of the undeveloped commercial land and the Comprehensive Plan recognizes that multi family is an acceptable higher residential use adjacent to single family residential. The Comprehensive Plan calls for more landscape green area than is required by code to protect adjacent single family residences. A portion of this partially wooded 22 acre site along the eastern boundary may lie within the 100 year floodplain. Development of the site will require submittal of a drainage plan and approval by the county Drainage Board.

Carolyn McClintock: Good evening, my name is Carolyn McClintock and I am here this evening to represent the owners and developers of the commercial project on Lloyd Expressway at Red Bank Road. I have with me this evening Gene Hahn who is one of the principals in this project. Also, the Neville family is represented by Maria Talbert with Fine & Hatfield. This evening we are here to request a rezoning from AG to R-4 for the purpose of constructing an apartment complex. If you look on this map you can see the parcel we are talking about immediately adjacent to the south to the C-4 that is already rezoned. This rezoning is adjacent to and part of the overall development of this commercial site. I have provided to each of you a copy of our overall development plan. That is our conceptual plan and also an aerial photograph of the area and a letter from the University of Southern Indiana in support of the project. The Neville family planned to develop this area and it will be in compliance with all the regulations and codes as cited in the Staff Field report. The number of units will be well within the code for the 22 acres that we are requesting the rezoning for. We do understand the need and want to work with both the Nevilles and the Westside Improvement Association to provide for additional green space barrier for those single family residences adjacent to this apartment development. Those specific plans will be addressed at Site Review. The access for this development will be limited to one access point directly onto Boehne Camp Road. Our engineer, Bernardin Lochmueller & Associates, is working with John Stoll, the County Engineer, to study those intersection improvements at Boehne Camp Road and Highway 62. We want to provide the safest and smoothest access to our development which will also be beneficial to the surrounding neighbors. I have spoken with Steve McCallister of the Westside Improvement Association and we will be appearing at their board meeting on April 15th of this year at noon to meet with this group and other interested neighbors and individuals on the west side to review the plans for this entire project prior to submission to Site Review and, obviously, clearly before the Drainage Board approval, so by the time we come back to you for Drainage Board we should have input from not only Westside Improvement Association as a group, but

also they are going to open that meeting up to other interested individuals. We've had several calls from neighbors in the area and we do have Mr. and Mrs. Othmar Dick are with us this evening. Most of the calls have been regarding the potential ability and availability to sewer to this site and then clearly their interest in it being available to their homes. Those specific plans as to where the sewer will come from have to be approved by the Sewer Department and whether or not then that sewer would be available to them is really up to the government entities, not really to the project, but, you know, we are willing to work with Water & Sewer to provide whatever we can for those adjacent property owners. Both Gene and I here to answer any questions that you may have regarding this project. We are looking forward to working with all of the various agencies and the neighbors and indeed the west side community to make this the really great project that we think that it can be. I think it's really a positive boon for the west side. It's probably one of the biggest projects that we are going to see this year in Vanderburgh County and I know that you are all familiar with the principals and they are the kind of individuals that are going to do a quality project and one that we can all be proud of. But we're happy to answer any questions that you might have.

President Jerrel: Questions?

Commissioner Tuley: The only question that I have, Carol, I heard you mention that you are working with John Stoll and INDOT in terms of improving the intersection there with Boehne Camp and State Road 62. I didn't hear any mention, though, that John had recommended that Boehne Camp, at least along this development, be widened and improved and I haven't heard any comments regarding--

Carolyn McClintock: He has not--

Commissioner Tuley: I know it's conceptual right now, so you don't know exactly what you're going to do?

Carolyn McClintock: Right.

Commissioner Tuley: But I'm wanting just basically to ask that you're committed to helping with whatever those improvements are and nobody knows what they are at this point.

Carolyn McClintock: I think that we can commit to...I mean, we have not met with him and we have not reviewed any specific plans, so we don't know what the request is going to be. I think that we can safely commit to reasonable improvements. I mean, we want to provide access to the site. We want people to feel that they can come and go easily to this commercial development because we don't want the same kind of problems that we have in other parts of the community.

Commissioner Tuley: Right.

Carolyn McClintock: But I don't want to stand here and commit to whatever John wants because we haven't seen whatever John wants yet.

Commissioner Tuley: Well, and I understand that because his comments say improve and widen. You know, we don't need to put six or eight lanes out there at your cost...at your expense obviously, but basically it sounds like you're committing that you're willing to work with him, however you're not going to give us carte blanche to build the Taj Mahal out there.

Carolyn McClintock: Yeah. Did you want to sign a blank check tonight?

Commissioner Tuley: I don't want a blank check, I just want some assurances for the record you will work with John.

Carolyn McClintock: The way I worded that, is that okay?

Gene Hahn: That's fine.

Commissioner Tuley: Okay.

President Jerrel: I have a question that doesn't relate to the rezoning that we're dealing with today, but when are you going to begin your project that borders the Lloyd?

Carolyn McClintock: Gene, why don't you come up and--

President Jerrel: I just, you know, I think that everyone would be interested, so I just wanted to see what your time table was.

Gene Hahn: Bernardin Lochmueller is doing our engineering work on that and they're going as fast as they can go and we would...in fact, we wanted to start about two weeks and they said not yet, not yet.

President Jerrel: But you do plan to begin as soon as the construction--

Gene Hahn: Soon.

President Jerrel: --seasons gets here?

Gene Hahn: Soon. Just as soon as--

President Jerrel: Do you have to do a lot of earth moving?

Gene Hahn: Yeah, we have to get them pad ready and we're ready to start as soon as the erosion control people and so forth turn us loose. That's all been applied for and we're just waiting for the approval.

Barbara Cunningham: Are you going to plat it?

Gene Hahn: Uh-huh.

Barbara Cunningham: You're going to put it as a subdivision?

Gene Hahn: Uh-huh, yes, well you have it in front of you.

President Jerrel: Right, I'm looking at it. I just--

Gene Hahn: But we're trying to tweak that down to try to get it--

President Jerrel: So when is all this going to be ready for the west side to enjoy?

Gene Hahn: We have a commitment with one potential purchaser for a tract that they can start construction September 1.

President Jerrel: Okay.

Barbara Cunningham: The subdivision hasn't been filed yet.

President Jerrel: Right, we understand that. I was just wanting to know what the time table is.

Gene Hahn: Well, that is what our goal is right now.

President Jerrel: Okay.

Commissioner Tuley: So it looks like--

Carolyn McClintock: Gene was telling me before we came in the drainage plans, he believes, were completed today. He is meeting out there tomorrow with the engineers and county officials to initially review drainage. As soon as we can then we'll go ahead and file that subdivision.

Barbara Cunningham: Tomorrow is the filing date.

Carolyn McClintock: So we can get all that done. I guess I'll be doing that tomorrow. I don't know if we'll be ready tomorrow, but as soon as we can get done.

President Jerrel: Is there anyone in the audience that would like to speak to this? Would you like to speak to it?

Steve Craig: My name is Steve Craig and I'm a resident of Middle Mount Vernon Road. Have they planned anything for the intersection of Middle Mount Vernon and Boehne Camp because that's a treacherous intersection. It's on a turn with a creek on both sides and there have been several bad wrecks there already and I was wondering if they had planned something where Boehne Camp feeds down to Middle Mount Vernon which you can see just probably as close as it is to the Lloyd, but that is a bad intersection at that corner.

President Jerrel: That might--

Barbara Cunningham: (Inaudible, mike turned off.)

Commissioner Tuley: That would really be a little far from their development, but we will need to address that as the county.

President Jerrel: The county does.

Steve Craig: Well, that is...it's bad.

President Jerrel: Okay.

Steve Craig: Thank you.

Commissioner Tuley: Since I live out about two miles north of this, I'm kind of anxious to see this get in place myself.

President Jerrel: Is there anyone else that would like to speak to this? Do you have any

questions?

Commissioner Tuley: No, I asked my questions and they answered it, so I am willing to move for approval.

President Jerrel: I'll second. Do we do a--

Commissioner Tuley: A roll call on the zoning and I'll vote yes.

President Jerrel: I will vote yes. Congratulations and I hope you get moving!

Gene Hahn: Thank you.

President Jerrel: Steve, we will keep track of that.

Commissioner Tuley: Yeah, because we will have to address that problem.

President Jerrel: Is there any other business to come before the Board? Hearing none--

Commissioner Tuley: I'll move for adjournment.

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

Commissioner Tuley: Now we've got to sign papers.

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

Those in attendance:

Bettye Lou Jerrel
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Steve Craig
Carolyn McClintock
Gene Hahn
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

-

Bettye Lou Jerrel, President

-

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
April 20, 1998**

President Jerrel: I'd like to call the rezoning of the Vanderburgh County Commission meeting to order.

Approval of minutes

President Jerrel: The first item on the agenda is the approval of the minutes of the last meeting and those were in your packets. Is there a motion?

Commissioner Tuley: I'll move to approve the minutes of the rezoning meeting from March 16th.

Commissioner Mourdock: I wasn't here.

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

**First reading - VC-4-98
Duane DuVall & Randall Highman 610 & 614 N. Burkhardt Road**

President Jerrel: The first item on the agenda is first readings. Is there a motion regarding the first reading?

Commissioner Mourdock: Do you want to read them into the record there?

President Jerrel: VC-4-98. The petitioner is Duane DuVall and Randall Highman and the address is 610 and 614 North Burkhardt Road from Agricultural to C-4.

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

Commissioner Tuley: Second.

President Jerrel: So ordered.

**First reading - VC-5-98
Castle Contracting Company, Inc. 19501 Highway 41 North**

President Jerrel: The next is VC-5-98. The petitioner is Castle Contracting Company, Inc. and the address is 19501 Highway 41 North from Agricultural to M-2.

Commissioner Mourdock: On first reading I will move approval.

Commissioner Tuley: Second.

President Jerrel: So ordered.

**Final reading - VC-1-98
Jeri Buchanan 620 Kimber Lane**

President Jerrel: On final reading we have one item, VC-1-98. The petitioner is Jeri Buchanan. The address is 620 Kimber Lane. The request is from Agricultural to C-2 with Use and Development Commitment. Is there anyone that would like to speak to this?

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

Response: I do.

Barbara Cunningham: Do you want me to start?

President Jerrel: You want to let Ms. Cunningham...

Barbara Cunningham: Jeri Buchanan and Marco DeLucio are the petitioners and representatives for this request to rezone 620 Kimber Lane from Agricultural to C-02. Mary Whitney is the owner. This is a one acre residential site located on the west side of Kimber Lane between Virginia and Columbia Street. The petition was heard at the Area Plan Commission meeting April 1st and went forward to the County Commissioners with a no recommendation or no action vote. It was four yes and three no. Ms. Buchanan is proposing to change the existing residence on the site to a commercial office use. At last month's meeting the Area Plan Commission discussed the need for road improvements and widening of Kimber Lane, infrastructure improvements which are necessary prior to the commercial development of this area. The petition was continued at the March 4th Area Plan Commission hearing to allow amendment and Ms. Buchanan filed an amended petition which included a Use and Development Commitment which addresses the issue of right-of-way of Kimber Lane. The Use and Development stated that the right-of-way will be donated for the west half 30 feet of Kimber Lane at such time as either a government unit or some other private entity constructs the street from the city limits. The Use and Development Commitment is essentially the same as the other office on this...I think it's this block, which is 520 Kimber Lane, that was rezoned in 1988 with the exception that the owners of 520 Kimber Lane both dedicated right-of-way and agreed to bear a proportionate cost of construction at such time as the street was installed. Ms. Buchanan's Use and Development Commitment does not agree to participate in the cost of construction. Kimber Lane connects Lloyd Expressway with Columbia Street. The city part of Kimber Lane between Lloyd Expressway and Virginia Street has been paved and in use since the mid '80's. It was widened to commercial width at the time of the Super Kmart development. Kimber Lane north of Virginia to Columbia Street, where we're talking tonight, has recently been improved and paved, but it is still a very narrow street. It's substandard and inadequate for commercial development. Kimber affords easy access to both Burkhardt Road and Lloyd Expressway and because of this has great development potential for the vacant property in the area for commercial use. Considering this anticipated growth, Kimber Lane will carry significantly higher traffic volumes in the future and will become an important alternate route to help distribute traffic in this area. Currently there is only one parcel on this segment of Kimber Lane between Virginia and Columbia that is zoned for commercial. It was a zoning approved by the County Commissioners in 1988 which included the Use and Development Commitment to both dedicate and donate 30 feet of right-of-way and bear half the cost of constructing Kimber Lane for the length of the property. County Engineer, John Stoll, said Kimber Lane is a very narrow road that cannot accommodate a large volume of commercial traffic and he also said that Vanderburgh County currently has no plans to widen this road. The Commissioners must determine if provision for infrastructure improvements must be in place prior to

approval of commercial development or if they plan to put those improvements in for all developers in the county. The Comprehensive Plan projects this area between Lloyd and Morgan as an area of commercial development. The change in zoning to allow development of the site as commercial is consistent with the overall development plan if the proper infrastructure improvements are in place. Compliance with all code requirements will be addressed by Site Review upon submission of plans for a change of use of this site. The parking shown on the conceptual plan must be redesigned to eliminate parking within the required front yard green space and it must be paved with a hard and sealed surface.

President Jerrel: Do you have questions now of Ms. Cunningham or wait until...? Okay, Marco.

Marco DeLucio: My name is Marco DeLucio. I'm here this evening on behalf of the petitioner, Jeri Buchanan. As usual Ms. Cunningham has adequately summarized and stated all the pertinent facts that you have in front of you this evening. What I would like to do is amplify on a couple of those. First, she mentioned that John Stoll indicated that Kimber Lane was a narrow road and it is, in fact, a narrow road and couldn't accommodate a large volume of commercial traffic. If you'll take a look at the site plan, which is attached as part of the petition that is before you this evening, you'll see what is a piece of property that is about an acre in size. The back 75 feet, as noted on the Staff Field Report, cannot be used for development because it's near a county ditch in that area, so that portion of the property is not developable. Ms. Buchanan has also agreed to donate 30 feet off the front of the property for any future expansion, if that expansion ever occurs, of Kimber Lane. So the size of that property is substantially reduced. It's not a big piece of property. Secondly, the structure on that property as shown on the site plan is 40 x 45 foot, 1 story structure, so about 1800 square feet. Also in the site plan Ms. Buchanan indicates that she intends to locate a real estate office here. It consists of five employees and she doesn't have any company vehicles. Many of her employees...this is a real estate agency. Many of her employees are not there on a regular basis. Their jobs are out in the field mostly. They may or may not be in there very much, so I think what I conclude from all of that is you're not going to see a large volume of traffic generated as a result of Jeri's use of this property. Five cars, it's a one acre parcel. It's just not going to be there. Secondly, I would point out that Jeri is going...that the cost...when she says she is going to donate that 30 feet of right-of-way off the front of the property, I don't think that should be looked as an insubstantial donation that she is making. Based upon the price that she is going to pay for that property, the cost of that donation is about in the \$9,000 to \$10,000 range, so that's a substantial cost that she is incurring. She is not before you or any other body, whether state, local or federal, asking for any kind of tax abatement. She is not asking for any special TIF financing. She is going to be a taxpayer and she is going to improve this property and the tax that she is going to pay are going to be substantial, so we think that the requirement...and I think that Ms. Cunningham hit it right on the nose, is should this individual property owner who is developing...not even developing, but going to use an existing piece of property for her own purposes and not have a substantial development should she bear...be forced to bear the cost of constructing a roadway that she doesn't need for her particular purpose and her particular uses? I think the answer to that question has to be in the negative simply because the cost. When you look at...and I understand the county and the city normally require when you see a large scale development, require those infrastructure improvements to be made. If you're developing a 15...10, 15 or 20 acre parcel and there aren't roads in existence that are necessary to serve the property, yeah, those roads ought to be constructed and I know it has been the policy of county and city governments to require that the developers bear

the cost of that. In this case we have a road that is in existence that would be adequate to service her needs without...I haven't seen or heard anything that's there is going to be any traffic safety issues as a result of five automobiles or ten or 15 trips per day being added to this road that is already in existence there. So I think you have some distinctions that you can make. There is some property in the area that ultimately may be developed out there that is rather substantial in nature that if that is developed maybe perhaps that is the time that the infrastructure improvements need to be addressed. With respect to the other property owner who in 1988 agreed to fund the cost of half of the road in front of the particular property that was rezoned at that time, I think that development is a piece of property that does use...that is much more commercially and a more highly dense usage than what you see in this piece of property here, so for those reasons that is why I think Jeri did not offer and cannot offer, really, to fund the cost of the construction of the road in front of her property. I think that the donation that she is making for the right-of-way addresses the concern that John Stoll raised where he indicates in the Staff Field report that they didn't have enough right-of-way to widen the road out there in the event it needs to be widened. She is solving that problem by providing the right-of-way. If you have any questions...we would ask that you approve this rezoning petition. If you have any questions Jeri is here this evening and I don't believe there are any other remonstrators and I am happy to try to address any questions or concerns you might have. Thank you for your attention.

President Jerrel: Are there any questions?

Commissioner Mourdock: Yeah, a question or two of staff here. Barbara, is Kimber completed from East Columbia north to Vogel at this point?

Barbara Cunningham: East Columbia north of Vogel is (inaudible, microphone not on).

Commissioner Mourdock: This map is showing a road through there. Is there a road through there today?

Barbara Cunningham: (Inaudible, microphone not on) Columbia Street where there is proposed access between Royal...proposing access between Royal and Burkhardt Road, we're working on that.

President Jerrel: Is this...refresh my memory. Is this where those cul-de-sac areas are going to be developed? No?

Barbara Cunningham: When we did the plan that we brought in here we were doing Kimber all the way through.

President Jerrel: Right.

Barbara Cunningham: Remember this is the Green property and this is the legal drain that this was done in the middle of a meeting or something like that?

President Jerrel: Because it curved over.

Barbara Cunningham: So we're working on some roads here. We are trying to get Columbia through. We're working and we've got pretty much all of that through from Columbia to Burkhardt and we're trying to expand...this is all developable ground as is this and this.

Commissioner Mourdock: This tract that is apparently...well, it is the subject of the rezoning request, is that presently a separate deeded tract?

Barbara Cunningham: It's a house, isn't it?

Marco DeLucio: Yes, private residence.

Commissioner Mourdock: Okay, but is it a separate deeded tract presently as it is showing on this map?

Marco DeLucio: You mean is it part of a subdivision?

Commissioner Mourdock: I mean--

Commissioner Tuley: It's not part of another five acres?

Marco DeLucio: No, no.

Commissioner Mourdock: Okay, then the next question is north of that tract is that one piece all the way up to the line that goes east?

Barbara Cunningham: No, there is more than one out there.

Commissioner Mourdock: So there is a small one here, a small one here--

Barbara Cunningham: You've got a house here and another house here and something...this is pretty well empty.

Marco DeLucio: Jeri says that one person owns that tract north of her.

Commissioner Mourdock: The same one that's the seller of this?

Marco DeLucio: No, it's a different person.

Commissioner Mourdock: Okay, and then is there another tract between that one and what would be up to East Columbia or where the right-of-way for East Columbia would extend?

Barbara Cunningham: The one people right up against East Columbia, Marco, I think differ, but they have just a very small lot up adjacent to where Columbia will come in.

Marco DeLucio: Okay.

Barbara Cunningham: The Paulis or something like that is their name. Now they might have a larger tract here.

Commissioner Mourdock: They're all on there, how many tracts there are?

Barbara Cunningham: I think the...well, I'm not sure, but I think the Paulis are like here. They have a small lot here.

President Jerrel: They've already given right-of-way?

Barbara Cunningham: We're working with that on this now. We're working with that...Joe Ream is working with that now. Then this probably could be one tract, I'm not sure.

Commissioner Mourdock: Okay.

Barbara Cunningham: But this could be and this is pretty much a tract. But I think the Paulis are up there adjacent...they wouldn't touch your property so you might not have notified.

Marco DeLucio: That could be.

Barbara Cunningham: Yeah.

Commissioner Tuley: Yeah, you're probably right. He didn't notify them--

Barbara Cunningham: Yeah, he would not have notified because they didn't touch.

Commissioner Mourdock: What is the status just on the tract, Barbara, just south of the CO-2 tract?

Barbara Cunningham: The only...south of this...the only one is the one that was done in 1988 which is an insurance office which started out as a small, much as you say, Marco, this would be, a small operation on a pretty much unimproved road and they did the Use and Development Commitment that said they would both dedicate right-of-way and participate in the cost of--

Commissioner Mourdock: Was that the CO-2 tract you're talking about?

Commissioner Tuley: Yeah.

Commissioner Mourdock: I'm asking about the one just south of that. Has that been rezoned or is that still AG?

Barbara Cunningham: Probably still AG.

Commissioner Tuley: I think the only one--

Barbara Cunningham: No, that's all...that's all AG.

Commissioner Tuley: I think with the exception of the one that has been rezoned they are all AG.

Commissioner Mourdock: So that's AG.

Barbara Cunningham: And the cost of improving in those sections in front of those lots, I think a couple of developers and in some of our letters of credit showed that it would be in the \$3,000 to \$3,500 range.

Marco DeLucio: I think, and I didn't do a cost estimate on it, but I think when Jerry talked to Mr. Forbes who owns that property that is CO-2 they think it might be substantially more than that.

Barbara Cunningham: His might be. I don't know if his is larger, but this is the cost estimates that we have in the file now.

Marco DeLucio: The cost estimates by...?

Barbara Cunningham: By various engineering firms and certified cost estimates when they put in roads we took the front foot estimates.

Commissioner Tuley: Those are '98 estimates, so who knows what it will be by the time the road is ever improved if it is improved.

Marco DeLucio: The road may not be improved for a number of years. Plus I don't think you should lose sight of the fact of the \$9,000 to \$10,000 contribution she is making already.

President Jerrel: I have a question. You're anticipating Columbia being extended?

Barbara Cunningham: That's right.

President Jerrel: And how about Kimber Lane from Vogel to East Columbia?

Barbara Cunningham: No, they're going to...remember you vacated that.

President Jerrel: I know, but--

Barbara Cunningham: They're not going to do...they won't be doing Kimber. There is another road that will be going in this area that will be--

President Jerrel: So this will not be--

Barbara Cunningham: No, the only way this will be, remember, is if Joe Ream makes this more than seven lots is what you did when he came.

Commissioner Tuley: That's what--

President Jerrel: That's what I was talking about.

Barbara Cunningham: Yeah, if he makes it more than seven lots...if he wanted to leave it like that because he wanted to have one big...perhaps one big development, but he assured you that if he goes more than seven lots in this area that the road will be going in there.

Commissioner Tuley: But that's only "if". He is the one that came in and asked us to vacate that easement, correct?

Barbara Cunningham: Well, because it was over here. It wasn't lined up with this, remember?

Commissioner Mourdock: We had the easement here. We vacated that and he gave us one here.

Barbara Cunningham: Yeah, and he told you...well, I don't know if he gave you the easement, but he told you that was where the road would go if it developed into more

than one or two lots.

Commissioner Tuley: Okay, but if he doesn't then there will be nothing developed here.

Barbara Cunningham: Yeah, but there will be another road here.

Commissioner Tuley: As long as he maintains less, but there will be another road here which is the extension of Metro, basically.

Barbara Cunningham: Well, Columbia--

Commissioner Tuley: Yeah, Columbia has to obviously.

Commissioner Mourdock: So my question previously, the very first question, does this exist right now?

Barbara Cunningham: No.

Commissioner Tuley: Unless Joe has a change in his plans that won't ever change.

Marco DeLucio: I think therefore what you see is six lots maybe that are...six approximately one acre lots that are available for development in that stretch between Virginia and Columbia to the west.

Commissioner Mourdock: You're saying, Marco, there would be six lots on the west side of Kimber?

Marco DeLucio: Yes.

Commissioner Tuley: Right, between Columbia and Virginia Street.

Commissioner Mourdock: Two north of this tract and three south?

Marco DeLucio: That's correct. Some of them...I would think the traffic, some of them would exit onto Columbia Street and some would exit on Virginia Street, so I don't see a huge need for...especially now that we know that Kimber Lane is probably not going to be extended any further north of Columbia.

Commissioner Tuley: Are there homes on those other properties that already face Kimber?

Barbara Cunningham: There are a couple of homes out there, I think.

Marco DeLucio: I think the home...hers and the one farthest south at the corner of Virginia and Kimber.

Barbara Cunningham: (Inaudible, microphone not on.)

President Jerrel: Any other questions?

Commissioner Mourdock: I'll move for approval on final reading VC-1-98 for 620 Kimber Lane from AG to C-2.

Commissioner Tuley: Second.

President Jerrel: This is final reading so we'll call for the vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: I'll vote yes.

Marco DeLucio: Thank you.

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

Commissioner Tuley: Move to adjourn.

President Jerrel: Okay.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

The meeting was adjourned at 7:25 p.m.

Those in attendance:

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

**Vanderburgh County
Board of Commissioners**

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

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Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
May 18, 1998**

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

Approval of minutes

President Jerrel: The first item on the agenda is the approval of the April 20th minutes.

Commissioner Mourdock: I'll move approval as submitted.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading

VC-6-98 Head Investments, LLC 1400 N. Burkhardt Road

President Jerrel: You'll notice for first readings we have two, VC-6-98, Head Investments and the address is 1400 North Burkhardt. Is there any information...?

Commissioner Mourdock: On first reading we just generally--

President Jerrel: Yeah, we have the information. I didn't know if anyone had any questions. If not--

Commissioner Mourdock: Just for the record that's a petition to change from AG to C-2 and on first reading I'll move approval of VC-6-98.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading

VC-7-98 David O. Remmert 401 S. Boehne Camp Road

President Jerrel: The second is also first reading and that's VC-7-98 and the petitioner is David Remmert and the address is 401 South Boehne Camp Road, Agricultural to C-4.

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

Commissioner Tuley: Second.

President Jerrel: So ordered.

Final reading

VC-5-98 Castle Contracting Co., Inc. 19501 Highway 41 North

President Jerrel: One final reading and that is VC-5-98. Petitioner is Castle Contracting, Inc., address is 19501 Highway 41 North and that request is to go from Agricultural to M-2.

Barbara Cunningham: Being the large crowd in the area do you want me to do the whole

information?

President Jerrel: Well, I don't know. Probably if anybody wants to speak.

Joe Harrison, Jr.: Anyone who wishes to speak on this matter please raise their right hand.

Barbara Cunningham: I'll do a condensed version.

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

Response: Yes.

Barbara Cunningham: This is a petition for Castle Contracting Company, Inc. and a request to rezone 26.8 acres from Agricultural to M-2 at 19501 US Highway 41 North. It's located east of Highway 41 opposite Rusher Creek Road and north of Schroeder Road. The current owners are Sylvester and Patricia Elpers. This was heard at the May 6th Area Plan Commission and was recommended for approval by unanimous yes vote. The site is in an area identified by the Year 2010 Conceptual Land Use Map and the Comprehensive Plan as an area of industrial and wholesale development. This proposed M-2 is adjacent east of the commercial land. The proposed use is consistent with the concept in the plan to establish an industrial corridor along 41 North only with proper traffic planning, access roads and infrastructure in place. Quality...so road plans and drainage were the main emphasis at the Area Plan Commission meeting and will be addressed at the time submission of required plans for the development of this site. In the minutes you'll note that the Area Plan Commission stressed that they certainly did not want another light at Rusher Creek and they proposed the main entrance to be at Rusher Creek extension. I don't believe the state is going to go along with that. It's too close together and we certainly don't want three lights right in a row and so the developers are aware of this and aware that Site Review will be looking at this and I think tonight what you're looking at is purely land use and not the placement of the cuts or the curb cuts. But I think what we put them on notice was that we did not want a series of lights and we wanted good design that would address both traffic and other infrastructure and I think that's it.

Commissioner Mourdock: Barbara, on my drawing, and I realize this is not the tract that we're looking at for rezoning, but the tract just west of there that shows a C-4 it almost looks to me like there is a frontage road drawn in.

Barbara Cunningham: There is...to the north? I don't have that, but are you talking to the north?

Commissioner Mourdock: No, to the west of this particular tract. Right here, Barbara.

President Jerrel: Is that a road?

Barbara Cunningham: There is a proposed--

Commissioner Mourdock: Is this intended to be a frontage road? I looks like that's what is it on this end, but up here it kind of tapers.

Ernest Harrelson: No.

Barbara Cunningham: And they'll probably have to put in some decel/accel lanes and stuff like that. Now here, Richard, is where when this property was rezoned we made them go all the way around this C-4 to the north and there is a...to provide access to this parcel because we think this parcel could have access to this light through that so we've got right-of-way up here around the outside of that parcel.

Commissioner Mourdock: Okay, so this is where the light is right here?

Barbara Cunningham: The light is there.

Commissioner Mourdock: And they would be coming in that way?

Barbara Cunningham: And here is where McDonalds is and that was minor sub that we've never done again. Yeah, and here is the other possibility.

Commissioner Mourdock: Is there common ownership between this tract and this tract?

Barbara Cunningham: Yes.

Ernest Harrelson: This whole area is what we're talking about.

Barbara Cunningham: The Elpers own all this.

Ernest Harrelson: That's right.

Barbara Cunningham: But you plan to own all this, is that right?

Lee Mortensen: We're subleasing it.

Barbara Cunningham: Okay.

Commissioner Mourdock: My question isn't an issue regarding just this one, which I realize is what we're looking at, I'm just getting a better use for the whole zoning.

President Jerrel: Would you give us your names for the record so they know--

Lee Mortensen: My name is Lee Mortensen with Castle Contracting.

Ernest Harrelson: I'm Ernest Harrelson also with Castle Contracting.

President Jerrel: Did you get the spelling of that?

Charlene Timmons: I think they signed in.

President Jerrel: Okay. Are there any questions that you would like to ask on this final reading? Hearing none, is there a motion for approval?

Commissioner Mourdock: On final reading I'll move approval of VC-5-98 which is a zoning request from AG to M-2 for 19501 Highway 41 North.

Commissioner Tuley: Second.

President Jerrel: And we have a vote, roll call. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: I will vote yes. Is there any further business to come before this Board?

Commissioner Mourdock: Motion for adjournment.

Commissioner Tuley: Second.

President Jerrel: So ordered.

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

Those in attendance:

Bettye Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Lee Mortensen
Ernie Harrelson
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

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Bettye Lou Jerrel, President

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Richard E. Mourdock, Vice President

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Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
June 15, 1998**

Call to order and approval of minutes

President Jerrel: I'd like to call the Vanderburgh County Rezoning Meeting to order. The first item on the agenda is the approval of the minutes of the May 18th meeting.

Commissioner Mourdock: I'll move approval of the minutes of the Rezoning Meeting of May 18, 1998.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading

VC-8-98 Bob's Gym, Inc. 120 North Rosenberger Avenue

President Jerrel: Under first reading, number one, VC-8-98. Petitioner is Bob's Gym at 120 North Rosenberger Avenue. Any comments.

Commissioner Tuley: No, it's just a move...I'll move approval on first reading and send it to Area Plan for further consideration.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

Final reading

**VC-3-98 David & Donna Hirsch 1500 North Burkhardt Road
VC-6-98 Head Investments, LLC 1400 North Burkhardt Road**

President Jerrel: The next three items are final readings and the first two are Burkhardt Road, VC-3-98, 1500 North Burkhardt, David and Donna Hirsch--

Commissioner Mourdock: Before we begin those I'll move that we hear both VC-3-98 and VC-6-98 as one hearing although will we have to vote separately of course.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Joe Harrison, Jr.: Those who wish to speak in connection with this matter if they would please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Joe Harrison, Jr.: Thank you.

Barbara Cunningham: Marco DeLucio is the representative for owners Donna and David Hirsch in this petition to rezone 1500 North Burkhardt from Agricultural to C-4 with a Use

and Development Commitment. This was heard at the June 3rd Area Plan Commission Hearing and comes to you with the recommendation for approval with eight yes votes, three no votes and one abstention. This is a .79 acre lot located on the west side of Burkhardt between Vogel and Oak Grove Road. Adjacent directly north of this the next petition, which we're going to hear together, VC-6-98, a petition to rezone 21 acres to C-2. This is a unique situation in that after the Hirsch rezoning was filed for hearing the 22 acres to the south was filed for both rezoning to C-2 and for platting as Waterford Plaza, a 17 lot commercial subdivision. Waterford Plaza was not on our agenda, it was continued because of drainage, so Waterford Plaza has not been through the process of approval of the subdivision, but these two zoning applications are interrelated with Use and Development Commitments which rely heavily upon each other for implementation of access through a proposed new street called Florida. Because they interact they were heard at Plan Commission pretty well concurrently, too. The next one is VC-6-98 and Marco is again the representative for Head Investment in their petition to rezone 21 acres, which I just said, at 1400 North Burkhardt from AG to C-2 with a Use and Development Commitment. This was also heard at the June 3rd Area Plan Commission Hearing and comes to you with the recommendation for approval with eight yes, three no and one abstention. This site is on the west side of Burkhardt Road south of Oak Grove Road. Current owners are William Farrand, Fred Heseman and Glenn Heseman. The Waterford Plaza Subdivision, which is actually part of the implementation of the traffic network for this site, was scheduled for the June Area Plan Hearing, but was continued to allow approval of the drainage plan and also will have to go before the Plan Commission. The Use and Development Commitment for the Hirsch property, which is the first one we talked about at 1500 Burkhardt, addresses access which conforms to the planned Burkhardt Road transportation network that the Commissioners have approved. This commitment was amended from its initial form to now reflect access onto Florida Street, a new street proposed along the south property line of the site coordinating access with the developers of Waterford Plaza Subdivision adjacent to the south of this site. A portion of the Use and Development Commitment for the Hirsch property relies heavily on Head Investments' participation, which is docket number VC-6-98, for dedication of both right-of-way and participation in cost of the installation of the streets. Marco, we've been through this before. The written comments say as shown on the plat and I had a problem with that language at the Plan Commission since this has not been through the subdivision process and I brought this up at the Plan Commission Hearing. Mr. DeLucio, and I'm sure he speaks for his clients and will reassure you, assured the Board and I hope will say for the record tonight that the commitment for the location of Florida will be determined at Subdivision Review, not necessarily as shown on the plat. I think that...I strongly say that we get something on that. You know, I don't think necessarily we have to go through the whole process, but we need to show that Florida Street can change because it has not had drainage approval for the subdivision and we're not sure exactly at what location that it will be. The county is currently widening Burkhardt to four lanes from Lloyd to Morgan Avenue and Head Investment is planning this subdivision on their 21 acre site, a proposed 17 lot subdivision which ties into the plans for development of the adjacent Waterford Park Subdivision with compatible zoning and continuous roadway systems. I think that is shown on your site plans. As planned, Kimber Lane will function as a continuous frontage road and is a critical link in the future road network. The developer of this site has also coordinated access design and site development with the adjacent property to the north and east to dedicate right-of-way and construct Florida Street. EUTS comments that as proposed the development of the property will conform to the access management plan for the Burkhardt Road corridor adopted by the Vanderburgh County Commissioners. At this time EUTS does not oppose the median break to be located at the Florida/Burkhardt intersection, but states that the median break could be closed in the future should a

safety problem develop. I think that's an important issue to put on the record also that we certainly do not want another light at that location and we feel that right now this is a good access point, but should there be a safety problem that would be something we would want to address. The developers of this site have submitted a Use and Development Commitment as part of this petition for rezoning which addressed the proposed right-of-way and easements and construction of the road, but some of these commitments are subject to the construction of the median cut at Florida and Burkhardt. As was stated in the previous petition a portion of the Use and Development Commitment for this petition relies heavily on Hirsch participation for dedication of right-of-way and participation in cost of installation of the streets. If the subdivision plat is recorded as submitted, it addresses the proposed transportation system and is consistent with the Burkhardt Road traffic plan adopted by the County Commissioners. I think what we see is a good example of how developers or petitioners can work together and come up with a plan that is both good for their own access and also good for the community implementing the traffic and transportation plans and I might say paying for the road improvements that facilitate efficient traffic flow.

President Jerrel: Did you have comments?

Marco DeLucio: Mrs. Cunningham, I think, has taken the wind out of my sails. I will just say a couple of things. First let me hand this to you. I think this more clearly demonstrates who owns what. My name is Marco DeLucio. I'm the attorney this evening representing both Head Investments, which is the petitioner and I want to add that Head Investments is also the owner of the 21 acre parcel now at this time having...that property having since been conveyed into Head. I'm also here representing David and Donna Hirsch who own the property at 1400 Burkhardt. On the map before you the area I've highlighted in yellow, excuse me, orange, that is owned by Head Investments. That's the Waterford Plaza Subdivision that is proposed. The area that is highlighted in yellow is the parcel that is owned by David and Donna Hirsch. I thought that might be easier to see exactly where the properties are laid out. I would add...I would like to add I think that I agree with Barbara. This is probably an ideal type of development situation. You have two property owners who have worked together. Two property owners who have not only worked together, but have worked with the County Engineer, Bill Jeffers, Area Plan Commission to try to come up with a plan that is a win, win, win situation for all parties involved. As Barbara indicated, we believe that Florida Street is going to be where it is shown as currently on this plat. I think there were some concerns at the Area Plan Commission about the drainage plans not having been reviewed. Since that time, I believe, Jim Farney and Joe Ream have met with Bill Jeffers and John Stoll. I think, and I do know that all of the concerns that Bill had, Bill Jeffers had, with the drainage plans were addressed by Jim Farney. They were agreeable. It is my understanding that today...was it today, Joe? Today they filed the drainage plans which conform with that discussion, so we have every reason to believe that Florida Street is going to go exactly where it is shown on here, however we do understand that Sub Review and Site Review has final say so over where exactly that street is going to be and we understand that. Our commitment, we think Florida Street is going to go there for a lot of reasons not the least is which the practical implications of how they all tie together from the donation from the Hirschs because they have donated 25 feet off of their property which was really the key element that put these two property owners together to try to resolve this access on Florida Street. The property is being sought to be rezoned commercially. That fits within the Comprehensive Plan. That area, as you all well know, is going commercial, so we think that the commercial zoning request that both the Hirschs and Head Investment is requesting this evening is appropriate. Joe Ream and Glenn Heseman, from Head Investments, are here this

evening. David and Donna Hirsch are here as well, so if you have any questions I or they would be happy to try to answer those for you.

Commissioner Tuley: I don't really have a question, I just have a comment. Bill Jeffers called down here late this afternoon and I did talk to Bill. What Marco said about the drainage is exactly what he relayed to me. In fact, they may be coming next week for preliminary and final at next week's meeting.

Marco DeLucio: That's what we anticipate, yes.

Commissioner Mourdock: If the nightmare scenario happens and Florida Street is in fact relocated let's say another 50 feet south so that it is now totally on the Head property and not the Hirsch property does that throw a wrinkle in your plan seriously?

Marco DeLucio: Well, I think it throws a wrinkle in all the plans because a big part of the deal between the two parties was locating Florida Street there, so I think, yes, it probably would to answer your question, Mr. Mourdock.

Commissioner Mourdock: Okay, aside from the drainage issue, is this location, Barbara, as shown on the plan that we voted on that you made reference to several times, is that the location as shown on that plan?

Barbara Cunningham: This is the location that they had originally for the plat, I'm pretty sure.

Marco DeLucio: That's correct.

Barbara Cunningham: The only thing is it can probably go there it's just going to be more expensive. They might have to...the location is not as much as the drainage issues and the topography of the--

Commissioner Mourdock: Right.

Marco DeLucio: I think that they met with Bill and with John and those issues have been addressed to, I think, everyone's satisfaction.

Commissioner Mourdock: My question primarily a traffic question, though. The location that is shown on the handouts that we have for Florida Street, that is as we voted on our plan some time ago?

Barbara Cunningham: Oh, I'm not even sure. I can't remember. I not even sure that Florida...where I was talking about the plan was in limiting the access to Kimber Lane--

Commissioner Tuley: Access.

Barbara Cunningham: --and that, but I'm not sure if we had--

Commissioner Mourdock: Yeah, that's going to my second question which is did I understand you to say that as shown at this location there would be both in and out access from the right and left off Burkhardt?

Marco DeLucio: No.

Barbara Cunningham: No.

Commissioner Mourdock: It would only be right turn in/right turn out?

Barbara Cunningham: They're asking for a median cut on Burkhardt at Florida.

Marco DeLucio: Only northbound traffic on Burkhardt, Mr. Mourdock, would be able to turn onto Florida, make a left-hand turn. There is going to be no...as I understand it leaving Florida Street you cannot turn north onto Burkhardt. Is that--

Barbara Cunningham: Is that right, John? John is shaking his head yes. But you can turn left.

John Stoll: The plan as it has been drawn to this point there would be a channelizing island that would prevent the eastbound to northbound left turn movement from Florida to Burkhardt.

Commissioner Mourdock: Okay, let me repeat that back. So if you're going north on Burkhardt you could turn left and go in?

John Stoll: Correct.

Commissioner Mourdock: If you're coming east on Florida you could turn right and go out, but you could not go left?

Commissioner Tuley: Correct.

John Stoll: Correct.

Commissioner Mourdock: I thought the main part of our plan was not to have those crossing through the median on Burkhardt? I mean, as a right turn in/right turn out--

Barbara Cunningham: I thought so, too. Yeah, I thought so, too, but what we're doing is we're taking all this frontage instead of any access points to be given we're limiting it to a road access and we're telling them from the very beginning that if this cut becomes a problem, a safety problem of any kind, that it's closed.

Commissioner Tuley: Yeah.

Commissioner Mourdock: I hear that and I guess I'm thinking...trying to think down the road a few years. If traffic is such that the...well, let me put this in another setting. Out on Highway 41 right now if there is enough traffic there the state will put in a stoplight based on the traffic count. If this venture is really successful and it gets all kinds of traffic are we likely to see a stoplight even when we say, well, wait minute it's a county road we would rather close it.

Barbara Cunningham: I would not think so because there is an east/west access through this 17 lots. The access is--

Commissioner Mourdock: That's immaterial. I mean, it's just traffic count.

Marco DeLucio: You have a traffic light both, I think, planned at Oak Grove do you not?

John Stoll: Correct.

Marco DeLucio: And at Vogel.

Commissioner Mourdock: Sure, right.

Marco DeLucio: So I mean there are two traffic lights already in the very near vicinity. I think what--

Commissioner Mourdock: I understand.

Marco DeLucio: --Ms. Cunningham has indicated is, and I think this is a county road, I don't know that the state can design whether or not a road is going to go in.

Commissioner Mourdock: No, I'm not saying that.

Marco DeLucio: Yeah, one of the conditions, I think, in the EUTS report is we understand if traffic is such that it warrants being closed the county always has the right to close the median.

Commissioner Tuley: Is there a plan for Florida to be continued to the east of Burkhardt there?

Barbara Cunningham: No. Oh, to the east on Burkhardt?

Commissioner Tuley: East of Burkhardt.

Barbara Cunningham: Uh...

John Stoll: Long-term that would be the best place to put another access point to access that property on the east side. I would think that they would need to mirror what is being proposed here and not allow--

Commissioner Tuley: Right, just the opposite direction.

John Stoll: --left turns out of there as well.

Commissioner Tuley: Just southbound only.

John Stoll: Right.

Commissioner Mourdock: Southbound only? Off which way?

Commissioner Tuley: If they develop the east side and Florida goes through and they come out then they could only make a right and go south on--

Commissioner Mourdock: North.

Commissioner Tuley: North on Burkhardt, sorry.

Commissioner Mourdock: I thought that is what you meant, but I wasn't sure.

Commissioner Tuley: That's not what I said, but that's what I meant.

Commissioner Mourdock: I don't particularly have a problem with Florida on here as shown. I just...and I heard you say it Marco, and I appreciate it you saying it for the record, that if, in fact, there is a traffic problem there that you're not going to come in and petition and say let's put in a stoplight because that very much goes against what the whole purpose of the plan was which was to have the stoplight you just cited at Oak Grove Road and Virginia. I just don't want to see us get off of that plan. I like the right turn in the right turn out. My gut hunch tells me it's not going to be very, very long at all and that may be all you would have there just given traffic patterns.

President Jerrel: Are there any other questions? Is there anyone else here that would like to speak to this?

Barbara Cunningham: We're also getting a specific proposal to Kimber and Tudor to a certain point.

Commissioner Tuley: So really there will be additional...all of these lots have internal access with the exception of the one proposal for the Hirschs and Lot 1 here everything else will go through the inner--

Barbara Cunningham: I might make one other statement. Where it says AG on your map, that's the only lot in this area that has not been zoned. It's a single family residence. They do show access off of Oak Grove, I mean, the lot does have some access off of Oak Grove, but I certainly hope we can limit...you know, I would hope that they could access proposed Tudor Lane somehow as an access.

Marco DeLucio: I would say that's the current plan. They are not for us and that is one part of the puzzle we weren't able to complete is that one of the reasons you see Outlot B on there as part of this transaction, ultimately Outlot A is going to be conveyed by Head Investments to the Hirschs so they'll have access onto Tudor and the Hirschs are paying for a portion of Tudor Lane to be extended so when the Underwood tract comes before you that would be the same type of proposal Head Investments would make at that time. Head has agreed to construct a portion of the roadway north of the Hirsch tract already.

Commissioner Mourdock: Please don't anyone misunderstand. I'm not critical of the plan here, I just want to make sure that traffic component isn't lost on us because as some of you have probably heard we every now and then get complaints about traffic on Burkhardt. Actually, I think Barbara's comments about the developers working with the planners and such, that's the closest I've ever heard you come to giving somebody an attaboy, Barbara.

Barbara Cunningham: I'll take that back then!

Commissioner Mourdock: There goes the image!

Commissioner Tuley: The last guy that agreed with somebody turned around and decided he wasn't running for Mayor anymore, too.

Commissioner Mourdock: That's right, last week!

Commissioner Tuley: When are you going to quit?

President Jerrel: Well, I do think that we have to accept the fact--

Commissioner Tuley: Solid Waste Board.

President Jerrel: --that we're fortunate when we do have people in our community that will work with governmental agencies--

Commissioner Mourdock: Absolutely.

President Jerrel: --and convert properties into first class operations. I mean, that helps all of us.

Commissioner Mourdock: Yeah.

Marco DeLucio: I think Joe, Joe Ream, did a lot of the legwork on this.

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

Commissioner Mourdock: On final reading I will move approval of VC-3-98, rezoning from AG to C-4.

President Jerrel: Are we doing them together?

Commissioner Mourdock: Separate.

Commissioner Tuley: Separate for the purpose of bringing it to a--

President Jerrel: Alright.

Commissioner Mourdock: That was a motion.

Commissioner Tuley: Second.

President Jerrel: I will call for the vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: I vote yes.

Commissioner Mourdock: And on final reading I will call for approval of VC-6-98, which is 1400 North Burkhardt Road changing AG to C-2.

Commissioner Tuley: Second.

President Jerrel: Your final vote, Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: I vote yes.

Marco DeLucio: Thank you very much.

Commissioner Mourdock: Again, good job to all involved there. It's a very nice plan.

Final reading VC-7-98 David Remmert 401 South Boehne Camp Road

President Jerrel: The last item on the agenda is VC-7-98, 401 South Boehne Camp Road.

Barbara Cunningham: Again we have another one who is willing to work with governmental agencies. That's two in one night, however, they have not worked quite as much or as thoroughly as the previous petition and they still have some work yet to do as I will say in my remarks. Carol McClintock is the representative for petitioner David Remmert in this request to rezone the property located at 401 South Boehne Camp Road from AG to C-4. This is a three acre site located at the southwest corner of Boehne Camp Road and Lloyd Expressway. Current owners are John and James Storey. This was heard at the Area Plan Commission June 3rd hearing and comes to you with a recommendation for approval with ten yes and one no vote. I might say this comes...the Comp Plan projects the Boehne Camp corridor for residential development. Even after I have said that vote, this does not follow the Comprehensive Plan. I think why I'm a little testy is there has been a lot of talk lately about city and county planning agencies and officials needing to take a careful look at development before they cause many traffic snags and traffic nightmares. I guess what I want to get on the record, and so be it because Plan Commission voted for this, is that all of the land use planning and all the traffic planning mean nothing if we don't adhere to the adopted plans or if we don't get the commitments up front. I wish it were as simple as was stated last month as relying on Site Review Committee to take care of access and traffic problems, but the truth of the matter is that often Site Review is put in the position of finding perhaps the least offensive or least problematic access and this becomes necessary as a cleanup because we must allow access to commercial properties even if the access might cause traffic concerns. Boehne Camp is a residential collector street. There is a large 84 acre commercial and residential apartment development is planned directly east and southeast of this site. It's the former General Growth site with access onto Boehne Camp Road. This proposed three plus acre C-4 site has the potential to generate significant traffic volumes. Piecemeal small tract development creates the potential of numerous curb cuts and also creates somehow sometimes a problem with lining up with the curb cuts proposed. Now it is my understanding and perhaps Carol can tell us that the subdivision is planned for across the street and will be coming into Plan Commission fairly soon. It has been something that Mr. Hahn has told us all along of the proposed plans and they're going to give us a frontage road in this area and the things that they plan to do, but because of the heavy traffic that might be expected from the development occurring to the east, the 84 acre development, any access to this site should be limited only to a single access point that lines up with the access to the other development and is as far from the intersection as is possible. EUTS recommends that the applicant/developer should be required to conduct a traffic impact study and that's what we said at Plan Commission and said on the Staff Field, to demonstrate the impacts of the proposed rezoning on the adjacent roadways. If this site is to be developed commercial, then a frontage road along the south property line is recommended. Those are EUTS' remarks. It was mentioned at Plan Commission Hearing that the developer would probably like to

have a cut centrally located on this site and this would probably be much too close to the intersection. Those are things that I'm sure that, you know, that they've thought out and they will have...Carol will have a good presentation to tell you how they plan to develop this site. Our Comprehensive Plan does project the Boehne Camp corridor for residential development from Lloyd Expressway south to Middle Mount Vernon Road with the exception of that 60 acre tract zoned in 1971 that we're talking about that is going to be the shopping center on the south side of the Lloyd between Red Bank and Boehne Camp Road. The Comprehensive Plan envisioned a residential Boehne Camp corridor with the edge of commercial development to the east. This proposal will expand the commercial past the Boehne Camp corridor. It's a rapidly growing area that is already experiencing traffic congestion with the new development to the east and, as I said, a conceptual site plan has been submitted and I don't know if you have that in your packet or not? Do you? If not, I have a copy of one that I can show you. For the undeveloped C-4, do you have a copy? Immediately south of this shopping center is a 22 acre parcel recently rezoned R-4 for the apartments by the County Commissioners recently for a proposed 200 unit apartment complex. On the northeast corner of the Lloyd across the Lloyd and Boehne Camp intersection is the 300 unit Mission Viejo apartment complex. What we're saying is once the area is already zoned or built out it is anticipated that traffic congestion near the site will be significantly increased. The Comprehensive Plan commercial action plan encourages compact commercial areas. It stresses that new commercial development should be directed into existing commercial areas prior to rezoning new land. Surrounding the proposed three acre C-4 site with the exception of the 82 acre commercial and residential development that we just talked about planned to the east the area is completely agricultural and residential all the way out to the university and the C-4 district allows many uses considered incompatible and inappropriate adjacent to residential development. Traffic impact, as I said, and safety is of a major concern in this area and must be addressed and commercial development should be confined to those areas designated in the Comprehensive Plan. Let me see...could you pass that down? Here.

Commissioner Tuley: This is the 84 acres.

Barbara Cunningham: Well, let me...all I've got...yeah, it's across the road.

Commissioner Tuley: I know. I thought you had a site plan for what you're--

Barbara Cunningham: Here, this is mine. This is where they are proposing. Let me show you this. Okay, here is Mission Viejo across the way.

Commissioner Tuley: Right.

Barbara Cunningham: Here we are with the...this is my...has this changed much, Gene, at all? Your plan? I don't think what you're going to be bringing in--

Gene Hahn: I'm not sure what you're showing.

Commissioner Tuley: She is showing us the 87 acres or 84 acres.

Barbara Cunningham: This is the property that is up tonight to rezone right here.

Commissioner Tuley: Right.

Barbara Cunningham: This is the proposed...this was what was formerly the...what we

call the General Growth plat that was done in '71 for C-4.

President Jerrel: Right.

Barbara Cunningham: Okay, and Mr. Hahn and Carol has told us...is proposing...they are going to do a frontage road in this area and this is the 200 unit apartments that are back here. This is Red Bank Road over here.

Commissioner Tuley: Right.

Barbara Cunningham: This kind of--

Joe Harrison, Jr.: Before you all go any further can I just have you all...whoever is going to speak with respect to this petition would they please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Gene Hahn: This is going to stay right here. The only thing that is going to change any is this user here is going to need a little additional parking so we're going to drop this down.

Commissioner Tuley: You've already started that through BZA.

Gene Hahn: Yes, uh-huh, right.

Barbara Cunningham: This is ready to go as soon as they plat and bring it in. You know, that is really ready to go and so is this. This is ready to go also.

Commissioner Tuley: Your internal access, though, and your external...this is it.

Gene Hahn: Yeah, this is it. This is the only thing that is going to change.

Barbara Cunningham: Here is the one you're looking at tonight.

Commissioner Tuley: Right.

Gene Hahn: This is the one we're looking at this evening.

Commissioner Tuley: Right. How far back down...there you go.

Barbara Cunningham: It doesn't go this far back, does it?

Gene Hahn: No.

Barbara Cunningham: No, it goes about to here.

Gene Hahn: That's correct.

Commissioner Tuley: Do you have access to any more of this right now?

Gene Hahn: No, we don't.

Barbara Cunningham: Are you getting all this? That's Mr. Hahn.

Commissioner Tuley: Gene Hahn, yeah.

Barbara Cunningham: So you're talking about an access point in here is what they're going to do.

Gene Hahn: That's correct.

Barbara Cunningham: Have you done the traffic impact study yet?

Gene Hahn: Bernardin Lochmueller is doing them now. It's not completed yet, but there are...I got a nice bill for part of it so I know they're doing it, but they're doing both roads, by the way, they're not just doing the one road.

Barbara Cunningham: I don't want to color...as I said, this got a positive recommendation from Plan Commission.

Shirley James: (Inaudible.)

Joe Harrison, Jr.: Can you state your name?

Shirley James: I guess we have to go through the proper procedure.

Joe Harrison, Jr.: Yes.

Commissioner Tuley: Yeah, at least I know what you're talking about. I guess the rest of them do too.

Carol McClintock: Good evening, my name is Carol McClintock of Hahn Realty Corporation and I'm here this evening to represent David Remmert in the rezoning of 401 South Boehne Camp Road. With me this evening is Mr. Gene Hahn, of Hahn Realty Corporation who is one of the developers, and Rob Faulkner of Fine & Hatfield, our attorney in this matter. To the east of the property that we're requesting being rezoned is all commercial. Everything from Boehne Camp Road really to Warrick County virtually is commercial. The agriculture and residential areas begin west of there to the university. This three and a half acre tract is located at the corner of the four lane Lloyd Expressway and Boehne Camp Road. It is immediately adjacent to the 84 acre site that is currently being developed by Mr. Remmert and Mr. Hahn and it is our intent to develop this property as part of the overall commercial development that is the Lloyd and Red Bank commercial center. We are requesting a C-4 zoning which would be compatible with the adjacent property. Mr. Hahn and I have taken the time to meet with the West Side Improvement Association to discuss their concerns regarding this development. We are working with them to provide the information regarding traffic and drainage in a timely fashion and, in fact, Gene told me this afternoon that he had been trying to reach the Basdens for the last what...two weeks? They've not been around, so we don't know if they're on vacation.

Gene Hahn: I did reach them this evening.

Carol McClintock: Oh, okay, you got the information. As we view this 3.1 acre site as part of this overall development on the west side we plan to take the same professional approach in the use of this 3.1 acres. Bernardin Lochmueller are in the process of

completing the traffic impact study as requested by the Evansville Urban Transportation Study and that traffic impact study is for both Red Bank Road and Boehne Camp Road. We want the traffic to flow as smoothly as possible so that end users can have easy access to our customers. We are also willing to construct an access road in the center of the property to service each half of the property. I am sure that you are familiar with the topography of this particular corner. Development of this corner would eliminate a 30 foot visual obstruction and create a safer intersection. If we develop this, this property will enable us to develop those two intersections at Red Bank and Boehne Camp in a professional, coordinated manner as opposed to waiting until another developer or someone else purchases the corner and comes back to you in not as orderly a fashion. This way we will have the property that we need to develop those in a professional way. Development of this site will prevent the type of piecemeal small tract development that creates numerous curb cuts. The Comprehensive Plan envisions commercial development to Boehne Camp Road. This expansion of the commercial corridor comes at an opportune time in which one developer can work with city and county agencies to create an overall environment for growth on the west side. To say that new commercial developments would not be considered until all other commercial sites are filled is unrealistic. New exciting commercial tenants will utilize the space of those developers that provide the access and amenities that will be popular with end users. We've heard nothing but positive comments from individuals who have called our offices regarding the entire project. We look forward to the opportunity to answer any questions that you may have this evening regarding this request.

President Jerrel: Are there any questions of Carol? Alright, is there anyone else that would like to speak to this issue? Yes, Steve.

Steve McCallister: I'm Steve McCallister, President of West Side Improvement Association. Just in opening let me say we're happy to welcome the 84 acre development on the east side of Boehne Camp Road. We feel that it probably will be developed well and professionally providing...again, our approval is on the proviso that adequate infrastructure, that includes traffic, that includes sewer and water and all of that, is in place to accommodate the projected traffic growth. However, when we were approached by Hahn Realty and they came to one of our Board meetings and presented their plans, the three and a half acres was news to me when I heard that. That's on the other side of the road. We, in the West Side Improvement, have always held the Comprehensive Plan as Bible. We think that we have to have some planning. People in this town always complain about the lack of planning. Well, we have a plan and you helped pay for it and you approved it. Now you're being asked to set aside three and a half acres from that plan. We believe in the integrity of the residential areas and, yes, it is true from Boehne Camp all the way to the university it is residential and/or agricultural. We would like to see it kept that way. People say, well, it's unrealistic because that's going to be a commercial corridor from Mount Vernon all the way to Evansville. Well, yes it is if you keep frittering it away. If you maintain certain areas as residential and certain areas as commercial we think it's the best in the long run. That's all I have. Any questions?

President Jerrel: Have you seen the access plans?

Steve McCallister: For the 84 acres, yes.

President Jerrel: Okay.

Steve McCallister: I haven't seen anything on this three and a half.

President Jerrel: Okay, thank you. Yes.

Shirley James: I'm Shirley James and I am here as a West Side Improvement member. I have a real problem with this. You know, the Republican response to the Mayor's comments was that there was not appropriate long range land use planning or traffic planning. Right now I feel that another Burkhardt Road is being built right into the west side. I went to Wal-Mart Store last Tuesday at 11:00. At 11:30 I tried to get out and couldn't. I could not get out onto...out of the lot let alone get out onto Rosenberger to get across the street to Schnucks. When I went to Schnucks I took the frontage road at Schnucks and tried to get out on Red Bank. Cars were lined up around the bend of Red Bank. That sharp corner, you're familiar with it, I could not get out onto Red Bank. Now when we're going to have a whole apartment complex, which I am sure is going to be well done, I know the developer that does it and I'm sure it's going to be well done, but what are you going to do about our traffic problem there? Also, I too believe in the Comprehensive Plan. I have been instrumental for many years in reading that plan, putting it before our committees, to study it, to make sure that it is what the west side wants as well as government and as well as industry and whatever. Each time we have written our comments, Barbara can tell you we provide comments, and each time we expect government to kind of comply because that is their plan too and this is what we rely on in order to become a good neighborhood association. If we can't rely on the plan that everyone approves, what can we rely on? It's not that...you also have to understand, too, that you have to leave something for the people. Something for quality of life and that particular restriction there was probably...you know, we've got all these hills. Everybody comes in and wants to blow them down. I mean, that destroys the drainage which we have enormous problems. By the way, I notice here at 120 North Rosenberger. I hope he is going to build that pretty high because the last...a couple of months ago a car floated away in that particular area and a man had to stand on the roof to be rescued, so I hope you have provided some good plans to raise that land a considerable sum amount because you might have trouble having his whole business float away. Anyway, that's my statement. I just think that the Comprehensive Plan said that's the limitation and that is where the limitation should be.

President Jerrel: Yeah.

Carol McClintock: Just real quickly, I just want to remind the Commissioners of several important points, or points that we feel are important. This property is located on a four lane highway that services the largest, fastest growing university in Indiana. A university that is going to continue to grow and I think it is very shortsighted to believe that corridor is going to remain residential from now until eternity unless that university stops growing and then someone needs to tell the University of Southern Indiana that we don't want any more students, thank you very much. The reason that this was not included as part of our original plan, this 3.1 acres, is we did not own the property and after the 84 acre site...not the 84, but the property was rezoned for apartments, then we were approached by those owners who asked if we would be interested in purchasing this property to improve that intersection and that's...we would have been thrilled to do it all at the same time. We really firmly believe that this purchase and development of this 3.1 acres will make for a much safer intersection for all of the residents that utilize both the Lloyd Expressway and Boehne Camp Road because it will enable us to have the room to put in the kind of improvements that will make a safer intersection and particularly I know we don't want to cut any hills down, but in this case that particular hill does create a sight problem. Finally, what we are trying to do here is avoid the type of problems through the use of frontage and access roads that have been created on the east side. I just remind the Commissioners that we did have a positive ten/one approval from Area Plan

Commission. I think the Commissioners recognize this as part of that total project package and the fact that we were going to be developing it as one project at this one time. Thank you.

President Jerrel: Are there any questions? I have an observation...go ahead.

Commissioner Mourdock: Just a quick question for Barbara. When the 84 acres on the east side of Boehne Camp was zoned was that pursuant to the terms of the Master Plan, the Comprehensive Plan?

Barbara Cunningham: It was '71 and I don't have that. I don't know that information. I wish I could answer it, but I'm not sure. At that time they had a Comprehensive Plan that had been in effect since 1957. I don't know...you know, they didn't do them as often as we do or follow them as much, so I'm not sure about that.

Commissioner Mourdock: So the C-4 zoning that is there now was done that long ago?

Barbara Cunningham: It was done in '71, uh-huh.

Commissioner Mourdock: Wow.

Carol McClintock: Richard, it was done at the same time that Eastland Mall was rezoned.

Barbara Cunningham: Yeah.

Carol McClintock: They were both zoned at the same time. The same company was going to build an Eastland and a Westland Mall.

Commissioner Mourdock: Really?

Carol McClintock: After Eastland became so popular they abandoned the Westland Mall idea because they didn't need to put anything out west.

Barbara Cunningham: When Eastland was rezoned...Eastland probably had to be...I don't know if it had to be down zoned or not, but Eastland was like M-3. That was all industrial area out there, so they were planning one on both sides of town. It was General Growth.

Commissioner Mourdock: Did I hear it correctly that the current plan then from Boehne Camp all the way to USI, as you were saying, is pretty well AG at this point?

Barbara Cunningham: Residential, right.

Commissioner Mourdock: Residential, yeah.

Barbara Cunningham: See, the rezoning of the apartments fit in with that because R-4 is a residential use. That's what we're talking about.

President Jerrel: The reality that you're talking about and the need to try to keep something from happening clash head-on in something like this. I'm reminded of the property on Burkhardt Road and Lloyd which is gorgeous, but no one will ever build a home there. We all know why and I think probably in looking at this it is unrealistic that anyone would ever build a home on that corner on the Lloyd Expressway, so what do

you do with the people that own the property? That's a real dilemma to say to someone that they can't exercise their rights to do something with their property and yet try to maintain something residential and you can't get anyone to build a home on it.

Shirley James: It was residential for many years.

President Jerrel: But before the growth begins...that's the part. There were homes out on the east side, I think, of Mrs. Lant that lives on Burkhardt back in there, but it just changes. Question?

Commissioner Tuley: Not really a question, just an observation. There has been tremendous growth on the west side just even since I moved out there a year ago. Since I have been sitting on this Board in terms of residential development, apartment complexes that we have recently approved unless they drive to the east side and compound the problem that already exists out there, they have no place else to go except for University and that's part of the nightmare in University because in the short time I've been out there I've kind of taken the adage that if I can't buy it at Wal-Mart I don't need it anymore. I don't travel, you know, so this may provide some other opportunities for some people to shop other places.

Carol McClintock: That's why there is so much traffic at Wal-Mart!

President Jerrel: Well, business is booming. That's what brings all this about. Is there any question? I think all of us know what the issues are, but are there specific questions that you would like to ask the developers to get a better feel for what they plan to do and how they plan to move that traffic from that particular Boehne Camp over to that access road? I didn't know if I heard you saying--

Barbara Cunningham: I don't know. I've not seen anything on that. When it was presented at Plan Commission I think you were talking about an access about half way through the property. That won't line up.

President Jerrel: Uh-huh.

Commissioner Tuley: They can't give us access that lines up because they don't own the property.

President Jerrel: Okay.

Barbara Cunningham: Yeah, they don't own back where it would line up.

Carol McClintock: We cannot line it up and so what we have said all along on both projects is that Gene and David have paid a jillion dollars for these traffic studies and once we get that information from Bernardin Lochmueller we want to sit down with that information and with all of the planners, which we did following our approval here. I don't know if you remember, but we said we would do that. We did that, but really the first thing that we said when we got there is we need to have this information so we can meet and decide where to put those roads and we made the commitment at that time that once we got that information we would sit down and meet and decide where those roads needed to go.

President Jerrel: That is another process yet to come.

Carol McClintock: Right, yeah, because we don't have the impact studies.

President Jerrel: You don't have your report yet. Okay, are there any other questions? Is there a motion?

Commissioner Mourdock: I'll move for approval rezoning of VC-7-98, 401 South Boehne Camp Road from AG to C-4.

Commissioner Tuley: Second.

President Jerrel: This is a final reading, so there will be roll call vote. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: No.

President Jerrel: I will vote yes. Okay, is there any further business to come before this Board?

Commissioner Mourdock: Motion for adjournment.

Commissioner Tuley: Second.

President Jerrel: So ordered.

The meeting was adjourned at 8:05 p.m.

Those in attendance:

Betty Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Marco DeLucio
John Stoll
Gene Hahn
Carol McClintock
Shirley James
Steve McCallister
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

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Betty Lou Jerrel, President

-

Richard E. Mourdock, Vice President

-

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
July 20, 1998**

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

Approval of minutes

President Jerrel: The first item on the agenda is the approval of minutes. Is there a motion?

Commissioner Mourdock: I'll move approval of the minutes of the meeting of June 15, 1998.

President Jerrel: I'll second and say so ordered. Commissioner Tuley is unable to be here tonight, so Commissioner Mourdock, and I'm Commissioner Jerrel. We're the only two that are functioning this evening.

First reading VC-9-98

Keystone Development LLC 5900 N. Green River Road

President Jerrel: The first item on the agenda is first reading for VC-9-98. Petitioner: Keystone Development; address: 5900 North Green River Road; request: AG to C-2 and R-4. This is a first reading.

Commissioner Mourdock: On first reading I will move approval of VC-9-98 for 5900 North Green River Road from AG to C-2 and R-4.

President Jerrel: I'll second. Is there anyone here to speak to this? If not, I'll say so ordered.

Final reading VC-8-98

Bob's Gym, Inc. 120 N. Rosenberger Avenue

President Jerrel: The next item on the agenda is a final reading, VC-8-98. Petitioner: Bob's Gym, Inc.; address: 120 North Rosenberger Avenue; request AG to C-4 with a Use and Development Commitment.

Barbara Cunningham: Steve Bohleber is the representative for Bob's Gym in this petition to rezone 120 North Rosenberger from AG to C-4 with a Use and Development Commitment. This is a 3.66 acre site located at the southwest corner of Rosenberger and Hogue Road. The current owner is the estate of Victor O. Thompson, deceased, by Joan S. Smith, Personal Representative. The petition was heard at Area Plan Commission July 1st and comes to the County Commissioners with a recommendation for approval with ten affirmative votes. Rosenberger connects Lloyd Expressway with Hogue Road, a narrow residential street. Rosenberger Avenue was widened in recent years coinciding with development of the commercial corridor along the Lloyd. Considering the anticipated continuous growth of commercial development to the south and residential development to the north, Rosenberger may carry significantly higher traffic volumes in the future becoming an important route to help to distribute traffic in the area. Currently commercial development is limited to the strip development along the Lloyd Expressway. It's a little deeper than strip development along the Lloyd

Expressway. There is no driveway access to this vacant undeveloped site. Size and location of the access should be determined by Site Review upon submission of plans for the development of the site. Bob's Gym is proposing construction of a new building to accommodate their relocation. If the site is approved for commercial development it will extend the west Lloyd Expressway commercial corridor north to Hogue Road. It's in an area designated as an area of commercial development on the Year 2015 Conceptual Land Use Map in the Comprehensive Plan. It's north of Wal-Mart and southwest of an M-2 zoned paving company, Jerry Davis, and the Comp Plan designates this area...it was adjacent to an area designated as commercial. The Comp Plan designates this area for residential use. It's at the edge of a stable residential neighborhood just outside the city limits. Permitted uses in the C-4 include 174 offices, commercial, service, storage, recreation, no residential uses. However, Use and Development Commitment is included with this petition which limits the use of the site to the 108, approximately, office, commercial, service and recreational uses permitted within the C-2 zoning classification district plus two additional C-4 uses which are a contractor shop, chimney sweep and janitorial service which is carpet cleaning.

Steve Bohleber: Thank you very much.

Joe Harrison, Jr.: Can you hang on one second? I'm sorry. All those who intend to speak with respect to this petition please raise their right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: Yes.

Steve Bohleber: I don't...Mr. Kramer is here and some of the owners of property across Rosenberger. I don't think they're here to remonstrate against this rezoning. I think they might have some questions for the Commissioners, so if that is, in fact, their situation I would simply incorporate my comments from the Area Plan Commission meeting into the County Commissioners' meeting here this evening and also incorporate my narrative from a letter I directed to both Commissioner Jerrel and Commissioner Mourdock a few days ago. This does come with a unanimous "do pass" recommendation which included the now absent Commissioner Tuley. My client, Bob Swallows, is here and his wife, Stephanie, and the patriarch and matriarch, I guess, of Bob's Gym is sitting in back here, Judy and Larry Swallows. They along with their son, Bob, started this business in 1990 and it has expanded beyond my expectations and believe it or not I am a member there. I haven't been there in a while. I used to go a lot, Dick, but I haven't been there for a few months and the reason is it's just too darn crowded, you know? Once they expand and relocate I won't have any excuse not to go back. The Swallows family is here to answer any questions you might have.

President Jerrel: Okay, first of all is there anyone that wishes...we do have the information that we will incorporate in the minutes, but is there anyone that wishes to speak to this issue now? Would you like to sir? Just give us your name.

Earl Kramer: I'm Earl Kramer and I have been appointed over ten or twelve years ago to oversee the property on the east side of Rosenberger Avenue which was in the Yunker family since 1905. The reason I did address the County Board of Commissioners in May 22, 1989, about nine years ago, and I told them when Walt Wilson developed that area down there he just kept crowding everything over east. They have robbed so many feet of our property that the entire Rosenberger Avenue is on Yunker property. There is a pin in Hogue Road due north real close to being exactly north of the telephone pole there. Now Rosenberger Road is supposed to be a straight

road and I have the Warranty Deed here which was recorded back in 1905 and it tells about starting at the pin on the south end and going straight north. Well it's never gone straight north. Walt Wilson at that time that he developed that out there, and I called it to his attention, but it was like talking to a brick wall, and we had a pin on the south line about 17 feet and 40 hundreds east of where the pin at the corner was because the other was down in the creek or ditch, see. They ignored that and went all the way over to this other pin and he riprapped all that and all that was on our property. I did meet in front of the Commissioners back on May 22, 1989 and pointed this out to them and I'm not opposed, in fact, I'm for them to have the gym out there. I think it's a good location for them and I think it would be an asset to the community, but I'm concerned about when they keep talking about going on this west boundary line due north like they've never found the right place. They've not had...they established it east. It's not on the right place. If you go according to the deed and the way it's recorded it says that it starts 600 feet point 68 feet west of the southwest corner of said quarter section. That's where our property starts. There is a steel pin in the ground there. I poured concrete around it way back so it's easy to find. Then it says we've got 692 feet and 92 hundreds west, then to a point, then north along the west line of said quarter section to the center line of Hogue Road. I've got pictures here if you want to see how crooked this road is and whenever it was paved and so forth the creek comes down south of their property, proposed property, and goes over and it's also ditched along the west side of Rosenberger Road where Walt Wilson riprapped it, see, and this...I want to share these pictures with you. This is supposed to be a straight road.

President Jerrel: Show me on this.

Earl Kramer: Well, we're talking about this here.

President Jerrel: Yeah.

Earl Kramer: This shows straight and this line it says it starts down here and goes straight north to a pin in Hogue Road.

President Jerrel: Right.

Earl Kramer: This is a far way...everything is over on our property.

President Jerrel: Yeah, it does, it does.

Earl Kramer: These here just show, some of the pictures, how crooked that road is. I'm for them. All I want to do is get the thing established in the right place. Let's use the right section line which is in the deed which has been since 1905.

Barbara Cunningham: I can't speak for the County Engineer, however sometimes, particularly on the older roads, they are not necessarily...the center line is not necessarily the middle of the road. They're the middle of the right-of-way. The road sometimes in some areas was put on one side or one or the other and I can't say if it is right or wrong, I can't attest to it. That is a possibility.

Earl Kramer: Well, I agree with you 100 percent. However, if you're going to keep improving the roads let's try to keep it as close to the property line as it's supposed to be.

President Jerrel: Right.

Earl Kramer: That's where I'm coming from. In other words, let's not go out there and take the middle of the road now as being the property line because it's crooked and it's not straight. The line it states starts in the south and goes north has never been established according to what the Warranty Deed says.

President Jerrel: Well, I'm trying to listen to them because I can see--

Barbara Cunningham: We've got the right-of-way. We don't necessarily know where the road is.

President Jerrel: Where the road is.

Commissioner Mourdock: Right.

President Jerrel: We need to determine that.

Commissioner Mourdock: Two questions...these are two totally separate questions. I'm going to state them to be sure I understand them. The first question is, obviously, the one of zoning. You're not in any contest or you don't have any dispute with whose property belongs to whom? You're not suggesting that the property that is being rezoned tonight is, in fact, your property or the property you're looking after?

Earl Kramer: No.

Commissioner Mourdock: The second thing then is the location of the road is solely within Vanderburgh County's right-of-way even though the road seems to have moved, that's the other question.

Barbara Cunningham: I assume, I don't know.

Commissioner Mourdock: Even so it wouldn't affect the zoning.

Barbara Cunningham: When we talk about improvements to Hogue Road, of course they would be made in the right-of-way, so if it's not right in the middle then, you know, they should be able...it should not go into your right-of-way necessarily any more.

Earl Kramer: Before the road was resurfaced, Hogue Road, you could see a pin out there. Somebody had to put red paint around it. It's pretty well due north of that telephone pole. If you come in from the west and make a turn you have to go like this. It sweeps nice around a curve to your right coming in towards the city, but the other way...what I'm trying to say is let's get...if we're going to do any work on this road I want to go on record that we get it as near where it's supposed to be according to the deed.

President Jerrel: Right, if there is any widening or anything that is done you want it done in the way that it was originally granted.

Earl Kramer: See, evidently when Walt Wilson did all this we should have stepped in sooner and said something, see, because they ripped that bank, the fireplug and everything. Well, I was told it could be changed if they ever widen the road. We're not against any improvements. We're for improvements out there, don't misunderstand, but the thing is we want to get it established as where the line is. The survey that's been done by different surveyors don't jive with what our deed says. I and my nephew measured that before Wal-mart was established out there and we came out and we

found the pin up here on the road and we found the pin over in the ditch, 17 and four-tenths foot over. That was the pin, but they used the pin up here and kept shoving that dirt down because I guess ground is valuable and ripped it and this is what happened. What I was trying to say is when we establish that road let's go according to what that deed says.

President Jerrel: I'm going to ask...I don't know if our Surveyor can help.

Barbara Cunningham: That's a possibility, the Surveyor. Usually, you know, I think John Stoll is who you want to start with.

Commissioner Mourdock: Right.

Barbara Cunningham: The County Engineer is who you want to talk with and find out, you know, what information he may have first.

Commissioner Mourdock: Have you ever dealt with the County Engineer regarding this issue, Mr. Kramer?

Earl Kramer: I talked to him one time. They said they weren't going to change the road, like nine years ago.

Commissioner Mourdock: Right, and I don't know that there is anything--

Earl Kramer: If we're going to do improvements let's take it off the other side--

President Jerrel: Right.

Earl Kramer: --and get it right. All I'm concerned about, because it happened back then, that it doesn't continue to happen and finally...you know, we've got ten acres to sell there, too. We just put it up recently for sale. Our deed here...I checked all these pins and they're there and if they would start...I was told people up on Red Bank Road there is some land up there not even accounted for, so they didn't start at the right place. The whole ball of wax in there is questionable.

President Jerrel: We've just learned today, it was interesting that you should raise that issue, we've learned today, you know, if we use GIS, a new mapping system that does the actual visual mapping of the county by these old standards where these lines exist, that we would find there would be places where there is no identification. There would be just spots of land that we don't know who they belong to.

Earl Kramer: Well, we own ground, some down in Posey County, and back then when it was measured by chains and he's got I don't know how many extra feet on that 80 acres, see.

President Jerrel: Yeah, right.

Earl Kramer: So you're right, 100 percent, but the pins are there.

President Jerrel: Right

Earl Kramer: If the pins are there and have been there so long, you know--

Barbara Cunningham: Make sure you know where those pins are. Just keep them there.

President Jerrel: May I have your phone number?

Earl Kramer: Yeah, my phone number is 985-3106.

President Jerrel: Okay, 3106. I'm going to give this information to...we have, probably not the same man you spoke with, a young fellow is our County Engineer. He's very good. I appreciate this and we'll get moving on it.

Earl Kramer: We would like to see the gym go in. We're a hundred percent for them. We would like to see it go in. I think it's a good place for it. The only thing that I'm thinking about is whose word are we going to take where that line is?

President Jerrel: Sure.

Earl Kramer: I know where it is because I'm familiar with that ground since 1941, see. So, you know--

President Jerrel: The property was called the Yunker estate?

Earl Kramer: Yeah, it's the Yunker estate. I'm Earl Kramer, my wife was the oldest daughter. That's her sister back there and my brother-in-law.

President Jerrel: Were Yunkers?

Earl Kramer: Yes.

President Jerrel: There used to be a doctor in Evansville a long time ago--

Unidentified: Yeah, there are Junckers and Yunkers.

Earl Kramer: See, what makes it confusing her grandmother was a Juncker, J-u-n-c-k-e-r, and she married a Yunker.

President Jerrel: Oh my.

Earl Kramer: That's why they say the Yunker/Juncker reunion. A lot of people like the ones in Mt. Vernon are Juncker and they really pronounce it Yunker.

President Jerrel: Yeah, okay.

Earl Kramer: It's supposed to be Juncker.

President Jerrel: It's like that golfer, Yesper or Jesper or Vesper.

Commissioner Mourdock: Oh, okay, yeah.

Earl Kramer: Thank you.

President Jerrel: Okay, well thank you, Mr. Kramer. We have...is there anyone else that wishes to speak?

Commissioner Mourdock: I'll move approval on final reading of the petition, VC-8-98, for Bob's Gym. The address being 120 North Rosenberger Avenue with the requested change from AG to C-4 zoning with the Use and Development Commitment.

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

Commissioner Mourdock: I vote aye.

President Jerrel: I'm Commissioner Jerrel and I vote aye. Motion carried.

Commissioner Mourdock: I will move for adjournment.

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

The meeting was adjourned at 7:18 p.m.

Those in attendance:

Bettye Lou Jerrel
Richard E. Mourdock
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Steve Bohleber
Earl Kramer
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

-

Bettye Lou Jerrel, President

-

Richard E. Mourdock, Vice President

**Vanderburgh County
Rezoning Meeting
August 17, 1998**

The meeting was called to order at 7:05 p.m.

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

Approval of minutes

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

Commissioner Mourdock: I'll move approval of the minutes of July 20, 1998.

Commissioner Tuley: I believe I was here.

Commissioner Mourdock: Want me to check?

Charlene Timmons: It's on the back. It's in the minutes.

Commissioner Mourdock: No, you weren't.

President Jerrel: No, you weren't, so I'll second and say so ordered.

**Final reading VC-4-98
610 and 614 N. Burkhardt Road Duane DuVall/Randall Highman**

President Jerrel: The first item on the agenda is listed as final readings and we have VC-4-98, Duane DuVall and Randall Highman. Mrs. Cunningham.

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

Response: Yes.

Barbara Cunningham: Les Shively is the representative for petitioners Duane DuVall and Randy Highman in this petition to rezoning their properties located at 610 and 614 North Burkhardt from Agricultural to C-4. These are two residential lots totaling approximately two acres. Both lots together constitute 160 feet of frontage along Burkhardt Road and the lots are about 576 feet in depth. The two lots are on the west side of Burkhardt midway between Columbia and Virginia Street. The petition was heard at the May Area Plan Commission meeting and was continued at the request of the petitioners to allow amendment to include a Use and Development Commitment. An amended ordinance was filed on June 8, 1998 which included a Use and Development Commitment that stated that the petitioners will utilize shared access drives to the north and south if perpetual easements are granted at no cost to the petitioners. It also stated that they will cooperate in the establishment of the proposed frontage road by not constructing any improvements within the area for one year. It was not designated who was to grant easements and install the frontage road. There was no commitment to do so from these petitioners. The petition was heard at the July 1, 1998 Area Plan Commission hearing and was continued an additional month to allow revisions to the Use and Development

Commitment. A copy of the amended Use and Development Commitment was included in your packets. It is still unclear who is to grant easements and install the frontage road as there is no commitment to do so from the petitioners. A comparison of the previous and new amended commitment indicates little change. It appears the petitioners are planning to maintain the ability to utilize two access points onto Burkhardt Road and have no intention to maintain either or install the frontage road. The frontage road is shown on the Burkhardt plan as part of the overall transportation network adopted by the County Commissioners. The second amended petition was heard at Area Plan and received a no recommendation vote with five affirmative votes, three negative votes and one abstention. As I said, the site has 160 feet of total frontage on Burkhardt Road. Burkhardt has exploded with traffic problems and also has expectations of increased traffic volumes as the area continues to develop. As we consistently state, and as the Comprehensive Plan has stated, with the adoption of the Burkhardt Road corridor plan alternative accesses such as frontage roads must be pursued. The transportation section of the Comprehensive Plan contains a policy supporting the development of frontage roads to serve development along major arterials. This petition only addresses the frontage road by assuring they will not construct any building within the planned frontage road for one year. There is no commitment to dedicate or construct. Access is a concern which should be taken seriously in the Burkhardt/Lloyd corridor. The Comprehensive Plan projects the Burkhardt Road corridor between Morgan and Lloyd as an area of commercial development. The Comprehensive Plan also states that infrastructure must be in place or commitments made to ensure that the infrastructure is in place prior to a rezoning. The Commissioners have adopted the Burkhardt Road corridor plan to facilitate safe and orderly development of the area. Although this change in zoning to allow development of the site as a speculative commercial use is consistent with the Future Land Use Maps, there are serious concerns about safe access to the site. This is a request for rezoning to C-4 for the stated use of speculative commercial development. There are many C-4 uses which have the potential of creating heavy traffic volumes. The lack of good solid traffic planning along the Burkhardt Road corridor could create a serious traffic hazard further impeding traffic flow on this very busy commercial street. Piecemeal development along major arterials should not be permitted.

Les Shively: President, members of the County Commission, let me give you a handout here that we will be referring to in a moment.

Barbara Cunningham: Les, is that the same one I have?

Les Shively: Yes, ma'am. We just put a different cover on it so they could put today's date on it. Same material. Let me first of all state that we certainly understand what the Commissioners are attempting to do with the corridor plan. We have attempted to meet the goals of that plan and at the same time allow these two individuals to market their property. Although the property is in separate ownership, Mr. DuVall owns one parcel, Mr. Highman owns another parcel, they are listed together and it is the intent to sale these properties together. I guess turning to tab number three of your handout I have included the part of your ordinance regarding improvement location permits and let me just give you the Readers Digest version. If this goes to plan and is sold to one user, one owner, you will be able in the improvement location permit process when they...as you know, regardless of what you do in terms of zoning when a particular owner wants to use the property for a particular purpose they have to go through Site Review and the process to get an improvement location permit. If it is under one ownership pursuant to that ordinance which you adopted many years ago it does give the powers that be that are charged with issuing improvement location permits the right to limit it to one access.

I do want to emphasize that this request this evening creates no new access. When the property to the north, Harvest Financial, was rezoned you approved that with a Use and Development Commitment requiring Harvest Financial when this property was rezoned...and by the way, we tried to develop our property and rezone it with Harvest Financial, but they did not work with us, so that is why we're here now. Anyway, Harvest Financial was required under their Use and Development Commitment that when we were ready to zone our property to cooperate with us on a shared driveway. That's part of a Use and Development Commitment, something that runs in our favor. That is part of the record and part of that zoning ordinance to rezone that property. With regard to the frontage road that has been discussed let me say right now Mr. DuVall and Mr. Highman would love to see a frontage road go across the back of their property that would run from Virginia north to Columbia. That would be great and they would donate the right-of-way to do that, but the frontage road as it is laid out now, and I would submit to you that I'm not an engineer, but practical concerns would indicate you're going to have to change that plan. If I could move up here and show you these photographs. Here is the Bigfoot property, which is the former Nalley property rezoned in 1991. That's just south of these two properties.

Commissioner Mourdock: Immediately south?

Les Shively: Yes, sir. The next photograph I'm showing you is Harvest Financial Service which is the property immediately to the north. I apologize for not knowing the name of these medical facilities, but giving them to you in order here are the buildings that exist. I think one is a oncology center and the other one is a medical related facility and I apologize for not knowing, but anyway, the last one is the blond brick building that goes to Columbia. The frontage road as it is planned now you have the...the county would have to acquire some buildings. I mean Mrs. Cunningham and I have discussed this. First of all, we don't think the frontage road as conceived now could go any further than the Harvest Financial property, but certainly no further than the oncology building as it is designed now, so the frontage road serves no purpose, but we have, again, tried to accommodate by saying we're not going to build anything and leave that open if it is going to be necessary sometime in the future. If you find a way at no cost to our people to go from Virginia...other than donating that land...to go from Virginia to Columbia, hey, we're all for it. It doesn't seem very likely the county is going to acquire some buildings and do that. It would seem more likely that what the county is going to do is rethink not the concept, the frontage road concept is excellent, but shift it farther to the west so that you can link Virginia and Columbia because that is where the frontage road really becomes worthwhile is when you link those two east/west thoroughfares. Again, we have included in your handout this evening Exhibits 1 and 2 that are tabbed which indicates Johnson Oil Company included not only their rezoning petition...well, they didn't have to rezone, their plat I should say. When they platted this property, I've agreed to the shared driveway. I've talked to Mr. Jim Koch of Johnson Oil Company that owns Bigfoot and they're going to work with us on the shared driveway. Mr. Milkey of Harvest Financial simply indicated that they recognize their obligation of the Use and Development Commitment but are rather noncommittal as to the exact location. When you rezoned that property you gave them also the power to designate where that third driveway goes, so they have not gotten back to us on that. We believe that what we presented here this evening is as far as the property can go at this particular point in time and still be able to sale their property, market their property, retain their property interest and at the same time meet the spirit of the county in terms of limiting access on Burkhardt Road. I emphasize again no new access is created because we're going to use the existing access for Johnson Oil and then the existing access for Harvest except relocating it. I don't know how many times you can say that, but I think that's a plus and

certainly consistent with what you want to do out there. In looking at this zoning request I'm sure you probably are saying why rezone at this particular point in time? The reason for that is simply this, we've been advised by the brokerage concern that is handling the marketing of this property that although the economy is good and there is a lot of interest in real estate in this area we are competing with other sites. In order to be marketable we have to get the classification changed. I emphasize to you again that rezoning the property does not necessarily allow all uses there. They still have to go through the improvement location permit in terms of how they physically put their facilities on there. Again, I'm more than happy to answer any questions that you have at this time. Mr. Highman is here this evening. Mr. DuVall is out of town on business. I would add this, a suggestion was made at one of the Plan Commission meetings about putting the property together in one legal description prior to sale and I have looked into that and there are some legal impediments to doing that right now due to some circumstances peculiar to the ownership interest in this property and it cannot be put together in one legal until it is actually sold. It cannot be done before that. I did look into that. I give you my word on that.

Commissioner Mourdock: Which properties did they look to put together, Les?

Commissioner Tuley: The two in question.

Commissioner Mourdock: The two that are here?

Les Shively: These two here, yes, sir.

Commissioner Mourdock: What's the nature of the impediment?

Les Shively: I really can't...I can't...I would be delving into some client confidences. It's very...it's a unique situation to this particular property.

Barbara Cunningham: Les, will you put on the record that Mr. DuVall has signed it now because their copies that they have--

Les Shively: I don't know what happened to the signature pages. Mr. DuVall and Mr. Highman both have signed the Use and Development Commitment.

Charlene Timmons: They have the signed copies.

Barbara Cunningham: Oh, they do?

Commissioner Tuley: I didn't.

Les Shively: Mr. Mourdock, let me also say that when Harvest was doing their rezoning we attempted to become a part of that so that you could look at that whole area as one thing and they were reluctant to get involved at that time. I think that's what resulted in that Use and Development Commitment.

Charlene Timmons: That's what they gave you. I give you a separate copy.

Commissioner Tuley: Oh.

Commissioner Mourdock: The Use and Development Commitment from Harvest?

Les Shively: From Harvest, it was a condition of their rezoning that you granted a few years back.

Commissioner Mourdock: Do you know how many years back that was?

Les Shively: In '94.

Joe Harrison, Jr.: I think it was '91, wasn't it?

Commissioner Tuley: This is '91.

Les Shively: It was '91? I think '91 was Nalley. I think--

Commissioner Tuley: Oh, Nalley was.

Les Shively: I think that Harvest was actually '93 or '94.

Barbara Cunningham: Greg Curtis did it.

Les Shively: Greg Curtis, right. It had to be after he was no longer County Engineer, so we know that.

Commissioner Tuley: It was since I have been sitting here. I remember when you said Greg Curtis.

Les Shively: Right.

President Jerrel: Is there anyone else that wishes to speak to this issue? Mrs. Cunningham, do you have any additional comments?

Commissioner Mourdock: If I may, let me just paraphrase it to be sure I understand it, the...what was the dimension here? The 160 feet that is along Burkhardt Road presently has an access point?

Barbara Cunningham: For residential.

Commissioner Mourdock: Right, for residential, but there is an access point, but based on what we have from our May 17th plan from a year ago the way we set that plan up was that there would be more distance between the access cuts, thus the access cut that is presently on the Bigfoot to the south and the Harvest property on the north conform to the plan and under the Use and Development Commitments that both of those property owners have they have agreed to provide shared access to this property, is that correct?

Barbara Cunningham: It's correct except I cannot attest to Harvest. I should have their Use and Development Commitment--

Les Shively: I have it.

Barbara Cunningham: Do you have it? I cannot attest to that, but Bigfoot did put the access point and it was meant to be a shared drive with the properties to the north which is this property and Harvest did say that they would investigate the possibility of moving the road, but I don't think it ever addressed who would pay for it or how it would be done, I don't think. Do you have it?

Les Shively: Yes, I do. Mr. Koch told me they would share the cost with us.

Barbara Cunningham: I mean, it doesn't say that in there does it?

Les Shively: Well, the thing with Mr. Koch is, in fact, that we're not going to change the location of the access to the south.

Commissioner Mourdock: Koch is Bigfoot?

Les Shively: Yes, sir, I'm sorry. Yes, sir.

Barbara Cunningham: Oh, yeah.

Les Shively: We're not going to change that we're just going to take out a fence and some other things and use the drive as it is and whatever cost that is associated with doing that we're going to have bear. Mr. Koch has told me and that makes sense. Here is the Use and Development Commitment for 618 North Burkhardt, which is Harvest Financial.

Commissioner Tuley: When was that signed?

Les Shively: This was signed, I'm sorry, November 17, 1995. It says:

"If the parcel adjacent to the south line of the above described real estate is rezoned, petitioner is willing to allow relocation of his access to a shared access point with the center line of such access point being the common property line for a minimum distance of 75 feet and any additional distance required of or desired by the adjoining parcel petitioner to be at this petitioner's discretion."

It's a little wordy there, but that is what it says.

Barbara Cunningham: Yeah, usually a commercial drive is 200 feet apart at least. A minimum of 200 feet apart is what they try to do.

Les Shively: That will be done.

President Jerrel: Okay, I have a question because I'm a little confused. To the south is Bigfoot--

Barbara Cunningham: To the south is Bigfoot.

President Jerrel: --and they have at the north end of Bigfoot and the south in of the DuVall, that property, there will be a shared drive?

Les Shively: Mrs. Jerrel, if I can make it real easy. It's the same drive. We're going to use the same drive.

Commissioner Tuley: Shared drive, that's what she said.

Les Shively: Right, the one that's there.

President Jerrel: Then on the--

Barbara Cunningham: Here is Bigfoot. Here is Virginia and here is Bigfoot. Here is the drive that Harvest has now and here is the cancer center and so this is the Bigfoot.

Commissioner Mourdock: That shows this road coming all the way around.

Barbara Cunningham: Here to the Harvest. This is the Harvest drive.

Commissioner Mourdock: Oh, that is a proposed?

Barbara Cunningham: Yeah, that's a proposed. This road is proposed. That goes how far back on this? It goes 500 feet, but I don't know if it goes--

Les Shively: This site is 600 feet, five eighty something.

Barbara Cunningham: It should be back in here.

Les Shively: Yeah, about 576.

Commissioner Mourdock: So from this property--

Barbara Cunningham: This is Harvest and these are these two properties that you're looking at tonight, these two little squares are the two properties that you're looking at tonight.

President Jerrel: They want an additional driveway.

Commissioner Mourdock: No, they don't want an additional one. There is one that comes out for these two onto Burkhardt now. They want to maintain that, correct?

Les Shively: Yes, sir.

Commissioner Mourdock: The plan with Bigfoot was as this went in...I presume that is at that location?

Les Shively: Yes, sir, it won't change.

Commissioner Mourdock: Yeah, they would instead have shared--

Barbara Cunningham: But they want another one for this second house if they don't change this, see, so you're talking an additional one.

Les Shively: No, you're not talking an additional one because Harvest has an access. We're going to use Harvest...you can't take away Harvest Financial's access, okay?

Barbara Cunningham: Which is this road here.

Les Shively: We're going to use the Harvest curb cut which may possibly be relocated as may be directed by those people that we have to go through to get a permit or pursuant to Harvest's direction, but we're not trading any new cuts.

Commissioner Mourdock: But the question is, again, maintaining the one cut that is there now as opposed to the plan that we've put together that shows access to that property solely from the Harvest or the Bigfoot access. That's the question.

President Jerrel: Okay, that's what I was trying to get clear in my mind. There is either going to be...you can have three ways to go in or two ways?

Commissioner Mourdock: Let me take a shot at that one. Right now there are according to the plan that we have in place there are two access points to this property.

President Jerrel: Bigfoot and Harvest.

Commissioner Mourdock: Right, through those two points. What this petition is requesting is that the present access they have to Burkhardt be maintained as a commercial access.

President Jerrel: I see, okay. So there would be three?

Commissioner Mourdock: There would be three, but it's not an additional one.

Les Shively: Where is the third one?

Commissioner Mourdock: It's the one that is presently there.

President Jerrel: The one that is presently there.

Commissioner Tuley: Shared Bigfoot, shared Harvest and the one that exists.

Les Shively: No, the one that exists...for this property?

Commissioner Mourdock: Yeah.

Les Shively: We will close that off. That will be closed off.

Barbara Cunningham: So you're going to move Harvest?

Les Shively: Yes, oh yeah we're not (inaudible). This gets rezoned our access will be by the shared driveways established for Harvest and Bigfoot and we're not going to use any other access.

Commissioner Mourdock: You're agreeing to close the one that is there presently that is serving this lot?

Les Shively: Yeah, the commercial cuts that have been approved that exist right now, we're going to use those two approved commercial cuts and not use the residential cuts at all, close those off.

President Jerrel: Well that wasn't clear, Barbara.

Barbara Cunningham: It wasn't clear to me either. This is the first that I've heard. Honestly, it was not clear to me.

Commissioner Mourdock: We could of had you out of here at five minutes after seven.

Les Shively: I have no comment.

Barbara Cunningham: I don't see that in the Use and Development Commitment. I

mean, I don't see--

Les Shively: You all have an ordinance that is very comprehensive. I'm on the record here this evening, Mr. Highman is on the record here this evening, when this property is rezoned commercial we can only use the commercial cuts, those two shared driveways. Over and out, we can't use the residential cuts anymore.

Barbara Cunningham: There is a median, so would that just be right turns in, John? Is there a median in that location? There is a median in that location, so all it would mean is right turns in and right turns out.

John Stoll: If the driveway to the south side is used they'll have access through the access easement on the backside of the Bigfoot property.

President Jerrel: I drove out there to look at it. The words are more difficult than what I saw. Okay, one more time your zoning request is one issue and I understand that clearly. The other is a clear understanding that the two current residential access are going to be closed and you're going to use this shared?

Les Shively: Yes.

President Jerrel: Okay. Are there any--

Les Shively: I want to make one thing, so it's not--

President Jerrel: Okay.

Les Shively: The Harvest and the Bigfoot.

Barbara Cunningham: It's got to be moved over.

Les Shively: The Harvest will be moved over.

President Jerrel: Right.

Les Shively: The Bigfoot stays right where it is.

Commissioner Tuley: Is that contingent upon these properties being sold as one? What happens if that doesn't happen?

Les Shively: No, if it is sold as one depending on what the use is, through the improvement location process the county may be able to get...I think will be able to get one access point.

Barbara Cunningham: At--

Les Shively: The Site Review process.

Barbara Cunningham: The Bigfoot property.

Les Shively: What I am saying is the worst case scenario if these two properties sold separately is that they'll be using the existing commercial cuts there and there is every likelihood, 80% or better chance, if it is sold as one there is only going to be one cut on

Burkhardt.

President Jerrel: Is that what you understand now?

Barbara Cunningham: Now. I didn't understand that before.

President Jerrel: John, do you have any problem with the transportation end of it?

Barbara Cunningham: What about the...the depth of these lots say that they're probably going to be divided in two. We don't know, but you'll need to address with Site Review the easements.

Les Shively: I'll say it again, we vote for the frontage road that runs along the back that would connect Virginia and Columbia and we hope you all redesign and do that.

Barbara Cunningham: Are you going to give us right-of-way?

Les Shively: Yes.

Commissioner Mourdock: You know that we typically vote that the developers pay for frontage roads.

Les Shively: I can tell you I think that makes it very attractive. I think that is easy to look at and run the numbers on.

Commissioner Mourdock: Okay, let me read this statement that you read to us regarding the property to the north. Again, I don't mean to beat a dead horse here, but I want to make sure we're all clear.

Les Shively: Sure.

Commissioner Mourdock: This says:

"If the parcel adjacent to the south line (which is this tract) of the above described real estate is rezoned, petitioner is willing to allow relocation of his access to a shared access point with the center line of such access point being the common property line for a minimum distance of 75 feet and any additional distance required of or desired by the adjoining parcel petitioner to be at this petitioner's discretion."

That was written by a lawyer.

Les Shively: No, it was written by an engineer actually. Mr. Curtis wrote that, I think.

Commissioner Mourdock: Okay, a close second. You said earlier that you have not had contact, though, with the people to the north.

Les Shively: I'm sorry, I may have misspoke. Tab number two is an E-mail from Mr. Milkey that came to my office where he basically said that, yeah, they were going to do it. He is getting with his attorney and engineer because they're going to have to move a culvert to relocate that.

Commissioner Mourdock: To that common point?

Les Shively: Yes, sir. That's tab number two. The only thing I've got in writing is the E-mail message my staff gave me.

Commissioner Mourdock: Okay, so just to put it on the record so we're all clear, you understand and your clients understand what our preferred traffic plan is out there as far as access points?

Les Shively: Yes, sir.

Commissioner Mourdock: You will be removing two present access points from these properties and only be using the shared access points from the tract to the north and from the south.

Les Shively: Yes, sir.

Commissioner Mourdock: Barbara, you are clear on that and now comfortable with that?

Barbara Cunningham: I'm comfortable with that.

President Jerrel: Alright, is there anyone else who would like to speak to this issue? If not, is there a motion concerning this?

Commissioner Mourdock: For the motion or for the consideration I would move the approval of rezoning request 98-19PC also known as VC-4-98 for 610 and 614 North Burkhardt Road.

Commissioner Tuley: Second.

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

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: It seems to be sticking to the plan which we put in place and with that plan working I will say yes.

President Jerrel: And I'll vote yes.

Les Shively: Thank you very much.

President Jerrel: Would you like your pictures back? Well, it helps sometimes to keep talking until it gets clear.

**Final reading VC-9-98
5900 N. Green River Road Keystone Development, LLC**

President Jerrel: The next item on the agenda is VC-9-98, Keystone Development. Is there anyone here that wishes to--

Commissioner Tuley: Jim has got a hand up back there, Mr. Morley.

President Jerrel: I didn't see him. Would you want to come up, please?

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

Response: I do.

Barbara Cunningham: Jim Farley...Jim Farley! Jim Morley is the representative for a petition...well, I've got the wrong one. I had Steve Bohleber at Kite Development and that's continued. Jim Morley is the representative for Keystone Development, LLC in the petition to rezone acreage along the west side of Green River Road between Heckel and Pigeon Creek. Manfred K. Stahl is the current owner. The address of the site for rezoning purposes is 5900 North Green River Road. This is a petition to rezone plus 13 acres to R-4 and plus 25 acres to C-2. This site is currently zoned Agricultural. This petition was heard at Area Plan Commission and was recommended for approval with seven affirmative votes, one negative vote and one abstention. The Comprehensive Plan designates this area as residential and agricultural, however in 1996 the parcel adjacent across Heckel Road was approved for rezoning which resulted in an R-3 zoned area of approximately 49 acres with frontage on Heckel Road. Another parcel at the same time rezoning approximately ten acres at the northwest corner of Heckel and Green River Road with 1,300 plus feet of frontage along Green River Road was rezoned to C-4 for heavy commercial development at that same time. These two C-4 and R-3 sites remain vacant and undeveloped. At the time of the 1996 rezoning it was noted that this was a spot zoning which could act as a commercial encroaching wedge in an area with a solid residential agricultural character. This petition to rezone 25 plus acres to C-2 and 13 plus acres to R-4 is adjacent south of Heckel Road to the sites rezoned in 1996. As both of these large projects develop there will be significant increase in traffic on these rural residential roads. New commercial development is directed by the plan into existing commercial areas and into appropriate areas where impacts can be minimized. Most of the 25 acres proposed for C-2 is in the floodplain and a portion of the proposed R-4 site is in the floodplain. To meet the requirements the first floor wall structures must be two feet above the 100 year flood level. The developer will have to place two and a half to three and a half feet of fill on this site for proposed building pads depending on the elevations. The 38 acre site is located at the southwest intersection of Green River and Heckel. Green River is a minor arterial and Heckel is a rural local road not adequate to accommodate commercial development. County Engineer, John Stoll, states depending on land use that may be built on this property, this proposed rezoning may necessitate improvements to Green River Road and/or Heckel Road. Although the county has proposed improving Green River Road up to Heckel there is no funding in place for this project and it is currently not scheduled for construction in the upcoming immediate future. As a result, the cost of improving either of these roads if required will need to be paid by the developer. John Stoll, a representative of EUTS and myself met with the developers and their engineer at a meeting this last week and discussed the transportation network and the improvements that will need to be made. They were very cooperative in what they plan to do and I'm sure Mr. Morley will tell you what their plans are to do some of these road improvements. That's probably enough that I have to say, and here is Mr. Bohleber.

Steve Bohleber: He has probably already said everything.

Barbara Cunningham: He hasn't said anything.

Jim Morley: I haven't said a word.

Steve Bohleber: You've haven't said a word?

Commissioner Tuley: That's all he needs to say.

Steve Bohleber: My only comment was I think Jim and--

President Jerrel: We need to swear you in.

Steve Bohleber: Oh, swear me in. I don't know what's been said.

President Jerrel: Not a word.

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

Steve Bohleber: Yes. Jim and I are here together in tandem, so to speak. I hope you don't think we're twins however. We are bringing a proposal to the Commissioners tonight that we think is unique in the city of Evansville. Over the past several years the developers of Keystone have put together a suburban community that I personally am proud to see. It has been part of a careful planning process. Lots of open space. Lots of common areas. Lots of lakes. The last stage is what brings us here this evening and that's to place a commercial corridor along Green River Road to serve that Keystone community. I think we indicated to the Plan Commission, we related in a letter to each of you, I did, and I believe that Jim Morley has spoken to you as have I, we think this will compliment the residential area. It will be a benefit not only to Keystone but other residential dwellings surrounding it to provide true infrastructure type facility. Infrastructure for the family, day care, retirement communities, family medical care, the type of things we're looking to recruit to place in this C-2 zoning. My clients want to do absolutely nothing to impact the 500 or so residences they've constructed and are selling at a significant price, dream homes for many people in this community. They want to work with this Commission, the Plan Commission, and with EUTS to ensure that there will be a quality development as this commercial site comes on line and will reasonably cooperate with John Stoll, with this Commission, with the Plan Commission, Evansville Urban Transportation about traffic concerns and access to these commercial sites once the businesses are recruited and come on line. Unless you have questions of us I will simply incorporate more voluminous comments that were made to the Plan Commission into the record. If Jim wants to say anything additional, I'll certainly allow him to do so at this time since he was so kind as to allow me to bump him aside when I walked in late.

Jim Morley: Just a couple of comments. Right-of-way...the parcels aren't really quite as big as what you...we wrote the description as the base description is out to the middle of Green River Road and the county has already acquired a bunch of that property. There is going to be about 16 acres useable in the C-2 section and eight or nine acres up on that hill down in the R-4 section here where the retirement community is planned. This shows how it interconnects so that from all the way over here on Oak Hill Road the drive through there although it is circuitous, it doesn't create a thoroughfare, there is nevertheless an interconnection of all of this. John Stoll was kind enough to check the plans. The current center left turn lane in the plans that you have for Green River Road comes back to about Bassett Avenue and we believe that you probably will be well along towards this project by the time they're ready to move very far on this, but what we would do is then we would work to extend that center left turn lane so that the turn lanes into our

project would work in concert with Green River Road. Here on Heckel you've got a decel that comes over and then that would match in with our drive there also. So there will be a little additional right-of-way grant. We will be coming to you whenever this is ready with final construction road plans because these roads would be public roads through the subdivision and so we'll be presenting complete detailed plans to John who will bring them then before you. You will have an opportunity to address in detail whenever that is ready to go. That's really all that I have unless you have any questions.

President Jerrel: Are there any questions, Commissioners?

Commissioner Mourdock: Jim, did I hear you say the lots that are drawn on there, the individual lots are not to scale?

Jim Morley: We don't have actual users yet and so they are conceptual. The residential lots are to scale. These are not.

Commissioner Mourdock: Okay.

Jim Morley: We haven't created a plat. They are conceptual, so therefore the size of a day care center and, you know, how this would work, they're creating a set of covenants much like the covenants of Keystone to deal with that.

Commissioner Mourdock: Which of these is more accurate then because this drawing pretty well shows what you have in R-4, but then once you start north that shows it much narrower.

Jim Morley: That lines comes over to here and after we had filed the legal descriptions for this the developers looked and felt that they wanted to add a lake and that lake bumped it over so that there is a section here that's included within the description that we'll have to write out when we record that. We'll have to basically create that covenant. They would not be allowed any C-2 uses on those single family lots if we go with this lake. This is the best thinking at the moment now.

Commissioner Mourdock: The easement you talked about along Green River Road, those are only for the turn lanes for the blisters?

Jim Morley: Well, what we would do--

Commissioner Mourdock: You know our plan out there is eventually to be four lanes.

Jim Morley: Right. Actually five lanes here. There is a center left turn lane for Heckel and we would continue that on down across there so that the center left turn lane so that Green River could remain four lane through with that left turn in the center. These aren't fixed. I mean, those can adjust a little bit. I think Rose has said maybe this one ought to go a little further south. You know, as Mr. Bohleber said, you know, anything reasonable.

Commissioner Mourdock: But the commitment is being made to make sure there is sufficient access along Green River to do the four or five lanes where necessary?

Jim Morley: Yes, yes, that is correct.

Barbara Cunningham: Your residential units won't be in C-2 will they? What you're

zoning now won't include any of the residential units?

Jim Morley: It will be undone.

Barbara Cunningham: So you'll come back.

Jim Morley: When we came to this lake situation it splits those lots now because when we added the lake it caused the line to scoot over and we'll have to either take that out by covenant or undo it.

Barbara Cunningham: The only way you can undo a zoning--

Jim Morley: Actually, I'm not sure we have to undo a C-2.

Barbara Cunningham: No, you can build...possibly you can build a single family--

Jim Morley: We'll keep them out by covenants, but right now we think we want the lake, so that's the current plans.

Steve Bohleber: I think it's safe to say that if any adjustments are necessary the appropriate agency will be consulted and the correct procedural mechanism will be instituted to be sure that it's done lawfully and with everyone's input and consent.

President Jerrel: Is there anyone else that would like to speak to this? Any further questions from the Commissioners? Is there a motion regarding this issue?

Commissioner Mourdock: For the purpose of roll call I'll move approval of 5900 North Green River Road, Keystone Development, from Agricultural to C-2 and R-4.

Commissioner Tuley: Second.

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

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I'll vote yes.

Steve Bohleber: Thank you all and I apologize for my tardiness. I was next door doing something similar with your City Council brethren (inaudible).

President Jerrel: Is there a motion to adjourn?

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

The meeting was adjourned at 7:45 p.m.

Those in attendance:

Betty Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Les Shively
Steve Bohleber
Jim Morley
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

Betty Lou Jerrel, President

Richard E. Mourdock, Vice President

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
September 21, 1998**

The Vanderburgh County Board of Commissioners met in session this 21st day of September, 1998 at 7:08 p.m. in the Commissioners' Hearing Room of the Civic Center Complex with President Bettye Lou Jerrel presiding for the purpose of hearing rezonings.

(Due to technical problems with recorder these minutes are not verbatim.)

Approval of minutes

A motion was made by Commissioner Mourdock to approve the minutes of the August 17, 1998 meeting. The motion was seconded by Commissioner Tuley and so ordered by President Jerrel.

**First reading VC-11-98
B & S Enterprises, LLC 900 North Burkhardt Road**

A motion was made to approve on first reading by Commissioner Mourdock. The motion was seconded by Commissioner Tuley and so ordered by President Jerrel.

**First reading VC-12-98
Windemere Development, LLC 9200 State Road 57**

A motion was made to approve on first reading by Commissioner Mourdock. The motion was seconded by Commissioner Tuley and so ordered by President Jerrel.

**First reading VC-13-98
Paul Neville, II 706 South Boehne Camp Road**

A motion was made to approve on first reading by Commissioner Mourdock. The motion was seconded by Commissioner Tuley and so ordered by President Jerrel.

A motion to adjourn was made by Commissioner Tuley, seconded by Commissioner Mourdock and so ordered by President Jerrel.

The meeting was adjourned at 7:10 p.m.

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Those in attendance:

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

**Vanderburgh County
Board of Commissioners**

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Betty Lou Jerrel, President

-

Richard E. Mourdock, Vice President

-

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
October 19, 1998**

The meeting was called to order at 7:08 p.m.

Approval of minutes

President Jerrel: I'd like to call the Vanderburgh County Rezoning meeting to order. First item on the agenda is the approval of the minutes of the previous meeting and that would have been September 21st.

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

Commissioner Tuley: Second.

President Jerrel: So ordered.

**First reading
VC-16-98 Daylight Properties, LLC 12100 State Road 57**

President Jerrel: First item on the agenda is that...that isn't it. Which--

Commissioner Tuley: The first one on the agenda--

Joe Harrison, Jr.: It's Daylight.

Barbara Cunningham: No, he is on the final reading.

Commissioner Tuley: He is down here somewhere.

President Jerrel: Okay. Alright, the first item on the agenda is VC-16-98, Daylight Properties. A request to go from AG to C-2.

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

Commissioner Tuley: Second.

President Jerrel: So ordered.

**First reading
VC-14-98 Martin & Bayley, Inc. 3951 N. Green River Road**

President Jerrel: The next item on the agenda is VC-14-98. The petitioner is Martin & Bayley, Inc. for 3951 North Green River Road. The request is to go from AG to C-4.

Commissioner Mourdock: On first reading I will move for approval.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-15-98 Koester Contracting Corp. 8300 E. Lloyd Expressway
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President Jerrel: The third is VC-15-98, Koester Contracting Corporation, 8300 East Lloyd Expressway.

Commissioner Tuley: Move approval.

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

Final reading VC-12-98 Windemere Development, LLC 9200 State Road 57

President Jerrel: Next, final readings.

Commissioner Tuley: Do Dan, I guess.

Barbara Cunningham: Oh, is he? If not, I'll do it. Thanks.

President Jerrel: The first one would be Dan Buck, Windemere.

Barbara Cunningham: Dan Buck or Chris Weil...do you want me to do it...is the representative for Windemere Development, LLC in the petition to rezone the property located at 9200 State Road 57. It's an almost six acre site on the west side of Highway 57 south of Kansas. They're proposing to rezone it to C-4 for speculative commercial development. It was recommended for approval by the Area Plan Commission with eight yes and zero no votes. The proposed C-4 site has the potential to generate significant traffic volumes. The projected increase in vehicular traffic generated by this new use will require capacity, safety and/or operational improvements at the entrance to the development. If commercialization of the site occurs, development plans must be designed to minimize the number of access points on Highway 57. All work within Highway 57 development should be done in a manner that will minimize the need for access points on 57 and depending on the type and land use that is developed it is possible that State Road 57 will need to be improved with right turn lanes, left turn lanes, etc. Building Commissioner Roger Lehman has stated that almost the entire site lies within the 100 year floodplain. Structures on the site must be constructed to comply with the FPG elevation requirement established by the Building Commission. The northwest corner of this site is within the floodway of Furlich Creek as designated by the Department of Natural Resources. A DNR permit is required for any excavation or fill within the floodway. The Comprehensive Plan encourages agricultural use of floodplain land. This site is located in an area designated for residential use. In general, the State Road 57 corridor just northeast of this site is planned for a mix of predominately industrial and commercial uses. A portion of the area to the north of Kansas Road is designated in the plan for commercial use and some commercial development has occurred. Any commercial use, if this is developed, should be adequately buffered from adjacent residential. The Comp Plan encourages commercial development to provide a buffer larger than required in the zoning code when adjacent to residential. The plan also calls for commitments at the rezoning stage that ensure that the infrastructure improvements needed to accommodate new developments will be in place when needed. Given the site, as we said, it is possible that excel/decel lanes will be necessary and the

C-4 zoning classification allows many uses considered incompatible adjacent to residential development. The petition was recommended for approval by the Area Plan Commission with eight yes and zero no votes.

Joe Harrison, Jr.: All those wishing to speak with respect to VC-12-98 please raise their right hands. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Chris Weil: Good evening council members. I'm Chris Weil and I'm with Dan Buck Development and I am here to answer any questions or provide any additional information you may need on this.

President Jerrel: The questions that were raised about the decel...the lanes and also that it is in the floodplain area, or you had to have an additional buffer--

Chris Weil: Right.

President Jerrel: --even though there were no objections, are these things that you're considering?

Chris Weil: We actually are developing a residential piece just adjacent to this and on our 5.9 acre site that we are proposing to rezone approximately 2.9 to three acres of that is going to be a lake which will buffer between the commercial piece and the residential piece there.

President Jerrel: Are there any additional questions?

Commissioner Mourdock: None here.

President Jerrel: Any one else wishing to speak?

Barbara Cunningham: Mrs. Jerrel, the excel/decel if it is necessary will be addressed at the time of Site Review.

President Jerrel: Okay, thank you. Is there a motion since there are no further speakers?

Commissioner Mourdock: I'll move on final reading VC-12-98 for approval.

Commissioner Tuley: Second.

President Jerrel: I'll say so ordered, but call for a roll call. Commissioner Tuley?

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Chris Weil: Thank you council members.

Final reading VC-13-98 Paul Neville II 706 S. Boehne Camp Road

Barbara Cunningham: Les Shively is the representative for Paul Neville in this petition to rezone the rear portion of the property located at 706 South Boehne Camp Road from Agricultural to R-4. This is a two acre site located on the east side of Boehne Camp between Lloyd and Middle Mount Vernon Road and directly adjacent south/southeast of the 22 acre site rezoned to R-4 earlier in the year. The current owners are Charles and Verba Moore. The petition was recommended for approval by the Area Plan Commission with eight yes and zero no votes. Boehne Camp Road is a rural residential collector street. Information submitted by Mr. Neville indicates that the proposed apartment community is planned in conjunction with the large commercial development with access through the apartments placed onto a commercial frontage road and a second access directly onto Boehne Camp Road. The 1996 Comprehensive Plan Land Use Map 2015 indicates that the south side of Lloyd Expressway is projected expansion of the existing commercial street west to approximately Boehne Camp Road. At its western edge this commercial strip is projected to expand south to Middle Mount Vernon Road. A commercial development, Eagle Plaza, is currently under construction along the Lloyd Expressway between Red Bank and Boehne Camp and a 22 acre site was rezoned to R-4 earlier this year for development of the apartment community. Mr. Neville has submitted a conceptual site plan which indicates the commercial and apartment developments are planned as a single development although there is different ownership. No information has been submitted which addresses the number of units proposed and the owners of the existing R-4 have eliminated 2.9 acres of the R-4 to be utilized as SU-10 parking lot for the commercial development, so in essence this three acre site is going to be a replacement for the land that they gave for the theater complex. The Comp Plan recognizes that multi family is an acceptable buffer between commercial and single family residential. It also calls for more landscape green area than is required by code to protect adjacent single family residences.

Joe Harrison, Jr.: All those wishing to speak with respect to VC-13-98 please raise your hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Les Shively: I do, sir. Again, my name for the record is Les Shively representing Paul Neville. Mrs. Cunningham, I think, accurately summarized the particulars of this petition and noted that, quite frankly, what we're doing, and I'll show you the map, we're rezoning this little piece down here. This is the piece we gave up here for the parking facility to accommodate the theater project and I believe we did indicate at the time we did the rezoning for the bulk of the complex that we were aiming for between 230 and 240 units, so the project scope has not changed we've just changed to location because of this necessary accommodation for the theater. We're happy to answer any questions you have. Paul Neville is here tonight as well.

Commissioner Mourdock: I'm sorry, Les, one more time would you point--

Les Shively: Yes, sir?

Commissioner Mourdock: --to the...is it just that small part there that we're looking at?

Les Shively: Yes. It replaces what we had up here that is now part of the theater parking lot.

Commissioner Mourdock: Okay.

President Jerrel: Is there anyone else that wishes to speak or are there any questions of Mr. Shively?

Commissioner Tuley: Just a comment. It looks like they have already started the work on Boehne Camp, have they not? The road work. The old road is torn out now.

Les Shively: They're doing a lot a work out there. It's not us. I think that is part of the excavation--

Commissioner Tuley: Part of the other?

Paul Neville: We have been involved in this since the very beginning, it is still the...I'm sorry. While we have been involved in this since the very beginning, it is the commercial development that is tearing up Boehne Camp.

Commissioner Tuley: Okay.

Paul Neville: We haven't actually started anything yet.

Commissioner Tuley: Will there be a need, then, where your apartments are going to go for further improvements of Boehne Camp or not? Or is it going down that far?

Paul Neville: No, we anticipate right now that we'll come out into the commercial development and we are still working with EUTS. EUTS' original letter, if you take a look at it, does say something that we may need to have a second entrance off of Boehne Camp, but we haven't actually determined whether that is quite necessary yet.

Commissioner Tuley: Okay, I see now where they're going now.

Paul Neville: Right, we actually empty into the frontage road.

Commissioner Tuley: Right, I see that now.

Barbara Cunningham: They're coming in there and they are also talking about another entrance and that will depend on site visibility where that is.

Commissioner Tuley: Okay.

Paul Neville: There is kind of a hill there and we've always looked all along that we would have to go down to the very bottom corner if that was the case in order to make sure it was a safe entrance.

Commissioner Tuley: Okay.

President Jerrel: Is there a motion?

Commissioner Mourdock: On final reading I'll move approval of VC-13-98 for 706 South Boehne Camp Road.

Commissioner Tuley: Second.

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

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Paul Neville: Thank you.

Final reading VC-11-98 B & S Enterprise, LLC 900 North Burkhardt Road
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President Jerrel: Do you want to go ahead with--

Barbara Cunningham: You're not here on Decem?

Unidentified: Pardon?

Barbara Cunningham: Are you here on the Decem petition?

Unidentified: Yes.

Barbara Cunningham: Oh, you are. Are you representing the Decem people?

Unidentified: Yes.

Barbara Cunningham: Well, good. What is your name?

Frank May: Frank May.

Barbara Cunningham: That's who I have on my paper! Frank May is the representative for B & S Enterprises, Inc. in this petition to rezone 140 x 236 site at 900 North Burkhardt Road from C-2 to C-4. The owner of the site is Decem Investment, Inc. The petition was recommended for approval by the Area Plan Commission with eight yes and zero no votes. B & S Enterprises is proposing construction of an automotive service business for mufflers and brakes on this site located on the west side of Burkhardt Road just north of Columbia Street. Burkhardt is a two lane collector roadway with an average daily traffic volume of 16,000 vehicles per day. Vanderburgh County is currently working on improving Burkhardt to a four lane facility to accommodate the existing and projected traffic problems. No direct access is prohibited...is permitted on Burkhardt and none is proposed per applicant's site plan. Access is planned from Tutor Lane and a proposed north/south street which will act as a frontage road linking Columbia and Waterford Boulevard per the plans approved as part of Waterford Park Subdivision. This is a request for rezoning the site from C-2 to C-4. The stated proposed use is an automobile specialized service and requires the C-4 zoning classification. This site is adjacent to the Sonic Drive-In Restaurant which was rezoned to C-4 in 1997. Tutor Lane forms the rear frontage of the site and will provide the only access point to the business

to be located on this site. The remaining portion of Lot 2 must be combined with the adjacent Lot 3 to the north as Waterford Park Subdivision may not be further divided without replatting of the three lots fronting on Burkhardt between Columbia and Waterford Boulevard. This is located, according to the Comprehensive Plan, in an area of commercial development. Surrounding properties north, south and west are all commercial. The step up in zoning from C-2 to C-4 is consistent with the overall plan for the area. I might say that Mr. Ream zoned all his property C-2 so that he could control the uses and he has been very helpful in coming back when he has particular uses that have a higher classification. I would also like to tell the Commissioners that the subdivision would be to the west as part of the same complex, we recently got Kimber Lane all the way through from Vogel to Oak Grove, so we're pleased with that.

Joe Harrison, Jr.: All those wishing to speak with respect to this particular petition, VC-11-98, please raise your right hand. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: Yes, I do.

Joe Harrison, Jr.: Thank you.

Frank May: The description is as described. I don't know that I really have anything to add. I'll be happy to answer any questions anybody has. I apologize for not being here, I'm sorry.

Commissioner Mourdock: I'll just make the comment that I appreciate the fact that you're sticking to the plan there and no access on Burkhardt and working with Tutor Lane and all.

Frank May: We feel like there is good access as it.

Commissioner Mourdock: Who says we never plan, huh?

President Jerrel: Is there anyone else that wishes to speak or any further questions? Hearing none, is there a motion?

Commissioner Mourdock: I'll move approval on final reading of VC-11-98 from C-2 to C-4.

Commissioner Tuley: Second.

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

Commissioner Tuley: Yes, excuse me.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Easy for you to say, right?

Commissioner Tuley: Yeah, really.

Commissioner Mourdock: Yes.

President Jerrel: And I'll vote yes. Well, Joe, we're finished with you.

Joe Ream: I heard you say yes.

Commissioner Mourdock: Perfect timing!

Joe Ream: That was worth coming down for!

President Jerrel: Is there any further business to come before the Board?

Frank May: Thank you all.

President Jerrel: Is there any further business?

Commissioner Mourdock: Motion for adjournment.

Commissioner Tuley: Second.

President Jerrel: So ordered.

The meeting was adjourned at 7:23 p.m.

Those in attendance:

Bettye Lou Jerrel
Richard Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Paul Neville
Les Shively
Frank May
Joe Ream
Chris Weil

**Vanderburgh County
Board of Commissioners**

—

Bettye Lou Jerrel, President

—

Richard E. Mourdock, Vice President

—

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
October 19, 1998**

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Recorded and transcribed by Charlene Timmons.

**Vanderburgh County
Rezoning Meeting
November 16, 1998**

Call to order

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

Approval of minutes

President Jerrel: The first item on the agenda is the approval of the minutes of our October 19th meeting. Is there a motion?

Commissioner Mourdock: I'll move approval of the minutes of October 19th.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-17-98 Arbor Freight Services, Inc.

President Jerrel: The first readings, there are three. The first one is VC-17-98. The petitioner is Arbor Freight Service, Inc. and that request is from C-4 to Agricultural and M-2. Is there anyone here to speak for this group?

Commissioner Tuley: Move approval on first reading and forward it to Area Plan Commission.

Commissioner Mourdock: I will second.

President Jerrel: So ordered.

First reading VC-18-98 Carl and Sue Ragsdale

President Jerrel: The second item, first reading, is VC-18-98. The petitioner is Carl and Sue Ragsdale. That is a request to rezone from Agricultural to M-1. Is there anyone here that wishes to address this? Yes, ma'am.

(Inaudible comments from audience.)

President Jerrel: You need to come up and give us your name.

Kathryn Fitzgerald: My name is Kathryn Fitzgerald and I own a piece of the property right across the street from where the proposed land is going to be, under Robert and Kathryn.

President Jerrel: Uh-huh.

Kathryn Fitzgerald: I just want to make sure that I understand. I'm not really opposed to the development, I just want to make sure that I understand what the classifications are. I don't understand what the terminology of M-1...I just don't want anything that is going

to take down the value of my property.

President Jerrel: Okay, perhaps we could have...we have one member that was there when--

Commissioner Tuley: Well, any of these that are first readings have not been--

President Jerrel: Anywhere.

Commissioner Tuley: --anywhere yet.

President Jerrel: Okay.

Commissioner Tuley: This is the initial step.

Kathryn Fitzgerald: Okay, well I mean I just didn't understand.

Commissioner Tuley: No, that's okay. So they'll go from here on the first Wednesday in December for a hearing in Area Plan Commission. At that time there is a panel of 11, is that right, Janet? A panel of 11 that will hear it. People like yourself that have concerns or questions at that time should come forward and ask, you know, to be heard and get your questions answered. As far as classifications as to what they mean you might want to contact someone from the Area Plan Commission staff and they'll be glad to tell you what it is and what it means and what can go in there under those classifications.

Kathryn Fitzgerald: Okay.

Commissioner Tuley: They would be happy to answer those questions for you.

Kathryn Fitzgerald: So is this meeting right here--

Commissioner Tuley: This is just a formality. We basically on first reading just approve it and send it to the Area Plan Commission. At that point they are a recommending body on rezonings and at that time then it will be referred back to this body which would be the third Monday in December in which we would take a final vote as to whether or not that rezoning occurs.

President Jerrel: I would be happy...I need it back, but if you would like to sit down and look at the paperwork that I have that would give you some more information.

Joe Harrison, Jr.: Ma'am, if I could it looks as if the Area Plan Commission will consider this on Wednesday, December 2nd. What time do they meet?

Janet Davis: It's at 6:00.

Joe Harrison, Jr.: It's 6:00 in the room...?

Commissioner Tuley: 301.

Joe Harrison, Jr.: 301. M-1 is, I guess, light industrial. There are a number of different uses that go into an area that is zoned light industrial. Again, you may want to get that from them. I could say a bunch of things, but I would miss probably half of them.

Kathryn Fitzgerald: That's my concern.

Joe Harrison, Jr.: But you may want to the contact the Area Plan Commission office at what number?

Janet Davis: 435-5226.

Kathryn Fitzgerald: I know it well. I have been trying to find out a lot about this ever since I seen--

Janet Davis: We would be glad to give you information copies from the code and show you everything that has been filed and explain the process to you.

Kathryn Fitzgerald: Like I said, I'm not totally against it. I just want to make sure that there isn't anything that is going to devalue my property.

Janet Davis: Okay, you live adjacent?

Kathryn Fitzgerald: I live right across the street.

Janet Davis: Across the street?

Kathryn Fitzgerald: Where the proposed road is going to come out. There is a secondary road access that is from right there on the corner of--

Janet Davis: On which one, excuse me?

Commissioner Tuley: I think she is talking about...are you talking about Oak Grove Road?

President Jerrel: Oak Grove, uh-huh.

Janet Davis: No.

Kathryn Fitzgerald: No, I'm talking...isn't this on the Daylight Properties at 57--

Commissioner Tuley: Oh, we've haven't got there yet.

Janet Davis: No.

Commissioner Tuley: You're in the right place, we just haven't got there yet.

President Jerrel: Those are...I thought you--

Janet Davis: That's a different one.

Kathryn Fitzgerald: I'm sorry. I thought this was--

Joe Harrison, Jr.: We thought you were here on--

Commissioner Tuley: I'm sorry. We will be on the final hearing on that in just a few minutes.

Kathryn Fitzgerald: Oh, okay.

Commissioner Tuley: I'm sorry.

President Jerrel: Okay, is there a motion now to approve the Carl and Sue Ragsdale rezoning, first reading only, Ag to M-1?

Commissioner Mourdock: So moved.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-19-98 James M. Durcholz, Trustee

President Jerrel: The third first reading is VC-19-98, petitioner James Durcholz, Trustee of the Durcholz Family Trust. That is on North Burkhardt and it is from Ag to C-4.

Commissioner Tuley: Move approval on first reading and forward...recommend that we forward it to Area Plan Commission for further hearings.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

Final reading VC-14-98 Martin & Bayley, Inc.

President Jerrel: Now we'll go to final readings and the first is VC-14-98, petitioner Martin & Bayley, Inc., 3951 North Green River Road. The request is from Ag to C-4.

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

Response: I do.

Joe Harrison, Jr.: Thank you.

Janet Davis: Les Shively is the representative for petitioner Martin & Bayley, Inc. in this request for rezoning of the property located at 3951 North Green River Road from Agricultural to C-4. This is a one acre site located at the northeast corner of Green River and Lynch. Robert and Karen Skipper are the current owners. The Area Plan Commission voted to recommend approval of this petition at its November 4th meeting with 11 yes and zero no votes. A portion of this site lies within the floodplain. The finished floor of structures in the floodplain must be at least two feet above the 100 year flood elevation. Information submitted by the applicant indicates that all utilities are available to this site except sewer. The site is served by a septic system. The site proposed for a new convenience mart and gasoline sales on this 1.1 acre site is at the northeast corner of Green River and Lynch. Lynch is a limited access thoroughfare and no access is permitted onto Lynch. The Comprehensive Plan stresses the need to limit commercial curb cuts particularly along major roads where proliferation of commercial access points impede the traffic flow. Applicants were advised by Site Review

Committee that only one curb cut is recommended on Green River Road for the commercial development of the site. Any development must be designed to minimize the number of access points on Green River Road. If approved for commercial development, the site plan must be redesigned to reflect one access point for the site onto Green River Road as far north of the Lynch Road intersection as possible to comply with the recommendations of EUTS and the Site Review Committee. The Comprehensive Plan calls for commitments at the rezoning stage that ensure that infrastructure improvements will be designed and installed in a manner that maintains the public safety and efficient traffic flow. The Comprehensive Plan projects a small strip of commercial along Green River Road near the Lynch Road intersection. Although this change in zoning to allow development of the site as a commercial use is consistent with the Future Land Use Map there are concerns about safety and access to the site. The Comprehensive Plan calls for limiting the number and consolidating curb cuts wherever possible to facilitate safe and efficient traffic flow. This site is located in a rural residential and agricultural area. The C-4 district classification allows many uses considered incompatible with residential development. If this site is to be rezoned for commercial development any commercial use should be adequately buffered from adjacent residential. A minimum ten foot grass buffer is required adjacent to the agricultural/residential to the north and east of the site. The Comprehensive Plan encourages new commercial development to provide a buffer larger than that required in the zoning code when adjacent to residential. The preliminary site plan submitted by Martin & Bayley was reviewed by Site Review on September 8th. The Site Review recommendations were a single access point onto Green River Road, a 25 foot front yard and 10 foot side and rear yards. The revised site plan submitted in October as part of this rezoning petition did not address those recommendations of Site Review, but Mr. Shively did state at Plan Commission that was the incorrect site plan and that the petitioners, Martin & Bayley, have redesigned their plans to indicate only the one access and maintenance of the required buffers.

Les Shively: Madam President, members of the Board of Commissioners of Vanderburgh, again, for the record my name is Les Shively. With me this evening, Mr. Ben Eddie. He is the Director of Real Estate for Martin & Bayley. Martin & Bayley are the owners of the Hucks Convenience Stores. Also with me this evening, Maria Worthington of our office. I'll take up with Ms Davis' last comments, here is the revised site plan that does comply with the...it's kind of humorous because the whole reason we went to Site Review before we filed this was to get the comments to design it right and something got lost in the communications, I guess, between me and the engineer, so sorry we didn't have it right for the Plan Commission, but you have it right. I would note that we have talked to the two residential properties that are still out there. As you know, with the widening of North Green River Road and with Lynch Road that area has changed in complexion quite a bit. We will not have access on Lynch Road. We have taken...eliminated the one access that was shown of two access points on the original site plan and moved our access further to the north. As far north as we can get it and still work, and we have also shown on that site plan the correct elevations along with a buffer area to run along the northern border of our property that abuts the residential use. Again, I think we've met all the concerns and we've also agreed that we will not pull any permits until that site plan is reviewed by the Site Review folks and the staff of the Plan Commission. There are some photographs of the area to kind of give you an idea of how it looks today. Again, we're more than happy to answer your questions you might have regarding this request. Again, it was approved 11 to zero by the Plan Commission.

President Jerrel: Are there any questions? Is there anyone else that would like to testify before this Board at this time? Is there a motion?

Commissioner Mourdock: I'll make the motion, but just before I do that and it's really just kind of prompted by the thought with this property, this question isn't in response to this specific property, but would it be prudent for this Board to take a look at northern...at North Green River Road in somewhat the same manner that we did with Burkhardt Road a while back where we put the plan into effect as far as right turn only type of things? At this point, obviously, we haven't done that to effect this property, but I guess in looking at the site plan that Les just gave us and you see Lynch Road and you know there will be more development out that way we certainly don't want to have to deal with that after the fact. Is there something we could be doing now--

President Jerrel: I think that's a good idea.

Commissioner Tuley: Yeah, because we were...you know, we really didn't have anything to "base this on" other than this is what we would like and they were more than willing to work with us whereas there wasn't anything in the plan that said they didn't have a choice.

Commissioner Mourdock: Right.

Commissioner Tuley: This is by choice.

Commissioner Mourdock: Right.

President Jerrel: It would be a good idea if we had something, that's a good point. I would like for you to put that in the form of a motion so that we can relay it in the minutes of this meeting.

Commissioner Mourdock: Okay, I'll move then that we move expeditiously to develop an entrance plan onto North Green River Road as we did with Burkhardt Road several years ago.

Commissioner Tuley: Okay--

Joe Harrison, Jr.: You might just want to vote on this first and then go on and bring that up.

Commissioner Mourdock: That's a good point.

Joe Harrison, Jr.: Go ahead and have a roll call on this.

Commissioner Mourdock: On final reading I will move approval of VC-14-98.

Commissioner Tuley: Second.

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

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Les Shively: Thank you very much.

North Green River Road access plan

Commissioner Mourdock: And now coming back to that thought, I would move that we begin to address that issue as far as access onto North Green River Road much as we did with Burkhardt Road and ask maybe that we have staff work with Area Plan Commission and EUTS to take a look at that for a plan.

Commissioner Tuley: I will second your motion.

President Jerrel: So ordered. See we've done...when you think about it we've got the new floodplain that you recommended, and that was a good idea, and the 41 and the Burkhardt and we should have thought about that all along.

Commissioner Tuley: Yeah.

Commissioner Mourdock: Yeah.

Commissioner Tuley: But you know that's where it is going to go.

President Jerrel: Sure.

Commissioner Mourdock: Yeah, it just occurred to me when I was looking at that.

President Jerrel: That's a good point, I'm glad you brought it up.

Final reading VC-16-98 Daylight Properties, LLC

President Jerrel: Okay, the next item on the agenda is VC-16-98. The petitioner is Daylight Properties and that is on State Road 57 and the request is to go from Ag to C-2.

Joe Harrison, Jr.: All those wishing to speak with respect to VC-16-98, Daylight Properties, LLC, 12100 State Road 57, please raise their right hands. Do you swear and affirm that the testimony you're about to give is true and accurate so help you God?

Response: I do.

Janet Davis: Petitioner and owner, Daylight Properties, is petitioning to rezone this property located at 12100 State Road 57. This is a 32 acre agriculturally zoned site located at the northwest corner of State Road 57 and Boonville-New Harmony Road. The Area Plan Commission voted to recommend approval of this petition at its November 4th meeting with nine yes vote, one no vote and one abstention. Conceptual site plans submitted by the Daylight Properties indicates a proposed nine lot commercial development, McCutchan Village. Quality site design and buffering must be utilized if commercial development is to occur adjacent to residential development. A little over three acres, two of the lots, are proposed for C-2 and 28 acres, or seven lots, are proposed for C-4 development. Instead of filing for a C-4 for the entire parcel, at the advice of staff of Plan Commission, the petitioner agreed to scale down the request to C-2 of the 3.1 acre portion of the site adjacent to the existing residential home. A Use and Development Commitment is included as part of this rezoning petition which identifies specific uses to be excluded from the sites. This site is located in an area

designated for residential use in the Comprehensive Plan. In general, the east side of the State Road 57 corridor is designated for commercial use as is an area to the north of the site. Some commercial development has occurred. If this site is to be rezoned for commercial development, any commercial use should be adequately buffered from adjacent residential. The Comprehensive Plan encourages new commercial development to provide a buffer larger than that required by the zoning code when adjacent to residential. The plan also calls for commitments at the rezoning stage that ensure that the infrastructure improvements needed to accommodate new development will be in place when needed. Given the size of the site it's likely, depending on the specific use development, that accel and decel lanes will be required at the entrances to the property on both State Road 57 and on Boonville-New Harmony Road. Any development must be designed to minimize the number of access points on Highway 57. The northeast corner of the site is within the floodway of Schlensker Ditch as designated by the Department of Natural Resources. A floodway construction permit must be obtained from DNR prior to any construction activities in this area. A letter on file from DNR also indicates that the majority of the tract is located in the 100 year floodplain. Floor elevations of all structures in the floodplain must be at least two feet above the 100 year flood elevation. Up to five feet of fill will be necessary on portions of this site to meet that requirement. This proposed 31 plus acre commercial site has the potential to generate significant traffic volumes. The project increase in vehicular traffic generated by this new use will require capacity, safety and/or operational improvements at the entrance to the development. If commercialization of the site is to occur development plans must be designed to minimize the number of access points on 57. All work within Highway 57 right-of-way will require INDOT approval. County Engineer, John Stoll, states that it appears that the development of this site would warrant the construction of turn lanes into the site on State Road 57. The applicant should contact INDOT regarding any design requirements for turn lane additions on State Road 57. If sufficient right-of-way exists Boonville-New Harmony Road should also be widened to provide two 12 foot eastbound lanes, a left turn lane and a shared through right turn lane, and a 12 foot westbound lane between the Boonville-New Harmony Road entrance to the development and State Road 57. EUTS recommends a traffic impact study for submission to INDOT, EUTS and the County Engineer to be available at the time of subdivision submission.

President Jerrel: Are there any questions? Okay, are there any comments that either of you would like to make?

Jerry Lamb: My name is Jerry Lamb, a partner in Daylight Properties. I think that all of you know a little bit about this. We have spoken with you. We feel like we've got a good project here. We've got the ideal site to provide the commercial development, the retail and consumer services that are needed out in this McCutchanville area, McCutchanville/Daylight area. We realize that although this was not in the Comprehensive Master Plan to be commercial the fact of the matter is with the way the development is progressing in that area it appears to be in the exact right location to service the developments to the west. We know of a lot of other planned projects that the public will be finding out about in the next few months and I think it is just going to lend more credence to the practicality of this development. I believe we've addressed all of the neighbor's concerns. We've had a significant outreach program. We just this evening satisfied Ms. Fitzgerald on what it is we plan to do. I think the project will be well received and much needed out there and I appreciate your support.

Commissioner Tuley: Jerry, at Area Plan there was a Mrs. Young or Miss Young or somebody and she is not here tonight. I assume you guys were able to meet with her and settle her fears or concerns?

Jerry Lamb: Well, actually, no. Her fears are not settled. She is not happy.

Commissioner Tuley: Okay.

Jerry Lamb: She basically would like that to always remain a farm field.

Commissioner Tuley: That's not going to happen more than likely, but just for the rest of the Board members she was there. Her concern, and I think you're right, I don't think she would ever be happy unless it stayed a cornfield, but in defense of the project what they did do as you heard, they took the corner closest to where Mrs. Young is and they down...their request is not C-4 but C-2 there with the covenants in which they have restricted the types of businesses in order to act as a buffer and meet the concerns of those residents out there.

Jerry Lamb: That's a good point. That was our thinking and we hope that will be sufficient.

President Jerrel: Are there any other comments? Is there a motion regarding this project?

Joe Harrison, Jr.: Could I interject something here? The rezoning is Ag to C-4 and C-2.

Commissioner Tuley: This is a typo.

Joe Harrison, Jr.: On the agenda it says Ag to C-2, but it is Ag to C-4 and C-2.

Commissioner Tuley: That is correct.

Jerry Lamb: Right.

President Jerrel: Okay, with that correction--

Commissioner Tuley: With that correction then, I'll move approval of VC-16-98 at this time from Ag to C-2 and C-4.

Commissioner Mourdock: Second.

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

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Jerry Lamb: Thank you very much.

President Jerrel: Is there any further business to come before this Board? Hearing none, is there a motion to adjourn?

Commissioner Tuley: So moved.

Commissioner Mourdock: Second.

President Jerrel: So ordered.

The meeting was adjourned at 7:25 p.m.

Those in attendance:

Bettye Lou Jerrel
Richard E. Mourdock
Patrick Tuley
Joe Harrison, Jr.
Charlene Timmons
Janet David
Kathryn Fitzgerald
Les Shively
Jerry Lamb
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

—

Bettye Lou Jerrel, President

—

Richard E. Mourdock, Vice President

—

Patrick Tuley, Member

**Vanderburgh County
Rezoning Meeting
December 21, 1998**

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

Approval of minutes

President Jerrel: At this time I would ask for approval of the minutes of the previous meeting.

Commissioner Mourdock: I'll move approval of the minutes of November 16, 1998.

Commissioner Tuley: Second.

President Jerrel: So ordered.

First reading VC-20-98 Gregory and Anne Gorman

President Jerrel: The next item on the agenda is a first reading. It's VC-20-98, petitioner Greg and Anne Gorman. The address is 3020 and 3030 North Green River Road and the request is to rezone from Ag to C-4.

Commissioner Mourdock: On first reading I'll move approval of VC-20-98 for 3020 and 3030 North Green River Road from Ag to C-4.

Commissioner Tuley: Second.

President Jerrel: So ordered.

Final reading VC-18-98 Carl and Sue Ragsdale

President Jerrel: The next item on the agenda is a final reading. This is...the first is VC-18-98. The petitioner is Carl and Sue Ragsdale. The address is 5627 Oak Grove Road and the request is to go from Ag to M-1.

Barbara Cunningham: Susan Harris is the representative, is that right, for her parents Carl and Sue Ragsdale in this petition to rezone their property. They have a 75x225 foot, which is 0.39 tenths of an acre, residential site located on the south side of Oak Grove Road west of Royal. The Comprehensive Plan projects the area between Burkhardt, Green River, Morgan and Lloyd as an area of commercial and industrial development. Although this change in zoning to allow development of the site as a speculative industrial use is consistent with the Future Land Use Maps there were concerns raised about the adaptability of this small lot to high intensity commercial or industrial. Development of this small lot may require removal of the existing residence to provide adequate commercial access to the lot. The Comprehensive Plan discourages the uses of variances as a means of permitting substandard parking and discourages rezonings which require variances to relax minimum code requirements. Ms. Harris and the Ragsdales have been made well aware of this. Applicants will be required to upgrade access and parking to current commercial or industrial standards prior to establishment of any new or changed use of this site. The site is adjacent to undeveloped M-1 zoned land to the south and to the east and an agriculturally zoned single family residence remains adjacent to the west. So the limited 75 foot of frontage

makes development of this as M-1 pretty difficult. EUTS comments that unless this site is combined with another adjacent M-1 zoned lot it's doubtful that this site alone could be developed in a manner that could safely and adequately accommodate truck traffic. Truck maneuvering will need to be accommodated on-site. I will say this is one of the few remaining single family residences within the area bounded by Morgan Avenue and upon rezoning to M-1 the existing residence on the site become legal non-conforming and subject to the rules and regulations regarding such structures. In essence, the Plan Commission was most concerned of the smallness of the site, the ability to develop this. They were not concerned about the zoning as much as they were about the ability to develop. As long as anybody that purchases this knows that there are no variances necessarily that can be given, if they have created their own hardship, you know, then I think that is the most important thing to get across.

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

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

Response: Yes.

Joe Harrison, Jr.: Thank you.

Susan Harris: Thank you. I just wanted to essentially reiterate some of the comments that we made to the Area Planning Commission. As she summarized, we are very well aware of some of the limitations that our particular lot has and realize that it's a little bit of a Catch-22 situation. Certainly we have tried to market it residentially and have had absolutely no interest in it whatsoever for that purpose, so we are seeking to try to create a scenario that we have a piece of property that is attractive to a potential buyer, hopefully somebody that might be looking to lump this with the adjacent lots. We also recognize that the lot just to the east of us is very similar in size. It was approved for M-1 zoning along with the other parcels years ago when that transition occurred and, again, hopefully we will create a situation that will have some appeal to a buyer that might be interested in lumping all of that together. Likewise we expressed recognition of the fact that whoever buys that lot will need to come before you and seek approval for any use change that might be implemented if it changes from a residential usage in any way, shape or form. Likewise I understand that they will be bound...if it was for residential purposes they also will be bound to the same rules and restrictions that we are regarding any modifications or whatever, so we, I believe, understand all that fairly clearly. We have watched that whole area change quite radically from a rural environment to an industrial. We've never done anything remonstrating-wise to ever stop or impede that progress and we're just simply requesting this change so that my parents can get their retirement money out of their home and move onto a more residential environment for their retirement years.

President Jerrel: Susan, would you for the record just give your name.

Susan Harris: Yes. I'm sorry, Susan Harris and I am petitioning for the rezoning of the property at 5627 Oak Grove Road.

President Jerrel: Are there any questions? Is there anyone else that wishes to speak to this issue? Hearing none, is there a motion?

Commissioner Mourdock: I'll move approval on final reading, VC-18-98, 5627 Oak Grove Road from Ag to M-1.

Commissioner Tuley: Second.

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

Commissioner Tuley: Yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Jerrel: And I vote yes.

Susan Harris: Thank you very much. I appreciate your cooperation.

Final reading VC-19-98 James Durchholz

President Jerrel: Okay, the next item on the agenda is a final reading also. This is VC-19-98. The petitioner is James Durchholz, Trustee of the Durchholz Family Trust. The address is 4501 North Burkhardt Road. It is a request from Ag to C-4.

Barbara Cunningham: I don't see Danny Leek, so there is another representative, I'm sure, of the Durchholz Family Trust. Are you expecting Mr. Leek? There is Jim Morley. Jim Morley, of Morley and Associates, is the representative for the Durchholz Family Trust, James M. Durchholz, Trustee in this petition to rezone a portion of their property located at 4501 North Burkhardt from Agricultural to C-4. This 7.03 acre site is between Burkhardt Road and I-164 north of Lynch Road. This is contrary to the Comprehensive Plan for both land use and infrastructure requirements. The site is located to the east behind property which fronts on Burkhardt Road. The only access to the site is from Burkhardt although the frontage of the site lies along I-164. Parking and access drives must be paved with a hard and sealed surface. John Stoll, County Engineer, states that one, the Area Plan Commission Comprehensive Plan does not appear to call for commercial land use on Burkhardt Road as far north as this property and if commercial land use is allowed as far north as 1,700 feet of Lynch Road Burkhardt Road may eventually require widening north of Lynch. Although no designs have been done as of yet, the north end of the four lane portion of Burkhardt has been proposed to be extended to Lynch Road. Number two, this is Mr. Stoll also, if commercial land uses are extended up to this property the owner should submit an overall development plan since he owns other vacant land adjacent to this proposed commercial site. EUTS also recommends that the applicant supply additional information about the intended use of the property and include a development plan that incorporates the potential development of the remaining portion of the applicant's properties. Additionally, EUTS raises the concern that the project supply additional information about the planned use and development of the site to demonstrate a willingness to comply with the Highway Beautification Act. You have a copy of that on your desk tonight. The State of Indiana Department of Transportation has notified all communities that rezoning for outdoor advertising along state highways is contrary to the intent of the Highway Beautification Act and could jeopardize local or state highway projects. A petition to rezone property to commercial along the state highway system without any proposed development plan could raise the question of compliance with the intent of the Highway Beautification Act. A letter submitted by the Indiana Amish Outlet Store indicates their desire to secure approximately two acres in order to allow for expansion, but before you tonight is a

petition for seven acres. I don't believe it has been noted the proposed use of the remaining acreage and if it is supposed to be all for the Amish Outlet or if the other five acres are to be used for additional purposes. Given the size of this site it is likely, depending on the specific uses developed, that acceleration and deceleration lanes may be required at the entrance to the property on Burkhardt Road and quite possibly some improvements, you know, as Mr. Stoll said, Burkhardt Road may eventually require widening. That would be something that would have to be addressed too. The Comprehensive Plan calls for commitments at the rezoning stage that ensure that the infrastructure improvements needed to accommodate new development will be in place when needed. All utilities are available to this site except sanitary sewers. The site is served by septic. The Comprehensive Plan stresses the need to encourage development in those areas with availability and adequacy of public facility services and utilities. This is a seven acre plat that would not have a sewer system. Commercial use should be served by sewer. The Park's master plan proposes a greenway corridor along the west side of I-164 on the eastern boundary of the site. EUTS recommends that the applicant address how the proposed rezoning will impact the future extension of the greenway path along I-164. I think Jim has already talked to somebody about that. The site is located in a rural residential and agricultural area. In 1996 a 111 acre parcel south of this site with frontage on Burkhardt Road and adjacent to Lynch Road was rezoned to allow commercial and industrial development. That rezoning included commitments for infrastructure improvements at the time of the rezoning. A large portion of that site remains undeveloped and available for commercial occupancy. It has developed into a 49 lot subdivision south of Lynch Road, the Burkhardt-Lynch Industrial Park. The acreage immediately north of Lynch was developed as a landscape nursery. That was also part of the 111 acre parcel that was rezoned. The landscape nursery was a use considered an appropriate buffer use to the residential properties to the north. This is commercial proposed north of the buffer. The Comprehensive Plan Year 2015 Future Land Use Map designates this area north of Lynch Road to remain agricultural and residential. The zoning classification requested for this site is C-4. All surrounding adjacent properties to this seven acre proposed C-4 site are agricultural and residential. This is a commercial encroachment into that residential area. The C-4 district allows many uses considered incompatible and inappropriate adjacent to residential. The Comprehensive Plan encourages agricultural use of floodplain land and calls for utility and transportation system improvements necessary to accommodate new development to be in place when needed to mitigate development impacts. The entire site lies within the floodplain. That's it.

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

Response: I do.

Joe Harrison, Jr.: Thank you.

Jim Morley: My name is Jim Morley representing the Durchholz Family Land Trust. What we have as a proposed use on this is an Amish Outlet Store for the Amish community in Daviess County, Indiana, in the area west of Washington around Montgomery. What they propose to build there is it is essentially a metal building. It would be very similar to the barn that the Durchholz family built about a year ago, beige and green color with the front porch facing I-164. The products that they intend to sale there require outside storage and display and therefore that is a C-4 use. This is not a plan for a huge shopping center or any other sort of high intense operation. As Mrs.

Cunningham stated, the area stated is in the floodplain, some of it right at the 100 year flood level and some of it dropping well below. There will be displays of fencing products, of gazebos, of outdoor decks and these take up a significant amount of room. They will also be marketers of post frame buildings and so there will be samples of that. I think that the Amish community up there has some 13 families involved in carpentry, the construction of custom made cabinets, and those are the kinds of things that are going to be marketed. Inside the building there will not be perishable things like foods, but there will be craft items, quilts and that kind of materials. Under that type of display you wind up with things that you can move, things that are not harmed by being in the floodplain and so it is a very low impact, very low traffic dense use of the property. But, obviously, if you're displaying several different types of fencing it may spread out to create a good looking display. Essentially, that...and the Durchholz family said, well, we may wish to at some point in time consider an expansion of some sort of farm marketing in that area. The Durchholz family will retain ownership of the property. It is not being sold to any developer. The Durchholz family, after I-164, was left with this section of their farm split diagonally and essentially a section of the field that is pretty darn difficult to use with the kind of equipment that they use in a large farming operation. The Durchholz family and a representative of the Amish community that is involved with the store are here tonight. The property just across one or a couple of lots, a couple of residential lots, where Combs is zoned M-1 on to the south. The objective of the rezoning of this property by no means was to rezone property to put billboards on it. The purpose of this rezoning is exactly what I have stated, for the Amish Outlet Store. You know, any thoughts that this is some sort of high traffic generator are wrong and, of course, the Durchholz would naturally commit to any sort of improvements to Burkhardt or anything else that would result for that generation, but it is just not going to happen in here because, in fact, they will be entering at the same driveway location that they currently have. They're going to have to spend some money blacktopping that driveway back along past and run around the scale on the barn and back to the back. I really...as far as the sewers probably what we will be doing there and we've already had discussions with Combs about an easement, they will be putting in a small lift station. This store will operate essentially six days a week from 9:00 or so in the morning until about 6:00 in the evening. The Amish are...what the objective here is to create something with some visibility along I-164. They consider this store somewhat like a Cracker Barrel, for instance. You know, if you want to go to the Cracker Barrel you'll find a way to get there. It's easy to get to the site, but it's not a huge traffic generator. If you want to go to the Amish Store, because they have products, if you want custom made cabinetry, if you want a post barn building you'll find your way there. That's what this site gives them. It gives them visibility yet it is a low traffic generator. I would be happy to answer any questions and perhaps Barbara would have some question.

Barbara Cunningham: The only thing I have to say, and we appreciate, you know, the Amish coming and all that, but you are looking tonight as Commissioners at a seven acre site going from Ag to C-4 with no commitments.

President Jerrel: I have a question. The porch will face I-164?

Jim Morley: Yes.

President Jerrel: So essentially everything is directed to I-164?

Jim Morley: That's correct.

President Jerrel: How will people on I-164 know what this is?

Jim Morley: There will be a sign there, of course.

Commissioner Tuley: An on-premise sign.

Jim Morley: Indiana Amish Outlet Store and there will be displays. As you are on that site you will see gazebos. There will be gazebos outside, not inside the store, but outside. You will see sections of fencing.

President Jerrel: Okay.

Jim Morley: I mean, that's the reason for the C-4 zoning.

President Jerrel: So the only advertising really is for the Amish, is that correct?

Jim Morley: That is true. That is true. At the Area Plan Commission meeting Plan Commission members got into a big tizzy at the end of the thing about, well, let's do a commitment for no billboards, but as I think you all know a few years ago you passed amendments to the way you do business such that the petitioner cannot amend what he is doing on the floor and he loses a month. When this came up I offered no comment. We didn't want this to be delayed a month. Now I discussed the issue after the meeting, I've discussed this issue of billboards and the Durchholz family has assured me that this is not for the purpose of billboards and they are willing to voluntarily, if there is some ordinance or revision, they don't feel they should necessarily be treated different than any other citizen, then Woodward who has billboards south and billboards north of this site, but they're willing to voluntarily withhold...you know, they have not even been contacted and they're willing to voluntarily delay...there is a potential on the size of this site that you could do two. I think Barbara said three, but actually one of Woodward's is close enough that the span distance would only do two. We don't want that to be an amendment here that causes us to have a month's delay. We don't want that to be a month's delay, but if you would like to have one of the Durchholz family step to the microphone and give you that assurance because that is not what we're here for. We're here for this Amish Outlet Store.

Commissioner Mourdock: Is that plan, Jim, and I heard Barbara say in the 7.03 acres that the planned business that would be there would only be taking something less than three acres? I forget the number she mentioned.

Jim Morley: Yeah, there is something around two acres involved in the building and the parking lot for the building.

Commissioner Mourdock: Total.

Jim Morley: But we may have displays that are spread out over...we may have a portion all along there of different kinds of fences and different items that could be displayed, but we have to be very careful because of the, you know, we can only put certain things that wouldn't be bothered if it would be flooded.

Commissioner Mourdock: Okay, so the full seven acres would be used by this one business entity--

Jim Morley: Well, we have to rezone the drive going back in all the way from Burkhardt. Yeah, right.

Commissioner Mourdock: I understand the driveway is part of the seven acres, but let me say it this way, the 179 foot by whatever distance the frontage is there along 41...or I-164 it is the intention that all of that area would be used in some manner for this one business?

Jim Morley: Probably not. I think that...I mean, the property goes to the center of Boesche Ditch. We're not going to be doing out into Boesche Ditch. If you would look at the diagram on Boesche Ditch. I mean, to go out and arbitrarily make a measurement, what difference does it make, it's down in the ditch, I guess. We didn't determine that was a problem.

Commissioner Mourdock: Let me ask the question slightly different. It is not the intention of the owner to use this property for multiple businesses?

Jim Morley: That is exactly correct.

Commissioner Mourdock: Okay.

Commissioner Tuley: I think that was a lot of the reason why you got the questions about the billboards and by no means are they being singled out, Jim. You've been to enough of those meetings. Everybody gets those kind of questions because there are several members of that Area Plan Commission who ask that of everybody, it doesn't make any difference.

Jim Morley: I know.

Commissioner Tuley: It's all about billboards, and you know who they are.

Jim Morley: Yes.

Commissioner Tuley: But seven acres did seem excessive when you got a letter that says they're going to use about two acres and that is the reason for the questions.

Jim Morley: Yeah, I understand. I understand.

Commissioner Mourdock: Have you received any comments from any of the homeowners, and I notice...I'm trying to read through the bottom part of the glasses. I know there is a Lawrence Durchholz, a James Durchholz and is that Schnur, Harold Schnur?

President Jerrel: Schnur.

Jim Morley: Schnur. Harold called me with a question. He is the only homeowner who...I don't know, are any of the neighbors...I mean, most of the people that are here are the Durchholz family.

Commissioner Tuley: Was there any neighbor that needed to be contacted that is not a Durchholz?

Jim Morley: Oh, no!

Commissioner Tuley: Or related?

Jim Morley: Mr. Schnur is not a Durchholz, right? Okay! From what we understand, I mean, you know, the neighbors know the Durchholz family. You know, they understand what the Durchholz family is trying to do here. You know, I would... perhaps some of you might want to ask one of the members of the family directly, you know, to reaffirm what I have said.

Commissioner Tuley: I would be comfortable if somebody from the family would get up basically and state what you did say, if you don't mind.

Jim Morley: Yeah.

Commissioner Tuley: Somebody raised their hand back there. I don't know which one it was.

Jim Morley: Come on, Bob, you're on the end and you can get out easier.

President Jerrel: Would you want to give your name, please?

Bob Durchholz: Bob Durchholz.

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

Bob Durchholz: I do.

Joe Harrison, Jr.: Thank you.

Commissioner Tuley: Basically all we're looking for is someone in the family to basically reiterate what Jim said that the true intent of this is for this Amish Outlet Store, it is not a rezoning because there is a potential for up to two billboards. Once we rezone it, you know, you can put them up. I mean, quite honestly, unless there is something that is written in the covenants that says you're not going to do that, but I think that this member of this Board would be comfortable in just hearing you state for the record that the intent is not for the placement of billboards.

Bob Durchholz: Oh, definitely not. We just had the Indiana Amish Outlet people come to us. They knew we had a high visibility spot and that was the only reason we had approached this as far as rezoning. Actually, we thought it had to be M-1 for signs because that is what Mr. Woodward has, I guess. Isn't it M-1? We were kind of enlightened when we heard, you know, we could. But, no, we have not been approached for signs and this is the only reason right now that...you know, nobody has even talked to us about signs.

Barbara Cunningham: They will.

Commissioner Tuley: It won't take them long.

Jim Morley: Would you like Bob to make...are you anticipating redoing the sign ordinance that you would like them to voluntarily...I mean, we've talked about that before, Barbara, but the Durchholz family has said, you know, they're not into this and if you are thinking about redoing the ordinance that they would voluntarily hold off. If somebody comes to them they would just say we're not going to talk because that is not their objective.

President Jerrel: I think just hearing that from Mr. Durchholz would satisfy me.

Bob Durchholz: Thank you.

President Jerrel: Is there--

Commissioner Mourdock: Let me just go back to my earlier question about the neighbors and remonstrators. Are there any remonstrators here who are...is there anyone here who is opposed to this particular rezoning?

Commissioner Tuley: I don't think so. There wasn't at Area Plan.

Commissioner Mourdock: Okay.

President Jerrel: Any other questions? Is there a motion from the floor?

Commissioner Mourdock: I'll move approval on final reading VC-19-98 for 4501 North Burkhardt Road from Ag to C-4.

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

Commissioner Tuley: I'm going to vote yes, but the only concern I have is that we do have a lot of acreage here in an area that is not provided with sewer that, you know, we do try to restrict it to just the use that you've asked for, but I will vote yes.

President Jerrel: Commissioner Mourdock?

Commissioner Mourdock: I've dealt with the Durchholz family over several issues over a long period of time and if Bob stands there and says there is not going to be any billboards you don't have to write it down, it's not going to happen. I will vote yes. I will share with you though...I have to say I have a concern given the controversial zoning we had a couple of years ago with the Woodward property south of here. We did quite consciously discuss at that time the buffer area which is now the Combs Landscaping property. The idea at that time was to help preserve, if you will, the transition area from what was going to be the M-1 commercial going further north and going further west. Pat kids me about this all the time that I overuse the word consistent because whenever I'm here I always try to be consistent in how I vote on things and I have tell you I feel a little guilty right now because I don't know that I am being as consistent as I would like to be, but I will cast the yes vote, again, because I know the way the Durchholz family does things and I know they're most sincere and straightforward in doing that, so I will vote yes.

President Jerrel: And I will also vote yes, but I would like to welcome those from the Amish community that are going to join our community because I think, frankly, if this has to be commercial that it is a commercial that a lot of people out there can live with, so motion carries.

Jim Morley: Thank you very much.

Commissioner Mourdock: Anything else? Do we have anything else?

President Jerrel: No.

Commissioner Mourdock: Motion for adjournment.

Commissioner Tuley: Second.

President Jerrel: So ordered.

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

Those in attendance:

Bettye Lou Jerrel
Richard Mourdock
Pat Tuley
Joe Harrison, Jr.
Charlene Timmons
Barbara Cunningham
Susan Harris
Jim Morley
Bob Durchholz
Others unidentified
Members of the media

**Vanderburgh County
Board of Commissioners**

—

Bettye Lou Jerrel, President

—

Richard E. Mourdock, Vice President

—

Patrick Tuley, Member