

**Vanderburgh County
Rezoning Meeting
March 19, 2001**

The Rezoning meeting was called to order at 7:00 p.m.

Approval of Minutes

President Mosby: I would like to call to order the Board of Commissioners of Vanderburgh County Rezoning agenda for March 19, 2001. Do we have approval of minutes from —

Jane Laib: Yes.

President Mosby: —a previous meeting?

Jane Laib: It's from December, so Richard is supposed to do it.

President Mosby: This says Drainage Board.

Commissioner Mourdock: It says Drainage Board here.

Jane Laib: No.

Commissioner Mourdock: Do you have another—

Jane Laib: Rezoning.

President Mosby: Where at?

Commissioner Fanello: I don't have any in my packet.

President Mosby: Is it in here? Here we go.

Jane Laib: Tammy put the wrong one in the file, so.

President Mosby: Okay.

Commissioner Mourdock: As the past President or Vice-President, which was I last year, Jane?

Jane Laib: You were the Vice-President.

Commissioner Mourdock: And being the only person currently on the Board who was at attendance of the December 18, 2000 Rezoning Meeting, I will hereby move for approval of these minutes, make the motion and against all rules of order, I will also second the motion. Since none of the others were present. I will sign it.

President Mosby: We have a motion and a second. So ordered. Being that you are the only person that was there, I'm not sure if they are right either.

Commissioner Mourdock: It's a done deal, though.

President Mosby: I trust you.

First Readings

President Mosby: First readings. VC-7-2001, petitioner, Jerilyn Buchanan. Address 620 Kimber Lane. Request CO-2 to C-1. VC-6-2001, petitioner Sharon Working. Address 7401 Telephone Road. Request agriculture to M1 to C-4. VC-5-2001,

petitioner, Steve Wilcop. Address 2200 S. Greenriver Road. Request R-1 to C-4. VC-4-2001, petitioner, Three I Properties, LLC. Address 12700 Old State Road. Request A to C-4 with use and development commitment.

Commissioner Mourdock: That should be Ag to C-4.

President Mosby: Okay. Ag to C-4. Agriculture. VC-3-2001, petitioner, Three I Properties, LLC. 601 E. Boonville-New Harmony Road. Request Agricultural to C-4 with use and development commitment. To C-4 with use and development commitment. VC-2-2001, petitioner, Three I Properties, LLC. 600 E. Boonville-New Harmony Road. Request Agricultural and R-1 to C-4 with use and development. VC-1-2001, petitioner, Jeannie Johnson. Address 5115 Millersburg Road. Request Agricultural to C-4, Section 4.

Commissioner Mourdock: And this is the first reading of all those. Is there anyone present who wished to address any of those particular zonings on first reading? Seeing no one present, I will move approval on first reading of the previously mentioned zonings.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. So ordered.

Bateman Minor-Subdivision, Lot No. 2-Final Reading

President Mosby: Final readings. VC-12-2000. 8300 Wolfe Creek Drive.

Commissioner Mourdock: Just kind of turn it over to Bev and she will go from there.

President Mosby: Yes. Is Bev in here? Okay, she's down there.

Commissioner Mourdock: Mr. Atkinson, before you start, all of you folks who just came into the room in the last 30 seconds, is there anyone here who is not here to discuss or be involved in the Bateman Minor Subdivision? I presume that's what you are all interested in. If not, we've had the first reading. Okay. Looks like everyone is here for the same purpose. Just wanted to be sure. Okay, Bev.

President Mosby: I will let Bev address this first, then we'll have you come up and address us.

Jerry Atkinson: Thank you very much.

Beverly Behme: I think, Mr. Hayes is going to swear—

President Mosby: Right, I'll go ahead—

Beverly Behme: —swear everybody in.

President Mosby: —and who else?

Beverly Behme: Anyone who speaks for—

Commissioner Mourdock: Anyone who speaks for or against this particular petition, please raise your right hand.

Phil Hayes: I, state your name, hereby promise to tell the truth, the whole truth and nothing but the truth in the course of these proceedings before the Vanderburgh County

Commissions sitting in consideration of the various items on the docket this March 19th, 2001 so help me God.

Commissioner Mourdock: I now pronounce you man and—

Phil Hayes: There's no sense in doing this as to all matters, is there, Mr. Atkinson?

Beverly Behme: This is the only one.

Phil Hayes: Okay.

Beverly Behme: Rebecca Bateman is petitioning to rezone her property located at 8300 Wolfe Creek Drive. This 11.65 acre site is Lot 2 of Bateman Minor Subdivision. This petition was heard at the August 2nd, 2000 Area Plan Commission meeting, and was recommended for denial with five yes votes, seven no votes and one abstention. The petition was amended to include a use and development commitment, which limits the number of residential units to be constructed on the site. The R-1 is limited to six single family homes and the R-3 is limited to not more than eight four-plex condominium dwellings. The petition was continued by the Area Plan Commission at its meeting on November 1, 2000 until a response was received from FEMA regarding the requested letter of map revision. The county received a letter FEMA dated December 13, 2000 regarding this request. The petition was heard at the Area Plan Commission meeting February 7, 2001 and was continued to allow an amendment of the use and development commitment to include assurance of construction of a culvert and compliance with the conditions of the conditional FEMA letter of map revision and DNR permits. The use and development commitment states that the developer shall meet all conditions and obtain all permits at its own cost and expense, and shall post a letter of credit to assure the construction of the culvert replacement. On March 7, 2001, Area Plan Commission recommended approval with seven affirmative votes, three negative votes and one abstention. The area is identified on the year 2015 conceptual land use map and the comprehensive plan as an area of residential development. This proposal is to step up the zoning to R-3 for 7.77 acres and R-1 for 3.88 acres is consistent with the overall plan for the area. Multi-family uses are considered residential development. The R-1 single family will require sub-dividing and the subdivision platt will be reviewed by Subdivision Review Committee, the Drainage Board and the Area Plan Commission.

President Mosby: First, we will hear from the petitioner and then we will hear from the remonstrators and then I'll give the petitioners attorney a three or four minute rebuttal period. Before I do, and we start, anybody wising to speak tonight, please sign this. Did you send one around?

Commissioner Mourdock: I think it was just an attendance.

President Mosby: On the yellow one just whoever wishes to speak. I would like to have you sign your name.

Commissioner Mourdock: And when you come to the microphone, please state your name and address for the record.

President Mosby: Mr. Atkinson, I'll let you start.

Jerry Atkinson: My name is Jerry Atkinson, I have an office at 123 North West Fourth Street, Suite 7 in Evansville. I represent the petitioner, Rebecca Bateman. I apologize for my voice tonight, I will do what I can. The petitioner has an option with Haas Development, Inc. The Haas family has been building houses on the west side of town, high quality homes, for some period of time. It's a family effort. They have developed Heartland Ridge Subdivision, Heartland Ridge II Subdivision and I have some examples

of their work . The developer proposes to acquire this real estate and to build in the area that is shown on the site plan as R-1, six single family residences. Those residences would have a value of, sale price if you will, of \$200,000 to \$300,000. This is consistent with the quality of the homes that are in Key West Subdivision, which is adjacent on the east, I guess, which is almost a mile away if you drive from one entrance to the other. It's similar in construction to the residence of Mr. Weaver that has a home on Lot 1 of the Bateman Minor Subdivision. This is a petition to rezone Lot 2 of that Minor Subdivision. Let me show you some examples, the other area of the proposed rezoning is to the, I'm going to call it west. I kind of got disoriented there. To the west and across the creek , wooded creek, from the single family dwellings. The single family dwellings will be adjacent to Mr. Weaver's residence. Mr. Weaver is not objecting tonight. The condominium buildings will be eight in number, they will be no larger than 8,000 square feet. They will have no more than four units in them. They will be owned, they will not be student housing. There will be a protective covenant restricting against people who are college students using the condominiums for a place to live, unless they are married to students 35 years of age or more, and unless they are students, in fact, living with their family in the family's condominium unit. We've researched this, the concept college student is not, if you will, a protected class of people. You can discriminate, I guess, against college students. You cannot do that to people by virtue of gender or national origin or age , but a college student is not a class against which a restriction is prohibited. The area to be, if I might, this is the land in the area across the street, the ground is undeveloped, it's, I think, it was a bean field or a corn field last summer directly across Eickhoff Road. Also, directly across Eickhoff Road is where there will be the University Expressway, the extension of Eickhoff is going to be constructed just a few feet away. So, when you are looking at those fields, that's what you see when you come from the property on to Eickhoff Road. Just an example of the quality of workmanship that the Haas family utilizes. The condominiums are not something that's just going to be made up and can't be seen and can't be understood. They actually exist. The developer that created the facility at River Park at Newburgh Road and I-64 and actually built these condominiums and made the plans for the condominium project available to the Haas family, the Haas family will upgrade those plans and put more brick, if you will, put more exterior quality into them. When you look at the condominium building from any particular view, you won't see a four-plex, you'll be looking at not more than two units. You can only see two at a time. There are some homes located both ways on Eickhoff Road from this project on the same side of the street. Those homes are depicted in those photographs. There has been some suggestions made that condominiums are maybe not good for a neighborhood. These will be marketed as upscale condominiums for people who are empty-nesters or who don't want the high maintenance of having their own home. They are going to range in price from \$120,000 for a small unit to over \$200,000 within a building. You'll have larger configurations and smaller configurations within the same building. You won't have a building that has 16 little units in it. You are going to have a maximum of four units. There are examples of condominiums fitting in here in Evansville. I took some pictures of the Woodland condominiums that have the R-1 housing immediately adjacent to that. That's just across the street from the Evansville Country Club's north end as you head west on Buena Vista. Timberlake condominiums are on Kratzville Road on the east side of the road just off to the north from the Kennel Club. As you can see, they fit in. I went to a little bit of trouble and got the rezoning map (inaudible). What I am showing in yellow here, the R-1 area that surrounds the Woodlands condominium.

Commissioner Mourdock: Woodlands is again the one near the Country Club?

Jerry Atkinson: Evansville Country Club, yes. The Country Club would be, if I could, let me find Buena Vista all of a sudden. Here, this is the Country Club, the golf course. This is Stringtown. Here, here. This is the Country Club. This is Buena Vista, the pictures I've shown you are right along this street here. I have the same with regard to Timberlake, the yellow again all around and the photographs are both ways up the

street. It's all R-1. Well, is this good land use? Yes, it is. It's good land use because there is need for condominiums in Evansville on the west side. There are no upscale condominium residences on the west side, this project doesn't exist. There is a list of people who are interested in purchasing these homes. This is not an apartment project. This is not student housing. This is going to be a high quality residential community that will have similar impact on it's neighborhood as the impact that is present around Timberlake and Woodland. Is there a traffic problem? Well, no there's not. This is the Expressway Parkway, the University is over here. The Parkway when constructed will go across here. This is the land involved. At this point, this is Eickhoff Road, and for reference there was some suggestion that down here at West Terrace Road there would be a traffic problem because of all the people who would be going by there and the school busses. I agree that for the meantime there is a hill there.

President Mosby: We're trying to pick you up. We're trying to record this.

Jerry Atkinson: Right. There is a hill there, we've asked the County Engineer if he could put a sign up and he did that to mark that as a dangerous crossing, but when this is built, all the traffic leaving this development will make a turn to the east and come down here to get on the road to go to Evansville or go elsewhere. This becomes a frontage road, so traffic is not a problem. To get from the entrance here to the Key West Subdivision where people are remonstrating from, you have to come out, come over, come around, come back in here, and come back down to here. So, even though the (inaudible) is close here, he's a long way away in terms of the impact of his property. What about the flooding? I have a picture of the site. What about the flooding? What about the flood plane? What about the 12' to 17' of fill dirt? I might give to you also before I do that. I have a copy of the private covenant (inaudible). We've had some dialogue with the neighbors. The dialogue has not been one that resulted in agreement. There have been remonstrations. We want to give them the assurances in the form of a private covenant that will be a covenant running with the title to this land that there are only going to be eight condominium buildings. There is not going to be student housing. That there will be single family residences on the R-1 area consistent with the quality of Heartland Ridge II, upgraded a little as we spelled out in terms of the size of the facility and the exterior surface. There are signatures in support by west side residents, petitions of folks who are in favor of this development happening. What do we have to do to make it happen? Well, to cause the development to be constructed, there has to be an amendment to the FEMA F.I.R.M. map. Flood zone A as it currently exists results in it looking like there should be 12' to 17' of fill on this dirt. The existing FEMA map is in error. It's based on the best information that was available at the time that the map was in fact prepared. That information was not correct. There has been a study of the water shed upstream and downstream, and FEMA has issued a conditional letter of map revision. Want me to ----

President Mosby: No, that's all right.

Jerry Atkinson: The water shed...this is Eickhoff Road right here. Right here, roughly, is where the Expressway will pass through. This is David Weaver's house. Single family residences in this pink area and condominiums in this pink area. This, the entire pink area, is the existing flood zone A before the conditional letter of map revision was issued. Based on the study that's been approved by FEMA, only this green area will be the flood zone. No buildings will be built in the flood zone, none what so ever. The water shed is the pink line all the way around here. There's another finger to this, they come together right here at the bridge at Wolfe Creek Drive. This outer yellow line is the entire water shed for that unnamed tributary of Wolfe Creek. That has already had a letter of map amendment, and this blue area now is the actual flood zone A. The stream has been studied downstream for two, I'm sorry, six hundred feet. There is a complete study of the complete water shed. We have a letter from the DNR that indicates the cause of the size.

Commissioner Mourdock: Jerry, do you have a (inaudible)?

Jerry Atkinson: Because of the size of this being less than one square mile, DNR doesn't study. There's no need to have approval in regard to that. Obviously, we have to get a permit from DNR to correct the problem that's caused some flooding in this Subdivision. When Wolfe Creek Drive was installed, that installation involved, I believe, a 56' corrugated round pipe that's being replaced with a 5' by 6' box culvert. The pipe was too small. I anticipate that you will see this evening, and if you don't see the picture we can get it from the Plan Commission file, you'll see a photograph of water going over the top of Wolfe Creek Drive. The reason for that is that the pipe is too small under Wolfe Creek Drive. That's also obstructed by timbers and other debris that is in there. The developer is going to clear out the creek, not cut down trees, but clean the creek. They are going to put an oversized culvert in, and are going to build retention facilities that are six times what is required by the Vanderburgh County ordinance to hold back water. There will be three ponds, two of them will be good sized lakes in a park-like setting along the tree line along the creek, the other one will be at the entrance and will have an ornamental fountain in it.

Commissioner Mourdock: Let me clarify something. I just want to be sure this is what you just stated. The current Wolfe Creek Drive where the drainage is backing up is on the property of the petitioner, is that right? You said there's an obstruction there he will clean up.

Jerry Atkinson: It's a county dedicated thoroughfare at this time.

Commissioner Mourdock: Okay.

Jerry Atkinson: Isn't that right? Wolfe Creek Drive, is it dedicated?

Commissioner Mourdock: Okay, thank you.

Jerry Atkinson: We have taken these plans that we have and the conditional letter of map revision to the Building Commissioner, to the County Engineer and to the County Surveyor. We have what I call conceptual approval of what we're doing. There is a number of conditions set forth in the conditional letter of map revision that we have to comply with. We have to take out the undersized pipe, we have to get necessary permits from necessary state agencies, the county has to apply for the map amendment. That is typically done I'm told by the Building Commissioner. We have to pay a fee of \$3,400. We have to build this, if you will, culvert and we have to submit as built plans and specifications. The amended use and development commitment obligates the developer to do all those things. To pay the money, to complete the process, to amend the FEMA map, to also post the letter of credit to make sure that the project is, the drainage project is built as designed so that the map can be amended. This is a good project, this is a good land use, there has been confusion, there has been misunderstanding. There is not a flooding problem, there is not a drainage problem. There is not a flood plane problem, there is not a fill problem. This is a residential use in a residential area. This is a high end use, it's a quality use. It fits. It fits much more closely to the folks in Key West than would fit some of the other uses that are agricultural uses in the area. There is a consistency, and you should vote for approval in this.

Jane Laib: Excuse me. We need to do short tapes, 30 minute tapes tonight. We need to do a quick tape change.

Commissioner Mourdock: That's fine.

(Tape Change)

President Mosby: Are there any questions of Mr. Atkinson?

Commissioner Mourdock: I don't have any questions of you, Mr. Atkinson, but just from the proponent side of this, are there others in the room who are supportive of this particular project?

Jerry Atkinson: Yes, there are.

Commissioner Mourdock: Would they like to speak?

Jerry Atkinson: There are some who would like to speak.

Commissioner Mourdock: I would say if we are going to do that, we ought to go ahead and do that now from the proponent side.

President Mosby: Tom Haas.

Tom Haas: I just put that on there in case there were any questions for me later on.

Commissioner Mourdock: Okay.

Kenneth Myers: My name is Kenneth Myers, I reside at 2819 Meadow Lark Court. I am for this project simply because reaching the age of the empty-nesters, as it was spoken earlier, we do not want to maintain property, we want to have somebody else to do it for us. There is nothing available on the west side now. I've been a west sider my entire life, and I hope to remain there. Therefore, we've looked at this condominium project, we've looked at the one, I think, the East Park Villa or River Park Villa or something like that. We've gone through a couple of the units and like the concept very much. I do not feel that it would be a negative thing for the neighborhood, I think it would be an asset to it. The concept of the condominium life is intriguing because of the way of life we've learned to be. I think it should be passed because the project would be good for the community.

President Mosby: Any questions of Mr. Myers? Is there anybody else who would like to speak for the project?

Patricia Freeman: My name is Patricia Freeman, I reside at 9007 Farmington Drive on the west side of Evansville. I have lived there for 44 years, and I hope to continue living on the west side, but I too realize that there are not many alternatives other than an apartment, and I'm not ready for that. I want to continue to be a homeowner. We became acquainted with the Haas family about a year ago when we considered downsizing, and they informed us that they were hoping to build some condos in the future, so we were very excited about that. We are also very familiar with another housing project of theirs, a subdivision, Heartland Ridge, we have two friends who live there, we have been in their homes a number of times and we've had an opportunity to observe the quality of construction. We've been very impressed, and our friends are well pleased. We know that the Haas' do ask that people who buy into their subdivisions help to maintain the integrity of the community by turning on street lights at night, at 9:00 at night, which protects the safety of the community. They also require that there are no mobile homes parked in the driveways, no boats, to maintain the appearance of their development. I'm sure that they intend to carry out that kind of integrity in this proposed project. We have condominiums downtown, we have a number of them on the east side, we have a number of them on the north side, but we don't have any on the west side, other than a very small project on Boehne Camp Road. I know from my own personal experience, and among my friends and

acquaintances on the west side that there are many of us who would like to stay there, but we have nowhere to go, so we are very excited about this. We think the Haas family does quality work, they maintain integrity, and we feel that we would be very happy living in a condominium project that they have built. Thank you.

President Mosby: Any questions of Ms. Freeman? Bill were you going to speak?

Bill Nicholson: No, I'm just here to answer any questions that might come up.

President Mosby: Okay. Is there anyone else who wanted to speak for the project? Seeing none. Paul Farmer.

Commissioner Mourdock: I guess, this is a question for David, are we going to go simply through the order?

President Mosby: Exactly how they signed up.

Commissioner Mourdock: How you signed up is how you are called for.

President Mosby: I'm picking and choosing. Pardon. Can we switch? There is just four. David, okay. Okay, so David is going second, you are going third, and Jeff's going fourth.

Commissioner Mourdock: Next month we'll announce it in advance. That is how you are going to speak.

President Mosby: There really was only two of them out of line here.

Paul Farmer: My name is Paul Farmer, I live at 3716 Koring Road on the west side of Evansville, and President of the West Side Improvement Association. I would like to make a few comments. You should have somewhere in your packet a letter from me indicating what the West Side Improvement Association is willing to do. I want to also begin by saying that I've know the Haas family for many years. Their quality of work is just fabulous. I would want to live in one of their homes if I could afford it, and was at the point in time of wanting to move. The question is not the quality of home, it's not the quality of the people who are building the development, it's merely, let's just take a look at where this is and what the bigger picture is at this particular point in time. There have been comments this evening that there has been some dialogue with neighbors, and that dialogue was not resolving any problems, was not always pleasant, and that's the way dialogue is when you get to zoning issues and that sort of thing, and it takes dialogue over and over and over again to build an understanding. Every time we sat at either an Area Plan Committee meeting or at the Commissioner's meeting this evening, we learn more and more in bits and pieces through their attorney, and that's fine because we are learning that if you carry this on another seven or eight months, we will see the whole picture. It would be kind of neat if they would be willing to get together, show this to the entire community of people who are involved with them, and we are willing as an organization to help make that happen, if that is something that they would like to do, and it is not a short period of time, just one meeting and one short time, or whatever it would take to do that. We as an organization have gone on record to be supportive of the neighbors, the closest neighbors, and the things they are concerned about and want to support them, but we feel from the West Side Improvement point of view, the issue is not this development, even though we feel that the little piece of land where the condos are is a smart use of that land because you can co-op with it and you have a little short piece of land that you want to fill and get your money out of it and that's fine, and they will do a quality job. The real point is that this is along the Eickhoff Road project, and we know that for the last two or three years the Eickhoff Road project has been expanded, we know that there's been some properties at least negotiated for along that way. We've had a change in election of Commissioners, so nobody recently

has taken time to come to the west side and meet with the people one more time and say this is where we are with this project. It is also beyond the period of time where we just do something because somebody sold a piece of property and we have a few remonstrators, that's not the purpose, the purpose is today we're in that day and time when you need to take neighbors in to consideration, you need to make some long range planning, we've talked about long range planning on the west side for a long time. We blew the 62, as we well know, and that is continuing on and it gets better as time goes on from time to time but nevertheless it is not a particular project that was started, planned and fulfilled. We feel like this particular time is an ideal time for the Eickhoff Road project to be brought forward, to take a look at that, if not, you are going to be here meeting after meeting after meeting after meeting with little piecemeal, because the next guy is going to buy a farm, he's going to want to build something on it, pretty soon you're going to have a store, all that sort of thing may be there eventually, but it needs to be planned. Also, I think, this year is one of the year's of looking at the comprehensive plan, bringing that up to date, it's perhaps the time to look at that again. This still is considered agricultural, at this particular point in time it also could be some residential in R-1, and that's been spoken to this evening. We need to take a long picture of that because even though we're going to be having maybe a frontage road, eventually that gets out onto Eickhoff Road. The hill will be there for a long time because there are lots of hills on the west side of town. We found out from before the 62 project, you can move those hills, but this one that they're concerned about with the busses will be there for a long time. There are a lot of children that go to West Terrace school, it's a route to that. It will eventually go into Hogue Road, and as it expands out, we need to take a look at where is that going to be? What kind of development do we need along there? So people understand that. People are being asked to perhaps sell some of their property for the Eickhoff Road extension, that is part of that process, where is that? People need to know some of the potential happenings in that area as time goes on. I'm offering to you to way-lay this, this evening, either to deny it if that is what you have to do, or to put it on hold until there is some more dialogue in the area. As an organization we are willing to sit down and make sure that happens with you and members of the community and the members of the development, because this is a great family, it's a good project, they have a good track record in Newburgh and in the west side of Evansville, and, I think, that if we did this, not only for this developer, but for others, later on there might even be better things for them, more condominiums in a different place. Thank you.

President Mosby: Any questions of Mr. Farmer? Okay. David Taylor.

David Taylor: My name is David Taylor, I live at 300 South Eickhoff Road, and I am here in opposition to the Wolfe Creek project. I would like everyone that is opposed to this that is here with us tonight to please raise their hand in a show of support in opposition. First, I would like to mention that the vote from Area Plan Commission was seven yes' and three no's and one abstained. The vote contained one yes that I feel should not be counted. Mr. Herron's previous business relations with Mr. Haas and without this vote the recommendation, it would come with no recommendation from Area Plan. Now I would like to talk to you about the R-3 zoning. On the maps I've given you, the purple lines indicate the boundaries of three farms with livestock that adjoin this property. As you can see on the smaller map, the four-plexes are very close to two of these farms, both having horses, and one of them having cows. We all know the nature of children, and these pastures are not safe places for kids to play. These areas are not only dangerous for the children, but for the animals as well. If the fence is cut or knocked down, the animals could end up in the road, hit by a car, not only injuring or killing the animal, but the vehicle in passing is also in great danger. The third farm along Wolfe Creek has already had problems with people young and old in their pastures just since the Wolfe Creek Drive was built. The area in orange on the map is a single family home which is not in the project, as you can see, the area takes up the majority of the land not in the flood plane. The brown line has another creek they have not mentioned. This creek runs through my property. I've seen this creek out of it's

bank several times. The pink flood zone area comes on to my property as well. Any fill in they do on the Wolfe Creek property will adversely affect mine. I know the flood zone is on my property, because I had to get an elevation certificate from an engineer to obtain a building permit from the county earlier this year. They talked about the screen. My house is the small dark blue square that you can see on the map. They talk about leaving the tree line between R-1 and R-3. They also said they would clean the creek, now it's my understanding that if you clean the creek, that is going to involve removing the trees. Living in this area there's no other way you can clean that creek up, straighten it out without removing the trees. There is no screen between the four-plexes and my house. The other three will be on two sides of my property, if you look this is my property here, they border on two sides. I would have to look out my kitchen window and see these everyday. The multi-family dwellings, the parking lots and all the cars. I also called Mission Viejo and Copper Creek Townhouses for the people who didn't want yard work, and as of last week there were 14 openings in Mission Viejo and Copper Creek, which is still under construction, will have another 191 units available by the end of the year, that is if construction stays on schedule. The third place is on Boehne Camp Road as is mentioned, they are condominiums for sale, they include garages and elevators for people. This is an approximate 12 acre parcel of land, it will be like an island development with no room to expand. The other property owners and myself surrounding this property have no desire to sell. This is too small of an area for this kind of development. I would like to thank you for your time and ask for your vote of no on this issue.

President Mosby: Any questions of David?

Commissioner Mourdock: Just a quick question, Mr. Taylor. I hear most of your comments, or at least it seems most of them are directed at the condo side of this, the R-3 side, is that fair to say?

David Taylor: Yes.

Commissioner Mourdock: If that side was R-1 would there be any less concern that you would have for those houses against your property?

David Taylor: If it was R-1, and instead of having 32 families in eight buildings back there, if they had five or six houses it would be not near as much of a concern. You've only got four, five or six families instead of 32 then.

Commissioner Mourdock: I guess that raises the question in my mind, would families in condos tend to have more kids, or families in single family residences have more kids? You were concerned about kids getting in—

David Taylor: I don't know the answer to that question, but if you've got 32 families versus six families, the chances are you are going to have more children involved.

Commissioner Mourdock: Okay.

President Mosby: Any questions?

David Taylor: Thank you.

President Mosby: Mr. Krocker.

Rich Krocker: My name is Rich Krocker, I live at 100 South Eickhoff Road, and I would be on the north side of this development across Wolfe Creek. In the first attempt to pass this by FEMA, they were just going to replace the existing 54" culvert with a new 60" culvert. Since this first submittal, FEMA has informed them that they must install a 6' by 5' box culvert based on the plan development. Mr. Nicholson states that this

development will not allow any more water to flow to Eickhoff Road. If this is true, then why must they install a new culvert under Wolfe Creek Drive that more than doubles the water flow capacity from the current opening size of 12.53 square feet to one with 30 square feet? They have submitted a drawing showing the Eickhoff Road bridge. The elevation on the bridge itself is more than 15' below the base flood elevation. Mr. Jeffers corrected me on that earlier, it's not quite that far below. The drawing indicates that the 100 year storm will only reach an elevation of 444.1, leaving 2.7' between the high water and the bottom of the bridge. This drawing only represents the flood waters from the south branches, and it does not include the water from the north branch. I would like to have informed you of what the additional flow from the north branch represents, but the study submitted to FEMA in June of 1998 is missing from the file held at the Building Commissioner's office. So, I couldn't get the information. I also can't comment on the DNR letter, because I couldn't get a copy of that either, so I'm just going to go from here. FEMA's response has come in the form of a conditional letter of map revision dated December 13, 2000. Simply stated the letter says that the culvert size increase will allow more water to flow under Wolf Creek Drive and reduce the flood potential along that portion of the creek. The FEMA letter specifically states that the future development in this area is not recognized in this submittal, the FEMA letter is clear that any future development upstream will have an adverse affect on the flood issues. FEMA recommends a full comprehensive study be done on this area to ensure these hazards are eliminated. I've attached that, and on the second page I've highlighted that paragraph. Mr. Nicholson says that the entire creek has been studied. This is only true in the vaguest sense. The two branches of the creek were studied separately and for completely separate reasons. The north branch was studied in 1998 to study the drainage from Heartland Ridge north of Hogue Road, and the south branch was studied in 1999 for the development we are discussing. The two studies have not been looked at or linked together to provide the whole picture. Neither of these studies takes into the account future development of the Haas property consisting of 24 acres, which lies about 1400' off Eickhoff Road directly behind my property. I've –

Commissioner Mourdock: Which direction is that, Mr. Krocker, from the properties that are under consideration tonight?

Rich Krocker: I can show you on the map here. My property is right here.

Commissioner Mourdock: Okay, so it would be north–

Rich Krocker: It would be east. Right here.

Commissioner Mourdock: Over there, okay. It doesn't come all the way over to Eickhoff?

Rich Krocker: No, sir. Actually on the next little map, the FEMA flood has a map, and I had them put that in. Here is the Wolfe Creek Drive development, and I'm placed right here in this finger, between the two branches, and the future Haas development is right behind, and then, of course, Eickhoff-Koressel is west. They have presented the nicely colored drawings that indicate nothing is wrong in creek land, but if you look closely at these drawings, and that would be one that Mr. Taylor had handed out before, and you refer to the conditional letter sent by FEMA, which states that at a point 600' off stream from Eickhoff Road the flood plane will be narrowed to a maximum 480', you will find that the creek will still run over the existing bank by at least 20' in the area that I pointed out. Their statement that the water will remain within the creek banks is inaccurate. Mr. Atkinson has stated that we should only look at the current project at hand, and that any future development must be regarded on it's own merits. We disagree with this logic, especially when we are dealing with a flood plane issue. Based on the fact that a new survey conducted by an outside source will only cost the county little or perhaps nothing, this is stated in the attached FEMA letter dated June 14th, and I've highlighted that also. It says that, this request based on a project that was at least 50% federally

funded will result in no fees assessed to the requestor. We need to accept the government's funding offer and study the entire creek as it relates to the current and future development. I have a feeling that it is funded that way because of Eickhoff-Koressel Road, would be my thinking on that, I'm not sure. The attached area drainage map, I think, Mr Atkinson, had a much prettier picture than mine, but , shows the whole drainage area, and it takes into consideration over 400 acres that this water shed consists of. All the water that flows over that site, flows to site A on that map, which is located at Roesner Road just south of Hogue Road, it actually extends further than that. That stream carries on into Posey County. Flooding pictures that I've taken really tell the story of the flooding potential at present, without taking into account the future development of this area. The amount of rain that caused this was only 3.38" in a 24 hour period. The 100 year rainfall according to the FEMA flooding maps is 7". If you go through them pretty much in order, you will see that it has overflowed Wolfe Creek Drive, these are where the condos are going to be located. Again, a picture of Wolfe Creek Drive showing it coming over the road, and kind of a panoramic view, so to speak, where it shows how that water flows down off the hills. A picture of the Eickhoff Road bridge, I was standing on the bridge looking northeast, and it shows that the water, that the bridge will not handle the water, it's running off away from the bridge. This would be the bridge on my property, my neighbors' sits over here, so all this water is flowing towards him. There is a picture of me under my bridge, you can see that it holds a tremendous amount of water. I estimated it at about 5700 gallons of water, it would be the same as like a 12' by 12' by 4' deep pool. These are panoramic shots looking off my front porch so that it would be looking west at the north branch of the creek. You can see that it is overflowing and going towards my neighbors house. The same thing with this one, there are a couple of pictures in here that show the whole story of it, it's coming over the banks real good. There are two pictures, and these are kind of hard to see, really, but they are creek erosion, and you can see that the tree is several feet away from the bank. This is towards the middle of the creek, so the erosion is eating away at the whole tree. The same with this one. It's not going to be long before these trees are falling in the creek also. Finally, I've attached the petition against this rezoning, and it's got 95 signatures on it. Some of the people couldn't be here tonight because, unfortunately, one of the neighbors passed away and the funeral was held today, so we don't have as many as we would like tonight. I can answer any questions. Oh, I'm sorry, I wasn't quite finished. We had Richard Funk with the Core of Engineers, he visited the site this morning and indicated that permits from the Core alone will certainly be needed on the project, and Mr. Funk also recommended that a complete and comprehensive survey be done on this area, because the site, in his estimation, was not a very good type of development for this area. Finally, the best mitigation for flood zone areas is not to build on them, and we ask you to deny this request. Thank you for your time.

President Mosby: Jeff Bowlin.

Jane Laib: We need to do another tape change.

(Tape Change)

President Mosby: Okay. We're back on.

Jeff Bowlin: Ladies and Gentlemen of the Council, I'll be brief and try to cover something new and fresh. My name is Jeff Bowlin, my address is 310 Key West Drive. I live on the end of the cul-de-sac in Key West Estates nearest the proposed rezoning. I'm not a lawyer or a local businessman, I'm just a guy trying to raise a family and save for retirement. We are very concerned about the traffic, the flooding and the possible occupants of these condominiums. I want to discuss another long term impact on my family, one you may not hear often in this situation, but it is very real. The financial impact. I would like to present you with a quick hypothetical scenario just to kind of discuss my point, suppose the Haas Development Corporation builds \$1,000,000 worth

of luxury condominiums within a couple hundred yards of my home, and suppose again in round numbers the Haas Development Corporation makes a margin of 20% on this investment, or \$200,000 on a \$1,000,000 investment. Now look at the impact on me and my neighbors. If our homes average approximately \$200,000 and our property values drop just 10% due to the multi-family housing next door, I've just lost \$20,000. If this happens to the first five homes on each side of the street, the existing property values drop as much as the developer's net gain. My wife and I already both need to work to provide for our children and our future. Our home is an investment, and a decrease in value now adds to the burden, and a decrease in value now adds to the burden of working longer before we can retire. I'm only 35 years old, but I am seriously concerned about retirement. Also, I'm sure that you, the County Commission, are interested in growing the tax revenue to support the county infrastructure. The potential property tax revenue for this multi-family development could be overshadowed by a drop in tax revenue resulting in a significant decrease in adjacent property values. This could be a lose-lose situation from a business standpoint. All I ask of this council is that you give no more weight to the rights of the Haas Development Corporation than you give to us, the individual homeowners trying to provide for their families. You can do this by allowing only single family homes to be built on this property. Thank you for your time and consideration.

President Mosby: Any questions? That's all the names I have that are signed up here. Mr. Atkinson, did you want a couple of minutes to answer any of the questions?

Jerry Atkinson: You've seen some pictures, and if I could approach to point out, this is in fact Wolfe Creek Drive. Water runs downhill. Obstructed water puddles, ponds, overflows the top of the roadway, that's what happens because of the small pipe, and because of the debris that is in the ditch. That situation will be totally and completely corrected, that's how the amendment to the FEMA map will occur, that won't exist anymore. This is not Wolfe Creek Drive, this is not Eickhoff Road, this is a driveway and there is substantial distance between the top of the water passing under the driveway bridge and the bridge itself. The entire basin has been studied, I guess, it was another photograph, but that's alright, it has been studied, not just one time, it's been studied twice for two different purposes, two different amendments to a map that is consistently incorrect. This has also been federalized a little in terms of yet another study, the elevations, if you will, in the basement subdivision, that 's where the stream was coming through the land to be rezoned, start at 447.58', there is a 9% grade, the rate of fall is 9/10 of a foot for every 100' through the 1400 plus feet of the subdivision, the water is coming downhill. On the Krocker property, which is the north branch of this unnamed tributary on Wolfe Creek Drive, the drop is from 451.5 to 436.46, that's a 1.1' per 100' drop in the elevation as the water comes through. Downstream, and this has been studied 600' downstream, downstream there is a rate of fall of 6/10 per foot in the first 600', 6/10 per foot per 100'. The flow capacity of the Eickhoff Bridge, and if you look there are some charts behind the cover page. The flow capacity of the Eickhoff Bridge, which would be your second exhibit, is a 172.4 cfs, cubic feet per second. Downstream of that, the rate of flow is 292 feet per second, now what I might say, I'm saying a couple of simple things, water goes downhill, if the gradient of the stream bed is sharp enough, if the fall is sharp enough, water doesn't pond, it doesn't puddle. If it gets to a bridge, and the opening in the bridge is big enough, you are not going to have back water from, in this particular situation any water backing up at the Eickhoff Bridge, you are not going to have any flooding onto Krocker as a result of this development, because the rate of flow carries away everything that goes under the Eickhoff Bridge, the rate of flow is greater downstream. Head water will pass through the bridge without obstruction, back water doesn't happen because of the downstream slope, if you will. Is there going to be a flooding problem caused because of this development? No, there is not. Is there going to be fill dirt caused by this development, for the purpose of flood control? No, there is not. Was the FEMA map wrong? Yes, it was. Is it being amended? Yes, it is. Where is flood zone A? The top of the creek bank. Do we build any buildings, any houses, any condominiums on flood zone A? Not even one. Has

there been a study? There has been a study, Mr. Nicholson is here, he can explain to you the things that I have said in a shorthand fashion, he can give you the technical explanation for it, but he has not just done two separate requests for FEMA map amendments, he has taken into consideration all of the data from both of those, because he did the work on both of those. The issue really is not flooding, and I can't say it any more vigorously than that. The pictures create a false impression. There will be water going downstream, there will be three lakes, there will be no greater discharge of water, and, I think this is the biggest insight with regard to the water situation coming out of the project, after the project is developed and the retention ponds are in place, in a 100 year storm, 100 year flood, where Franklin and St. Joe would be under water from the deluge, you are not going to have as much water coming out of the development as comes out of there now. It is over designed, it is intentionally over designed with six times the county ordinance retention capacity to prevent that from being a problem. Do you have any questions?

President Mosby: Any questions? Do you have any type of buffer plan? Any type of buffer on this property at all?

Commissioner Mourdock: While you are coming up to the mike, why don't you come up and show us on this set of photos, because my question was going to be something similar to that.

Jerry Atkinson: We had originally had several conversations, in fact the neighbors had proposed tree screening between Key West, and as I understand we are certainly willing to do that between Key West and the adjacent condominiums?

Tom Haas: Yes, we are.

Jerry Atkinson: If additional owners on each side would like some trees along the property line, I think, you would be receptive to that as well, would you not?

Tom Haas: Yes, we would.

Commissioner Mourdock: State your name.

Tom Haas: My name is Tom Haas, I live at 29 Faith Way. We had done our past development in Heartland Ridge, we also met a wall of remonstrators on that also, and several, three or four different people that were in that neighborhood that were remonstrating against us decided to move into our subdivision because they liked what we were doing. We did work with those people in the respect that we said we would go in and plant some pine trees on their property for screening, and we would be open to doing the same thing that we did in the past.

President Mosby: Okay, just so I got you on the tape. You are willing to work with the neighbors on a buffer? You are willing to—

Tom Haas: We are willing to do—

President Mosby: At your expense?

Tom Haas: On their property.

President Mosby: On their property.

Philip Hayes: Would you be willing to make it a covenant? Use a private covenant?

Jerry Atkinson: I think the answer to that is, yes, we would. We have been willing to give them a covenant with regard to a number of things, and that too is subject to being

done, the problem is the dialogue broke down, it didn't end because we didn't want to talk and we didn't want to make them happier, we simply aren't having communication about what kind of buffer they would like, and we would be receptive to do that, and I am sure you have no objection to committing to do that in a way that is enforceable.

Tom Haas: We are not.

President Mosby: The other question I had is. The ditch cleaning, what are you intending to do, are you going to dredge the bottom of it, are you planning on?---

Tom Haas: We plan on going and removing any trees that would potentially fall into the creek, leaving all trees that were possible to leave for the buffer. We wouldn't just strip the stream clear for any reason. We want to leave that buffer for both the benefit of the condominiums and of the single family dwellings, but we also want to make sure that existing trees will not fall into that and cause a problem.

Jerry Atkinson: I might add, because this is a condominium project, we're going to have a park-like setting that is going to be maintained by the owner's association. If this were a subdivision with six or seven houses along one side, and then six or seven houses along the other side, those neighborhood associations don't work as efficiently or effectively, in my experience, as condominium associations do, where there is a management entity that is employed by the association to take care of all the grounds. This will be a maintained waterway, they will be maintained lakes, it will be quite attractive.

President Mosby: Any questions?

Commissioner Mourdock: Mr. Atkinson made the comment, Mr. Haas needs to answer, I'm just setting up the question. Mr. Atkinson made the comments that in the eight condos the eight buildings that will be constructed, you will have 4,000 square feet in each of those, and each of the condo units would then have 1,000', is that correct?

Tom Haas: Actually, I believe, it's a maximum of 8,000 square feet for one whole building, with four units making 8,000 feet total square footage.

Commissioner Mourdock: Okay, so roughly 2,000' for each condo.

Tom Haas: Yeah, and down from there.

Commissioner Mourdock: Okay, and then you went on to say that the pricing would vary as much as from \$120,000 to \$200,000 for each unit?

Tom Haas: Yes, we have different square footages starting around, I believe, 1300 square feet going up to 2100 square feet or two thousand one hundred.

Commissioner Mourdock: When you did Heartland there were no condos there, correct?

Tom Haas: Not in Heartland, no there wasn't.

Commissioner Mourdock: Okay. On the set of photos that were provided to us, would you come up and kind of identify the areas where the condos would be versus where the single family would be?

Tom Haas: Okay. Here is Eickhoff Road, you turn in here, and this is Wolfe Creek Drive right here, the condominiums would be on this side, let's see if there is a better picture....Jerry, you put these picture in here, where would the condos be? This is a single family dwelling right here, this is a single family dwelling--

Jerry Atkinson: All of the (inaudible)---

President Mosby: Would this one help us any?

Jerry Atkinson: This is the best shot. This is Wolfe Creek Drive, it comes in here, it comes to a cul-de-sac, Mr. Weaver's house is here--

Commissioner Mourdock: Wait a minute, this is Wolfe Creek Drive.

Jerry Atkinson: No, no, the drive actually comes right here.

Tom Haas: No, no this is it, Jerry. This is Eickhoff.

Jerry Atkinson: Oh, I'm upside down. This is Wolfe Creek Drive.

President Mosby: Here we go, this is a picture of it right here.

Jerry Atkinson: This is the rest of, this is Mr. Weaver's house, these are houses, this is a wooded tree lag, and all, literally, you can't see very well through the trees to the location from Mr. Weaver's house, so we want very much to do...

President Mosby: Yeah, here's Eickhoff, here's , yeah, this is Wolfe Creek.

Tom Haas: We will come off it here and then we're going to install a road coming up here. These won't accommodate--

President Mosby: Did you see the existing big house back here with the cul-de-sac, here?

Commissioner Mourdock: That's not existing, this is existing.

President Mosby: Oh, this--

Jerry Atkinson: These are the three lakes, one, two, three.

Commissioner Mourdock: Just to be fair here, the comment was made by one of the remonstrators about some property that you otherwise have to the east and somewhat to the north, do you care to comment what your development plans are for that as it relates to all of this?

Tom Haas: We have envisioned putting single family dwellings coming off of Hogue Road. We have preliminary layouts, but we haven't finalized anything.

Commissioner Mourdock: The roads that you have envisioned that you would build here do not connect to that property?

Tom Haas: No, they do not.

Jerry Atkinson: If you are asking about property adjacent to this. There is no current plan for any development for any property adjacent to this. This is a self-contained, one shot deal, there is no road going anywhere. They have no right to purchase any adjacent property at this point for any purpose.

Commissioner Mourdock: Okay, I understand, you are talking about adjacent properties, I was just wanting to put on the record the specific comment that was made about the other Haas property, and, I think, that what you are saying is, if it's single family it would be off Hogue Road at some point in the future, and that road would not connect to this.

Jerry Atkinson: That's at another...that is (inaudible)--

Tom Haas: Our property that we own now off of Hogue Road does not physically touch this road, it doesn't in any spot.

President Mosby: Any other questions? Anybody have any new information to add? New info? Come forward, give us your name and address.

Leanne Scholz: My name is Leanne Scholz, I'm a resident of the Heartland Ridge Subdivision. I'm 330 Faith Way. I didn't sign up originally because I really didn't have anything to say and I just kind of came in support of some other homeowners on Eickhoff Road. Some of the comments I've heard from Haas and from their family and the lawyers and the opposers, Haas is saying that they're willing to work with the residents, that they are willing to put barriers up like they have done on Heartland Ridge. What they haven't told you is that the barriers that they put up are about 2' tall, and they are probably slow growing, so it will be about 15 to 20 years before that becomes a barrier. That particular resident has their back of the house facing Hogue Road. I'm the black sheep of the neighborhood, because Haas didn't build my house, another builder built it, and had a lot of issues that had to be worked out with Haas, they don't give and take, and that's a concern of mine, is they say they will do it, but it's like pulling teeth from a hippopotamus, it's almost impossible. That's all I have to say. Thank you.

President Mosby: Thank you very much.

Tom Haas: I would very much be interested in what way you have asked us to do that we have not done.

President Mosby: I need to tell you, you need to address us, in truth, we're not here to discuss that, because... understand one thing, we're only here for land use--

Tom Haas: Okay.

President Mosby: --and we'll have Drainage Board down the road here if this passes, and I mean a lot of the, you know, flooding problems will be discussed at that meeting, and Mr. Jeffers and John Stoll, but we're here really for land use. Now I would ask you one question, awhile ago when I asked you about buffers, I would be talking about something five or six foot, I wouldn't be talking about a little one or two foot pine tree. You might want to answer that.

Tom Haas: I think we would be willing to go more than that. One of the reasons we chose that size tree, initially when you first plant a tree that size it takes a long time for it to start growing fast, and whenever you plant a seedling, it's smaller, but then it catches up with the taller trees, because you do not cut the root system out of it and it does not go into shock and have to reestablish itself, but we would be willing to go with higher trees if (inaudible).

President Mosby: That was one question that really needed to be answered. Something new? I need you on the mike, it's all being recorded.

David Taylor: As I stated earlier, the surrounding properties on the three farms are in pasture use, the primary source of a pasture is grass, you go planting pine trees on our property, a mature pine tree will have at least a 30' spread, they have been planting white pines predominantly, if that's what they planted there, it would be at least a 30' spread and the full length of your property, you are liable to lose several acres of your pasture under a pine tree. Grass does not grow under pine trees, so any buffers would really need to be on their property. Thank you.

President Mosby: Any other questions?

Patricia Freeman: It seems that the main concerns of the opposition is flooding and Eickhoff Road, I would like to ask the Commissioners, have you ever in the past had anybody who lives on Eickhoff Road come to you and complain about flooding?

President Mosby: I haven't been here long enough.

Commissioner Mourdock: I've been here too long, and I don't know that there is a road in the county, the County Surveyor here could probably answer better than me, but I don't know that there are many areas in this county that at one time or another we haven't gotten someone to complain about flooding. I mean, given the—

Patricia Freeman: I've traveled that road many times and I have never in my 44 years on the west side been through that road when there was water across it, or that I saw any apparent flooding, and I would further like to say that I can't imagine a builder being dumb enough to build something in an area that's going to flood, because it's all going to come back on him, eventually.

Commissioner Mourdock: I could give you that list too, it has happened, but let me just define something because it is a term that doesn't mean the same thing to everyone, flooding versus simply having water backed up because of an obstruction is two different things, and some of the worst, quote flooding, we've seen is when there have been obstructions, and I remember the one, in fact, Jane I remember walking through your neighborhood one time when there was water ankle deep in garages and everything else and it wasn't so much because of just the topography, it's just because there was a temporary flooding with leaves and obstruction and all that stuff.

Patricia Freeman: It appears to me that has been thought of in this situation because they are proposing to clean out a creek that is a contributory to the ditch, they are also proposing to build retention ponds to take care of that flooding, and that is probably more above and beyond what many developments do.

President Mosby: That's why I say that will be addressed at Drainage Board, I mean, that's really not what we're addressing tonight.

Patricia Freeman: Everybody has been talking about—

President Mosby: I know, and I should have probably stated that at the beginning, but I didn't. Something new?

Jerry Atkinson: Something new.

President Mosby: Okay.

Jerry Atkinson: They should have passed these out to you earlier. Mr. Krockner has indicated earlier to the Plan Commission that Roger Lehman and Bill Jeffers indicated that there needed to be a whole study of...a completed project, or something to that effect, I have visited with Roger Lehman and with Bill Jeffers and the position of the Surveyor and the Building Commissioner has not changed from their view earlier. They are not, in fact, recommending the study. It has been done.

President Mosby: Okay. What's this? Are there any other questions by any member of the Commission? Seeing none. The chair will entertain a motion. We need to roll call don't we?

Commissioner Mourdock: Yes, we do, and we need to make the motion in the affirmative here as we do with all motions, then there is obviously a roll call vote to

follow. I will move approval for VC-12-2000 for 8300 Wolfe Creek Drive to rezone from Ag and R-1 to, I'm sorry, from Ag to R-1 and R-3 with the use and development commitment .

Commissioner Fanello: I'll second.

President Mosby: I have a motion to adopt and call the roll in a second. Commissioner Mourdock.

Commissioner Mourdock: As it was said here a minute ago, the issue is not really drainage, I don't think that is a problem that is otherwise insurmountable, the discussion about the F.I.R.M. maps and all those things, I don't see that as being the issue here. I certainly do not see the issue as being the quality of the homes, Mr. Haas and his company, certainly Heartland Ridge is one of the finer developments out in the county, and I don't have any doubt that this would be done as well. If this were, for me, all single family residential this would be a very easy vote, the only real question is the condos, and I think Mr. Farmer earlier made the comment about are we doing the right thing by going to multi family with all of the other changes out in that area, and this is a tough one, I will vote no, because I'm not sure the condos are necessarily compatible with what else is there.

Commissioner Fanello: I agree with Richard that the issues of (inaudible), but I don't see any problem with the development, so I will vote yes.

President Mosby: As I stated earlier, I think this is, the drainage part of it has to be addressed at the Drainage Board. I was out there today, and I looked around the surrounding neighborhood, and I would most definitely rather see residential go in here than any type of commercial that we might start with, and looking at that I will vote yes. Being two yes's and one no, VC-12-2000 is hereby declared a docket.

Commissioner Mourdock: Since this is your first meeting, the way we need to sign this is the two of you do sign it and then I will not sign it since I did not move for it, which is just normal rule.

President Mosby: Okay.

Commissioner Mourdock: Seeing no other business before us, I will move for adjournment.

Commissioner Fanello: Second.

President Mosby: Hold on. I have a motion and a second. So ordered.

The meeting was adjourned at 8:30.

Those in attendance:

David Mosby
Philip Hayes
Jerry Atkinson
Kenneth Myers
David Taylor
Leanne Scholz

Catherine Fanello
Jane Laib
Beverly Behme
Patricia Freeman
Rich Krocker
Other Unidentified

Richard Mourdock
Madelyn Grayson
Tom Haas
Bill Nicholson
Jeff Bowlin

Vanderburgh County
Board of Commissioners

David W. Mosby, President

Catherine Fanello, Vice President

Richard E. Mourdock, Member

Recorded by Jane Laib and transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Meeting
April 16, 2001**

The Rezoning meeting was called to order at 7:32 p.m.

President Mosby: Our attorney is out of the room. We will go ahead and call to order the Rezoning meeting of the Board of Commissioners for Vanderburgh County, April 19th, 2001.

Approval of Minutes

President Mosby: First order of business, approval of minutes of the previous meeting.

Commissioner Fanello: I will move approval.

Commissioner Mourdock: Second.

President Mosby: I have a motion and a second. So ordered.

First Readings

President Mosby: First readings, we have none. Which brings us to third and final readings.

Commissioner Mourdock: For the sake of convenience, for all in the room, or, perhaps, for the petitioner, Jeannie Johnson, I would move that we take what is listed as item number five and make it item number two, so that the other, I think, the longer part of this meeting will be items two through four, so if we move item five up it might expedite things slightly.

President Mosby: I have a motion to move item E up under item A.

Commissioner Fanello: Second.

President Mosby: And a second. So ordered. Third and final readings. Oh, okay, I am used to saying third from the city, we do second and third.

Final Readings

President Mosby: Final readings, VC-5-2001, petitioner, Steve Wilcox, address 2200 S. Greenriver Road, request R-1 to C-4. Second will be VC-1-2001, petitioner, Jeannie Johnson, address 5115 Millersburg Road, request Agricultural to C-4, Section 4. B will be VC-4-2001, petitioner, Three I Properties LLC, address 12700 Old State Road, request Ag to C-4 with use and development commitment, C will be VC-3-2001, petitioner, Three I Properties LLC, address 601 East Boonville-New Harmony Road, request Ag to C-4 with use and development commitment, D, VC-2-2001, petitioner, Three I Properties LLC, address 600 East Boonville-New Harmony Road, request Ag and R-1 to C-4 with use and development.

Barbara Cunningham: Steve Wilcox is going from Ag to C-4, and that said R-1 to C-4, so you might want to correct that because he is going Agricultural to C-4. The other petitioner, Jeannie Johnson, is also going, I think, those were mixed

up, and she is also, she is going from Ag to C-4 with a use and development commitment, okay?

President Mosby: Okay.

Barbara Cunningham: The rest of them are going (inaudible).

Commissioner Mourdock: Okay, so state again the clarification–

President Mosby: B will–

Commissioner Mourdock: VC-5-2001, which is Steve Wilcop on South Greenriver Road, should be Ag to C-4?

President Mosby: Ag to C-4.

Barbara Cunningham: Uh-huh.

Commissioner Mourdock: Okay.

President Mosby: It's Wilcox, not Wilcop. There was a typo on here. Then E is Ag to C-4 with use and development. So first, we will have Steve Wilcox.

VC-5-2001 Steve Wilcox-Final Reading

President Mosby: Oh, I'm sorry, that's right, we have to swear in.

Commissioner Mourdock: Before you do that, as we start the procedures here, we realize that there are many petitioners here tonight, or a few petitioners, many remonstrators here tonight, and we do ask that when you come to the microphone, state your name and address for the record. If you wish to speak, you must come to the microphone. All of our minutes are kept on tape, so we need everything said verbatim, and also if you have someone walk to the microphone and they say exactly what you intended to say, it is not necessary for you to walk up there and repeat it all over again for us. We can pick up on that stuff, so try and be concise and to the point. Thank You.

Barbara Cunningham: Steve Wilcox is requesting a change in zoning from Ag to C-4 for the property located at 2200 South Greenriver Road. This .29 acre site, 73' X 8' X 171' is located on the east side of Greenriver Road between Pollack and Earl Avenue. It is a mid-block plot on South Greenriver Road and the submitted site plan indicates that the proposed 24' curb cut on to Greenriver Road. Approval of the access will be determined by site review upon submission of file plans for the development of the site. County Engineer, John Stoll, states, due to the dimension of this lot, large trucks will not be able to access this site. This may restrict the types of delivery trucks that use this site, and delivery trucks will not be allowed to stop and unload on Greenriver Road or to back to or from Greenriver Road. It is a request to C-4 for the stated proposed construction of a new motorcycle sales and service business on the vacant lot. If approved, adequate quality site design should be incorporated and, I think, Mr. Wilcox has been working on that since the last Area Plan Commission meeting. I hope he has, that is what the board asked him to do, is to work with the neighbors to see if they could come up with an agreeable solution. The year 2015 conceptual land use map and the comp plan designates a contained

area of commercial development at the Pollack Avenue-Greenriver Road intersection. The South Greenriver Road plan of 1992 also raised the possibility of increased commercial development on both Pollack and Greenriver Road as a result of interchange and road widening. The site is adjacent to the shopping center at the southeast corner of the intersection. In recent years there have been a number of commercial zonings of property fronting on Greenriver Road between Pollack and the interchange. South of this proposed C-4 site is a structure rezoned as CO-1 in 1994 for a daycare facility. This is a proposed change in zoning to C-4, which although inconsistent with the overall plan for the area for the comprehensive plan, is consistent with the adjacent zoning and use within the same block frontage on Greenriver Road. If the lot is approved for commercial development, screenings and setbacks must be provided and maintained for protection of the adjacent residential development to the east. Any commercial use adjacent to residential should incorporate quality site design and adequate buffers.

President Mosby: Mr. Wilcox. Do we need to swear?

Commissioner Mourdock: Yes.

President Mosby: The—

Barbara Cunningham: Well, usually that's what we do, and they usually swear me in too. It is up to you.

President Mosby: Yeah, I just prefer to do it all at once.

Barbara Cunningham: That's fine. I will swear in with Mr. Wilcox then.

Commissioner Mourdock: All those who will be testifying on this matter do you swear to tell the truth, the whole truth and nothing but the truth?

Barbara Cunningham: I do.

Steve Wilcox: I do.

Commissioner Mourdock: Okay.

Steve Wilcox: Hi, I am Steve Wilcox. I am planning... I had a meeting with the Caring Friends Daycare, they are the ones that really pose concern with the noise and different things about what is going on there. We met last week at a meeting at Caring Friends Daycare, and we were talking about moving the building over a little further and making it a little smaller building than what is actually shown in the drawing. So we are going to cut the square footage down some. I just want to give them a little more side yard there too, so they can open their fence to get in and out. (Inaudible) their privacy fence up with (inaudible) to make sure that it buffers the sounds and to keep the noise. The actual garage entrance will face the opposite direction, it faces towards the video store, or between the building there. The noise definitely won't be on their side. Anybody pulling back in will be on the opposite side of the building. That would keep the noise down, and other concerns that they had were part of the flooding and stuff, and that's...they've got a drainage ditch there, but that is something that we're going to have to see on the development part of it. As long as we can make the ground low enough, so that the drainage will work, that would be good, and not flood their property out.

Commissioner Mourdock: Mr. Wilcox, you said that you were going to put up a shrubbery as a fence—

Steve Wilcox: Well, we are going to put up a fence also with some shrubbery up.

Commissioner Mourdock: Okay, it is two things?

Steve Wilcox: Yes.

Commissioner Mourdock: Okay.

Steve Wilcox: To help absorb some of the noise, keep the noise down from people pulling in and out.

President Mosby: Any other questions?

Steve Wilcox: There are not going to be any other doors or windows on the other side towards the daycare too, just to make sure that there is no way for the kids to get in that side, or anything like that.

Barbara Cunningham: Mr. President, one thing that we did want to adequately get on record is that since this is a narrow frontage lot, it will be difficult if the use changes, the motorcycle use will not cause, you know, as many large delivery trucks to come, but if it should change at a later date, what we want on the record is saying there shall be no backing in of large delivery trucks off of Greenriver Road.

Commissioner Mourdock: As was mentioned at the APC meeting, the only types of delivery trucks that you see, Mr. Wilcox, are UPS size type trucks. Understand Barbara's dilemma, that this zoning goes with you if you sell it, it is still whatever it is. For the record, there will be no backing up of trucks into this property.

President Mosby: Any other comments or questions? Any remonstrators wanting to speak?

Pat Fark: I'm Pat Fark, I am a resident at 2224 A Ponderosa Place in Evansville, but I represent the board of directors from Caring Friends Inc., which does business as Caring Friends Daycare Ministries at 2216 South Greenriver Road. We did have a meeting, as Mr. Wilcox mentioned. One of our concerns is knowing that the motorcycle shop may not always be there, or it may not, for some reason, be built. So our concern is, if the zoning is changed that some of the things can be put in place that whomever would develop that property would provide adequate green area and protection for anyone in the neighborhood. Because as it was mentioned, it is only required on the east side, where there is a residence, it doesn't say anything about on the south side. The other thing is the drainage, because of Greenriver Road being extremely high and the storm sewer that is on that property is higher than the level of the ground on both pieces of property there that they are looking at and our property, so with that, there is just really a concern as to whomever develops that, that it is done properly so that the run off does not end up flooding the area, whether it be our playground or under our buildings. Since our last meeting before you also, I found out that the neighbor to the east has a well that is very close to the property line, and since we don't use our well any longer, we had forgotten about the other areas having wells. That is another concern as far as any run off, whether it be chemicals or whatever, you know, there could be contaminants from that because of the well water that they are using. I don't have anything else to add.

Commissioner Mourdock: Ms. Fark? Ms. Fark, does the flooding problem you

mentioned, or the potential, is that something that is occurring now? With the elevation of Greenriver? Is that a problem?

Pat Fark: It's not as much now, because we have graded our property, where the playground area is to keep that water running away, which was a great expense of ours after Greenriver was developed. That property there at 2200 is lower, considerably lower, than the street, and it is also lower than where the storm sewer outlet, or inlet, is placed, because it is on the grassy part on the east side of the sidewalk. The one that I am referring to is not on the street itself.

Commissioner Mourdock: Okay.

President Mosby: Any other questions or comments? Did you want a couple of minutes to rebut anything that she might have said?

Steve Wilcox: As far as chemicals and stuff like that and the run off, most all of our chemicals will be stored in containers, and we do have a pick up that picks up the chemicals and hauls off anything that would be any kind of a waste, so that nothing would be dumped in the drains or anything like that. Nothing sits outside as far as a chemical (inaudible). There is a company here in town to haul the chemicals off periodically when you fill up your tank. I don't think that it will really be much of a drainage problem as far as the wells and stuff and having to worry about them.

Commissioner Mourdock: You realize, that before you file for your building permit, that you have to have your drainage plan, your grading plan, and all of that submitted, and it all has to be approved?

President Mosby: Any other comments or questions? The chair will entertain a motion.

Commissioner Mourdock: I appreciate the fact, I know that sitting through APC that there were a number of questions that were brought up and the fact that the two of you did get together and talk about this, it sounds like Mr. Wilcox has been somewhat accommodating in reducing the size of the building and also rearranging the building and committing to doing the fence and the shrubbery. As Mrs. Cunningham put on the record, obviously, the truck restriction is something that is going to be there, so with the realization, too, that the drainage issue is something that has got to be done, or handled properly before the building permit can be done, I will move approval of VC-5-2000 from Ag to C-4.

Commissioner Fanello: I will second.

Vote on VC-5-2001

President Mosby: I have a motion and a second. Roll call. Commissioner Mourdock.

Commissioner Mourdock: Yes.

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby. Aye. Three ayes and no nays, VC-5-2001 is hereby approved.

VC-1-2001 Jeannie Johnson-Final Reading

President Mosby: Next VC-1-2001, petitioner, Jenny Johnson.

Sam Byers: My name is—

Barbara Cunningham: Jeannie Johnson is requesting a change in zoning for a property located at 5115 Millersburg Road. Ms. Johnson, and maybe Mr. Johnson, is requesting that two acres of her eight acre site on the south side of Millersburg just east of Greenriver Road, be rezoned from Ag to C-4 with a use and development commitment that limits the use of the site to a plant and shrub nursery. A nursery is a permitted use in an existing agricultural district, and the C-4 classification is required if there is to be sales of related items not grown or raised on this site. At the Area Plan Commission the Johnson's did tell us that they plan to bring in some things on the site for sale, and they also plan to , I think you said, approximately 1.9 acres for the C-4 commercial classification and the rest they plan to build the nursery stock on. It indicates, Mr. Johnson indicates, all utilities are available to the site except sewers. The site is served by a septic system, and we did discuss at Area Plan Commission that a commercial septic system can be an expensive proposition, and the Johnsons will have to get a commercial septic unless, the state says what they need, they will have to get that from the state, and that will have to be done before a permit is issued. Millersburg is a narrow rural residential street, if approved for commercial use, the access must be installed for site review recommendations to commercial standards, and access and parking must be paved with a hardened sealed surface. Due to the absence of sewers and the existing agricultural land in the area, the comprehensive plan did designate this area to remain agricultural with scattered residential uses. However, a plant nursery is considered more of an agricultural, if any use is to be done, a plant nursery would be considered more agricultural uses. Surrounding the area is completely agricultural and residential, and adjacent to this proposed C-4 is a proposed site for a church, and that petition is, for the church, is scheduled to be heard by the Board of Zoning Appeals at their meeting on April 19, 2001. We talked again that the agricultural classification is considered a residential district and that it permits single family development of the same size and intensity as the R-1 zoning classification. We also spoke of quality site design and buffering must be utilized if the commercial development is to occur in or adjacent to any residential.

Commissioner Mourdock: Then again, all of those wishing to testify on this particular zoning please raise your hand. Do you swear that the testimony that you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

Sam Byers: Yes. My name is Sam Byers, I am Jeannie Johnson's husband. I guess the only comments I have would be basically the same ones I made at APC, that Millersburg Road is posted for heavy trucks to be used. She had mentioned that where it is a narrow, residential street, but it's, after speaking with Mr. Stoll at the Engineering Department, it is designated for big trucks.

Commissioner Mourdock: The one issue, Mr. Byers, that came up at APC also was regarding the placement of off site signs. In other words, signs or billboards that might be used to advertise some business other than your business, and, if I recall, you committed not to have those signs in place, is that correct?

Sam Byers: I must have misunderstood you. I thought that I couldn't have a sign.

Barbara Cunningham: That's right, he can't have a sign. (Inaudible)

Commissioner Mourdock: Okay. That's even broader than I was hoping for.

Sam Byers: Is that because it is something to do with the type of zoning that I've requested?

Barbara Cunningham: No.

Sam Byers: Or is this something that has been done away with—

Barbara Cunningham: It's the type of zoning that you want to put the sign in is closest to the residential area.

Sam Byers: So the existing signs were like the surface of the grandfather—

Barbara Cunningham: That goes back about 40 or 50 years, or 30 years, something like that.

Sam Byers: Very good.

President Mosby: Any questions or comments?

Commissioner Mourdock: Do you want to see if anybody else was here to speak to—

President Mosby: Is anybody else here who would like to speak to the petition on Millersburg Road (inaudible)?

Commissioner Fanello: I will move approval.

Commissioner Mourdock: I'll second.

Vote on VC-1-2001

President Mosby: I have a motion and a second. Commissioner Mourdock.

Commissioner Mourdock: Yes.

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, aye. There being three ayes and no nays, this document is advised to be adopted.

Sam Byers: Thank you very much.

VC-4-2001 and VC-2-2001 Three I Properties LLC- Final Reading

President Mosby: VC-4-2001, petitioner Three I Properties LLC, 12700 Old State Road.

Commissioner Mourdock: Before we start on them, there are actually three different petitions here, is there a recommendation, Barbara, as to how we deal with these?

Barbara Cunningham: How we did it, if this is agreeable to the Commissioners, what

we did in Plan Commission is we just talked about all three at one time, we had three separate votes, because they all three are adjacent to each other and I think that it would be easier, so many of them have the same use and development commitment and that kind of thing, so it might be easier to discuss all three. What we did, I think, was do the top, the north two, the north of Boonville-New Harmony, those two together, and then we did the south.

President Mosby: 600 and 601 together?

Barbara Cunningham: 15 and 17 together. Yeah, 600 Boonville and then 12700 Old State together, those are both on the north side. If you will show them on the map, show where those are.

President Mosby: I know where they are at.

Barbara Cunningham: Oh, okay, but it is up to you. Is that how you want to do it, Mr. Mosby?

President Mosby: Well, I don't know, because there is a property between 600 and 12700 that you are not rezoning.

Les Shively: That is correct, but we will note in the record here, the way that we have entered into the agreement for acquisition of that property, although it is not part of the request this evening.

President Mosby: I understand.

Commissioner Mourdock: Okay, but, again, to clarify, just point to the three if you would, Les. VC-4-2001 at 12700 Old State, which one is that?

Les Shively: VC-2?--

Commissioner Mourdock: 12700 Old State?

Les Shively: There is three, there is two, and one would be down in here.

Commissioner Mourdock: But three two and one isn't helping me to identify which one is--

Barbara Cunningham: I can do it.

Les Shively: Two--

Commissioner Mourdock: Okay, that 2001--

Barbara Cunningham: Two and four are north of--

Commissioner Mourdock: VC-4-2001--

Barbara Cunningham: Two and four are north and three is that one in the green.

Commissioner Mourdock: Two and four are north and three is south. Two and four are north.

Commissioner Fanello: Three is south.

Barbara Cunningham: Three is the green area there.

President Mosby: Yeah, this one and this one, and they are not rezoning where the white is, and then okay that is the corner of Old State and Boonville-New Harmony, okay. However you want to do it.

Barbara Cunningham: If that's okay, let's do two and do the north side two first, two and four. All three petitions that we are looking at include similar use and development commitments, and all three are expansions of recently rezoned C-4 zoned undeveloped properties all on the east side of Highway 41 north. In December of the year 2000, C-4 zoning was approved for an approximately eight acre site at the north west corner of Highway 41 and Boonville-New Harmony Road, which is designated in yellow on the map right now, and a two acre site at the south west corner, which is also designated in yellow at the bottom. Applicants are proposing to add 1.8 acres to the two acre site on the south, making an area of 3.8 available for commercial development. They are also proposing to add eight acres to the eight acre site on the north side of Boonville-New Harmony, extending the C-4 development all the way to Old State Road. Applicants are also proposing to rezone the one acre, which is kind of an orangey color there on the map, the one acre site is at the north west corner of Old State and Boonville-New Harmony, the C-4 for commercial development. If these two rezonings on the north side of Boonville-New Harmony are approved, the result will be a 17 plus acre site available for commercial development. If all three rezoning petitions are approved, there will remain one single residence on Boonville-New Harmony Road completely surrounded by C-4 commercial development, and that is the area, Mr. Mosby, that you were talking about that is in the white, it's that location, because the issues pertaining to the north side of Boonville-New Harmony vary somewhat from those of the properties on the south side of Boonville-New Harmony. The comments regarding the three proposed rezoning petitions on your agenda are, as we said, split into two separate discussions, and we are considering the north side first. The two petitions for rezoning on the north side of Boonville-New Harmony will require separate votes. As we had said, on the north side, these proposed rezonings with the eight acres rezoned in December of the year 2000, will extend commercial development from Highway 41 all the way to Old State Road. Highway 41 is a primary arterial controlled access thoroughfare, leaving the only access available to this site from the Boonville-New Harmony and/or Old State Road. The entrance to this development should be as far to the east from Highway 41 as possible. This (inaudible) intersection at times experiences heavy traffic congestion, especially during special events at the nearby 4-H Center, and will experience increased traffic as the commercial project to the west develops across Highway 41. That property was rezoned to the west along Highway 41, that property was rezoned a few years ago, and it's the site, it's adjacent, it's on the same side as the 4-H Center over there, and it is the site now of the new Buehler's that's going in at that corner between the 4-H Center and the railroad, between the railroad track and Highway 41. If this development is to have access on to Old State Road, a residential local road, improvements on this road could be needed to address the traffic impact. The comprehensive plan calls for the road improvements needed to accommodate development traffic to be constructed with the development. According to the comprehensive plan, it is essential for development proposals along major arterials to be accompanied with commitments to construct the infrastructure improvements necessary to accommodate site generated traffic. The use and development commitment that you have in your packet, included as part of this petition, commits to a traffic impact study and implementation of all requirements are recommendations of that study. County Engineer, John Stoll, states that, the use

and development commitment satisfactorily addresses the traffic impact of this development since it requires the developer to prepare a traffic impact study, and to implement the recommendations of the study. When the property adjacent to the west of this site was rezoned to C-4 by the County Commissioners in the year 2000, the rezoning petition was consistent with the comprehensive plan which identified the north west corner of Boonville-New Harmony and Highway 41 intersection for commercial use. These two proposed rezoning requests seek to expand that commercial area eastward to Old State Road. The comprehensive plan designates the area along Old State Road as residential, confining the commercial designation to the Highway 41 corridor. Surrounding is a rural, agricultural, residential area with the undeveloped C-4 property to the west. Quality site design could lessen impact on surrounding residents and farm operation. The use and development commitment, which is included as part of this rezoning petition, prohibits billboards and some commercial recreational service and storage uses and addresses lighting, buffering and road improvements. This use and development commitment is substantially the same as the one submitted for the adjacent eight acre site, which was rezoned in the year 2000. December of 2000.

Commissioner Mourdock: Just to clarify something, Barbara, I think that you misspoke. You said that when the County Commission acted previously in rezoning commercial on the north west corner of Boonville-New Harmony and 41, it is actually the north east.

Barbara Cunningham: North east.

Commissioner Mourdock: That on the north west is still—

Barbara Cunningham: Is church.

Commissioner Mourdock: Right, yeah.

Barbara Cunningham: There is a church across the way. There is a church at that location.

Commissioner Mourdock: All those who wish to testify for or against this rezoning please raise your right hand. Do you solemnly swear to tell the truth, the whole truth in your testimony, so help you God?

Les Shively: I do, sir.

Commissioner Mourdock: Okay.

Les Shively: Mr. President and members of the Board of Commissioners, my name is Les Shively, representing Three I LLC. The principals of Three I are John Habermel, Gene Hahn and Dave Remmert. Two of the principals are here this evening, Mr. Hahn and Mr. Habermel are here this evening, along with Jim Farney, he is our engineer of Bernardin Lochmueller and Associates. The principals of this group, with the exception of Mr. Habermel was not involved in this particular project, are the same ones that did the west side development with the O'Charley's, the cinema plex, Home Depot, the Old National Bank new branch is located. I think, that Mr. Mosby was involved, his role on City Council is probably very familiar with that project, as well as Mr. Mourdock with parts that were within the county. That project has worked very well, it has, in fact, been a model for development for this community. Let me start for a moment and address the comments regarding the 41

corridor area. The area which we see rezoned, would also include the area that had been rezoned in December of 2000, extends from U.S. 41 to Old State Road. We are not going any further than Old State Road which would be west of that right-of-way. Mr. Farney prepared this exhibit, and the reason I think that it is significant is that it allows us to see from a practical standpoint when we talk about the 41 north corridor, what we are talking about. In pink is the area that Mrs. Cunningham referred to, the area that was rezoned about a year and a half ago. That is where the Buehler's Buy Low is being presently constructed. From Highway 41 to the railroad tracks that separate the 4-H property from this property is about 750'. From 41 to Old State Road is approximately 915'. So what we are talking about when we are talking about a corridor, with 41 being the center of the corridor, we are at a comparable depth, if you will, as to what has already been zoned and developed on the west side. Moreover, where the railroad forms the natural end, if you will, demarkation line of where that corridor ends, likewise, so does Old State Road. The fact that Old State Road has formed that demarkation line to the east, as evidenced by the fact that if you go a little further north you have the Busler's, I know that Old State Road kind of tapers and is a little narrower up here, but Busler's is there between Old State Road and 41, as well as, further to the south where we have what used to be the old Grumpy Pal Motel, it is now, I guess, a foreign car repair facility and in to the side along with a 100' plus cellular tower. So what we're doing here is consistent with what has been defined years and years ago as this 41 corridor area for commercial on the east side. Again, it is comparable with what has already been established on the west side. The use and development commitment that we are utilizing here with the exception of the legal descriptions, is identical to a use and development commitment presented in conjunction with a rezoning request that was approved for the initial stage of this project last year. Just let me highlight some of the important parts of this use and development commitment. First of all, it, and I counted again, Mr. Mourdock, just to make sure I am correct, it prohibits 39 uses under the C-4 classification which includes billboards. We have also made it clear that this will prohibit truck stop type facilities, or facilities that any way service large 18 wheeler type vehicles. In fact, what we, our plan for this property, the clients plan for this property is to the north a large box type retail facility, preferably a retail grocery facility, a bank branch and a sit down restaurant facility. It has always been Three I's intention, in order to develop this area, it was always their intention to utilize all 17 acres for this development. What they did in December was just the beginning, and it's important to really look at this particular map that Bernardin Lochmueller prepared to get an idea of why the 17 acres are necessary. First of all, we want to have more than just minimum off street parking. We want to maximize off street parking for obvious marketing reasons, desirability for tenants, but also so that all of our traffic is self contained on the property. Also, there are drainage issues that must be addressed. I am going to come back to the use and development commitment in a moment, but we are showing here the retention or the existing lake to be used as a retention basin for drainage. Also, I would note that the use and development commitment, that anything that we do with an understanding of whether we subdivide or what have you, before we can pull any permits, including improvement location permits, we will have to go to the County Drainage Board, which is you all, and seek your approval for our drainage plan. Between the April 4th meeting and this evening, we were able to acquire this property in white which is owned by Mr. and Mrs. Broerman. The acquisition of that property is contingent, by the way, on the approval of this rezoning request, will allow us now to have land on Boonville-New Harmony Road on the north side, all the way from 41 to Old State Road, and that will allow us to improve that right-of-way, which as the staff field report notes, it needs improvement today, whether this is ever rezoned or developed. Because of the uses of the 4-H Center and other development going on in that particular area, this will compliment and mirror what the developers on the west side have already done, and undertake presently with regard to the

improvements of Boonville-New Harmony Road on the west side of 41. Also, what this allows us to do, and as you recall the staff field report, the incorporation of comments of the County Highway Engineer, and EUTS, saying it's important to move this entrance off of Boonville-New Harmony Road and into the property as far east as possible. It allows us to do that. Mr. Farney, how many feet back from the intersection would this set? This additional piece of property? 600' would (inaudible) the standards and requirements proposed by the County Engineer and the Evansville Urban Transportation Study. We have no plans to go to the north. We have no plans to go any further east. The property to the east has been part, which was acquired in two sections by the Rescue Mission, one parcel in 1921, I think, the other parcel in 1937, is owned by the Rescue Mission. It is part of the Camp Reveal properties. We have no intention of doing anything with that property that is owned by the Rescue Mission which I assume has been part of their ministry for 40 or 50 years, and will continue to be a part of their ministry for 40 or 50 years. To give you an idea of where this property sits, as you are looking from Ridgeview, in close proximity to Ridgeview Heights Subdivision. The reason I am targeting Ridgeview Heights Subdivision, many of the people you will hear from this evening that express concerns about this rezoning that were present at the Plan Commission, live in this particular subdivision. If you look in that direction, and these are the homes right here on the bottom, are the home closest, the homes in Ridgeview Heights that are closest to the subject property. The first thing that is closest in proximity is the lake which we show on our plan, which will remain. The closest building will actually be way over here, so you have a substantial distance from the nearest property in Ridgeview Subdivision to any improvements in the area that we are seeking rezoning. As I made it clear a moment ago, this lake as depicted in the photograph will remain and will be a visual buffer, as well as the trees that are presently there that are on the east side of Boonville-New Harmony Road, which we have no control over and we can only assume that, excuse me, I mean Old State Road. Yes, ma'am.

Commissioner Fanello: I have bad eyes, so, I am going to ask you to bring that closer.

Commissioner Mourdock: Do you mean on the west side of Old State? The trees that are—

Les Shively: The trees that are on the east side—

Commissioner Mourdock: On the Rescue Mission property?

Les Shively: We have no—

Commissioner Mourdock: Okay, I just wanted to be sure that is what you were saying.

Les Shively: —I just want to be clear on that. Here is a view of one of the properties... Mr. Habermel, one of the principals, lives in Ridgeview. He lives next door to one of the folks who was present at the Area Plan Commission meeting of April 4th that remonstrated. Here is a view from his back yard looking toward the subject property. Here is another view, a more panoramic view. Again, looking in the same direction. As we stand close to this point right here, stand approximately right here looking towards Ridgeview Subdivision, here is a view, here is another view from approximately the same angle, except looking a little farther towards the east. This photograph, again, is across from this point right here and standing on the east

side of Old State Road looking towards the area where Ridgeview Subdivision is. As you can see, all you can see is trees, you cannot see any of the homes. None of that will, in fact, change because that's not property we control. That is property that is controlled by the owners of the property of lots in Ridgeview or the Rescue Mission. Let me go through the use and development commitment just briefly. In addition to the 39 uses prohibited in the billboards and truck stops, we are also making it a requirement that before we can pull any permits, improvement location permits, that we have to complete a traffic impact study for the entire area. Not just what we are rezoning this evening, that would include what we had rezoned before, the whole 17 acres. That impact study will have to be completed and presented and reviewed by the appropriate governmental officials before we go to site review. In addition, we have made provisions for cut off lighting. In other words, so that all the lighting will not bleed over to the adjacent properties. The lighting provisions are set forth in the use and development commitment. All drainage, as I indicated before, our drainage plans will have to be approved by the County Drainage Board before we pull any permits. We will create a buffer of 15' around those areas of our property that are still adjacent to properties zoned residential. We have committed to all of that in a use and development commitment, and as Mrs. Cunningham has said, it is all enforceable with the exception of the aesthetic, the subjective language. The fact that we leave a drain, and we provide the buffer as we say, that objective criteria is something that becomes enforceable as part of the use and development commitment. As we did in December of last year, by the way, that process actually started in September, meeting with neighbors, we, again, with this particular proposal met, started meeting with the neighbors, we sent out about 18 letters to about 18 land owners, we had a meeting with them on March 7, 2001, we showed them the maps you are seeing here this evening, we showed them the use and development commitment, we asked for their input, we sent them follow up letters for information they had requested, and also requested from them additional information. The land owners most directly affected by this project have been or will be acquired. Those are the properties that run along Boonville-New Harmony Road and properties back in this area here. Going back to the definition of the 41 corridor, that is why we think it is logical and makes sense to define that as extending to the west line of Old State Road, because, the way we are developing this project, there won't be any residential properties left here that will be next to a commercial development. We've made provisions to acquire all of that, so that no land owner is sitting right up next door to a commercial development. We think this is good planning, and, moreover, I know I have mentioned this before, but I want to emphasize this again, it will come back again when we talk of the south side of Boonville-New Harmony Road, but this area, for example, right up here, the only reason we are rezoning this is because this lake becomes a retention pond used for the development we are rezoning. There will never be a building there. That lake as you see it will remain in place and will hide from any one who lives to the north east. They will see the same view, the same lake as they have before. When this project is completed, here is what Vanderburgh County will have, the investment in the development of this property and land acquisition will be approximately \$5.4 million, and that is before any buildings. If we are fortunate, and we believe we will be successful, to establish a restaurant, a bank branch facility, a grocery store facility, we anticipate those building improvements to be approximately \$8.5 million. So you are looking at here close to a \$14 million project and investment in the tax base of Vanderburgh County. We believe this is consistent with the comprehensive plan. It will allow needed improvements, that are needed right now, to Boonville-New Harmony Road to occur. It will provide for an orderly development of this property, and if you look, and I know that many of you have served on the Plan Commission before, but the last four or five years if you look at all of the subdivisions that have come into place, where have they occurred? The northern part of the county. The number of subdivisions is in high double digits. The people are moving north.

People want to have banks, they want to have grocery stores, they want to have restaurants in close proximity to where they live. This particular project meets that demand without any negative impact on any surrounding property owner, while at the same time providing necessary infrastructure improvements that the county needs now and increases the county tax base. It is a good project, and we ask for your thoughtful consideration. I will be more than happy to answer any questions you have. Also with me, as I said before, Mr. Farney of Bernardin Lochmueller Associates.

Commissioner Mourdock: Les, would you clarify, there was some discussion at the APC meeting about traffic coming out on to Old State Road—

Les Shively: Yes, sir.

Commissioner Mourdock: —What is the current status of that? Obviously, your plan shows that, is that your intention?

Les Shively: If we don't have to do that, by virtue of our traffic impact study we talked about at the Plan Commission, if that is not a requirement placed on us by the traffic impact study, and ultimately by EUTS, then that particular access point would be eliminated. Our impact study is not done now, and, as you recall, the question Mr. Hatfield asked of me, he says, your clients willingness to drop that is dependent upon what site review imposes upon you. So where... and Hahn's in a dilemma, we've made our project subject to an impact study because we don't want to exasperate the traffic situation. We want to improve it and do it right. That study is not done, but I know there are some neighbors that may have some concerns about ingress and egress and Old State Road, and if the impact study and the EUTS folks and John Stoll says that we can live with that, then we are certainly going to try to do it. One way to make sure that the neighbors have input on that issue, which is not fully developed yet, because we don't have our impact study, we would commit here this evening, that when we have that study, and do go to site review for approval of our ingress and egress points that we would give notice to those folks here this evening that designate that they do want to receive notice so that they can play a role at that site review committee meeting, to give their input, either pro or con about an access point on Old State Road. It would be inappropriate for me to say, absolutely, no, no way, because—

Commissioner Mourdock: You could be mandated to do it.

Les Shively: —could be mandated to do it. I don't want to make a representation that later I have to come back and say, gee, I didn't want to mislead you, I want to be up front, and so the public...not the public so much, but the folks that are out there on Old State Road have input. When we have that study done and we submit it and are ready to have our access approved, we will give notice to them so that they can come to that meeting and voice what concerns they may have about an access point on Old State Road.

Commissioner Mourdock: Is it your clients preference to have it?

Les Shively: Our clients preference is to have a project that works. I mean, I don't think that we are going to go out there and lobby for this, but, you know, if, in fact, the impact study says that it is necessary for the appropriate flow of traffic, for safety reasons, and EUTS picks up on that and requires that, I mean, we want a quality project. If you look at the west side, substantial amounts of acreage were committed

to frontage road, I think unprecedented amounts of land were committed to frontage roads to make that work. Obviously, Mr. Hahn and his partners would have much rather sold that land as lots, but they put in that frontage road system mainly because it was required of them to have a safe and workable transportation system based upon the traffic impact studies that were done out there. The requirements not only of EUTS, but if you recall in that situation, Mr. Mourdock, we also had to please the Indiana Department of Transportation.

Commissioner Mourdock: Right, and in the prior zoning, the one that is at the extreme southwest corner, I'm sorry, well it's at the southwest corner of what you have got here, where it says Lot 2, you've got a building—

Les Shively: Yes, sir.

Commissioner Mourdock: —right there. Granted that is already zoned, that is not here this evening.

Les Shively: Yes, yes, you are correct.

Commissioner Mourdock: Right, what is your plan for that, building wise?

Les Shively: I think that is Lot 2, down to your right in the corner, the northeast corner of, is that the bank or the restaurant?

John Habermel: I am John Habermel, 13200 Woodland Lane. That could be the bank, or it could be, we've had some interest from a sit down restaurant for that location.

Commissioner Mourdock: Okay, my point was that you had said earlier, Mr. Shively, that was not going to be a truck stop type thing, so, that is not a truck stop down there in what was previously zoned?

Les Shively: That's right.

Commissioner Mourdock: Is that true of Lot 5 as well, the one on the south side?

Les Shively: That's right. These are the same use and development commitments we made in the year 2000. We've appropriated that type of use for this property here, here, and now we've applied for all of this property here in the green and the orange.

Commissioner Mourdock: Okay.

President Mosby: Any other questions? If not, we have some remonstrators that want to speak, and I will start with Steve Bohleber, attorney. Do we have a list of people that want to speak?

Commissioner Mourdock: There was a clip board being passed around. I saw people signing it. Where did the clip board get to?

Madelyn Grayson: I've got that here.

Commissioner Mourdock: Just to clarify for us, Mr. Bohleber, do you mind if we identify whomever you are representing here in the audience?

President Mosby: Isn't it the neighbors?

Madelyn Grayson: This is just attendance.

Steve Bohleber: My name is Steve Bohleber, I represent many of the residents of an area commonly know as Ridgeview Heights. I don't pretend to represent everyone. About a week ago, I was retained by a dozen or so people to speak on their behalf.

President Mosby: Steve, can I interrupt you for a minute? I've got a list of everybody, I guess, that is in the room.

Steve Bohleber: They were asked to sign in by someone.

President Mosby: I need something passed around, just sign it if you want to speak.

Steve Bohleber: I think the instructions were for everyone to sign in, and that is what occurred.

President Mosby: If you want to speak, the pad coming around, just sign it.

Steve Bohleber: Of those individuals that I have spoken with, we've tried to confine the comments on behalf of the neighborhood to myself and two spokespersons for the neighbors, Jo Wilson and Ron Grover. There are a lot of other people here this evening, some of whom I have not had the pleasure of speaking to, but all of whom, I think, or many of whom are opposed to this. If you are here to remonstrate against this rezoning, would you stand, and if you are standing, would you raise your hand and wave? Or do both. My clients have grave concerns about the proposed rezoning, and the resulting commercial development of the 17 acres of property that is, basically, undeveloped green space, at this time, and residences. My part of the presentation this evening is going to be bifurcated or maybe trifurcated, I guess. I am here to introduce Jo Wilson and Ron Grover. They are going to address some of the issues that they addressed eloquently at the Plan Commission meeting. Then I would like to follow them with some observations concerning their comments in a broader sense, and I would like to speak to you about a very specific problem that is being faced by land regulators and zoning boards throughout the country, and has become the fodder of everything from Presidential campaigns down to the very lowest element of government. That's the concept known as urban sprawl. My client's spokespersons are going to speak out on a very personal basis, but what they are talking about, the concerns they have, can in the professional vernacular be described as sprawl. It can't be ignored. Anytime a governing body, such as yourself, is asked to create satellite areas of commercial, or even residential, development, far from the centers of established communities, there is an issue of sprawl. It has created tremendous problems around our country that we are just starting to address. I would like to talk in terms of what sprawl means and how it applies to this project. Before doing that, I would like to introduce Mrs. Wilson first, she has some prepared comments to make on behalf of herself and many of her neighbors, and then Mr. Grover. Then, if the chair would so permit, after they complete their presentations, I would like to return to the podium to speak in a broader sense about the issues they will be discussing with you, and then, perhaps, some other folks would want to speak as well. If I may defer to that procedure, I would turn the podium over to Jo Wilson at this time.

Jo Wilson: Vanderburgh County Commissioners, I am Jo Wilson of 13250 Woodland

Lane. You have seen our petition from the neighbors in this area, not just Ridgeview Heights, but across the lake, which is really adjacent to the proposed area that they are seeking to rezone. I have a map here, now I know that Mr. Mourdock has seen it at the Area Plan Commission, I wonder if the rest of you have seen it? An aerial map of a triangle out there in the county that shows the big wooded area? If you have not seen that, I would like to show it to you. The part that is marked here with an orange marker like this around here, is the area I am speaking of now. I am speaking of the area bounded by Old State Road, Browning Road, and Boonville-New Harmony Road. I have colored this area in with sort of cross bars pink to show you where the Three I Developers proposed to have this rezoned, and made into a commercial area. This along the highway, as you know, this darker part has already been rezoned, a little strip, here, but what I want to show you by means of this map, is to show you that this is a unique area. That it's a large wooded tract, and as I explained to the Area Plan Commissioners these little fuzzy things in here are the trees. As I say, this is a copy of an aerial photograph of this area. The parts that say HEL mean Highly Erodible Land, I had to ask that, so, I will tell you that. I want you to note that this is an immense wooded area for these days. The woman at the Soil Conservation Office said that to me, she said you don't see many wooded tracts like that still left today. Our subdivision is here, and you notice that the other subdivisions and houses around here are still at the perimeter, still at the perimeter of this unique wooded tract. It's a habitat for all kinds of animals; deer, raccoon, and it has an amazing variety of trees, of old timber still left there. I'm just trying to show you that this is a unique place. This unique place now is going to have, if the Three I Developers get there wish, is going to have a commercial shopping center across the road from where it begins. I think that is something to think about. I've lived in Scott Township since 1936. I lived on Browning Road as a girl, and now, as I told you, I live in Ridgeview Heights. When we were kids, we went to the part of that big woods that I have shown you on that aerial photograph, to pick wild flowers, to see the animals, and to gather leaves when we were studying that in school. The proposed rezoning would introduce urban sprawl next to the heart of this unique wooded tract. This tract and places around it should be preserved for the future as habitat. As far as it goes destroying the beauty of our neighborhood, I would like to introduce some pictures. Now all of these photographs were taken last Friday from the back and front yards of my friend and neighbor across the road, by the big lake that abuts up to the area that they want to rezone. What I've done, well (inaudible), I suppose. What?

President Mosby: We are taping this.

Jo Wilson: Oh, that's right, you did tell us that. Okay, on these pictures, I've put a purple line at Mrs. Joyce Hewitt's property line. She lives on the other side of Old State Road from me. This first picture shows the corner of her swimming pool, and her back yard, and the purple property line, then, in the middle of the picture shows you that beyond that and to the top of the picture, practically to the top of the picture, would be this area that they want to rezone commercial, put a shopping center with a lot of concrete and dumpsters and so on. I have other pictures of her backyard, and, I think, they are self explanatory. On the back I tell you something about the view, but to begin with, I am telling you that these first ones are her backyard, and then this one with Mrs. Hewitt's chair and table sitting out there is marked for her property line, and this would be her view now. I have several others and, again, the purple line shows her property line, and beyond that, as I say, to the top of the picture, in most cases, except where marked differently, this would be where a commercial concreted area with lots of traffic and ugly stuff would be. Now, if you look at these pictures and think about what she would see, and, incidentally, you

know, her view would encompass concreted area and parking lots and so on. I would like to contradict an earlier speaker for the petitioners for rezoning, she will not have the same view as she had before if this is allowed to happen. She will not. Mrs. Hewitt is not here tonight because she has a sore leg and could hardly walk up the steps out front, but she as well as her neighbors to the north of her on that big lake where she lives signed the petition. They all signed the petition except one man who was on an extended vacation and could not be reached for it, and two people are here from that tonight, the Blythe's, Jim and Mable Blythe are here from that row of houses. In our petition we have told you, and the remonstrators have told the Area Plan Commission of urban sprawl. This proposed rezoning of a commercial area up into an established residential neighborhood is a classic example of a wedge leading to destruction of rural neighborhood. It is like a wedge in the door to perpetuate urban sprawl. To go onto another idea, and to remind you and any other listeners, our neighborhood, and, I will repeat, this is not really part of the Highway 41 corridor. Old State Road is a residential area, and it is a rural area, and it is not part of the Highway 41 corridor. Even tonight we heard Mrs. Cunningham read about the previous rezoning adjacent to this area, and on, this would be on Boonville-New Harmony and the highway and it would be to the west of some part of it now, and Boonville-New Harmony that is to be rezoned. We have heard Mrs. Cunningham read that, and you know this, that the area west of the proposed rezoning, that is on Highway 41, was rezoned in 2000 by you, the County Commissioners, and that that was consistent with the comprehensive plan, you heard her read, that was consistent with the comprehensive plan, which identified the northeast corner of Boonville-New Harmony Road and Highway 41 for commercial use. She read further, both tonight and the other night when we were at the other public hearing, it said further, however, that the newly proposed rezoning asks for, again here tonight by Three I group, seeks to expand the area eastward to Old State Road. However, the transcript of the earlier meeting continued, and she repeated again tonight, the comprehensive plan designates the area along Old State Road as residential, confining the commercial designation to Highway 41. The Highway 41 corridor. I know that you know that, but maybe I will just paraphrase it and say it again for other people. When you zoned the strip on the highway, at Boonville-New Harmony and Highway 41, north from Boonville-New Harmony, that was in compliance and it was consistent with the comprehensive plan, but, again, to repeat rezoning up into a residential area, a rural area is not and was not part of the comprehensive plan. We have been told by counsel that petitioners who want to rezone residential and agricultural areas into commercial rezoning, if they want to change the use to commercial use that they have the burden of proving that such rezoning is overall good for Vanderburgh County. The Three I petitioners have failed to prove that. They cannot claim need for another new shopping center in this area, when, as you know, one is already under construction diagonally across Highway 41 north, and we've heard about that tonight, where Buehler's Buy Low is being built and they tell us is almost ready to go, and so on. It will have a bank, we hear, besides a grocery, and we hear talk of a restaurant across the highway there in the part that is already rezoned. We didn't even want or really need that shopping center. We know it will make it's own impact as it opens on the intersection of Highway 41 and Boonville-New Harmony Road. It's close to the highway, and it's close to a railroad track. In light of this, there is certainly no need, certainly no need, for a second shopping center diagonally across from it. The petitioners claim that the growing new neighborhoods north of the area sought for rezoning need commercial development, but those new neighborhoods, and we and Vanderburgh County do not need them at this dangerous intersection. Scott school is farther northeast on Old State Road, you go northeast on Old State Road and you come very soon to Scott school. Many school busses run from this school, come along

Old State Road, turn right across the highway at Boonville-New Harmony, and, of course, that is when the deliver the kids home. When they bring them in the morning, reverse that route, but do note that it will cross Highway 41 at this intersection that we are talking about as being quite dangerous. Old State Road traffic will increase, we know that, if this commercial development takes place. That will be because people as they come out of this shopping center will want to go to their homes to the north and the east, and they will use Old State Road, so we know that it will become worse as far as traffic is concerned. Old State Road, we hear tonight, that the developers want the entrance on Old State Road. This is a really bad idea, and would make our Old State Road doubly dangerous from what it is now. I spoke to Jane Bartley, who is the principal at Scott Elementary School. She had not heard of this proposed rezoning, and she was quite concerned. She was concerned about the safety of her school children as they would have to come along Old State Road and as a good number of them would have to cross school busses at Highway 41 and Boonville-New Harmony. We repeat this intersection is already congested and dangerous. There are three crosses there to signify fatal deaths that are not even weathered yet, and then just slightly north of that, in the median close to that little Champlain station, is another rather new cross signifying a fatal accident. I also spoke to the President of the Scott Township, excuse me the Scott Elementary School PTA, Mr. Devine, and he likewise was concerned about the safety of Scott school kids as they would travel on Old State Road and, or across Highway 41 at this dangerous intersection. I say again, if this commercial rezoning is allowed, it will only get worse at that intersection at the highway.

President Mosby: Any questions by any member of the Commission?

Jo Wilson: I'm not quite finished, if I may have—

President Mosby: Oh, okay.

Jo Wilson: —a little more time. We can't stress enough the danger of this intersection already at the highway and Boonville-New Harmony Road, and we know the new shopping center will make it more dangerous and, the one that is already being built, and if this new one is allowed, it will become truly horrendous, and if we allow this we will be setting ourselves up for a truly dangerous highway crossing with Interstate truck traffic coming at the speed trucks drive. I forgot to mention that Sharon Holland spoke at the Area Plan Commission on some rezoning related to this across Boonville-New Harmony Road to the south, and she expressed a concern about the school children on the busses too. In our petition and in our testimony before the Area Plan Commission we told about how dangerous traffic gets at this intersection when the Frog Follies is out there. You people, I suppose, if you have been in Evansville awhile know something about the Frog Follies. We see it first hand, and we know how congested traffic is there already, and when the Vanderburgh County Fair occurs. Even now, when these things are going on traffic backs up both from north and south, creating a very dangerous situation. The petitioners for this rezoning can't really claim a need for this new commercial development, but we can claim, and others can claim, a certainty of an increase in congestion and danger. I would like to tell you that developers have a motivation that is different overall from the motivation that you as elected county officials have. Such county officials as you are have the overall good of Vanderburgh County to consider, and it's, you need to consider the citizens and their safety. On the other hand, commercial developers have as their overall desire to build and expand commercial areas, that is pretty much the sum of it. They naturally try to gain new areas because that's their business, that's the reason they exist. Well, we have

other concerns, and I would like to remind you that a large number of people signed the petition opposing this rezoning, and so we ask you to deny this rezoning. We ask you on all of the grounds that we have presented so far, and will present. You have our petition, and if you detect emotion in our petition, or in anything that we say tonight, know that it is emotion that is fueled by reason, by experience of the past, and by observation. We've seen that commercial rezoning in an area begets more commercial rezoning, and we know that developers promises not to cross a certain road, not to go past a certain lake, or the edge of a certain wood, we know those promises are not binding. We know that from past observation that two shopping centers at an already dangerous intersection, especially one with so much Interstate truck traffic is a bad idea. It's bad zoning. We know from our reason, also, that life in the vicinity of Highway 41, Boonville-New Harmony Road, Old State Road, Ridgeview Heights, Scott school, will become worse. Life there, and the quality of life, and the safety of life will all become worse if this zoning, rezoning is granted. So, we respectfully, we respectfully, but fervently asks you to deny the Three I's petition to rezone in this particular area. Thank you.

President Mosby: Thank you.

Ronald Grover: My name is Ronald Grover, I live at 13225 Woodland Lane. I guess that I would like to start with asking a question, perhaps one of you can answer. From looking at the governments master plan of Highway 41, you have planned for and expect a lot of growth, all the way up to Highway 64. In spite of the building of I-164, 41 is still the busiest northwest corridor through Evansville, and with planned growth, will continue to be. Yet, I see no plans for overpasses or exchanges to meet the growing need. If you allow all of the major intersections to be built up commercially, I can assume, or can I assume, that you feel that it can never be in this area's best interest to make such improvements on Highway 41? Also in looking at the projected use of the Highway 41 corridor, I see no plans for green space. Though I was born and lived here, I moved away and lived in other large urban areas, Denver, Houston, Charlotte, that did not adequately consider the quality of life as they grew. Now they are trying to salvage and even buy back areas to provide adequate green space to improve the quality of life, so residents have a place off of the streets to jog, walk their dogs, or enjoy a little island of nature in the midst of urban sprawl. The historic site of Saunderville, one of the largest naturally wooded areas left in Vanderburgh County, are adjacent to this proposed rezoning. It seems only natural to be left green. It has been the rule more than the exception in this county that commercial rezoning begets commercial rezoning, and not just along the main arteries, but spider webbing back along the side streets. First Avenue, Franklin Street, Greenriver Road, Red Bank Road area, Morgan Avenue, just to mention a few. All of this speaks nothing of the concerns that are in the newspapers and other public forums of a dwindling downtown area, and an ever growing number of large commercial sites and industrial sites that sit vacant. As we allow new commercial industrial building, we leave graveyards of unwanted, unused areas behind. Is this really progress? With all of the rezoning of commercial and industrial properties, another point to consider is the alarming number of ozone alerts that we experience for a mid-size city. The very high cancer rates here that are associated with that pollution. The developers may argue that they propose a clean use of this property, but when they are no longer involved in the property, who watches it then? Beyond our concerns for Highway 41, some 150 yards or so east, is the intersection of Boonville-New Harmony Road and Old State Road, where our more immediate concerns lie. First, the conditions of these two roads is of a nature that is not conducive to the kind of improvements necessary to carry the increased traffic and trucks that a growing commercial development would bring. They are very winding

roads, with 6' to 8' drainage ditches to come off each side within inches of the road. It is very hard to pass on this road already, on either of these roads already. Secondly, Golden Hills Court adjacent to this rezoned property, and Ridgeview Heights only access is from Old State Road, just a very short distance from the proposed rezoning, and many driveways and other neighborhood accesses are also in the immediate area. Many elderly people live in these neighborhoods, and many school children too. These two groups of people have the most difficulty in dealing with traffic, and they make up a preponderance of the residents in this area. There are already several hundred acres already zoned C-2 and C-4 available along 41. The main question here, is this good rezoning? To me an easy way to answer that question can be found in asking, is it really necessary rezoning? Do we really need more commercial land along this area? Once the rezoning is done, it's a done deal, it goes with the land. Is there a shortage of commercial land available? The answer to both of those questions is a resounding no. My opposition may argue that with industries such as Toyota, which is by the way some 25 miles north of the proposed rezoning, and the rezoning area is some eight or nine miles north of Evansville, is a natural progression of population follows industry, and that services follow population. Makes little sense to me, especially since Toyota has been there for several years now, and the last year 2000 census shows a loss of population in Vanderburgh County, to such an extent that we may lose a Congressional Representative here. Furthermore, this proposed rezoning pushes right into an old established neighborhood, tearing down some very nice homes. Of those moving out into the new developments who want service, let them back them up to their neighborhoods, this is an old neighborhood here. This neighborhood is part of a settlement that dates back as far as Evansville does. A number of residents have lived here in there present homes for over 45 years. We've been more than happy to travel that few miles back into Evansville for the services we need. We moved out here to get out of the urban sprawl, not to bring it with us. Our neighboring property, Camp Reveal, has always been thought of as a place where Christians can come out to the country for a quiet retreat, and the 4-H Center, a place with an agricultural flavor. Will it remain so appealing to our farmers if they find themselves having to tote their livestock, farm machinery and such into the middle of the city to show? What of the Frog Follies? If we create a highly congested commercial zone here, can you imagine the Follies being held on Greenriver Road? They might look elsewhere for a more desirable place to hold this event that brings so much prosperity into the county the way it is now. They might say, well, if we have to deal with this congestion, we might as well be in St. Louis or Nashville. This is not about owners being allowed to use the property they already have, these houses are only under contract pending this rezoning. We did not oppose Three I's property rezoning of the frontage on 41, thinking it would just be confined to that, but now they want to not just butt up against our neighborhood, but to tear into it, to tear down homes. I mean, let's not mince words here, this is about money, not about devaluing residential properties, but about developers making a few bucks by gobbling up irreplaceable resources and encroaching on quiet neighborhoods and adding to an unsafe environment. Do we learn from our mistakes, from the mistakes of other cities, or do we repeat them here? Can we see, can we be seen as a better community that is a step ahead? We don't have one or two concerns here, we have a number of them. I hope each of you got my letter, my personal letter, and read it. It discusses other concerns that we have that are not mentioned here. Yes, perhaps some of these concerns we have may not pan out, but what if some of them do? Even if all of our concerns end up being unfounded, that we have these concerns should send you a signal that perhaps these issues need to be reviewed just a little bit deeper before such an important decision is made. You as our elected officials, it is your job to look out for the best interest of the county as a whole, not just at the

present time, but for our children and generations to come. Rezoning is permanent, it is attached to the land, and we have ample commercial property already zoned. We have issues of safety and quality of life. What more do we need to answer the question, is this good rezoning? No. Thank you. Any questions?

President Mosby: Thank you very much. I would ask that you please bring up new information as you come to the mike.

Commissioner Mourdock: Before we start we need to change tapes.

(Tape Change)

Steve Bohleber: Thank you, I am Steve Bohleber. I forwarded a letter to each member of the Commission dated April 12th that articulated many of the concerns that Mrs. Wilson and Mr. Grover have indicated to you this evening, but in a different way, because, I think, the pain that you hear in their voices, the concern that they express is not nibbiism as we call it, not in my backyard. It is not fear of the unknown, but it is something that the nation is feeling as we press our communities farther and farther from their center. This is a concept I referred to in my opening comments know as urban sprawl. In that April 12th letter, I sent to you there are seven problems created by sprawl that have been identified by land use planners, and are being looked at in political campaigns around the country. I guess, the first thing we have to do is to determine whether or not this request constitutes definitionally urban sprawl? The material I provided to you defined the problem as;
“Dispersed development outside of compact urban and village centers,
along highways in a rural countryside.”

This development is nine miles from downtown Evansville, a mile and a half from the commercial intersection in the town of Darmstadt, and along one of the busiest and one of the most dangerous arterial highways in our county. It's also located in a rural countryside. So, it meets all the definitions of sprawl. Will it treat the problems, will it treat those seven articulated problems? We will just talk about those, and, again, I apologize for being so lengthy. These are in no particular order, they are simply as they were presented in the handout of the materials that I mailed to you. Sprawl causes a psychological loss of sense of place. It has been identified in communities around the country. It turns a landscape that was considered special, as these people look at their homes, into one that reflects, as someone said, the geography of nowhere. Sprawl destroys the urban character and rural character of areas by creating patterns of new development that are indistinguishable and undifferentiated, and seemingly without purpose. Activities that once took place in the center of cities and towns are segregators, the periphery of densely populated areas. So, is this loss of sense of place present in Evansville? Will it be accelerated by this process? We need to look no further than this morning's Evansville Courier & Press to see expressions of loss of sense of place and what people are doing to try and regain it. On the front page, nice story about someone that I think that all of you know, Bernadine Jones, the founder of the Jacobsville Neighborhood Association. She said that she helped create that association and foster the many others that have come up in our community because she was losing her sense of place. She doesn't say it that way, she calls it her neighborhood. She says that people have moved out, businesses have moved out, the neighborhood changed in a detrimental fashion. She is talking about that loss of sense of place that we are noticing throughout the country by issues involving sprawl. These associations have been given a lot of political power and attention by elected officials. The City Council a few years ago even allowed certain neighborhood groups to register and become

political forces and be required to received notice of zoning changes. Again, these associations are trying to protect and restore and keep the things that they grew up with. Another headline in this morning's paper also talks about sprawl in a different area, because it talks about downtown, and the devastation that downtown Evansville has sustained as we move things further and further away from downtown. Big article, "Input is on downtown plans", committee wants to hear suggestions and comments from the public. Even a picture of our current Mayor inviting people to come to restore Evansville's downtown, it's a ghost town. Why? The place has been lost, the center of town is gone, people have moved to the periphery, they have moved to Greenriver Road, they have moved to Red Bank Road, now we are asking them to move their commerce, their business, their activities nine miles north, perhaps, to this 17 acre site. Business have left, people have left, this community has tried for the past couple of decades to try and rejuvenate downtown. This body spent \$30 million to renovate a convention center. Both city and county government had to pitch in to keep the hotel adjacent from that convention center from closing for good. Why? Like everything else, the hotels have moved to the periphery. They are part of the sprawl. So what are we doing? We are spending \$30 to \$40 million for a convention center, we are spending \$17 to \$20 million for the Victory. We are spending all kind of taxpayer money to try to put back our center of city, we are spending money to keep a hotel downtown. We are feeling this sense of loss of space, loss of place, disintegration of our core city because everyone wants to move out. Sprawl also results in land consumption and threats to farm land. I am not going to go into great detail here, but is land consumption an issue here? Yes, what are we going to have, asphalt replacing top soil on that 17 acres. Formerly undeveloped green space land is going to become pavement to accommodate disjointed and largely unknown commercial activities. Green space will be lost forever. The land will be consumed by this activity. What is this going to cost local government? Sprawl creates cost. We've seen the cost it has created for our infrastructure downtown, I have already mentioned that. Urban sprawl is a proven burden on local government, because it forces limited resources to be allocated to the creation of new infrastructure out in the sprawl areas, rather than maintaining existing infrastructure. It encourages populations to move out of older established communities. The tax base of those old communities is diminished, requiring reduction in service to the remaining population. Ironically many state and local government policies actually end up subsidizing sprawl because they've got to try and take care of everybody. Will there be cost to local government if we do this, if you rezone this property? Will you end up subsidizing this area? The petitioner rightfully says, as it has been encouraged by Mrs. Cunningham and the land use planners here, that they are going to do an impact study here before proceeding. That impact study, I presume, is going to look at infrastructure needs, but probably only immediate infrastructure needs. We can't, they can't predict the future, other than saying that if this commercial development is successful, we do know that the traffic will increase, pollution will increase, waste production will increase at that site. If it is successful, others will want to join them in that prosperity and rezone an adjacent property. All of this is going to put additional burdens on infrastructure and it is going to grow incrementally. I seriously doubt that any developer is going to give a guarantee to local government to take care of infrastructure of commercial development forever. Ultimately, even if the immediate concerns are taken care of by this development, if this is successful, it will require government to upgrade the infrastructure again, and again, and again. Ultimately, if this is a successful operation, government will likely be required to increase and widen Old State Road, Boonville-New Harmony far beyond this site. They will have to increase sewer and water capacity, deal with the pollution that comes along with increased automobile traffic, and deal with the safety issues. This is all going to take money. The tax base

is going to shift further from the city to the county, and the taxpayers are going to end up subsidizing this development. Another thing about sprawl, it creates dependence on automobiles. No question that is going to happen. You can't walk up to this development. We have also been very concerned about our sprawling communities and the social impacts they have on our poor inner cities. Sprawl has a devastating impact on the poor and racial minorities which are often concentrated in inner city neighborhoods. Not only does it lead to dispersal of job opportunities, but it absorbs large amounts of government spending on new infrastructure which might otherwise be used to deal with inner city problems. A few years ago, the former Mayor's Riverboat Committee, and Mr. Mourdock served on that as did I, identified that the neediest areas in terms of economic need in our community were the fourth and sixth wards in the city. I suspect that remains pretty much the same today. The fourth and sixth wards are not going to benefit by commercialization nine, twelve miles away at Boonville-New Harmony Road and 41. The job opportunities that they create are going to be nine and twelve miles away. There will be negative social impacts here like there is everywhere else that experiences this. There are health and environmental impacts that go without saying. The sprawl pattern development leads not only to loss of wild life habitat, but increased hazards to public safety. Wetlands, forests, natural resources are put at risk by increased land consumption for roads and development. Light pollution increases. Not only does it become an annoyance to the neighbors, but it also just cuts down the aesthetic beauty of the outer areas of our society to take a look at stars and celestial objects. Yes, this impacts us in many ways. It meets all of the criteria of urban sprawl. In summary, this proposed development creates problems. Unknown problems, but yet problems that we have experienced to the east and to the west already. As we know, development along Greenriver Road, along Burkhardt Road has not been easy. It has cost government a lot. Development to the west side has not been seamless, lots of complaints have occurred, lots of problems have arisen that we have had to deal with as a community. It seems that in this particular case that many agencies of government seem content to wait for the petitioners impact study, and I compliment them for doing an impact study, but to me it doesn't seem logical nor does it to the neighbors to approve this rezoning before the impact study is completed and analyzed by the Plan Commission, INDOT, water and sewer utilities, EPA, DNR, City Engineer, County Engineer, County Surveyor, the Building Commissioner, the School Corporation, and a host of other government regulators on which the development will impact. Another concern is, suppose this impact study comes up with a price tag that exceeds the developers ability or willingness to pay, and we have already rezoned the property. We then open this to significant development by future individuals other than these gentleman who do have a record in Evansville. This appears to be, quite frankly, folks, a case of urban sprawl. It also appears to be a classic case of putting the cart before the horse in terms of analyzing this development's impact on not only this intersection, but also on our community. I ask you to consider all of those things as many folks around the country are considering them as a community problem, not a community opportunity. Before you approve this rezoning, please consider these neighbors, please consider the implications of this action. I thank you very much. It has been long evening. I do want to incorporate any comments from the previous Plan Commission meeting into the record here this evening, and I will answer any questions that you might have as do my clients. Thank you again for your attention.

President Mosby: Questions?

Commissioner Mourdock: Just one question for the record, Steve. Madelyn asked me, the letter that you sent, I do not have my copy, since you sent it to my house.

Do you have a copy of that here?

Steve Bohleber: I do, and I will make that a part of the record.

Commissioner Mourdock: Thank you.

President Mosby: Any other questions? Gene Koch.

Gene Koch: My name is Gene Koch, I live at 1821 West Boonville-New Harmony Road, about two miles west of the petitioners property, and I make an average of about three trips a day through the intersection of Boonville-New Harmony Road and Highway 41. Thanks to Barbara's APC report and Jo's presentation, I can be very brief here. My concern is specifically one of safety. As you are aware from the maps, there is a railroad track that runs about a tenth of a mile to the west of and running parallel to Highway 41. This track, to the best of my knowledge, carries between 40 and 50 trains per day, and that number is to increase significantly in the future. It is not uncommon to have westbound traffic on Boonville-New Harmony Road backed up near 41, waiting for a train to pass. On occasion, there won't be room, and traffic may not clear 41 and then traffic will be stuck out in the intersection. I have been caught in that situation myself. It is scary. This happens now, primarily, when there is an event at the 4-H center, which is most weekends. However, when Buehler's Supermarket opens on the southwest corner of this intersection, this situation will become much more prevalent. Now the problem, at least once every three to four days, which is every ten to 12 trips that I make through that intersection, I witness a semi truck coming south on 41, running the red light, not just the red light, but the green light on Boonville-New Harmony Road. As you know there is a delay there of perhaps three seconds between the changing of red to the changing of green for the opposite, in the opposite direction. This is a common situation. This occurs most frequently in the southbound lane, the one closest to the tracks, and this lane is downhill at a grade that I would guess to be approximately 3% to 4%, making it much more difficult for heavy and speeding trucks to stop. With such a tenuous safety situation already imminent, then more westbound traffic is put on through this intersection, we are creating a very significant and deadly safety hazard. No traffic impact study or egress on the other side is going to help that. As long as there is additional westbound traffic going through that intersection, this problem will be amplified. That is the only thing that I have to add. Thank you.

President Mosby: Thank you. Mike, I can't really read the last name. Looks good to me. It's the only Mike I have on here.

Mike Sutherby: Hi, I am Mike Sutherby, I live at 13300 Woodland Lane. Thanks for letting me talk here. My concern too is for the safety of that intersection of Old State Road running north and south. If you have ever driven on that road, you would maybe remember that it runs, running north and south it is flat, crossing Boonville-New Harmony, in other words, you could see north and south, in the direction north and south, but you cannot see east and west. When you look towards the east, towards Boonville-New Harmony, it is just a big dip, and it goes for about a half a mile or so. On the left, they said it was a 900' or so direction to 41, and that's even more severe. That is why they cannot get any access for their businesses there, because it is too steep. In the winter, whenever it freezes, the safety factor is really severe, because cars cannot come up to Boonville-New Harmony without sliding, so they have to encroach on Old State. That puts a real... they impede the traffic. I was stopped by the State Police there, because I have to go through that intersection every day, and he said why did you get through that traffic? It is a habit

here because it is an unsafe hill, you can't get through there. If you stop and wait for another car to come up... because the habit of the cars there is to come up and to get through there as quick as possible, because when the two cars come up, they can't see each other. The only flat area is Old State Road. They have a real severe problem with that intersection. The only access they do have is to come out on Old State, and that is encroaching on all of the residential areas that we do have in that area. The other thing that I wanted to mention too, is that we do have a little bit of visible light, and he did mention that we will have controlled lighting in that parking lot. They have controlled lighting over too at the 4-H grounds, and that is one thing that we have to consider, but we will have more than a controlled lighting problem. It is controlled lighting, yes, they have to have lighting on to keep their parking lot safe, but what we will have, is the same thing that we have in this room, we have indirect lighting, and when indirect lighting hits the sky, I don't have to get up at night and turn on any lights where I live in the Ridgeview Estates area at all, or any of the residents in that area, because the whole area will be lit up. Our backyard's will be lit up, it will not be a private backyard anymore. My home will be lit up because of that. That is something that I don't really look forward to having. My biggest concern, though, is the safety of that intersection. When you have gulleys on both sides of Old State Road, you do not have a safe situation. You put all of the traffic, and all of the people that are north of Boonville-New Harmony on Old State that are coming down there, and the Ridgeview Estate's area... I am the only one who has a driveway out of my back property on Old State. The reason that I put it there is because when I come out on the main road of Ridgeview Estates, it's a blind corner and no one can make, can get out there and try to drive down that. I have four teenagers, two of them are driving, the other two will be driving in the next couple of years. They try to go out my driveway, because I have now 100 yards, or so, before I... that blind section, but the cars that are coming around that corner are going 40-50 or sometimes faster, if they are a little younger. It is a real hard corner to even get out of our neighborhood, and now we have much, much more traffic because of not being a residential area. Even in a residential situation, we have to be very, very concerned about driving on Old State, even right now, and yet to increase that traffic even more, with the times that we do... bus traffic is going to severely cause us a problem. So I hope that you consider that very much, I thank you for letting me talk.

President Mosby: Thank You. Brad Menke.

Brad Menke: I'm Brad Menke at 13131 Woodland Lane. I wanted to not repeat anything that has been repeated, but one of the things that I wanted to mention is that those two lakes are in a watershed, so that when water goes from one to the other, when it rains, the water is collected there. It goes from one lake to the other lake. Yet if that second lake is retention, then that is going to be extra water. The water has flooded several times out of that second lake into the area behind it. It is almost impossible for them to be able to calculate on a ten year or even a 100 year flood plan and be able to take care of that water in that area without having an extra pond. Of course, the study is going to be done, but I can't imagine approving it until that study is done, if you are so inclined to go ahead and approve. Thank you.

President Mosby: Inaudible.

Commissioner Mourdock: The other one meaning the one south—

Kenny Bromm: South, yes, I'm Kenny Bromm, I live at 12506 Old State Road. I'm on the south end of it, I've got better than five and a half acres, I go from Old State to 41. The drainage is going to be a big problem. I brought it up at the last meeting,

there is a little ditch down there that cuts through my corner comes all the way down, it does good, until you get a good rain. It runs under 41. You've got a culvert down there that, when the state put in 41, it's about 3' by 4'. You get a good rain, that ditch goes from now where you could jump over it, it just has a little water running constantly. I've seen water go 15' to 20', because you can't get through. You blacktop all of what they are saying, it won't get in my house, but I guarantee you, it's going to be crossing Boonville-New Harmony. They say they are going to be putting a retaining pond in, and they got the other lake up there, like they say, that lake is full, one drains out of the other, they are full. If they were empty, I'd say yes, it would take it, it would hold it, but they are not going to pump out each of these retaining ponds each time, because once they get full, they are not going to hold that much water, and you are going to have a problem that is going to come back up through there. Again, they got on the corner, I don't know, I asked him if there is going to be a gas station there on that south side. I'm on well, I don't know if digging that retaining pond is going to get in my water vane or not. First impact, pretty well, that ground is on that side of the ditch. When they brought this other property, the house they are going to tear down where they got the retaining pond in, it gets a little bit closer to me. I don't know about that, I don't want a gas station there where it can pollute my, you know, get into my water system. The flooding is something else. If they do pass it, I would like to have a 6' or 8' fence put up to hold the trash back, because the state put one up along there and you cannot believe all of the paper and trash it saves me. Because there is a gob of it out there, and I know that if they put some business in there it's gonna, the wind blows, and it's gonna come over on me, and I don't need it, I don't want it. I pick up enough along Old State where the people throw out. The traffic along Old State, I've got a dog, I walk it, in the morning and at night. These people are not lying about the traffic. I live a couple hundred yards from Boonville and Old State, to the south. I have seen cars hit my house, turn out their lights, put their foot in the carburetor and go through that intersection. Either one way or the other. I am waiting for one of these nights two of them to meet going different directions. They are doing 60 or 70 when they go through there. A lot of them in the summer time. You have heard of hill jumping? They come off of Boonville going west, and Greg's got a big sycamore, I think, the other year somebody nailed it. I don't know how many has been in his ditch down there. These kids get out there and they jump that hill. If they are not jumping it, they are running it. Either one way or the other, they turn out their lights and they go through that intersection. Like I say, you can just hear their foot in the carburetor. It's dangerous. I've got to watch myself, some of them will give you room and cross over to the other lane, others won't. If they light that corner up down there, eventually, somebody thinks they're gonna see and they are gonna be two of them meet there. I know it's not their problem, but, you know, the Sheriff is out there all the time, but, eventually, so far, lucky nobody has wrecked there. They do go through there at night, especially at night. The only thing I say is the drainage is definitely going to be a problem, I don't care, it ain't gonna affect my house, but it may affect the road up there. I don't know if it's the state or the county that has to enlarge that or do whatever they want to do, but it's, you are gonna have a problem. Just like the Lloyd, and you know what you got on it when you get a good rain. It only lets so much water under that road. Other than that, I have nothing, you know, to say. I thank you for your time.

President Mosby: Thank you. Les, you want (inaudible)

Les Shively: I want to remind the Commissioners that many of these same comments by the landowners were made at the Plan Commission meeting of April 4th, and the vote on the rezonings that were considered in three separate votes were

all in favor by the Plan Commission. All in favor, eight, nine and ten. Many years ago, the road we call Old State Road was the state road. It was a precursor to what became two lane 41. Two lane 41 became four lane 41. In the early 70's the City of Evansville extended sewer and water all the way up 41 to what is now the intersection of Highway 41 and I-164. This is not urban sprawl. If it is, if we have created a situation, then we should have thought about that when we approved 20 or 30 subdivisions in the north part of Vanderburgh County over the last five years. Creating a situation that by the year 2004 there are going to be 5000 home sites in northern Vanderburgh County, and contrary to the comments by the one commentator, the City of Evansville population may have decreased, but Vanderburgh County increased. With the exception of the last gentleman who spoke, who is concerned with the south side, and the gentleman who lives two miles from this intersection, everyone of the speakers that you heard this evening lives in the Woodland, on Woodland Lane which is in Ridgeview Heights Subdivision. Ridgeview Heights Subdivision is way in the corner here, way in the corner. The closest home is 200 yards to the closest point of this property. As I indicated to you before, the closest point, which is where the existing lake is, will remain a lake. Now, Mrs. Wilson talked about Mrs. Hewitt, Mrs. Hewitt, first of all, along the northern line, where Mrs. Hewitt's property is located, will be the 15' buffer, and Mrs. Hewitt's property is already adjacent to the property that has already been zoned C-4, and voiced no objection there. Her property is already adjacent to what is C-4, and apparently she did not remonstrate there, found a 15' buffer to be adequate. Her property is the closest one and it is by virtue of a rezoning that was completed in 2000. Dangerous intersection, mention of fatalities, I need not remind you all of the fatalities that have occurred at that intersection, many of them several years ago, were back in the time when we were debating whether to have a controlled signal. Remember those days, the debates with the state, whether there should be a light there or not? We now have a light, and we now have by virtue of the development on the west side of 41, improvements to Boonville-New Harmony Road that aren't just going to be for the benefit of Buehler's Buy Low, but for the benefit of the 4-H center, and I could speak with authority about that, I am on the Board of Directors of the 4-H center. When the developers came to us about their plan, we sat down with them, we listened to their plan for improvements, we know that at least every weekend there is something going on at the 4-H center. It brings people from all over the tri-state. This overall improves the situation, and we have that natural dividing point of the railroad tracks between our property. If you look at the marketing map that we were showing you before, let me show you the analogy and the similarities between the west and the east side of 41. On the west side, you have this area which has the natural border that cuts off the commercial, separates the property, commercial development from the 4-H center being the railroad track. The 4-H center then provides further buffers to the residential properties further to the west. Likewise, Old State Road coupled with a long established use by the Camp Reveal and the Rescue Mission, which by the way are not here tonight remonstrating, similarly provides the protection, the buffer, the end of commercial east of Old State Road. Comments were made about Scott school. Scott school, ladies and gentleman, is a good two miles from here, and we have a member of the school corporation, who by law, sits on the Area Plan Commission. He voted for this rezoning. Ladies and gentleman, I know that we are talking about money, and everyone wants to talk about how greedy and nasty and horrible developers are, and if you listen to the remonstrators here, and Mr. Bohleber, the developer has to give a cure for cancer, stop pollution and solve the problems for downtown Evansville before their petition should be considered. The reality of this situation is, Scott school, as much of our school system, is in need of upgrading of it's infrastructure. Scott school is outgrowing the, it's at the seams, in fact, talking to a school

corporation representative, they are going to have to start using their auditorium for classes. They have no room to put the children that have impacted that school as a result of the residential development in that area. How do we fund improvements to schools? Property tax base. This development of \$14 million is going to go a long way to allowing the school corporation to provide good, safe schools. That same tax base, along with the multi million dollar commitment that this developer is going to make for improvements to Boonville-New Harmony Road, and, if necessary, Old State Road, will also go a long way to meeting the infrastructure needs. We talked about pollution, we talked about all the things associated with automobiles, it is Mr. Shetler, President of the Board of Public Works, who sits on the Plan Commission who noted at the April 4th Plan Commission meeting. You have these people who live out here in these subdivisions, services naturally follow residential development. What we experienced in the 60's with the growth on the east side. Things move from the downtown, the commercial. First it was Lawndale, Washington Square, then came Eastland Mall. The commercial development follows the residential development. The people who live out in the Mc Cutchanville, north part of Vanderburgh County want to be able to shop and bank and go out to restaurants in their neighborhood, just like the folks on the west side desire to do so, which was the impetus for that most successful and quality development that exists out there today. Comments were made about 6' drainage ditches that are existing out there, I don't know what these folks are talking about. Comments were made with regard to the adequacy of the existing lake, I know, we are not here tonight to talk about drainage, Mr. Farney is here, he would be more than happy to explain to you preliminarily how the existing lake will work, how the capacities will work. I would also note, in addition, to rezoning this property so that we could use it as a retention lake, the rezoning down here on the south side, the sole purpose of this rezoning, is to implement this retaining facility here. So that the overall development works, so it does not impact any existing drainage problems and, in fact, in the long run when done correctly, the drainage plan is approved by your Drainage Board, will improve drainage in this particular area. Mr. Bohleber makes a point that let's do all these impact studies before we zone the property. Zoning is a land use decision, based upon your comprehensive plan. This project is consistent with that comprehensive plan, as we have demonstrated, moreover, a traffic impact study is a prerequisite to pulling any permits. We have purchased this property, that is my client has purchased this property, they take the risk, and the law is well established that just rezoning property, doesn't give you the right to develop it. That is why we have the improvement location approval process, and as we have volunteered here this evening, when that impact study is done, and we are prepared to go to site review to pull that improvement location permit to start this project, we will give notice to those landowners, wishing to have notice, to have input on the decisions and how the ingress and egress, the traffic flow works. We want to balance the concern of the neighbors, but by the same token, there is one thing that my clients are committed to, doing this project right, doing it with accepted engineering and traffic study standards, and doing it in a manner that not only doesn't create any burdens for you as the Commissioners to have to deal with later, but it enhances your ability to meet, not only the needs for this particular area, but overall for the community. Look at this overall project, this is a 17 acre project, look how much area is devoted to green. It is not paving this whole thing as Mr. Bohleber suggested. Much of the area up here in the north east corner, down near the south, in addition to the buffers is committed to retaining green areas to preserving natural ponds, and to provide a workable drainage facility. There were comments made about the dip in Boonville-New Harmony Road, and Mr. Farney, again, can address that along with the lake issue. If you have any questions concerning that, I am not an engineer, he can answer those better for you. The point of the matter is, because we have now

acquired, or have the ability to acquire, all of that area that runs on the north side of Boonville-New Harmony Road, from 41 to Old State, we can improve Boonville-New Harmony Road. We can improve the elevation, we can make it safer, and, the one thing that I agree with everyone that spoke here this evening, Boonville-New Harmony Road needs improvements now. I have been out there, been out there between close to 7:30 and 8:00 in the morning, it is a very busy area because of all of the people that live out there and use that intersection to either go north or south, east or west. It needs improvement now. This is a way to get those improvements in place without burdening the property taxpayers, without taxing the treasury of Vanderburgh County, at the sole expense of the developer, which not only enhances his project, but takes care of an existing problem. Again, I call your attention to the project done by Mr. Hahn and his partners on the west side, it is a project that took a lot of time, a lot of input, not just from professional planners and governmental agencies, but engineers and residents that live out in that area. It is a quality project. This will be no less as quality. Any questions that you have about what is planned for transportation was planned for the use of the existing lake and pond and the overall drainage. How it will work and the studies that have been done preliminarily, Mr. Farney is here to answer those questions. We have, we started this process months ago, working with the neighbors, seeking their input, eliminating 39 uses that we from their input found to be offensive. In fact, this evening I haven't heard any other uses that they would like to see eliminated. This is a quality project, it is a project that will serve this rapidly growing area of the community. It is good zoning. It is good for Vanderburgh County, and we ask for your approval here this evening. Again, we are more than happy to answer any questions, as would Mr. Hahn, Mr. Habermel or Mr. Farney.

President Mosby: Any questions from the Commission?

Commissioner Fanello: I think that we had one more person that wanted to speak.

Philip Hayes: Too late. The petitioner speaks last, closes it off, I think that it is out of order.

Connie Engelbrecht-Hollander: It is about this, though.

Philip Hayes: I'm sorry, I believe it is out of order. If it's—

President Mosby: Okay, can I let the petitioner (inaudible).

Philip Hayes: It's closed.

Connie Engelbrecht-Hollander: It's about this issue of zoning period. Okay?

Philip Hayes: I'm afraid—

President Mosby: If I let Les address it, real quick, if he wants to.

Commissioner Mourdock: I will move that we let this lady speak as the final remonstrator, and then, of course, Mr. Shively would have a chance to respond.

President Mosby: Just so you could address it.

Connie Englebrecht-Hollander: I want to remonstrate on the whole subject of rezoning out into urban areas. We've already got enough mistakes. He brought up

a very good point. I've not even seen that used in this county about urban sprawl. That blew my mind, because that is one of the things that I have been working on being in agriculture. You want to know something else, I am also in development. What bothers me the most, is that I live in Newburgh, or we have our Newburgh farm with a building sitting on it, not being used because K-Mart doesn't want any competition going in it. I see a building at St. Joe not being used and now we hear the things at North Park, we are losing Shop-Ko again. We need to concentrate on making these people reuse those things that are already done and sitting empty, and we need to rethink our thinking. It is not anybody's fault here, it is just that we know we have done something wrong, and it is time to start changing and start using these laws and using them wisely.

Commissioner Mourdock: What is your name for the record.

Connie Engelbrecht-Hollander: Connie Engelbrecht-Hollander. I don't live anywhere near it, but I've been through this before.

Commissioner Mourdock: Thank you.

President Mosby: Les, you can address that if you want.

Les Shively: Just briefly, what I would say that what that last speaker does make a point and as Mrs. Cunningham weeded directly out of her staff field report, quality site design could lessen the impact on surrounding residences and farm operations. When a project is done right, it can be something positive, Mr. Hahn has shown that. The 17 acres that will encompass this entire project, it is not all going to be paved, it is not going to be all buildings, much of it will remain green, much of it will be used for drainage facilities. This is a good plan, and it fits the staff recommendation and demonstrates what can happen when you design a project like this that is quality and it addresses all of the concerns that are necessary to make a project work. Thank you.

President Mosby: Thank you. Okay.

Vote on VC-2-2001

Commissioner Mourdock: We need, as we do this, of course, three separate motions and three separate votes. I will go through them, again, the larger tract on the north is known as VC-2-2001, the smaller tract in the north is VC-4-2001, and the one in the south is VC-3-2001.

President Mosby: That is how I got them listed here.

Commissioner Mourdock: Let me start off then with the motion for approval for VC-2-2001.

Commissioner Fanello: Second.

President Mosby: A motion and a second.

Commissioner Fanello: Roll call?

Commissioner Mourdock: Then we will do the roll call.

President Mosby: Commissioner Mourdock.

Commissioner Mourdock: There are times when you are on this board that you certainly wish you weren't, because you can hear all of the arguments on both sides and sit here and agree, and that makes it difficult. I, in looking at this area, I guess, the thing that struck me most tonight in the discussions, that unlike David and Catherine, I was here when all of this to the west that is immediately adjacent to U.S. 41 was zoned and was zoned commercial. During the discussion tonight, I have gone back and looked at my notes from both the Area Plan Commission meetings of last year and the zoning meeting that took place last year regarding those tracts, and for the final zoning there were no remonstrators at all. There seemed to be an acceptance that what is along 41 is in fact destined to become commercial. Initially, there were some people who had questions, but the developer worked with those folks to get those resolved. Obviously, what is different tonight is we have a whole bunch of remonstrators here. Pat Tuley when he was on this board would always give me a bit of a hard time when he would say, somewhat in jest, that when there was ever a doubt, he knew I sought to be consistent. Reference has been made several times tonight to the master plan that was most recently adopted in 1996 when I was on this board, so I voted for that plan, so I strive to be consistent. When I voted for that plan, I voted for the strip along 41 to be commercial, however, that plan does also show that the strip immediately adjacent to Old State Road be residential, and while I respect the fact that the developer here has tried to create some sort of a buffer, it seems to me that is still not consistent with what that plan is, so for this one I will vote no.

Commissioner Fanello: I won't reiterate what Mr. Mourdock said, but I certainly agree, and I vote no.

President Mosby: I will vote no.

Commissioner Mourdock: For VC-

President Mosby: VC-2002, there being zero ayes and three nays, is defeated.

Vote on VC-4-2001

Commissioner Mourdock: Okay, and then for VC-4-2001, I will move approval.

Commissioner Fanello: Second.

President Mosby: A motion and a second. Commissioner Mourdock.

Commissioner Mourdock: No.

President Mosby: Commissioner Fanello.

Commissioner Fanello: No.

Commissioner Mourdock: And for VC-

President Mosby: Commissioner-

Commissioner Mourdock: -I'm sorry.

President Mosby: That's okay, I'm easy to forget. No. Okay VC-4 there being zero ayes and three nays, is defeated.

VC-3-2001 Three I Properties- Final Reading

Commissioner Mourdock: For VC-3-2001–

Barbara Cunningham: There is a little difference in the presentation.

Commissioner Mourdock: Okay.

Barbara Cunningham: If I may, the first thing is that the use and development commitment is consistently the same (Tape Change) Go all the way to Old State Road, but leaves a 200 plus strip of residential development along Old State Road, and the comments regarding access to this site are substantially the same as the comments regarding the north side of Boonville, except that access to the south side will be strictly from Boonville-New Harmony with no access on to Old State, and the entrance should be as far to the east as possible. The rezoning of this additional 1.8 acre site, which is designated in the green and blue on the diagram, to C-4 should accommodate the required distance from the Highway 41 intersection to this access. That was a concern with the first rezoning that there was not enough access off of Highway 41. County Engineer, John Stoll, states that the use and development commitment satisfactorily addresses the traffic impacts of this development since it requires the developer to prepare the traffic impact study, and to implement the recommendations. As I said before, the use and development commitment is substantially the same as the one previously done and substantially the same as the one submitted for the two acre site, which is on the south side of Boonville-New Harmony, the south east side. It is on a east running strip of land along 41 designated for commercial development on the comprehensive plan's future land use map. This 1.8 acre site is being added to the two acre site rezoned in December of 2000 on the south east corner of 41 and Boonville-New Harmony. The proposed use on this side is consistent with the comprehensive plan. Surrounding it is a rural, agricultural, residential area with undeveloped C-4 property adjacent to the west. Quality site design, again, could lessen the impact on the surrounding area. The use and development commitment includes a provision to the developer for landscaping for the residences along Old State east of the site. At the Area Plan Commission meeting, if you remember, Mr Mourdock, they have committed, Mr. Shively representing his clients committed, that as it is not a subdivision, notification is not required to be given of the drainage board meeting, but Mr. Shively did state that drainage was a concern, and if this is passed, the developer is committed to notify the adjacent property owners of the date of the Drainage Board meeting. I don't know of any other person–

Commissioner Mourdock: Any one else wish to address this particular one?

President Mosby: Seeing none. The chair will entertain a motion.

Vote on VC-3-2001

Commissioner Mourdock: I would move approval then for VC-3-2001.

Commissioner Fanello: Second.

President Mosby: A motion and a second. Commissioner Mourdock.

Commissioner Mourdock: For this, I will vote yes, because I see that it can tie in with what the overall plan is for drainage and, hopefully, for the road improvement as well.

Unidentified: We can't hear you, I'm sorry.

Commissioner Mourdock: That's quite alright, ma'am. I said, for this one I will vote yes, because as constructed for the drainage plan, I think, that it is critical to what they are doing.

Unidentified: Inaudible.

Commissioner Mourdock: This is the property south of Boonville-New Harmony.

President Mosby: Commissioner Fanello.

Jo Wilson: Do you want to turn it around and show them the area?

Commissioner Fanello: No.

President Mosby: Commissioner Mosby, no.

Commissioner Fanello: What did you say.

President Mosby: No. Being one aye and two nays, this petition is defeated. Is there any other business to come before the Commission? Seeing none, the chair will entertain a motion.

Commissioner Fanello: Motion to adjourn.

Commissioner Mourdock: Second.

President Mosby: I have a motion by Commissioner Fanello, second by, so ordered.

The meeting was adjourned at 9:40 p.m.

Those in attendance:

David W. Mosby
Philip Hayes
Les Shively
Gene Koch
Mike Sutherby
Brad Menke
Members of Media

Catherine Fanello
Barbara Cunningham
Steve Bohleber
Pat Fark
Ron Grover
John Habermel

Richard E. Mourdock
Madelyn Grayson
Jo Wilson
Sam Byer
Connie Engelbrecht-Hollander
Others Unidentified

**Vanderburgh County
Board of Commissioners**

David W. Mosby, President

Catherine Fanello, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson

**Vanderburgh County
Rezoning Board
May 21, 2001**

The Rezoning meeting was called to order at 7:25 p.m.

President Mosby: I want to call to order Rezoning agenda for the Board of Commissioners for Vanderburgh County, May 21st.

Approval of Minutes

President Mosby: Uh, we need approval of the minutes of the previous meeting.

Commissioner Fanello: So moved.

Commissioner Mourdock: I'll second approval of the minutes of April 16th.

Madelyn Grayson: David, excuse me, there were some minor scribbler errors that have not been completed yet that I will make changes to tomorrow. I was gone this week.

President Mosby: Okay. I have a motion and a second. So ordered.

First Readings

President Mosby: First reading, VC-8-2001, petitioner Stanley and Mary Kim Epperson, 13659 Highway 41 North, Evansville. Request Agricultural and C-1 to C-4. VC-9-2001, petitioner Dan Buck Development, 800 Schutte Road, Evansville, Indiana. Request Agricultural to C-4 with use and development commitment . VC-10-2001, petitioner Dan Buck Development, 800 and 906 Schutte Road, Evansville, Indiana. Request Agricultural to R-3 with use and development commitment .

Commissioner Mourdock: Just for the benefit of the audience, um, we do readings, or we do zonings in two readings, a first reading and a second reading. Typically, the first reading comes a month before the final reading. Is there anyone here to comment on any of the three zonings that Commissioner Mosby just read? Seeing no one coming forth on those three zonings, I will move approval on first reading of VC-8-2001.

Commissioner Fanello: Second.

Commissioner Mourdock: I will move approval on first reading of VC-9-2001, the Dan Buck Development on 800 Schutte Road.

Commissioner Fanello: Second.

Commissioner Mourdock: I will move approval on first reading of VC-10-2001, Dan Buck Development, 800 and 906 Schutte Road.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second on VC-8, VC-9 and VC-10. So ordered.

Final Readings

President Mosby: We will now go to Final Reading of zonings.

VC-7-2001- Petitioner, Jerilyn Buchanan- Final Reading

President Mosby: First will be VC-7-2001, petitioner Jerilyn Buchanan, 620 Kimber Lane, requests CO-2 to C-1.

Barbara Cunningham: Do you want me to (Inaudible. Microphone not on).

President Mosby: I will just let him present it.

Joe Harrison, Jr.: Hello, Commissioners.

President Mosby: Welcome.

Joe Harrison, Jr.: Joe Harrison, Jr. here for this particular rezoning petition. Uh, this is, uh, an address situated at 620 Kimber Lane, and the request is form CO-2 to C-1, and the petitioner is Jerilyn R. Buchanan. Uh, as far as, uh, I am concerned I don't know if I need to be sworn in or not.

President Mosby: We don't have...I guess, we need to swear anybody in that intends to speak tonight, or anybody in the audience that intends to speak if you would raise your right hand. I do solemnly swear to tell the truth, the whole truth, and nothing but the truth so help me God.

Joe Harrison, Jr.: Thank you. I do.

President Mosby: I'm not good at that. I don't do that normally. Do I qualify for a Judge yet? No?

Joe Harrison, Jr.: This particular, uh, rezoning was, uh, went to Area Plan Commission earlier this month and was approved and, I believe, Barbara Cunningham has the numbers on that, I think it was 8-0 and one abstention, but I don't know if that is correct.

Barbara Cunningham: Eight affirmative and one abstention.

Joe Harrison, Jr.: This relates to, uh, again an upgrade in the zoning from CO-2 to C-1. Ms. Buchanan's property is situated between Columbia and Virginia Street just west of Burkhardt Road. Currently Ms. Buchanan operates her realty business from this location and she is seeking the rezoning change in order to operate a beauty salon from that location. In 1998 Ms. Buchanan obtained a rezoning change for her property from Ag to CO-2. The rezoning at that time also included a use and development commitment. As part of that commitment, Ms. Buchanan agreed to donate and dedicate to Vanderburgh County a 30' strip of right-of-way for the future widening of Kimber Lane, and that was done several months ago. This proposed zoning change is consistent with the comprehensive development plan of Vanderburgh County, and if you have any other questions I would be glad to answer them.

President Mosby: I don't have any. Is there any remonstrators present on 620

Kimber Lane?

Commissioner Mourdock: Anyone to speak against this one?

President Mosby: Seeing none. The chair will entertain a motion.

Commissioner Fanello: Motion to approve VC-7-2001.

Commissioner Mourdock: Second.

President Mosby: I have a motion and a second. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, aye. Being three ayes and no nays, VC-7-2001–

Joe Harrison, Jr.: Thank you.

President Mosby: –is hereby declared adopted.

VC-6-2001- Petitioner, Sharon Working- Final Readings

President Mosby: VC-6-2001, petitioner Sharon Working, 7401 Telephone Road, request from Agricultural and M-1 to C-4. Ag and M-1 to C-4.

Keith Rounder: Good evening. I'm Keith Rounder here for the petitioner Sharon Working. Pardon me. With me tonight is Sharon Working, along with her son, Joe Working. They own and operate Working Distributors. Also with me tonight is Jim Farny and David Ripple from Bernardin Lochmueller who have been performing the engineering services on the project, in the event that you have any questions that they can address. This property which is shown on the drawing that I have placed in front of the podium is approximately 106 acres on the far east side of Evansville. It is just north of Highway 62, or Morgan Avenue, just to the east of Highway 164, and just south of and adjoining Telephone Road. The current zoning is Agricultural. It is surrounded by a mix of Agricultural, Manufacturing, and, uh, Commercial. The Workings developed an interest in this property when they became interested in moving their distributorship so that they could construct a larger facility, and a newer facility. Something that would be more in keeping with the demands of their business. They elected, or Sharon Working that is elected, to enter into an option agreement to purchase the entire 106 acres for the purpose of being able to not only construct their own facility, but also have some control over the development around them. At this point this went before the Area Plan Commission on May 2nd. It was approved by a vote of 7-1, and what we would like to get across tonight primarily, is how the development is going to take place on this site. If you will look at the graph, or the map that is attached to the petition, there are three phases of this development all together. The first phase, I will just point this out, is this yellow section (inaudible) Telephone Road (inaudible) of the property. That is going to be where the Working Distributorship will be. It is not anticipated that will be completed

for about a year. Construction will probably not start for nine months or so. So we don't anticipate any dirt being turned out there for some time. After that is done, later than that, sometime later, we will be developing phase two and that is the green area down here by Morgan Avenue. That will be a bit heavier commercial, um, and then phase three which will be the last portion to be developed will be this area up here in the peach or light tan area, and this strawberry colored area up here. We are anticipating...and the traffic study has now come out, it came out Friday, and it verifies that, um, we will have a certain amount of traffic on Telephone Road during the construction, not, uh, a substantial amount at all. The engineer who has done the traffic study has concluded that Telephone Road is adequate to, uh, to deal with that traffic provided that there is a right turn lane constructed, putting entrance on Telephone Road. It is not anticipated that any development will take place in phase two until well after the entrance along Highway 62 has been constructed. David Ripple can speak to somewhat greater clarity about that in the event that you have any questions. Um, we...primarily we are concerned at the outset with the, with the interest and concerns, uh, and, uh, impact this would have on the adjoining residences. So, we organized a meeting with them to try and determine what their concerns were. Not long after that, we entered into a use and development commitment, which I presume is part of your packet, and which deals with such things as a traffic impact study, which we agreed to abide by. There will be no billboards. There are restrictions upon uses for the entire development, and then we have created a buffer zone which is this entire strawberry area plus these two lines as well. Those are designated lighter commercial, in other words, there are certain uses that we have agreed not to put on there under any circumstances. After the use and development commitment was filed, we had another meeting with the neighbors, and it was brought to our attention that there were some additional concerns regarding the buffer zone, and regarding other uses that they would like not to see in that buffer area, and so we sent out a draft of restrictive covenants to the residents, we solicited their comments, we've come up with a final draft. This came up in the Area Plan meeting, Mr. Mourdock asked that we prepare a covenant which would be enforceable by the residents as to those, uh, issues the buffer zone and, uh, the additional uses. I have a set of restrictive covenants that we intend to file with the Platt whenever the Platt is approved. I would like to submit those to you for your review. Mr. Mourdock, I think that you will find that the revision that we discussed in the Area Plan meeting is about paragraph 26, on page 17 in which we provided anyone who lives or who owns property within a radius of one mile of the site to be able to enforce those restrictions as to the buffer zone and to the additional restrictions in the buffer area or the buffer lots. Uh, I would like to emphasize again that we have tried our best to deal with the concerns of the residents. We understand that this has been Agricultural land a long time. The Workings are committed to a development which they will be proud of and which the county will be proud of. I would also like to ask you to consider that the Workings have been very good corporate citizens throughout their business tenure in Evansville, and want to continue to be and, uh, we believe that, uh, they will have a ,uh, development that, uh, you will be very happy with and that will be a credit to the county. With that I will answer any questions or direct any to the engineers that who are here in the event that they are more appropriate for them.

Commissioner Mourdock: I just have a question again regarding traffic, Keith. I will say what I think to be true, and you tell me if this is correct. Under the construction phase, all of your traffic will be entering off of Telephone Road?

Keith Rounder: Under phase one?

Commissioner Mourdock: Yes.

Keith Rounder: Yes. Under the construction of the Working Distributorship that is true.

Commissioner Mourdock: Okay, and the construction phase of the Working, the area in light yellow, once that is complete, and assuming that the state has still not gotten everything done, that State Route 62, whatever commercial traffic you have, obviously, would be going on Telephone Road then at that point as well?

Keith Rounder: Well, conceivably it would be, although, I think, the traffic impact study and, David, you can address this.

David Ripple: I'm David Ripple with Bernardin Lochmueller. Under the use and development agreement there is a sentence in there that says basically you have to abide by the recommendations of the traffic study. The traffic study was submitted this past week to, not only to Barbara Cunningham, but Evansville Transportation Study and, uh, County Engineer's in both Vanderburgh and Warrick. The bottom line ends up being that the traffic impact study and it's recommendations establishes a cap in terms of the number of trips that may be generated for phase one of the development. So, as site development plans are approved, you would check off as you move towards that particular cap. Once the cap is reached, then the traffic study would have to be redone, or the project delayed in terms of time until that second entrance is provided out to Morgan Avenue. So there is a cap such that, uh, on the number of trips that can be generated by the development out Telephone Road relative to the first phase of the project.

Commissioner Mourdock: That begs the question, how are you going to count those? Are you going to put a wire counter out there to do that? I mean, how formal of, uh, a stipulation, I guess, is that?

David Ripple: How formal is it? Typical thing that is done is that we use trip generation rates out of a national wide trip generation (inaudible) based on the amount of development that is there, that many trips are generated—

Commissioner Mourdock: So it is from modeling? It is not an actual count?

David Ripple: If there was...it could be. If there was a concern that at each point that we need to verify the trips, certainly as you get towards the cap then, certainly, an actual traffic count would be warranted to be made.

Commissioner Mourdock: Just from my background, what, again, is the time table on the State Road 62 entrance?

David Ripple: My understanding when I met with the state back on April 3rd, they checked the, uh, schedule for letting for State Road 62 in this particular vicinity and it was still scheduled for letting for September of this year.

Commissioner Mourdock: Okay.

David Ripple: So that means that there is at least a couple of years off, and, uh, before the road would be opened to traffic. We have identified here within our traffic assumptions to that, uh, more than likely that phase two would not be fully completed until the year 2006, so we have some latitude in terms of timing of the development

of the site. Certainly what comes key into play into phase two is not only is State Road 62 reconstructed to the four lane facility, but also at that point and time Lynch Road will have been extended from it's new interchange with Interstate 164 over to Morgan Avenue, likewise, and that will divert traffic from Telephone Road and some traffic also from Morgan Avenue.

President Mosby: Any other questions?

Commissioner Fanello: Is our County Engineer in here? John?

President Mosby: Give him a second.

Commissioner Fanello: Oh, there he is. Barbara, did you review the traffic study? Do you have any comments that you wanted to make?

John Stoll: I just got it Friday, and I have just skimmed through it, so-

Commissioner Fanello: You haven't had a chance-

John Stoll: -I don't have any-

Commissioner Fanello: Comments.

John Stoll: -detailed comments on it at this point.

David Ripple: What I might add that the traffic study is a draft report now, and if any of the agencies determine that additional improvements over and above those that are identified, then those will be added as their recommendations. So, it will be no less than what the recommendations are today, and could be more if the review agencies determine that the additional improvements are needed.

President Mosby: Are there any other questions of their engineer? You're fine. Are there any remonstrators? Anybody that wants to speak against petition VC-6-2001? Seeing none.

Commissioner Fanello: Motion to approve VC-6-2001.

Commissioner Mourdock: Second.

President Mosby: I have a motion and a second, uh, Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, aye. There being three ayes and no nays, petition VC-6-2001 is now adopted. Any other business to come before the Commission for zonings?

Commissioner Mourdock: I will move that we adjourn from zonings.

President Mosby: A motion and...I'll second...a motion and a second so ordered.

The Rezoning meeting was adjourned at 7:42 p.m.

Those in Attendance:

David W. Mosby	Catherine Fanello	Richard E. Mourdock
Philip Hayes	Barbara Cunningham	Madelyn Grayson
Joseph Harrison, Jr.	Keith Rounder	David Ripple
Others Unidentified	Members of Media	

**Vanderburgh County
Board of Commissioners**

David W. Mosby, President

Catherine Fanello, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
June 18, 2001**

The Rezoning meeting was called to order at 7:15 p.m.

President Mosby: I would like to call to order the Board of Commissioners meeting for Rezonings for June 18, 2001.

Approval of Minutes

President Mosby: Approval of minutes.

Commissioner Fanello: So moved.

President Mosby: I have a-

Commissioner Mourdock: I'll second.

President Mosby: I have a motion and a second. So ordered approval of minutes.

First Readings

President Mosby: First readings we have none.

Final Readings

President Mosby: Second readings I will read real quickly. VC-8-2001, petitioner, Stanley and Mary Kim Emberson, 13659 Highway 41 North, Evansville, Indiana 47725. Request C-1, Ag and C-1 to C-4. VC-9-2001, petitioner, Dan Buck, address 18...800 Schutte Road. Request Agricultural to C-4 with a use and development commitment. VC-10-2001, Dan Buck Development, address 800 and 906 Schutte Road. Request Agricultural to R-3 with a use and development commitment . Do I have a motion to accept the second readings? Or that was-

Commissioner Mourdock: Not necessarily to accept, but let's just go ahead and hear those. I move that we go forward with hearings on second readings.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second to go forward with hearings.

VC-8-2001- Petitioner, Stanley and Mary Kim Epperson

President Mosby: First would be VC-8-2001, which is Stanley and Mary Kim Epperson. Oh.

Commissioner Mourdock: Yeah.

President Mosby: If any...I always forget this. I am not used to this. If anybody intends to speak tonight, please raise your hand. Repeat after me, I swear to tell the truth, the whole truth and nothing but the truth so help me God.

Unidentified: I do.

President Mosby: They repeated that real well. So, okay.

Krista Lockyear: I didn't have that written down here in my notes, David. I just couldn't follow that.

President Mosby: I'm just...I'm not used to that.

Krista Lockyear: For the record, my name is Krista Lockyear. I'm here on behalf of Kim and Stan Epperson. I am going to run through, real briefly, and ,hopefully quickly, the reason why the Epperson's are here in front of you asking for a rezoning. Kim owns and operates a travel agency on Highway 41 just south of the Busler gas station, called Travel Smart. Stan owns and operates a veterinary clinic called Epperson Veterinary Services at that same location. These businesses have been ongoing for quite some time and not had any problems. I got a phone call from Kim the other day, and she said, I need your help with zoning, and I thought I can't believe you need any zoning help. What's going on? She ran me through this history of the property which I am going to do for you, and, I think, it kind of helps you realize that they are dealing with, unfortunately, some red tape. Stan bought the veterinary clinic in 1989, and it was, at that time, agricultural property. Also at that time, they needed a special use for veterinary clinic, and they went to Planning Commission and obtained the special use for the veterinary clinic. Since that time the zoning laws, I believe, changed and they actually don't need the special use anymore, but were appropriately zoned for the veterinary clinic. Kim, at the time, was working in Vincennes at a travel agency and wanted to work closer to home, so they purchased two acres adjacent to the veterinary clinic to allow expansion of her business. They were informed, at that time,

that the portion of the building that they were going to expand to include the travel agency needed to be zoned for C-1, because a travel agency cannot operate in the Ag zoning. They went in, they got the rezoning for C1 and everything was fine for awhile. Last Fall they went in to replace their old sign with a new, nicer, fancier sign, and were informed by Planning Commission staff that where their sign was located, although they were conforming with their business, their sign was actually located in the lawn of the yard, which was zoned Ag, and, therefore, could only be located on the building portion that was zoned C-1. So, they sat down with Planning Commission staff and kind of worked through what can we do here, and the least common denominator for the two businesses is a C-4 zoning. So, in order to allow the veterinary clinic and the travel agency, which have been operating for quite some time, and allow them to advertise in a location in their front yard, as opposed to on top of the roof of their building, they do need a C-4 zoning. That is why I am here requesting this. There will not be any change of use. They intend to stay in this business for a long time, but simply need to come in conformance with the zoning requirements. I do have a picture of the signs, in case you haven't seen that.

Commissioner Mourdock: So, to summarize this in a few simple words, all this is about having a sign with an advertisement for both the vet clinic and the travel agency?

Krista Lockyear: Exactly.

President Mosby: Are there any questions by any member of the Commission? Is there anybody in the audience, anybody in the audience that wants to speak to VC-8-2001, Highway 41? Seeing none.

Commissioner Mourdock: Seeing none, I will move approval on final reading of the rezoning of VC-8-2001, 13659 Highway 41 North, from Ag and C-1 to C-4.

Commissioner Fanello: Second.

President Mosby: I have a motion for, to call the roll. We need to call the roll. A second by Commissioner Fanello. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby? Yes. There being three ayes-

Krista Lockyear: Thank you.

President Mosby: -motion passes. Thank you.

VC-9-2001 & VC-10-2001-Petitioner, Dan Buck

President Mosby: Next we will hear, I guess, together VC-9-2001 and VC-10-2001, 800 Shcutte Road and 800 and 906 Schutte Road.

Krista Lockyear: Do I need to be sworn again?

President Mosby: No, we did that once-

Krista Lockyear: Okay.

President Mosby: -that's good for all of them.

Commissioner Mourdock: We did a mass swearing.

Krista Lockyear: Okay. Again, for the record, Krista Lockyear on behalf of Dan Buck Development LLC. A little brief history, this rezoning is very close to rezoning that Dan worked through with the neighbors on the Lloyd Expressway on the eastern side of the property. We came into a filing situation with the use and development commitment that was very similar to that use and development commitment, and we had negotiated, Dan had negotiated, that with the sellers of the property who have residences that they intend to remain in immediately adjacent to this property. After we filed, we received an invitation from the West Side Improvement Association to come to their meeting to explain the rezoning to them and answer any questions about it. Myself and two representatives from Dan's company did that, and there were a lot of questions at that time. I guess, as people tend to procrastinate, we did perceive that there were more meetings that we needed to get to. We did finally just sit down and meet this past Saturday, two days ago, with a representative member group of the neighbors, and it is very clear to us that there are more meetings that we need to attend with the neighbors, more discussion that we need to have, before we can present this rezoning to the body for a vote. I can't tell you that I know that we will be going back with the use and development commitment, there may be private covenants. I think, that there is enough out there that we just need to take a step back and organize some more meetings. So, I would ask that you allow us to continue this petition tonight to carry on additional discussions with neighbors.

Commissioner Mourdock: Just to clarify, you are asking the continuance of both VC-9 and-

Krista Lockyear: Yes.

Commissioner Mourdock: -VC-10?

President Mosby: Any questions by any member of the Commission?

Commissioner Mourdock: This does not require, Barbara, does not require going back to APC?

Barbara Cunningham: (Inaudible. Mike not on.)

President Mosby: Only if she changes it.

Barbara Cunningham: Changes the use and development commitment or they change the size or zoning classification.

Commissioner Mourdock: Okay.

Barbara Cunningham: You have to act within three months of the Area Plan Commission action-

Commissioner Mourdock: Right.

Barbara Cunningham: -(Inaudible. Mike not on.)

Commissioner Mourdock: So, that means, just let me make sure I understand that one.

President Mosby: Go ahead.

Commissioner Mourdock: So, with the action that APC already took earlier this month, unless the petitioner goes back to APC we have, basically, 90 days to do something with this?

Krista Lockyear: Correct.

Commissioner Mourdock: Okay.

Krista Lockyear: Or, or the Area Plan Commission action is effective, isn't that?--

Barbara Cunningham: (Inaudible. Mike not on.)

Krista Lockyear: -yeah, is the ruling.

Commissioner Mourdock: Ah, right. Okay. Well, since I'm always glad to see the petitioner working with the neighbors, and, hopefully, it will make things a little easier on both sides, I would hope, I will move continuance as requested.

President Mosby: Before you do that, is it...we want to let one of the neighbors speak. Is there anybody that wants to speak for the neighborhood?

Barbara Cunningham: May I request?--

President Mosby: Okay.

Barbara Cunningham: -(Inaudible. Mike not on.)

Commissioner Mourdock: Yeah, that was going to be my question.

President Mosby: One month? I will let him speak and her speak, and then I will-

Krista Lockyear: Then I will (Inaudible. Not at mike.)

President Mosby: Okay.

Paul Farmer: I'm Paul Farmer. I live at 3716 Koring Road, President of the Westside Improvement Association. I want to thank you this evening, and we, certainly, support the work that Dan and the other folks have done in working with us, and we hope to continue on. I guess my major question would have to be, within whether it is going to be 30, 60 or 90 days? That we clarify that before we leave the room tonight. Secondly, exactly what we intend to happen from the developers standpoint between now and then. Are we just going to sit and watch our tv, or are we going to really be meeting? What kinds of things would you expect us to be able to come back to you with and say that we were able to do this together? But, otherwise, we appreciate your time and energy.

President Mosby: To answer you first question, I'm guessing are we going to say 30 days? I would say that it would be back here in 30 days, unless there is an agreement amongst both parties, and it has to go back to Area Plan. There are some circumstances that call for it to go back to Area Plan, there are others that say, no, it can come right back here. I would say 30 days-

Commissioner Mourdock: I will formally put that in my motion after the other person speaks.

President Mosby: -On the second part of your question, I would fully intend that there would be communication between the developer, the attorney, and the neighborhood. I had spoken with the attorney earlier this week and gave her five or six names to contact out of the neighborhood, and I think she is trying to make them contacts now. Might have talked to one of them Saturday. Might have talked to one today, and, hopefully, that will be within the next week. I would fully expect that there would be communication and dialogue between the neighborhood and the attorney and the developer. You wanted to speak?

Mari Anne Wenzel: My name is Mari Anne Wenzel, and I live at 1000 Schutte Road. Just about 1/8 of a mile, just a city block or, south of where this proposal is. I have lived there for almost 20 years, and my concern is primarily related to the traffic. We did indeed build an overpass to accommodate the USI traffic, and if there is any commercial development that occurs on that corner, by it's nature, it will divert...a lot of that traffic is going to be the...not only that, because of it's proximity to USI, it will cause

pedestrian traffic. It is less than a half a block between that property and where USI's property...the residential, residence halls are. So, I'm asking you to consider that. I would like to have a method by which we could count the cars that go past there now, and, I think, that if you have been by there...come by the west side anytime right before 6:00 when the evening traffic toward the...where the evening classes come, or even during lunch hour, you will see that the traffic situation...Schutte Road cannot accommodate what is there now very well, and if you put 35 condominiums plus a residential or a commercial facility of any nature there, we are going to have a lot of trouble. It is going to be an imminent safety problem for, not only all of the students out there, but the people who live there as well. So, if you will...I do want to also mention that there was a promise...the Master Plan, uh, provides that there were not supposed to, supposedly, to be any commercial development west of Boehne Camp until the year 2015, and this is a direct contradiction to that, so, I would like to bring that up as well. Safety and traffic is just, uh, beyond what it can accommodate at this point. So, I respectfully suggest that we just change it to a residential area, instead of just commercial of any kind. Is there a possibility that we could get a car count? So that we could see what we are looking at, at that point.

President Mosby: Uh, there-

Commissioner Mourdock: There have been a number of traffic counts done out in that area. I don't know what the date of the most recent one is-

President Mosby: Do you have a traffic study?

Commissioner Mourdock: -(inaudible) may have information on it.

Krista Lockyear: We have not done a traffic impact study yet, I think, Dan got a quote, and we are looking at about \$10,000. We do have the traffic counts from INDOT from, I believe, '97-'98. They did some extensive study there when the light went in, and we do have those counts. So, I can...we can bring those forward and work with those numbers. We just got those numbers last Friday, and they are a little difficult to decipher. We may have to go to one of the engineers and ask them to help us out, or even you to maybe, um, but that is the best we do have.

President Mosby: Okay, I just wondered if you had an impact study, I didn't know.

Mari Anne Wenzel: The concern that I have, and it's been brought to my attention at least three times in the last five minutes is the fact that you have to do these counts during the time that school is in session, because that is when the lock down is going to occur. There are times when I try to get out of my own driveway at lunch time, and you'll just have to stop and wait, and wait, and wait. If we put in any kind of commercial development, not even to speak of the residential part of it, there is going to be a....you know, that's a recipe for trouble. It is. It has to be addressed before we get started on any kind of development, or our children...and, you know, my own safety is at hand here. So, I think you all know that recently in the newspaper they, um, Red Bank Road and Rosenberger were some of the worst intersections in

town, and I don't want this to be number three on the list. So, I would respectfully suggest that we postpone it indefinitely.

President Mosby: I would ask if you want to please give your name to the attorney, and anybody else that wants to give their name to her so that she can contact you all for a meeting.

Mari Anne Wenzel: She, she, she knows me.

President Mosby: She's got your name? Fine. Not a problem.

Mari Anne Wenzel: It was on tv too.

President Mosby: Okay. Is there any other questions by any of the Commissioners?

Commissioner Mourdock: No, but let me correct or amend the motion that I made previously, be more specific with it. I would move then that we grant the request of continuance for 30 days to hear this again in, uh, at our July Rezoning meeting.

Commissioner Fanello: Just to clarify, I mean, we need to set it for July 16th.

Commissioner Mourdock: Okay.

Commissioner Fanello: So, second.

President Mosby: I have a motion and a second to continue both VC-9 and VC-10-2001 for 30 days to be heard at the July 16th Rezoning meeting. Can we do a roll call on that?

Commissioner Mourdock: You don't need to .

President Mosby: I have a motion and a second. So ordered. Is there any other business to come before the Commission on rezonings? Seeing none. The chair will entertain a motion.

Commissioner Fanello: Motion to adjourn.

Commissioner Mourdock: Second.

President Mosby: I have a motion by Commissioner Fanello, second by Commissioner Mourdock. So ordered.

The Rezoning meeting was adjourned at 7:40 p.m.

Those in Attendance:

David W. Mosby
Catherine Fanello

Richard E. Mourdock
Barbara Cunningham
Philip Hayes
Madelyn Grayson
Krista Lockyear
Paul Farmer
Mari Anne Wenzel
Others Unidentified
Members of Media

APPROVAL:
VANDERBURGH COUNTY
BOARD OF COMMISSIONERS

David W. Mosby, President

Catherine Fanello, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson

**Vanderburgh County
Rezoning Board
July 16, 2001**

The Vanderburgh County Rezoning Board met in session at 7:35 p.m. this 16th day of July, 2001, in Room 307 of the Civic Center Complex with President Mosby presiding.

Call to Order

President Mosby: I would like to call to order the Rezoning meeting of the Board of Commissioners of Vanderburgh County for July 16, 2001.

Approval of Minutes

President Mosby: Approval of the minutes of the previous meeting.

Commissioner Fanello: So moved.

Commissioner Mourdock: I move approval.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. So ordered.

First Reading: VC-11-2001 Petitioner, Daylight Properties LLC

President Mosby: First reading, we have one first reading VC-11-2001, petitioner Daylight Properties LLC, P.O. Box 72, Evansville, Indiana. Request Agricultural to M-2 with use and development commitment.

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

Commissioner Fanello: Second.

President Mosby: I have a motion for approval of first reading and a second. So ordered.

Final Readings (Continued) VC-9-2001 & VC-10-2001

President Mosby: There being, uh—

Commissioner Mourdock: For the record—

President Mosby: —third and final readings, we have two petitions, VC-9-2001 and VC-10-2001, petitioner Dan Buck Development, Schutte Road and both of them have been returned to Area Plan.

Commissioner Mourdock: Motion to adjourn.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second to adjourn. So ordered.

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

Those in Attendance:

David W. Mosby

Catherine Fanello

Richard E. Mourdock

Philip Hayes

Madelyn Grayson

Others Unidentified

Members of Media

**Vanderburgh County
Board of Commissioners**

David W. Mosby, President

Catherine Fanello, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
August 20, 2001**

The Vanderburgh County Rezoning Board met in session at 8:17 p.m. this 20th day of August, 2001, in Room 307 of the Civic Center Complex with President Mosby presiding.

Call to Order

President Mosby: I would like to call to order the Rezoning meeting of the Vanderburgh County Commissioners for August 20, 2001.

First Readings

President Mosby: There being no First Readings tonight. Do we not have anybody from Area Plan here? Oh, they are still in their meeting, okay.

Philip Hayes: (Inaudible. Mike not on.) Her file here.

Commissioner Mourdock: I will go ahead and move that we approve the minutes from the (Inaudible. Mike not on.)

President Mosby: Oh, I'm sorry.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second to approve minutes from last month's meeting. So ordered. There being no First Readings.

Final Reading: VC-11-2001: Petitioner: Daylight Properties

President Mosby: Third and Final Reading, VC-11-2001, Petitioner: Daylight Properties LLC, P.O. Box 72, Evansville, Indiana. Request Agricultural to M-2 with a use and development commitment. Mr. Bodkin.

Tom Bodkin: Tom Bodkin, 700 Hulman Building, counselor for the petitioner. Let me hand you, sorry, a set of photographs, if I could please, and a part of my presentation. They will be useful, I think. The parcel of real estate at issue here is just east of Highway 41 on Baseline Road, on the north side of Baseline Road. In fact, it is across the road from the parcel that the County Commissioners rezoned a year ago or so owned by Baseline Properties LLC. It's right across the road from a part of that real estate. The first photograph in the packet is a view of the property looking from the Baseline Properties property, looking north easterly. The little yellow dot sort of in the middle of the picture is a fire hydrant. This parcel has water along Baseline Road. It's an 8" main. When this parcel ultimately gets developed, that main will probably have to be moved, because it appears to be in the public right-of-way, and, obviously, the issues of Baseline Road will require that to be moved. Photograph two is a little bit further east, looking, again, north onto the caption parcel. The cornfield you see is the caption parcel. In photograph one, if you flip back to that, in the middle of the picture is a row of trees that come on off to the right. That tree line, ladies and gentleman, goes along the creek that is called Kneer Creek, and that is the boundary along the north and a part of the east portion of this parcel. The third photograph is, again, another photograph looking from the south side of Baseline Road. Looking north and east, again, at the tree line, which

is the, which is the creek and is the boundary with this parcel versus others on to the east. The next photograph is just sort of standing in the road looking, again, at the tree line very close to the southeast corner of this parcel. Again, the tree line goes along the ditch, and it's the barrier between this parcel and the subdivision to it's east. The next photograph, number five, is the photograph of one of the remonstrators. Is a photograph of the house of one of the remonstrators you will hear tonight. We took the photograph today to demonstrate to you the house's proximity to the ditch, or the creek, Kneer Creek, and the trees which we believe provide the buffer between this structure and the parcel issue. The last photograph is back to the east further from the previous photograph showing two houses in a road, both which front Baseline Prop...Baseline Road. Again, looking at the trees that run kind of across the photograph. This particular parcel of real estate, ladies and gentleman, is, again, bordered on the north and part of the east by Kneer Creek. We also have south of Kneer Creek and west of the part of it where it turns and heads south, a sanitary sewer easement with a sanitary sewer in place that's on this ground. So, between the creek and the balance of this parcel is a sanitary sewer that turns, and in the packet of material you can see, and I'll show you here off this drawing as well, the green is the parcel at issue. The Kneer Creek, and you can see marked here at the top, and this is the sanitary sewer that comes along the northern boundary, turns and comes a little more than half way down the eastern boundary, and then goes through the adjacent subdivision. One of the remonstrators tonight lives here on lot number 16. That was the house on photograph five. The tree line that you saw in the photo, that you see in the photographs comes all the way along this boundary and follows Kneer Creek all the way back around. The real estate falls from Baseline Road north and east. A fairly large portion of this property is in the 100 year flood plain, the part down toward the creek. The part up near Baseline Road and in the southwest corner is up out of the flood plain. In fact, the elevations range from approximately 452' mean sea level in this corner, or this area, the southwest part. When you get down along the creek, the elevations are as low as 338' to 340'. Which is substantial fall, obviously, from here going down. I would ask you to keep that in mind as I address an issue that I think will come up, and that's an issue about barriers or berming. Because, again, we go from 440' to 452' is 12' from roughly here to here just in fall. Which is a pretty substantial fall. This property is currently utilized for agricultural purposes. As you can tell, it's got corn growing on it. The petition before you is to take this parcel to an M-2 with a use commitment. The ground right across the street in Baseline Properties is the subject to a use commitment. It limits, or eliminates, certain uses. The use commitment submitted here mimics the one right across the road. Any use not permitted by Baseline Properties property over here, would also not be permitted on this parcel. So, it matches up in terms of uses that would not be allowed. The caption parcel, ladies and gentleman, is, again, currently being used agriculturally, but with regard to the Master Plan here in our county, which was adopted by you and the Plan Commission some, a few years ago, the current land use, as you can see, reflects the parcel being basically white, which is agricultural for current land use. We do have just to the west of this parcel, however, a piece that is used right now as M-2, and it is here on my map, I'm sorry, M-1, which is just a little sliver right here where there is a car repair shop. Next to that is a C-4 parcel which is the RV Center right at 41 and Baseline Road. So, we have that use here. Our Master Plan, however, projects that all of the property from Highway 41 to the road, which the name just went absolutely right out of my head. There is another road back to the east about 1,000' or so. Korff Road, Korff Road. The Master Plan would project that all the property north of Baseline Road from 41 to Korff Road is to go into a manufacturing industrial use. That is what our Master Plan says this land is suited to do. The County Commissioners obviously examined the issue with regard to this land at length when

you decided to pass the Master Plan and project that real estate to go. Unlike the Baseline parcel, which was the subject of some debate about how far to the east it might go for industrial use, there is no debate about this parcel being squarely in the Master Plan area. It is just dead smack in the middle between 41 and Korff Road, and right in the middle of what was predicted to become industrial parcel, industrial use here. The access to this ground is only off of Baseline Road. There is no other roadway to access it. I understand that and one of the comments that was made at the Planning Commission, which by the way sent this forward with no recommendation, five to five as I recall, was that there is problems of flooding in the area. The subdivision immediately to the east, Valley Estates Subdivision, is basically built in the flood plain. Some of the people, perhaps some here tonight, will talk to you about the cost of their flood insurance. They have flood insurance because they are below the 100 year flood plain. The ground here falls towards this creek and the creek drains back this way, goes back to the northwest. So, the land is coming this direction, falling down to the north. Basically, when this parcel gets developed all of the rainwater that falls on this parcel has to be held there under your ordinance. We cannot let more water go off now, later, than we do now. There is no way that the development of this parcel is going to cause any further water problems for the subdivision, because your ordinance will not allow that. We simply have to hold the water and not let it off any faster than it goes off today as an undeveloped parcel. I also talked with the County Engineer earlier today, I understand that you may have approved tonight a bridge project somewhere back to the northwest of this that may relieve some of the problems with Kneer Creek. In terms of raising a bridge up about 4' along Royal Drive or Royal Street, maybe? Maybe you didn't get to—

President Mosby: Boyle.

Tom Bodkin: Boyle? Okay. Apparently that is in this neck of the woods. According to what he told me, and he thought that might be some, might be of some relief. I don't know that. I can't represent it will make any difference to them at all, but the County Engineer indicated there was some work being done out there. Again, the use commitment we have offered limits the uses of this parcel to exactly the same M-2 uses as are allowed across the street. We have given a commitment with regard to that. When this parcel gets developed, then the question of how much land will be needed for Baseline Road will be taken up at that point, because we don't know at the moment just exactly how much the county will need with regard to Baseline. I can tell you in the photographs, you can see along Baseline Road running from east to west is a fairly good ditch, a side ditch, that carries water from the west to Kneer Creek. Obviously, that is going to have to be maintained from a drainage standpoint when this ground is developed. Again, I indicated to you, there is a water line that runs along the north side of Baseline that also will have to be moved when Baseline Road is widened. That would, again, be part of the development plan that would have to be approved by the Planning Commission at which time this parcel ever got developed. We believe the parcel meets the requirements of our Master Plan for M zoning. It is within the area that you predicted, as Commissioners, would become commercial, not just commercial, but industrial. In fact, we've seen the corridor developing along 41 as you know from (inaudible) drive. If you have any questions regarding the parcel, I would be glad to try and answer them for you. The parcel is still owned by Mrs. Shepherd. Daylight Properties is the prospective buyer for it, but Mrs. Shepherd is still the owner. If you have questions, I'll try to answer them.

President Mosby: Do you have a particular use?

Tom Bodkin: Not at the moment. There is no specific user for it yet. We are rezoning it for purposes of determining or finding users for that parcel. But as Ag parcel, you can't go out and sell it industrially.

President Mosby: Okay. Is there any questions by any member of the Commission? If not, I'll take remarks from the remonstrators and then you can have rebuttal.

Calvin Rickard: Good evening. My name is Calvin Rickard. I own the house that is directly next to that in his picture five there. Let's address this natural break he is talking about, this tree line that's been deteriorating ever since I've lived there. I've lived there 15 years. This tree line has fallen, I've had like four trees fall on my house out of this tree line. The drainage ditch there is eroding, and I don't see that the county is doing anything to maintain it. I'm going to show you in this, this drawing here Baseline Properties already had decided in order to control...up here is Scott School. In order to control the amount of water flow coming off all this land, there is a drainage ditch coming across this road here. They had to put this pond in to slow the water down and keep it from coming on to this land. Okay?

Commissioner Mourdock: Mr. Rickard, you are going to need to grab the microphone.

Calvin Rickard: I'm sorry. Okay. The deal is that there is no development commitment here, which means we have no guarantee that they are going to catch this water, and these trees are collapsing. I mean, when we had that tornado two years ago, or a year ago, I had four trees down on my land, three on my house. They say that this UDC is not really a UDC, it's a UC. I think I told you that already. There is no development in this. In fact, if we want to go to a definition of words, it's more developmental, which has nothing to do with property. They've...when Baseline Properties proposed zoning M-2 across the road from us, I had 86 people that signed a petition that didn't want that. When we finally let it pass, we still didn't want it. We were in here after about 60, 90 days and we were told that it was going to pass. If we didn't, if we remonstrated at that point, Baseline Properties was going to withdraw their development commitment, and we were going to lose what I just showed you on that. So, we let it go. We said, well at least we got berms. We got trees. We got water runoff. We got some protection, you know. With this, they don't want to offer us anything. They just want to develop. I mean, they don't want to develop the land, they just want to buy the land after it is zoned. In your comprehensive plan, which by the way, he keeps saying that you did this. Was anybody here sitting on this board in '96? Okay, then you might have done it, but you all didn't. Okay. Alright. So, in the, here in your Master Plan it says development proposals must be evaluated for consistency with the land use plan. However, the plan is conceptual as meant to be flexible. There may be development proposals which will arise during the plan period '96 to 2015 which do not conform. Well, if you, I thought the rule was you were supposed to have step down zoning. Okay, this is a residential area. Okay, you are starting out at the highway, and you are going backwards. You've got an R-4 at the highway, then you've got M-1, now you want to put an M-2 right next to homes. That's not stepping down, that's stepping up. I mean, you know, what do you want to do to us? Do you want to put a factory 30' from my door. From my bedroom window. It says here in section 10 in industrial that it is strongly recommended that available land and already planned and zoned for industrial use was in the area served by water and sewer be utilized before additional land areas are rezoned. We've got 45-50 acres right across the road that has not yet been developed completely, or sold. There's probably 200 acres over on 57 that's just 10 minutes from us that's already zoned M-2. You have

in this county probably somewhere between 500 and 1,000 acres just in rural land that is already zoned M-2 that hasn't been developed. So what you are doing in essence is you're wanting to zone a 13 acre or 14 acre plot here that is going to affect our homes. Now we are not all in a flood plain. That's bull. Okay. If I was in a flood plain I would be paying flood insurance. I'm not. There is only one person in this whole thing that is really paying flood insurance, okay. And that is only because they have a small portion of their lot that is in the flood plain. This land that is to be rezoned is, the majority is in the flood plain. Well, to develop that land they are going to have to build it up. They are going to have to bring in dirt. They are going to change this flood plain. Then who is going to be liable for the damages done to our homes when we are flooded out? When this flood plain changes. Now, I know they are going to say, well that's up to the developer. Well, how do we stop the developer later? If we don't stop it now, how do we stop it at all? Okay. You know, even if they were to get zoned, how can you let this go thorough with no development commitment at all. The 19 uses out of 300, none of us agreed on really. We were backed into a corner and accepted last year. You know, there is 281 uses there, most of them are very undesirable, especially to residential areas. This bridge thing on Boyle that he mentioned, that is to relieve the flood they are having over there. Not our flood, okay? That's to relieve that flood, because they put a big retention pond in there and it's running over the banks. They can't control it. Okay? This whole area is very much out of control as far as water is concerned. When this thing was drawn up these homes were existing. Now, regardless of whoever was on the board, I would think that this was meant to be a variable thing where you could decide whether you, you know, I thought you people were the ones that were going to make this law or make this zoning. Not this plan. This plan was written by or drawn by somebody else. You all didn't draw this plan did you? I mean, I know I didn't. No one even asked me.

Commissioner Mourdock: Let me clarify that.

Calvin Rickard: Okay.

Commissioner Mourdock: I'll explain how it was drafted. APC staff drafted that plan or a basic plan. There were then a series of public meetings held to allow anybody in the county who wanted to come in and comment about the plan to do so.

Calvin Rickard: Okay.

Commissioner Mourdock: Based on those public meetings, typically, there is some revision made, and then ultimately the plan goes back to the APC board which votes on it and it came to the County Commissioners to vote on it as well.

Calvin Rickard: Okay, so then when that was being proposed, did they notify the homeowners in this subdivision that that was going to be happening?

Commissioner Mourdock: There was public notice that went to all county—

Calvin Rickard: Public notice only.

Commissioner Mourdock: – yeah, for everyone in the county.

Calvin Rickard: Right. Okay, well, see the problem is that most, I would say a lot of the public doesn't realize it until you get an official notice. Because your land is touching that land. You know? I don't think everybody reads the paper or watched

the news everyday. I mean, we should, but we don't' all. We have our own lives. All I can say is, we as homeowners in this area feel that we are not being represented by this county if you pass this. Because we have begged you. Last year we begged you not to do this. It still happened. We are begging you again. We should have a vote in this. Now, if you will look at that file which Mrs. Cunningham didn't bring to you, they didn't send this forward with a recommendation. I think that is partly because they don't believe this should happen to these local residents. I think our vote should count. I mean we've got 15 on this particular petition. Last year I had 86 on the petition, and you know I'm just running out of energy. Thank you.

President Mosby: This was sent forward with no action.

Calvin Rickard: That's correct.

President Mosby: Okay. I just wanted to clarify that.

Philip Hayes: (Inaudible. Mike not on.)

President Mosby: Pardon?

Philip Hayes: The cover letter of August...the cover letter of August 2 is in error. It states that this petition was denied, and Ms. Behme pointed out to me that, in fact, that's no action taken, therefore, no recommendation.

Calvin Rickard: Right.

Philip Hayes: Where it says five negative votes, actually the requirement would have been seven to deny.

Calvin Rickard: It was just basically sent forward just with no recommendation.

Commissioner Mourdock: Exactly.

Philip Hayes: Put in, yeah, these are the matters to which the speaker refers and they are being passed down for your review.

President Mosby: Yeah.

Philip Hayes: Land owner petitions and attachments.

President Mosby: Are there any questions by any member of the Commission? Mr. Rickard, okay. Is there anybody else that wanted to speak to this matter? Okay. Mr. Bodkin did you want to address anything that was said?

Tom Bodkin: Only briefly, if you don't mind. It's getting late. A couple of quick points.

President Mosby: Okay.

Tom Bodkin: Boyle Road is the same Kneer Creek, your engineer indicated raising the bridge 4' on Boyle Road should relieve water problems on Kneer Creek, both ways, up and down. So, it is something you've looked at, and asserting that you are doing nothing for the neighborhood, I think, is an unfair statement. You as

Commissioners adopted the list of uses for M-1 and M-2. You decided which uses you thought were the right uses for that zoning category. Not developers or anyone else. What this petitioner has done is agree not to use some of the M-2 uses that you said were proper M-2 uses when you adopted the Zoning Code. It is exactly the same list of "we won't do its" that the parcel across the street said it would not do. Now, it's kind of difficult for me to address an assertion that somehow or another I did something I shouldn't have done and therefore forgive me for doing it on another rezoning. If the people who did not want to, didn't want Baseline Properties to be rezoned they should have kept fighting it, I suppose. The point of fact, Baseline Properties entered into a use commitment saying it would not do exactly the same uses in that list you are looking at. You, as County Commissioners, found that to be an adequate use restriction on land that you said in the Master Plan when you adopted it was land that should go M zoned. So, I submit to you that that is an issue that is a non issue. There isn't any question that a fair amount of property before you now will fall within the 100 year flood plain. I submit to you, it's highly unlikely that anybody is going to develop houses in that ground. It's too expensive. Ladies and gentleman, you've got a 12' drop from, you know, from one to the other. Down by the creek. In order to get it to the 100 year flood plain you are going to have to fill it to put a house there, let alone talking about any other kind of berms or items of that nature.

Commissioner Mourdock: May I ask a question regarding that?

Tom Bodkin: Sure.

Commissioner Mourdock: The staff report mentions and it simply says flood zone, yes, part of this site lies within the flood plain. We are only looking at 13.7 acres site. How much, I don't see in here where it specifically says five acres or four acres, how much is in the flood plain. Bev, do you know?

Beverly Behme: No, we don't. That's determined by the Building Commission.

Tom Bodkin: I really don't at this point because it's got to be surveyed and lay it out.

Commissioner Mourdock: Okay.

Tom Bodkin: Obviously, the stuff along the creek is. That is where the flood plain is going to be.

Commissioner Mourdock: Well, let me chase the point--

Tom Bodkin: I can't tell you how many acres, Mr. Mourdock. I don't know.

Commissioner Mourdock: Okay, let me just kind of follow up on the question Mr. Rickard was raising. Given that part of it is in the flood plain, are you looking to put fill in to bring the remainder of it up out of the flood plain?

Tom Bodkin: I would assume that there could be some fill, but most likely the property in the flood plain, which is going to be along the creek, is where the impoundment is going to go. That would be logically where you would put the impoundment. You wouldn't fill there. You would take dirt from there to create impoundment for the storm water that would come off the rest of the parcel. Whether we fill or not, however, doesn't make any difference. Under your ordinance, we cannot let more water go into that creek than goes into that creek today.

Commissioner Mourdock: I understand. I'm just trying to make the point though, if you were to take the borrow off that property, you are otherwise creating impoundment—

Tom Bodkin: Correct.

Commissioner Mourdock: —which should help the overall drainage situation—

Tom Bodkin: Yes, sir.

Commissioner Mourdock: —whereas, if you brought in fill—

Tom Bodkin: If we just filled it.

Commissioner Mourdock: —from off site, Mr. Rickard's point about the additional water and the damage going to adjacent properties could become a factor.

Tom Bodkin: I suppose—

Commissioner Mourdock: If you brought all the borrow in.

Tom Bodkin: Yes, except I don't think under your ordinance we can do that. I think we have to balance the two out. If I bring in dirt to fill that ground, I still have to capture all the water that would fall off otherwise.

Commissioner Mourdock: Right.

Tom Bodkin: Now, when I dig out the borrow pits to catch the water, that gives me dirt to fill with, certainly, but I can't let more water go off than goes off today. Whether I fill it and don't dig borrow pits, or dig borrow pits. Likely that's where the drainage is going to be. Don't forget we have a sanitary sewer that is running along the north and half of the east side here that we can't, we can't deal with. We can't pile dirt on top of that. That has to be left the way it is, because the city has an easement for that.

Commissioner Mourdock: One other question, and you have made the comparison several times to the use and development commitment that's done with Baseline Properties on the south side of the road. Mr. Rickard made the point that although it may not have been specific in there use and development commitment, although, I think it might be too, the use of buffers and some set backs—

Tom Bodkin: I'll be glad to address that.

Commissioner Mourdock: Okay.

Tom Bodkin: There is no question that Baseline Properties did, in fact, as a part of their commitment indicate, they indicated a number of things, some of which are not even relevant here. For instance, they said they wouldn't go on Peck Road.

Commissioner Mourdock: Right.

Tom Bodkin: Well, that's not an issue here, because we don't touch Peck Road. They agreed they would build berms around two sides of the parcel. That ground, and the purpose for that was so that Mr. Rickard could look out his front door and not

look at their development. They agreed to put berms and this is by memory, maybe 10' tall, I don't have it in front of me.

Commissioner Mourdock: Along their north line?

Tom Bodkin: Yeah, because they had...they were going to build a lake on the north line, so it was part of the berm anyway. Then they were going to have some berming, except for where the entry way came in, as I recall, and then down the east line on Peck, Peck Road. The berm actually came up, Mr. Mourdock, and tied into the drainage ditch. Which would have been kind of across the street from his ground, as I recall. He's got a map, he can show you what they proposed. Let me suggest to you—

Calvin Rickard: (Inaudible. Not at mike.) All of that is bermed.

Tom Bodkin: Right.

Commissioner Mourdock: Okay.

Calvin Rickard: No berming here.

Tom Bodkin: Right. Correct. No berming here.

Commissioner Mourdock: It shows here, actually, let me get, no that's right.

Tom Bodkin: Our ground is over here. Right here. So, there is no berming on Baseline property across the road, per se, from our real estate. It was only across the road from Mr. Rickard's house, which is where they were going to put their drainage impoundment. They already knew that because they are going to turn this into a subdivision. They already had a subdivision back to the west, so that was a continuation from their standpoint.

Commissioner Mourdock: This drawing then is not accurate because their proposed detention, as it shows here, actually ended up over here, correct?

Tom Bodkin: I don't think this has been built yet. I think it is going to be built.

Commissioner Mourdock: Okay. It's a later phase.

Tom Bodkin: Right.

Commissioner Mourdock: Okay.

Tom Bodkin: They are actually, not even, they haven't even got into that, I don't think. Let me submit to you a couple other points, the berming here was on the south side of this parcel, was specifically because of a veterinarian who lived right there. So, they agreed to put a berm in there so he couldn't see the parcel. The berming along Peck Road, basically, was because of a couple of houses along Peck Road, and they didn't want to look across, out their front door. Mr. Rickard can't see my ground from his house, there is a row of trees, as much as he might want to belittle, it's been there a long time and they are big trees. You've got photographs of them right there.

Calvin Rickard: (Inaudible. Not at mike.)

Tom Bodkin: That blocks the view that direction. Secondly, I cannot, my client cannot build a berm along this part of the real estate because there is a sanitary sewer there. We cannot do that on top of the city's easement. You know, there is, we simply cannot. Yeah. Could we build it here? I don't know. Again, we get into the problem of it we are going to build a berm, we are going to build a lake. Secondly, if we put a berm of any kind right here, then the question becomes where's the water going to go that goes into that ditch? Because that is the ditch. The ditch comes all the way along here. We've got this one little section here that is not encumbered with the sewer line. That is the only section. Baseline Properties was able to go ahead and agree to berms, they also had a substantially bigger parcel, I might add too. They also are much higher. If what this gentleman wants is no site line to here, then the question is how high would this berm have to be? How wide would the berm have to be? I don't have exactly the measurements here, but we know that the land falls this way. Again, I gave you the elevation averages, and we could be looking at a berm that could be 15' or 20' just to get even with the top of a building. I submit to you that is just simply not feasible, at this point. Now, it may well be that when it comes time to submit the development plan to the Planning Commission, which has to review this. That may well be something that could be worked in there. I don't know where the entrance to this parcel ought to be yet either. Until such time as we actually have a user for it, it may well be that your engineer is going to want the entrance right here. Because it is right across from the Baseline entrance. Or it may well be your engineer is going to want it back at this end, so that we don't interfere with entrances in and out of the parcels. Those are issues, obviously, that have to come up and be decided by the Plan Commission site review committee when the actual development plan gets submitted. The Baseline people knew what they were going to do because they already had a subdivision platted that they were simply extending on. They knew that this was the only place they could put the catch basin, ultimately, because the water falls that way right to that creek. This one on Baseline actually just charges through a pipe right into that creek. That is where the water is going to go out of Baseline's retention. So, again, trying to compare this site to Baseline is a little bit difficult because the topography is different, and the uses they way they are going to lay it out is different, and the purpose for the berming was substantially different with regard to most of Baseline. They got berms because they created a lake there, and they simply went ahead and agreed to do those because of the dentist on the south end. Still, and there was a debate about this parcel, about how much if all of it was within your Master Plan, as I recall. As I recall, I think, perhaps, the Plan Commission Executive Director and I, perhaps, had a difference of opinion about how much of this ground was in that Master Plan. There is no debate about this parcel. There is none. That is clearly shown as within the area that is supposed to go industrial on your Master Plan. There just isn't any debate about that, in my view. Again, the mix of uses, are a mix of uses you said, not you personally, but you as Commissioners said were the right kind of uses for M. My client is willing to give some of those up, as did Baseline to get the matter through in terms of zoning. Let me quickly check and see if there is anything that I've forgotten. Again, as you know, we have to deal, no guarantee that we will catch the water. We don't have any choice. If we don't catch the water, you are going to fine us into oblivion. Because that is what your ordinance was for, to make sure developers do catch the water. We simply have no choice but deal with that, as you well know.

Commissioner Mourdock: Let me go back one more time to my question about the 100 year flood plain—

Tom Bodkin: Uh-huh.

Commissioner Mourdock: –and what may or may not be filled. I have to believe that your client in doing due diligence in putting this purchase agreement together had some basic numbers to work off of as far as determining his economics as to how many acres are really useable. So let me ask the question in that way, how many useable acres out of this 13.73 do you see?

Tom Bodkin: As one of the gentleman pointed out, I guess, if you fill it, it's all useable, but that is not feasible.

Commissioner Mourdock: Right.

Tom Bodkin: Probably, eight or ten acres by the time you get done with borrow pits, digging out borrow pits and then filling in some areas. Because, again, we, you know, you've got the set back away from the creek. We've got the city sewer line we can't deal with that. So, we lose all the ground on the north and east side of that. That is not useable at all, but it's part of the 13 acres. The clients have also indicated that their prices are probably going to be a little bit cheaper than Baseline Properties prices are which they think is why they've not been selling their land. One final point, when this issue came up with the other folks across the road, we had a concept that I can't, and if it's in your zoning ordinance I stand to be corrected, and I would be pleased to be corrected. That is the concept of step down zoning. I think I know what that means, but I don't find that dictated by your Zoning Code or your Master Plan, per se. Now, I'm not sure exactly if we look at Highway 41, if you just use your own mind about what people do when they develop ground, C zones are less heavy, perhaps, than the M zones, and C zones are, you know, they are restaurants, they are shopping centers, and they are things that want access to big roads. Roads where people can get in and out. M zones don't necessarily need that, they need ground, but they don't necessarily need, you know, traffic going in and out of them. So the concept of step down zoning, step down zoning, I can't say that, is a little difficult for me to understand. I understand what it means, but I'm not sure which way we step. At this point right now, we have a C-4 at the corner of Baseline and 41 in one corner. We've got M's on the other corner, just across the road is Azteca, which, of course, is an M zone. We have next to the C-4 and M-1 coming toward my clients perspective parcel, towards Mrs. Shepherd's parcel. The parcel next to the RV center east is zoned M-1. So, when that happened, obviously, step down zoning wasn't the order of the day. If step down zoning is what we want in this county, we need to define it, we need to put it in an ordinance so everybody can understand it before they buy land. Because it is not, I submit to you, in any of your ordinances or defined as a rule, if you will, of construction that anyone should be using in trying to determine whether to buy ground or not. If you have further questions, I'll try to answer them. I would request that you adopt the ordinance rezoning this real estate to M-2 with a use commitment as proposed.

President Mosby: I have one question.

Tom Bodkin: Yes, sir.

President Mosby: Why are you zoning this without a client?

Tom Bodkin: Basically, I think that the client believes that they can sell the ground once it's zoned, but you can't sell it Ag for any kind of M use. The client, I think, also believes that the issue as they understand it is, is that the right use for the ground, not do I have somebody who is ready to build an M building on it today or not. We really don't have that much zoned M ground yet. There is some, certainly, but we

don't have vast quantities of it up and down 41. If we look at your current land use of '96, in fact, the Baseline Properties parcel here is about all that has really changed along here. There has been a few over here, obviously, where we've put some restaurants and things along, near across from the State Police Post. The client believes that they have a chance to either market the parcel as is, for one use, one M use, but until it's zoned there really isn't, you know, people who are interested in the parcel, we think, will not be interested until it's zoned.

President Mosby: I guess, my biggest problem there is, I wish they had a client because I would like to know, I would really like to know if they are going to try to fill that ground. I understand what you're saying about, you know, having to drain the water, but I would really like to know if they are going to try and fill that ground and make use of that. I would like to know where the building is going to be on that ground. These are questions I would like answered. You, obviously, can't answer that.

Tom Bodkin: Jerry, do you want to speak? The point made was, perhaps, Baseline Properties didn't have any users either. Yet the issue there was what is the proper use for the ground, not which user may be using the ground.

President Mosby: Well, I understand that, but I'm not going to buy that. I didn't rezone the property across the street.

Tom Bodkin: I know.

President Mosby: I'll challenge you to go back and look at anything that I rezoned in the City. Anything that I rezoned in this City, had a use on it. So, if you want to put that argument forward, it don't hold a lot of water. I mean, I'd like, if there's going to have be an ingress/ egress, I want to know if you are going to commit to (Inaudible) the property?

Tom Bodkin: Well, certainly, we have to do that.

Jerry Lamb: My name is Jerry Lamb. I'm with Daylight Properties. We don't know the answers, Mr. Mosby, to allow these questions as far as to who the ultimate user of this property is going to be. We have absolutely no one in mind at this point. This could very well be a cornfield for the next five years. We just don't know. Really we don't know if it's going to be a single user, or if it's going to be, possibly, sub-divided. Certainly, if it were to be sub-divided, this body, along with the Area Plan Commission would also be given another chance to look at it, in great detail at that point. That's the process that the Baseline Properties went through. They actually went through a commercial subdivision process. We're simply asking for a land use change which will then allow us to pursue marketing this property to industry and we may end up with a single user. There aren't very many large parcels along Highway 41 with an M zoning. There are a lot of individual little one acre lots, as in Baseline Properties that are \$75,000 an acres. That is not the market we are shooting for. We are shooting for the light industrial market with larger parcel users. I'm sorry we don't have the answers to all the questions. Believe me, our banker would like to know as well. We just don't have the answers. It's something we are doing to, hopefully, capitalize on the industrial growth which is happening along 41. It's certainly well positioned. We're 1,000' east of 41. Fully improved stoplight intersection. It's just a perfect spot.

Commissioner Mourdock: Just to clarify something, Mr. Lamb, you said if you did a

subdivision it would come back to this board. It would go back to APC, but the subdivision would not come back here.

Tom Bodkin: Drainage would come here.

Commissioner Mourdock: Drainage would come here.

Jerry Lamb: That is what I was referring to. I'm sorry, Mr. Mourdock, that's correct. That's right and any road right-of-way issues would also be dealt with at that time. So, in other words, there is going to be ample opportunity for further comment on those issues in the future. We are just strictly looking at a land use change here.

Jack Tubbs: Jack Tubbs, I'm a partner with Jerry in Daylight Properties. I moved back home here in '97. I like to say that it was the Toyota effect that caused me to move back home. My background in Engineering and Economic Development and also Project Development. I'm very excited about the next eight to ten years for this area. I've had offers to move back to Indianapolis, but I really am excited about what is going to happen, what could happen. From Vanderburgh County's standpoint I'm also excited about the possibilities. What we would like to provide is another opportunity in concert with Baseline Properties, in concert with VIP that could be presented as an option to some of these prospects. That is what we are trying to do, is that we are trying to provide investment opportunities for the county, and also create jobs.

President Mosby: Any other questions or comments?

Tom Bodkin: Thank you ladies and gentleman.

President Mosby: Thank you. Chair will entertain a motion.

Commissioner Mourdock: Obviously, we'll do a roll call vote here, but I'll move approval of County Zoning VC-11-2001 for 13.73 acres to zone from Ag to M-2 on the north side of Baseline Road between Boyle Lane and Valley Court.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. We will do a roll call vote here. Commissioner Mourdock?

Commissioner Mourdock: When you make these votes sometimes they are tough, because ultimately these are all about property rights. The people owning adjacent properties have rights and the people selling the properties have rights. Certainly, they want, both sides want to get the maximum value they can for their property and that is perfectly fair. As I look at this one I have some concerns given the size of it, that it can really be anything very effective as an M zoning, given that it is by definition something like eight acres out of the 13 might be useable. I also have some concerns, as you've raised, David, as far as the access points and those kind of things, but it seems to me ultimately this one does fit with the plan. There is a lot yet that needs to be done with it by way of how it gets approved. So, this is a hesitant yes.

Commissioner Fanello: Well, I have too many concerns at this point, so I'm going to vote no on this one.

President Mosby: I have concerns. I expressed them to you. I don't know how the property across the street was rezoned. I wasn't sitting here. I've been over in the Council for 13 years, but I in no way want to just open up and rezone a piece of land when I don't know what is going to go on it. I don't know what I need to ask for and what I don't need to ask for at this point in time. I might need ingress/egress. I might need somebody to donate right-of-way. I really don't know, but with there being no plan and you not being able to provide me any information I am going to vote no. There being two no's and one yes, VC-11-2001 is defeated.

Commissioner Mourdock: Motion to adjourn.

Commissioner Fanello: Second.

Commissioner Mourdock: I have a motion to adjourn and a second. So ordered.

Meeting was adjourned at 9:15 p.m.

Those in Attendance:

David W. Mosby	Catherine Fanello	Richard E. Mourdock
Philip Hayes	Madelyn Grayson	Beverly Behme
Tom Bodkin	Calvin Rickard	Jerry Lamb
Jack Tubbs	Others Unidentified	Members of Media

**Vanderburgh County
Rezoning Board**

David W. Mosby, President

Catherine Fanello, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
September 17, 2001**

The Vanderburgh County Rezoning Board met in session this 17th day of September, 2001, at 7:30 p.m. in Room 307 of the Civic Center Complex with President Mosby presiding.

Call to Order

President Mosby: I would like to call to order Rezoning agenda for September 17, 2001 Board of Commissioners of Vanderburgh County.

Approval of Minutes

President Mosby: Approval of the minutes of the previous meeting.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. So ordered.

First Readings

President Mosby: First readings; VC-12-2001, Phyllis Finnegan, Jane Hirsch, Ronald Hirsch, Donna Beaven, 5919 Vogel Road, Evansville, Indiana, Ag to C-2. VC-13-2001, Dan Buck Development LLC, 800 Schutte Road, Evansville, Indiana, Ag to C-4 with use and development. VC-14-2001, Petitioner: Eagle Construction and Development, 3400 Wolf Bay Drive, Ag to R-1. VC-15-2001, Bridlewood Development LLC, 3630 West Boonville-New Harmony Road, Ag to R-1.

Commissioner Mourdock: I'll move approval on first reading of all the (Inaudible. Loud humming on tape.)

Commissioner Fanello: Second.

President Mosby: A motion and a second to approve on first reading.

Final Readings

President Mosby: Final zonings; VC-10-2001, Dan Buck Development LLC, 800 and 906 Schutte Road, Ag to R-3 has been held at the request of the Petitioner and the attorney, Krista Lockyear.

Commissioner Mourdock: I'll move adjournment.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. So ordered. Adjourned.

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

Those in attendance:

David W. Mosby
Philip Hayes
Members of Media

Catherine Fanello
Madelyn Grayson

Richard E. Mourdock
Others Unidentified

**VANDERBURGH COUNTY
REZONING BOARD**

David W. Mosby, President

Catherine Fanello, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
October 15, 2001**

The Vanderburgh County Rezoning Board met in session this 15th day of October, 2001 at 7:35 p.m. in Room 307 of the Civic Center Complex with President Mosby presiding.

Call to Order

President Mosby: I would like to call to order rezoning meeting for October 15, 2001, of the Board of Commissioners of Vanderburgh County.

Approval of Minutes

President Mosby: Approval of the minutes of the previous meeting.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. So ordered.

First Readings

President Mosby: We have no first readings tonight, so we will go to third and final reading.

Final Readings

President Mosby: Petition VC-12-2001, petitioner; Phyllis A. Finnegan, Jane R. Hirsch, Ronald E. Hirsch, and Donna T. Beavens, address: 5919 Vogel Road, Evansville, Indiana. Request from Agricultural to C-2. Do we have a representative?

Joe Ream: Yes.

President Mosby: Please state your name for the record.

Joe Ream: My name is Joe Ream. I'm the developer for Hirsch Meadows, and I represent the Hirsch family requesting this rezoning to C-2. Jim Farney with Bernardin Lochmueller is the consulting engineer.

President Mosby: Okay. Are there any questions by any member of the Commission? I believe this passed 9-0 in Area Plan.

Beverly Behme: Nine with one abstention.

President Mosby: Nine with one abstention.

Commissioner Mourdock: That would have been me, because—

President Mosby: I was going to say that would be Commissioner Mourdock.

Commissioner Mourdock: —I always abstain in light of possible more information.

I'll move approval of the change from Ag to C-2 for VC-12-2001.

Commissioner Fanello: Second.

President Mosby: I have a motion by Commissioner Mourdock, with a second by Commissioner Fanello, and I will agree. We don't need a roll call vote.

Commissioner Mourdock: Yeah, you do because—

President Mosby: Okay.

Commissioner Mourdock: —it's an ordinance.

President Mosby: Commissioner Mourdock.

Commissioner Mourdock: Yes.

President Mosby: Commissioner Fanello.

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. There being three yes', no nays, petition VC-12-2001 is hereby declared adopted. Is there any other business to come before—

Joe Ream: Thank you.

President Mosby: Thank you, Mr. Ream. Thank you, Jim. Thank you. Any other business to come before the Commission?

Commissioner Mourdock: Motion to adjourn.

President Mosby: Seeing none. I have a motion by Commissioner Mourdock—

Commissioner Fanello: Second.

President Mosby: —and a second. So ordered. We stand adjourned.

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

Those in attendance:

David W. Mosby

Jay Ziemer

Others Unidentified

Catherine Fanello

Madelyn Grayson

Members of Media

Richard E. Mourdock

Joe Ream

David W. Mosby, President

Catherine Fanello, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
November 19, 2001**

The Vanderburgh County Rezoning Board met in session this 19th day of November, 2001 at 7:20 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: Call to order the Vanderburgh County Rezoning Board meeting for November 19th. We will go into the Rezoning agenda.

Approval of Minutes

President Mosby: First, I need a motion to approve the minutes.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. So ordered.

**First Readings:
VC-16-2001, VC-17-2001, VC-18-2001**

President Mosby: First readings.

Commissioner Mourdock: We have three. The first one I will move approval on first reading VC-16-2001. Petitioner is Martin Woodward for 15515 North Posey Line Road, from Ag to C-4 with a use and development commitment .

Commissioner Fanello: Second.

President Mosby: So ordered.

Commissioner Mourdock: Second, first, the second also for first reading is VC-17-2001, Three I Properties LLC. It's 600 East Boonville New-Harmony Road, requesting, and, Bev, this says A and R-1 space C-4. Is that meaning Ag?

Beverly Behme: Ag.

Commissioner Mourdock: Yeah, it looks like it's a typo.

Beverly Behme: It's zoned both.

Commissioner Mourdock: Okay. Okay, then the request is from Ag and R-1 to C-4.

Commissioner Fanello: Second.

President Mosby: So ordered.

Commissioner Mourdock: And also on first reading we have VC-18-2001, again petitioner, Three I Properties, address is 601 East Boonville-New Harmony Road. The request is from Ag to change to C-4.

Commissioner Fanello: Second.

President Mosby: So ordered.

**Final Readings:
VC-14-2001, VC-15-2001, VC-9-2001, VC-10-2001 & VC-13-2001
VC-14-2001: Petitioner, Eagle Construction
3400 Wolf Bay Drive
Ag to R-1**

President Mosby: Final reading of zonings. First we will have petition VC-14-2001, petitioner Eagle Construction and Development, 3400 Wolf Bay Drive and the request is from Ag to R-1. Is there somebody here representing Eagle Construction and Development?

Les Shively: I'm not, well, my name is Les Shively. I'm not directly the representative for this one, but I am for the one that comes after. They are both sort of together. These are...Eagle Construction wanted it for a subdivision out in Mc Cutchanville that has received primary plat approval. It's not been recorded yet. They are requesting a change from Ag to R-1. Shane Clements is the developer. Mr. Clements or his engineer is not here this evening, but both of us worked together on this, so I will be more than happy to answer any questions. I'm somewhat familiar with the particular request.

President Mosby: Are there any questions by any member of the Commission?

Commissioner Mourdock: Is anyone here to speak to the—

President Mosby: Anyone here to remonstrate against 3400 Wolf Bay Drive? Any remonstrators? Seeing none. Chair will entertain a motion.

Commissioner Fanello: Motion to approve.

Commissioner Mourdock: Second.

President Mosby: I have a motion and a second. Roll call vote, I guess, on zonings. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. Three yes' and no nays. Petition passes.

**VC-15-2001: Petitioner, Bridlewood Development LLC
3630 W. Boonville-New Harmony Road
Ag to R-1**

President Mosby: Next petition VC-15-2001, petitioner, Bridlewood Development LLC, 3630 West Boonville-New Harmony Road, request Ag to R-1.

Les Shively: Mr. President and members of the Commission, this is a similar request. This is also for a plot of ground that has received primary subdivision approval. We are simply seeking to change classification to R-1. It's midly southeast of the property you just rezoned a moment ago.

Commissioner Fanello: Motion to approve.

President Mosby: Are there any remonstrators for petition 3630 West Boonville-New Harmony Road?

Commissioner Mourdock: And seeing none, with the motion on the floor, I will second.

President Mosby: I have a motion and a second. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. Three ayes, no nays. Petition is granted.

**VC-9-2001 & VC-13-2001
Petitioner: Dan Buck Development
800 & 806 Schutte Road
Ag to C-4 with Use and Development Commitment**

President Mosby: The next three, do you want to do them together? Or separate?

Beverly Behme: Do you want to do the motions together?

President Mosby: Well, that's what I was just wondering. I would say we do that.

Beverly Behme: That would be--

President Mosby: It's C and E.

Beverly Behme: It would be--

President Mosby: C and D.

Beverly Behme: Yeah, right, and I think he's prepared to (Inaudible)--

President Mosby: Okay. Is that alright with you, Mark.

Marc Fine: Yes.

President Mosby: To do these together? Right. Next we're going to hear petitions VC-9-2001 and VC-13-2001. The petitioner being Dan Buck Development. The

addresses being 800 and 806 Schutte Road. Request from Agricultural to C-4 with a use and development commitment. Before we start, do you have a list of the people that want to speak?

Commissioner Mourdock: Just so we are all clear on the procedure. We're going to hear the two commercials first--

President Mosby: Right.

Commissioner Mourdock: --and then vote? Or hear the two commercials first and then the other one and then vote on each of the three? Which are we doing?

President Mosby: I was under the impression we would hear the two commercials, but we have to vote on them separately.

Commissioner Mourdock: We do have to vote on them separately--

President Mosby: Okay.

Commissioner Mourdock: --I'm simply saying, do we want to hear the two of them, and then vote on the two of them, and then hear the other one? Or do we hear these two, and then the third one and then vote on the three? We have to vote separately on three issues?

President Mosby: Do you want to hear all three together? Is that okay with you?

Marc Fine: Our preference would be that we do the commercials, you vote on the two commercials, and then we can talk about the residential after you talked about, after you've voted on the commercials.

President Mosby: That's fine. I've read the two commercials, so we'll do them first. I have a list in front of me. Has everybody signed this that wants to speak? If so, I mean, I'm going to go off of this list. I would call the names as I've got them here in order. The only thing that I would ask is that we don't keep reiterating the same info over and over. So, and I'm willing to let everybody speak, but just so we don't keep getting the same thing. Mark, I'll let you go first, then I'll take remonstrators, and then I'll give you a three or four minute rebuttal.

Marc Fine: Members of the Commission, my name is Marc Fine. I'm here on behalf of Dan Buck Development LLC. I'm sorry, my partner, Krista Lockyear, is out of town and wasn't able to visit this opportunity with you. As you may be aware as the staff field report and the petition show, total rezoning with respect to a C-4 petition is 1.6 acres. It's divided into two parcels. One acre is established at the north end, I'm sorry, the south end of the property, which is also adjacent to the Expressway. There is 6/10 of an acre, which is at the northern end, which is adjacent to the other one acre parcel. What we are asking for today is for those to be rezoned as C-4. I think the important aspect of what we're asking for is the use and development commitment that is a part of our petition. This developer has taken great steps to provide what we would consider to be a low level commercial usage. There's two story limits, there's light limits, sound limits, billboard limits, size limits in all respects. What we're trying to do is keep this as a relatively low level commercial. As you'll hear later today, it is framed by some residential, so that it will have as low an impact on the area as possible. As much as we all believe that the corridor, being the Lloyd Expressway, is providing a wonderful entrance and exit to our county, we have to be

mindful of the fact that USI is a growing force in our county. We need to keep in mind what it will take to service the growth that will occur on the western corridor. As much as we don't want to believe it, the Expressway itself, it makes this property not rural. What we've tried to do is recognize that it is commercial, and with as little intrusion as possible, again framing it in a way that does not intrude upon the neighborhood in anyway that we would believe to be objectionable. Dan Buck has solicited Brian Schoffman, of Appraisal Consultants to obtain a highest and best use analysis, which we all believe is integral to the analysis that has to occur today with regard to this rezoning. The highest and best use analysis from Appraisal Consultants confirms that the property's best use is a commercial property or convenience store and gas station are considered to be appropriate and within their highest and best uses. As Mr. Buck has reiterated with regard...to the Area Plan Commission and to the others, he is committed to improving this property along Schutte Road. I think it's important for the record to reflect that the, if there is a traffic impact study, he anticipates providing the infrastructure consistent with that traffic impact study. He's already indicated that he plans to put in an additional lane along Schutte Road for those improvements. He's already indicated that he plans, at his expense, to put in a lift station to provide sewer for the area, which certainly enhances the value for everyone there. I think this development as a whole provides us with an opportunity where we can defray some of the congestion that occurs at some of the other neighboring shopping centers just to the east. It could allow you to alleviate a little bit of that congestion just with regard to a small commercial building and a convenience store and gas station. It's worthy of noting that if this commercial zoning were truly objectionable, the Weber family who is selling this property, will continue to live in the area. Again, we have framed this with a little higher level density residential, and then the Weber family lives around it. So, if they believed it was in any way objectionable or devaluing to the area, they certainly wouldn't do that to themselves. With that I will go ahead and rest and allow any other comments. Unless you have questions for me at this time.

President Mosby: (Inaudible. Mike not on.) Questions at this time? Okay, I'll go ahead and call these...I'm sorry, my mike wasn't on. I'll go ahead and call these and we'll come back. Gregg Baker.

Gregg Baker: Hi, Gregg Baker. I live at the corner of Walling and Schutte. In response to staff writer, Herb Marynell's, recent freeway bound article and some other factors, I would like to respectfully suggest that the Vanderburgh County Commissioners put the rezoning of the corner of Schutte Road and the Lloyd Expressway on indefinite hold until the community can develop a plan that takes into account the greater needs of the community. The article mentions the Lloyd Expressway Study Advisory Committee and the Corradino Group meeting with the community early next year to gather input on community needs. These relative to overpasses on the Lloyd between Fulton Avenue and the University of Southern Indiana. Why don't we put the Schutte rezoning on hold and wait for their recommendations? Why don't we treat the Lloyd between Schutte and USI like downtown? The Lloyd between USI and Fulton deserves it's own master plan. Additionally 1,100 plus interested west siders voted, west side voters have signed a petition against the kind of development that is being proposed by Dan Buck, and yet the current process does not work well at gathering their input. The results of this rezoning process are akin to telling a child it cannot have anymore candy, only to give him...repeatedly come back and ask for more until the parent finally gives in. Do we really want to allow this sort of process to prevail? Don't you think we should wait for the Corradino Group to give it's recommendations? Furthermore, a new comprehensive plan for the development, for the development is in process, but not

yet finished. Should we look at those results before forging blindly ahead? I hope I'm not off here, Catherine, but I think you made some comments recently on Shively and Shoulders, Shively and Shoulders that alluded to the idea that our community should develop appropriate plans for county projects, and then execute those plans accordingly. Why don't we do that for Schutte Road? That's my comments.

President Mosby: Any questions of Gregg? John Strange.

John Strange: John Strange, 931 Mahrenholz Drive. The lawyer sort of throwed me off there. He said that it's not rural. If it's not rural, why is the tax structure different? Why don't we have City Fire Department out there? Or City Police? Now I just brought that up because that's what he just said, it's not rural. Another thing on this commercial, why do you want to commercialize it? That's the only nice place from Boehne Camp Road to USI that's got any looks to it at all. You go by the grease alley up there, all you see is the top of the buildings. All you see is air conditioners, some dumpsters. You never see the front of it. And what does people coming into town, going to USI and places like that think of a place like that. I mean, then they say that they have to have that place out there commercial for a simple reason, if they don't Mr. Buck cannot get his money out of it, and USI kids don't have no place to go. USI's going to get up and leave. Now that's what the man said at the other meeting. Another thing here (Inaudible) is that I would like for Mr. Mourdock to read this out loud, if he will. It was in the paper and I think everybody else in here (Inaudible. Comments made away from the mike.)

Commissioner Mourdock: I'm...I don't know that I've ever been asked to read from the newspaper, something into the record.

John Strange: Well, I want you to verify something. I'm just going to ask you a couple of questions when you read it. I want the people that hasn't read it-

Commissioner Mourdock: Well, with all respect to the news media as a whole, you are going to ask me a question and then assume I-

John Strange: It's going to put you in the hole, ain't it?

Commissioner Mourdock: No. Well, I don't know. I don't know the question. It might.

John Strange: It's going to put you in the hole and you know it.

Commissioner Mourdock: No, my response to this is you're assuming that whatever is on this piece of paper is a fact. With all respect to the news media-

John Strange: No. (Inaudible. Talking over each other.)

Commissioner Mourdock: -(Inaudible. Talking over each other.) If you want to ask me a question, if you want to ask me a question, go ahead. I don't need to read this to answer any questions.

John Strange: Well, I just want to know, just ask if he's right? For the simple reason has he got the Republicans in his pocket? Or does he pay them off to get it? Because he says right there that when the Democrats get out, the Republicans are going to get it in. Now you tell me something.

Commissioner Mourdock: Mr. Strange—

John Strange: That's what I want to know.

Commissioner Mourdock: —Mr. Strange, I have no idea where that, I mean, I've seen that quote. I know what you are referring to. I have no idea where that or what that is based on. That's all I can say, because I don't know where that comes from. There's been...Mr. Buck and I have not had one syllable of discussion regarding this project. So, if you are inferring that there is something that has been discussed, I can tell you that you're flat, dead wrong.

John Strange: Well, I've talked to many Republicans, and they are all upset about it.

Commissioner Mourdock: They are all what?

John Strange: They are all upset about it. They don't like what he said in the paper. If it's right or wrong, they don't like it, and that's why I brought it up because the election is coming up—

Commissioner Mourdock: Sure.

John Strange: —and they wanted me to ask you that question. So I did.

Commissioner Mourdock: I will...sure, and that question is slightly different. I will clarify it this way. I think anyone in this community who judges Republicans on this side absolutely, positively of every issue. Or Democrats are on this side absolutely, positively of every issue, couldn't be more wrong. Because by and large the people who are elected in this city and county look at what they view in their own, in their own way of thinking, what they view in the long term interest of the community far above the way they view their party loyalty, so.

John Strange: Well, I found that out too, you know, they do what they want to and not what the people asked. Thank you.

Commissioner Mourdock: Your welcome.

President Mosby: Thank you. Jim Seibert.

Jim Seibert: I would like to start off by saying we feel this is a land use issue. We feel that a gas station, a convenience store, and high density apartments, although I know we are not talking about the residential part at this time, is an improper use of this property. We need not consider this a low level issue as it's been put. Our question is, is putting a gas station at this corner the highest and best use for this property? Is this the best use for the community? Does this meet the community goals? Is this the best use for the surrounding land owners? We feel the answer to all these above questions is no. Just because some appraisers come in here and said that a commercial development there is the best use, that equates to me that that means that's the highest profit margin for this piece of property, not necessarily the best use for this property. We feel, and with the exception of the Weber's and Mr. Buck, that no one in the community or the neighborhood will field any profit from this development. Mr. Fine says that this area is more urban than rural or residential. Well, I have to disagree with this. I live approximately a half a mile south of this development, and I've hiked these woods many times. We've had a naturalist

walk this area starting here at this development and going down this valley. They say that this area rivals Wesselman Woods as an old growth area. That does not sound like an urban development to me. This is not a political issue as Mr. Buck would like everyone to believe. I do not know the political leanings of those seated behind me, nor do I care. This is about residents of the west side that want to maintain that which has kept us here all along as life long residents. We don't want big, commercial zones, we are more rural in nature. We don't like high traffic zones. We prefer residential in nature. We enjoy our trees and our acreage around our properties. We like having acreage. We don't like our lots being measured in feet. We like them being measured in acres. We are not anti-development. We've been encouraging town hall meetings to discuss comprehensive development of the west side of Evansville, including the University, private and other public input. We would be willing to meet with the Weber's and someone like the Purdue Land Use Team to develop a land use that meets the neighbors concerns and returns an acceptable return for the Weber's. The current Master Plan states that no commercial development should be allowed beyond Boehne Camp Road. We feel that this current Master Plan should be adhered to. This commercial, high residential spot zoning is unnecessary. There are already 105 businesses less than two miles from this proposed zoning. They include several large apartment complexes and one condominium complex. The large, the one large apartment complex has been recently completed in addition to those condominiums. I find it hard to believe that market surveys would show a need for more housing like this, when the current housing has yet to be filled. We have five gas stations and convenience stores within three miles of this proposed development. Nobody that I know that lives around this corner says that we need another gas station and convenience store. We have plenty already. We are concerned about the probable domino effect of adjacent properties. Not only east along the Lloyd Expressway, but also south along Schutte Road as well. We don't want this to be turned into a commercial corridor all the way into the University. We need a plan for providing the appropriate infrastructure before the development of any kind takes place. This includes the roads. This includes the sanitation. This includes electric, everything that goes with developing these type of properties. We, I have spoken personally to people that have moved into the area from out of town that have said one of the reasons they moved into Evansville is because they were tired of this spot zoning taking place in their cities. They want a thought out master plan to guide the development of this area. We think no rezoning should take place without infrastructure commitments. Mr. Fine said that Mr. Buck would put in a lift station. Well, he has no choice. He has to put in a lift station, because his property would not handle a septic tank. Ms. Lockyear at the Area Plan Commission stated Mr. Buck would develop Schutte Road all the way to Clark Lane if the traffic study showed it was warranted. This was not a firm commitment, but a statement that leaves a lot of wiggle room for Mr. Buck. Infrastructure responsibilities are both part of the county and state responsibilities. A comprehensive plan must be developed and approved by both. Ms. Lockyear stated in front of the Area Plan Commission that since there is a traffic control signal at this intersection, that this means commercial was meant to be there. Well, this light was put in to make this intersection safer. Anybody that lived in this neighborhood before that light was put in there knows the traffic problems we had when USI let out at different times of the day. This development will put us right back to where we were before this traffic light was installed. The intersection is inadequate for the traffic load it currently carries. Yes, Mr. Buck is going to improve Schutte Road, but at the same time the Lloyd Expressway has no turn lane if you are going in the eastbound direction there. It's got a long turn coming southbound off of Schutte, off of the Lloyd Expressway, but that is going to be inadequate with the additional traffic that this development will bring. Traffic at the Schutte and Lloyd will

get worse with the commercial and high density residency. Buck's own estimates are from anywhere from 100 to 1,100 additional cars a day just from the residential portion of the development. I would suspect at least double that from a commercial site. Traffic studies must be done during peak times, during the school year to really determine what the impact is going to be on this area. To date none of these traffic studies have been presented to us as part of the planning for this development. This will also complicate state plans to improve all of the Lloyd Expressway interchanges between Fulton and Schutte Road. With this development taking place right up into the Lloyd Expressway that will leave no room in the future for an interchange to be placed there, which if rezoned, at a higher cost for this interchange. It will probably have to end up buying out the commercial development that is going on this corner. We think that we should take the longer view. Make the appropriate plans now and follow them, but not fix them later. We find it hard to believe that the long term community development plans call for a gas station on every corner of the Lloyd Expressway. As I've stated, there's other issues to consider other than the tax dollar revenue that could be brought in from this development. There are quality of life issues that must also be considered for this development. There's the preservation of the unique terrain, trees, watershed and the geology desirable for the USI, the City of Evansville and Vanderburgh County. There's additional light pollution that will result in a lower ability to view the nighttime sky. Those of us that live in the neighborhood that went out to watch the meteor shower the other night realize how much trouble we had seeing it just from USI and from the commercial development at Boehne Camp. We're going to just increase the amount of light pollution caused by this development. In addition there's going to be more noise pollution resulting from this development and these gas stations being put on this corner. Additionally there is going to be trash that will accumulate along Schutte Road. If you don't believe me, ask the residents of Boehne Camp how much the trash has increased on their road since the development was put there at the corner of Boehne Camp and the Lloyd Expressway. The Schapker's who live across the street from the proposed development, one of the neighbors, feel they will be forced to move if this proceeds. They have lived in that area longer than almost any of the other residents in the area. Why should other people be allowed to profit at their expense. We have tried to talk to Mr. Buck about some of the things that we would feel would make this more palatable to the neighborhood. Actually, we have spoken to Ms. Lockyear more than Mr. Buck. He stated that he rarely meets with neighbors more than once, and he can never remember meeting with them more than twice, like he met with us. Some of the things that we asked for; no commercial development, set backs for a future interchange, berms or landscaping to minimize the site encroachment, enclosures around the HVAC units, a possible set back for the Pigeon Creek Greenway, maintaining some of the natural terrain, a less number of residential units. As has been seen from Mr. Buck's rezoning requests, none of these suggestions that we've made were incorporated into the use and development commitments. In fact, they've actually gotten worse. In closing we ask you to turn down the rezoning requests for both the commercial development and the high density residential. We ask that you do what is in the best interest of the community at large and for the neighbors of Schutte Road. The Weber's can still make a nice profit from this property with some other type of development. Mr. Buck has stated in one of our meetings that he wished someone would build a convenience store out near his house, so he wouldn't have to drive so far to get milk. We say to you, Mr. Buck, why don't you build it out in your neighborhood and keep it out of our neighborhood. Just because you can make a good return on your investment doesn't justify changing the character of our neighborhood.

President Mosby: Any questions? Bob Doerr.

Bob Doerr: My name is Bob Doerr, I'm Chief of Perry Township Fire Department. I don't have a bunch of papers and that, but I just wanted to come and tell you what my opinion is on this. As far as a life safety deal, that road, to me, is not capable of handling, not only the road, but the lay of the land ain't capable of handling that much more traffic. Because, for one thing, you're going to get that much more traffic from USI as it develops. This, the entrance or exit, whatever, where this comes out is in a valley. It's not a, to me, it's not a very safe place. We make a whole bunch of runs to the Schutte Road intersection right now, and the only one's we make is where people are injured. The Sheriff's Department makes a whole bunch of wrecks there, where there is no injuries. From our standpoint, we feel like that it's not a safe place to build a development, even a residential single housing development there would cause a problem, because, like I say, the lay of the land. If you, you know, if anybody's not familiar with it, it sits in a valley, and it's, you know, I don't feel like it's a safe place to build anything like that. I think we'll have quite a few more accidents, and stuff like that in that area. That's all I got to say. Thank you.

President Mosby: Thank you. Thank you. Pat Conner.

Pat Conner: My name is Pat Conner. I live on Felstead, and, you know, I have a vested interest on what's going on here. I don't live on Schutte and I think the road that I live on is kind of protected, but I am concerned about what's going on in the area in general, in the county, and not just on the west side, but everywhere. The Master Plan, the Comprehensive Plan that was developed from 1997 to 2015 covers a lot of the things that are being discussed here. I didn't bring my notes because I honestly didn't think that this would even come up. Because everything in the Master Plan directs this type of development in previously established commercial zoned, commercially zoned areas. One of the things it specifically states in Section Eight is that spot zoning should be avoided at all costs. I think if you looked at the Master Plan, in Section Eight, I think you'll find that there's, there's enough evidence there that this zoning is bad zoning. It's spot zoning that goes against the neighborhood element of commercial development, and I think you'll find that a no vote is warranted. Thank you.

President Mosby: Thank you. Bob Hornbrook.

Bob Hornbrook: I pass, David. He said it all.

President Mosby: Okay. Randy Brown.

Randy Brown: Randy Brown, a resident of Vanderburgh County, and also a representative member of the Plumbers and Steamfitters in Vanderburgh County. Naturally, anytime you talk about construction, jobs are near and dear to our hearts. I also have family, I live on the west side myself. I have other family members that live on the west side in the very area where this development is being proposed. I have a couple of different problems, one is, and I've been following this, basically, through the newspaper as most of us have. I have a problem, I guess, every time I read it in a newspaper there is always some different proposal coming up and someone has a problem, I guess, of making up their mind exactly what they want to build or can build. It troubles me when I hear a developer knowing that there is this much, these many problems, issues coming up and this much opposition to a project, it troubles me when I hear that the developer has only met once with the neighbors, or maybe twice. I think, maybe projects of this magnitude, the developer should have the courtesy and respect to at least go out and hear the concerns of the people. Definitely we would like to have the construction jobs on this project. I think

, Commissioner Mourdock, I would like to add to your list, you said that anybody who thinks that Democrats always vote one way and Republicans vote another way, well I would like to add labor unions to that also. Even though we would like to see the jobs, to me, the quality of life in this area, and most importantly, the safety concerns that I have for the students going to and from USI overrides any economic benefits that our members would get or anybody else in the area out of this project. I would at least hope that this is voted down at this point until we have a better idea of what, and get commitments out of the developer as far as the road improvements. Not what he would do or could do if he wants to, I think everybody wants to see exactly what he has committed to doing, no matter what. I too would like to see a no vote on this issue. Thank you.

President Mosby: Thank you. Brad Ellsworth.

Brad Ellsworth: Good evening, again. The jail, oh, wrong issue. My name is Brad Ellsworth, Vanderburgh County Sheriff. I better make a clarification first, (a) I live within about two and one half miles of this project, so that may jade me one way, but after that, I'll say may give me a better perspective, because I drive that area probably four times a day, and have been patrolling it for, or sending people there for 20 years now, so. I've been through that intersection, patrolled it, sent people there and I go to and from work at that intersection everyday. I also want to say that these neighbors and also Mr. Buck have done a lot more homework on this than I have, but several months ago when I knew this would come up, I did poll my department. I e-mailed my shift supervisors and to be perfectly honest, got two e-mails back from supervisors who said they polled their troops and they did not see a problem with the project. But they are not here and I'll give you my opinion. Like I said, after driving this thing for 20 years, like Chief Doerr said, this is a bigger problem than just, than what I think we are thinking. It's bigger than Clark Lane. (a) because some of these residents have been lied to both by former Commissioners and by the University on their traffic problems. This problem stretches further out Schutte Road than Clark Lane. That whole road is a dangerous road. There are hills further back that actually throw cars into each other, that naturally because of the lay of the road will cause a car to...so that's a problem. Charlie, is Mahrenholz the name of your street? Mahrenholz, the way it comes down out of the University, it was promised at one time that that would not have access from the University. It is a major problem road. These neighbors can tell you and I've seen it, and stood out there and directed traffic in the snow for hours on end, when they get to the top of Mahrenholz and come down, they can't stop. Am I correct there? We've pulled more cars out of that ditch across from Mahrenholz (Inaudible). Now, it doesn't snow that much here, but that's going to add into it. We are also talking about University traffic. I think we are being short sighted there, because the closest convenience store to the west is going to be Busler's out at 62 and the county line, or that's further than the county line actually. So, you are also going to get the traffic that comes across the highway from the north side of the highway along with University traffic and the Union Township traffic and you are also going to get...because people are going to go to the closest place. I mean, that's just natural. It's a convenience store and convenience means close, so they are going to come from the closest one. Like Bob Doerr said, that, when you come down that hill, the road is in terrible shape, I would have to see the traffic study and I would like to see that road improved with the lanes prior...it needs to be improved now without any kind of development, and from strictly a safety point of view, which is what I'm interested in, in that area and traffic, it can't handle that increase. With all due respect to USI students, they are not the most responsible drivers. Not all of them, but I've seen more than one. Like I said, I drive it, not only Mahrenholz, but Clark

Lane, and, I mean, if you don't go through at ten miles an hour when you are coming through there, you know, there are people pulling out in front of you. There is more close calls than there are wrecks, and we work, I don't want to say countless wrecks, but dozens of wrecks. So, with that, from a strictly safety and with those, with the things I've told you earlier about living there and what my deputies said, I can't recommend at this time without seeing the traffic study and a true count and the improvements and taking into consideration Mahrenholz and that being the bottom of the valley, and the traffic and how it all goes right into that hole, where the entrance, what I've seen will be. That's what I have to say. Thank you.

President Mosby: Dan, Dan Buck.

Madelyn Grayson: May we make a tape change please?

President Mosby: Sure.

(Tape Changed)

President Mosby: Are we back on the tape, Madelyn?

Madelyn Grayson: Yes.

President Mosby: Okay.

Clarence Weber: I'm Clarence Weber and I am, it's my yard and my ditch where Brad's been pulling them all out of. I know what Schutte Road's like, and I've lived there, I was born on Schutte Road in 1932. Now, I talked to Carol McClintock 15 years ago, she said we did not have enough traffic on Schutte Road for any type of improvement. Well, I got a hold of the County Commissioners in 1991, and Rose Zigenfus said that the state was going to put a turn lane on, a right turn lane on Schutte at the Expressway and extend the other and that should take care of it. Well, the traffic has picked up, USI has added 200, 300, 400 people every time they build a dorm, coming down Schutte Road. So, I got a hold of Bettye Lou Jerrel. Bettye Lou Jerrel said that right now her money is all tied up on Burkhardt Road, and we don't have any money on Schutte Road. Now as far as the state thing, if you all looked in the paper, on this state project, the way I read it, the state don't have any idea what to do at Schutte Road. If they're going to study it, you might as well figure on ten years of studying. Furthermore, the state don't have any money. If there's anything built there, it's going to have to be the county. Because the county built the overpass at USI. So, any improvements at Schutte Road this board is going to have to take care of within the next ten years. Now Rose Zigenfus says there is nothing on any type of improvement before 2010. So, if there's...if the road is a problem, that is, I mean, somebody else is going to have to take care of it. I petitioned Dan Buck last September for something that would take care of the sewer situation, and take care of his road situation, and would fit in with the neighbors. Hopefully, we could take care of it all. Right now nobody's septic tank out there works. Anybody's that does, all's they have to do is look at my creek, it runs down my creek. Dan has come up with a minimum of something that we could live with. I live right next to this project, and my two brothers do too. We figure on living there the rest of our lives. So, I figure that this is about as close a project as we could come up with, and get some, something done with Schutte Road and keep them out of my ditch. My mailbox was hit twice since August. Neither one of them was a student. The first one was drunk, and I don't know who the second one was, because he didn't stop. The first one didn't get very far. That's all I wanted to tell you. Schutte Road is

problem. Either this board is going to have to fix it, or else you're going to have to live with it.

President Mosby: Thank you. Kevin Flittner.

Kevin Flittner: I'm Kevin Flittner. I own from Schutte Road and Nurrenbern Road on the south side of Broadway. Most of the watershed that comes off USI comes down on me. I've lived with that. I mean, used to a cow could walk across the pasture, go across the creek, no problem. Right now if a cow did that it would fall and break it's neck. I mean, it's a four or five foot drop off, erosion is just unbelievable. Every time it rains...I will not let my boy play in that creek, because it can swell up and he'd be gone. The other creek can't handle much more water than what it already takes as it is. The watershed that would come off of anything on the other side of Schutte Road would come down on the other side of the other creek that comes into my property. I couldn't imagine where that water would go. I don't even know where it would go. I'm not sure where the water is going now, but when it comes up, it comes up big. It needs, that needs to be looked at. The safety factor of this intersection up here at Schutte Road, it's always been a problem. The light was a good thing, not necessarily for everybody that wants to go down the highway and not stop for it, but for the students. The students up at USI are blessed by going to a school out in the country kind of. I didn't move out there for, to have a convenience store in my backyard, or a gas station. I moved out there because I liked to live out in the county like everybody else I know that lives on the west side. We do not want the city in our backyard. We've watched the development of Red Bank Road go way past Boehne Camp, which I did not think it would go that far. I used to hunt where the Red Bank, and where the stadium inn and all the Home Depot and all that is. That was a beautiful set of woods. There was a lot of wildlife back there. I never killed anything back there, I mean, but I enjoyed it. It was beautiful ground, and they massacred it. They leveled it. What are they going to do in between Schutte Road and Red Bank now? Are they going to do that to all of it? I know the people of the west side are not happy with this. I can't believe they got as much done as they did out there without anybody yelling about it before. There are so many issues to keep from putting this project out there, that I can't even see why it's still an issue. There is not, there is not enough safety as far as Schutte Road goes like Brad said, that road is, you can't fix it. It's going to be the way it is. You'd have to take out people's houses, hills, creeks, ditches, the wildlife that's going to be lost because of all the development along there. If you've ever walked from, I'm going to say to the east of Schutte Road down from the highway to Broadway, that's beautiful woods back there. You couldn't even imagine. You can fly over it and you can't tell it, but it's beautiful. There's forest preserves back there and stuff like that. It's all bad. People on the west side do not need this. That's pretty much all I've got to say.

President Mosby: Marc Fine.

Marc Fine: Just in response, and I will be brief. We did hear today from some of the other people that this is a land use issue, and I absolutely concur, this is a land use issue. We're talking about 1.6 acres on the corner of a four lane Expressway with a traffic light. What we've tried to do in an overall plan is provide for a slow transition into the existing residential, which is nearby. I would like to point out in response to the gentleman's comment with regard to the Wesselman's Woods, you may note that the Wesselman Woods probably as the crow flies is still a half a mile from the Lloyd Expressway. What we've tried to do with this overall plan is provide a nice, small, low scale residential area as a buffer between that and a light commercial area. It's intended to provide for a transition. This whole development, we've heard

discussion with respect to the improvements that need to be done, the infrastructure that needs to be done, this whole development is the perfect partnership between the public and the private sector. Understandably the developer in this instance is willing and ready and has made a commitment to put in the necessary infrastructure for the roads and sewers, which in addition to that will go beyond just this Commission's review. There is sub review, water and sewer have review, there is potentially a traffic study and drainage. All these things could help the entire area with regard to the issues that have been raised by many of the other people here today. The land now is being farmed. Certainly if you put in infrastructure, you put in landscaping, if you, if you come up with an overall drainage plan which will inevitably be addressed beyond this Commission before anything is ever constructed, these types of issues will be adequately addressed. Leaving it as farm land, without any trees, without any landscaping certainly doesn't help the area at all. I'm encouraging you to use this opportunity to provide a wonderful opportunity for this community to put together the public and the private sectors into a good land use. I encourage you to consider this very seriously and vote in favor of it. Thanks.

President Mosby: Thank you. Any questions by any member of the council? Chair would entertain a motion.

Commissioner Mourdock: I want to make sure I reference the correct numbers here, because these aren't logical. I would move for approval on final reading VC-9-2001 from Ag to C-4 with a use and development commitment .

Commissioner Fanello: And just so everyone understands, this is a motion to get it on the table and then we will take a roll call vote. So, I'll second the motion to get it on the table.

President Mosby: Okay, I have a motion to accept VC-9-2001–

Commissioner Fanello: I wanted everybody to understand that.

President Mosby: –and VC-13-2001, and understand that when we vote, we're taking one vote for both petitions.

Commissioner Mourdock: Yeah, but just to clarify what you said, the motion is only for one, David, it's only for VC-9 with this one, then we'll have to come back–

President Mosby: Oh, that's right.

Commissioner Mourdock: –and vote on VC-13.

President Mosby: I'm sorry. That's right. Okay VC-9-2001, 806 Schutte Road.

Roll Call Vote on VC-9-2001

President Mosby: Commissioner Mourdock?

Commissioner Mourdock: Well, I can't let the one earlier comment go by without a quick response, but I went back through my notes here a minute ago during one of the speakers and on May 15, 2000, there was the other petition that came here for Boehne Camp Road for development for a commercial very similar to this. It was a 2-1 vote, Mr. Strange, one Republican voted for it and one Democrat voted for it,

and I voted against it. My comment that night as reflected in my notes is that I strive to be consistent. I've said many times here that I think in zoning the most important thing we can do is be consistent. The Area Plan calls for this area to be agricultural and residential. It does not have commercial out at this intersection, and I think to continue a buffer, if you will, between what we have is more commercial. To the east and USI, commercial is inappropriate, so I will vote no.

President Mosby: Commissioner Fanello?

Commissioner Fanello: I couldn't have said it better and I vote no also.

President Mosby: And myself, I vote no. So, VC-9-2001 is denied 3-0.

Roll Call Vote for VC-13-2001

Commissioner Mourdock: Motion for the second one to approve on final is VC-13-2001, which is a request from—

President Mosby: Ag to C-4.

Commissioner Mourdock: —hold on one second. From Ag to C-4 with a UDC.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. Commissioner Mourdock?

Commissioner Mourdock: Same reasoning, I vote no.

President Mosby: Commissioner Fanello?

Commissioner Fanello: No.

President Mosby: Commissioner Mosby, no. There being three no's and no aye's, VC-13-2001 is defeated.

**Final Reading VC-10-2001
Petitioner: Dan Buck Development
800 and 906 Schutte Road
Request Ag to R-3 with UDC**

President Mosby: Now we have VC-10-2001, Dan Buck Development LLC, 800 and 906 Schutte Road, request from Agricultural to R-3 with use and development.

Marc Fine: Members of the Commission, this is a 5.9 acre, two parcel petition. These parcels are catty corner to each other, if you will, and we are requesting an R-3 zoning. Again, we have filed a very distinctive and intentional use and development commitment that is intended to provide for a residential area with a two story maximum, with 75 units maximum. This is not intended to provide for a very large apartment building, and it's not intended to provide for anything that would in any way denigrate the area. I would like to go through, briefly, the criteria for zoning approvals, and we believe that we have met everyone of those criteria in the most literal sense. The Comprehensive Plan, we've referenced it earlier today, everyone has indicated that it calls for residential to be in this area, specifically, to the north of

the Lloyd Expressway. Certainly, this petition is consistent with residential. In addition, you are supposed to consider the current conditions and the character of the current structures and uses in each district. This property does abut residential, although it is located along a major thoroughfare, I think that's consistent with a little denser residential area than you might expect. It's very hard to find people living, willing to live in single family residences along a four lane Expressway. The third criteria, what's the most desirable use for which the land in each district is adapted? This land is currently being used as farm land. Certainly it's difficult to believe that this farm land could not be put to a better use with a low scale residential area. The conservation of property values throughout the jurisdiction? This residential development is anticipated to have units starting at \$135,000 per unit. I think you would be hard pressed to find the neighbors in the area that would believe that their property values are in anyway diminished with units that start at \$135,000. We don't anticipate that there will be students in the area, although it could happen. It's expected that these would be people that would like to downsize and live, continue to live on the west side, and continue to enjoy what the west side has to offer, but move into a smaller, newer unit. Finally, you are to consider the responsible development and growth. I've indicated earlier, Dan Buck has committed to put in the proper infrastructure in accordance with the studies that should come forth. There is appropriate sub review and other sub committee reviews that would go into place. He's committed to improving Schutte Road, and he's committed to putting in a sewer lift station, which is bound to help everyone in that area. Again, and finally, I would like to point out that the residential area will be, the current residents of the residential area will continue to be the Weber's who are selling this property and wouldn't want anything in that area to in anyway devalue their remaining property. So, to that point we certainly would have an additional buffer for that area. I encourage you to seriously consider this. This is excellent land use. It is residential, and it meets all the requirements of the statute with regard to rezonings. Thank you.

President Mosby: Thank you. If...I don't...do the same people want to speak again? Or what's...okay, I do see some hands going up—

Commissioner Mourdock: I have a question.

President Mosby: What I'll...okay, go ahead.

Commissioner Mourdock: Mark, I have a question for you. You said there's a \$135,000 value, but, again, these are apartments not condos?

Marc Fine: Well, there would be athey're actually, potentially two different types. They're villas. I don't know if you are familiar with what other Dan Buck Developments, but the one's that I'm thinking of in particular would be similar to...well, I want to call them villa-minimums, and that's sort of an odd statement. Sort of a...and I also want to say zero lot line, and that's really, that carries a different connotation too—

Commissioner Mourdock: Okay, but when—

Marc Fine: —but it would be free standing structures. They are maximum two stories. They are consistent with...I know Danbury Villas, which is off of Lynch Road, which is something he has also done. Yes, I think you have copies of what he's done in other areas.

Commissioner Mourdock: Okay, but in saying they are free standing, I picture one

unit per standing structure. Is that what you are saying?

Marc Fine: Poten...I think the...from the viewpoint perspective, those are often looked at as duplexes--

Commissioner Mourdock: Your clients waving a bit of a hand there. Four per structure? Okay, just for the record, Dan Buck...okay. But, again, at the \$135,000 number that's not meant to infer that they're condominiums for sale at that price? That's simply the value that you're estimating it would cost to create these units? Is that?--

Marc Fine: Retail price.

Commissioner Mourdock: Okay.

Marc Fine: It's...not for the building, for the residential living unit itself.

Commissioner Mourdock: Okay.

Marc Fine: So, if there's four in a building, that's four times \$135,000.

Commissioner Mourdock: Okay.

President Mosby: As soon as we have speakers, I'll give you rebuttal again. What I will do is I'll call the names in the order I have them. If you want to speak, fine. If you don't, just say pass. Gregg Baker.

Gregg Baker: I'll just say that my earlier comments apply to this as well. I would like to see what the Corradino Group says first for the entire corridor.

President Mosby: Okay. Thank you. John Strange.

John Strange: I don't know, you've voted two of them down now, and it's not going to make a bit of difference, because you are still going to have the traffic problem, and every problem you have out there whatever you build; apartments, houses, you're still going to have the same problem. So, you voted two down, let's see what we do on this one.

President Mosby: Thank you. Jim Seibert.

Jim Seibert: I too have the same concerns as I did before. Primarily a safety issue. Mr. Buck's calculations are approximately each apartment would have ten trips a day out onto Schutte Road. So we are asking for 750 more cars to come out on Schutte Road everyday there. The use and development has no restrictions on the owner occupancy of these developments, which leads me to believe that probably ten years this will become apartment complexes for University housing. Some of the criteria mentioned for the zoning, the Comprehensive Plan calls this residential, but if you go to the neighborhood you'll know that this is single family residential, not what we want to call high density residential. I think the neighbors have...we're pretty much in agreement that if Mr. Buck had stayed with his original 30-35 town homes that he had proposed several months ago, that we probably wouldn't have had this much objections to it, but now that the number has more than doubled to 75 we do have these objections. It abuts residential, but like I said, this is single family home residential in this area. He states that nobody wants to build next to an expressway,

well, approximately three miles down the road West Summit Estates does abut the expressway down there with a nice tree buffer. These are nice, single family homes probably in the \$350,000 range. So, yes, the proper development can be done to where this would be single family residential homes. We're concerned about 75 units on just 5.9 acres. The amount of run off, the drainage are the issues that are going to be coming from there is a big concern to us. I did find it interesting that in front of the Area Plan Commission, Ms. Lockyear stated that Mr. Buck had not made any commitments at this time to improve Schutte Road if the commercial development was not approved. If I understand it tonight, Mr. Buck is now making that commitment to improve Schutte Road if only the residential is approved. I just want to make that clarification, if I could, because it was stated that they could not afford to improve Schutte Road if only the residential went in place.

President Mosby: And I think, I think he said that. He can correct himself when he comes up, if the study warrants it.

Jim Seibert: Right.

President Mosby: And he can correct that if he wants. Bob Doerr.

Bob Doerr: I was wondering if I could speak as a resident and not the Fire Department?

President Mosby: Sure.

Bob Doerr: Okay. For one thing, you know, I live very close to this area. So far we've had several developments along the Pearl Drive area and all that. The developer, his original plan showed that to be keeping the lay of the land, keeping in as many trees as he could, and stuff like that. You look at it now, and it's a big, flat thing and, evidently, he couldn't keep any trees. So, to be able to go by what the developer says he's going to do and what he actually does is a different thing. Right now this guy gets up here and tells us that he don't even know what they are going to build there yet. Because you asked him what they was going to build and he changed his mind two or three times. So, you know, how can you vote on something that you don't even know what's going to be there. That's all I got to say.

President Mosby: Thank you. Pat Conner.

Pat Conner: Okay, I'm going to go back to, go back to the Master Plan on this, and one of the objectives of the Master Plan, under residential, one of the objectives says, and I'm reading here, ensure residential growth occurs in appropriate areas, accommodates future demands on the transportation network, community services and utilities and create a favorable environment for neighborhood living. One of the policies under that objective is to promote creative subdivision design that is sensitive to and minimizes the impact on natural features, and provides for common, open space, bicycle and pedestrian ways. Now, one of my biggest concerns on this, one I don't think, I don't think this R-3 fits into this as well. I think it's excessive. Some of the comments that were made earlier about run off and things of that nature, and destroying, I think, the character of the neighborhood on the west side. I think all that comes into play, but, you know, I would like to look a little bit ahead into the future and ask the question, however you develop this property at Schutte and the Expressway, how do you think the property immediately adjacent is going to be developed? If this is good development, then you're going to get good development in the property next to it which abuts Felstead, which is a very winding

road, and are you going to put another light there when that development comes into place? It needs to be done, it needs to be done right, it needs to be done well, it needs to be thought out, and I think what's going in there is excessive. I think, again, the Master Plan calls for the creative use of that land, and, I think, just putting in a bunch of four unit apartment buildings is not creative. Now, if you'll look at some of the developments that are out there in the neighborhoods today, the green space set backs are terrible. I mean, why can't we have, why can't we have something that looks nice, and be functional at the same time? I think that is, that is what we should all strive for as residents of Vanderburgh County. Is to look for something that is positive, that leaves a lasting impression, a positive impression, on the people that come here to Evansville and visit the University of Evansville or University of Southern Indiana, or anyplace in our community. So, you know, I think it's a bad plan, and I would like for you to vote no.

President Mosby: Thank you. Bob, okay. Randy Brown.

Randy Brown: At the risk of sounding repetitive, one other concern that I have is the quality of construction that is being proposed. When you get into, especially multi family dwellings. Unfortunately, the market pressure on all developers these days is such, to be competitive and keep the prices down, they have to look for the most economic and, for lack of better words, the cheapest way to construct these buildings. Both with manpower and building materials. It's been stated many times that the Vanderburgh County Building Commissions office does not have the manpower to adequately police Building Codes to make sure that the permits that are being taken out for these construction projects. They just don't have the manpower. Unfortunately, we don't seem to be able to find a way at this point to hire any more inspectors to make sure that the customer and the consumer is getting exactly what they are paying for. I can tell you that in Vanderburgh County there has been hundreds of millions of dollars worth of residential work that's been installed that has been installed improperly. What I'm worried about is what I call disposable type housing. I'm afraid that this may be that way. After the tax laws kick in they depreciate this property out. After ten, 15, 20 years, that may sound like a long time, but those of us who's getting a few years on us understand how fast that time flies. I don't want to drive down there ten, 15 years from now and see something that was maybe the full intent was to be high quality construction, or at least the image of that, perceived as that, and turn out ten years down the road we have housing that maybe has lowered itself in value to the point that maybe USI students or whoever else can now afford to live in those units. I can tell you anybody that...kids are wonderful, I've got two kids that graduated from USI and another one that is going there right now, but I can tell you I don't want her partying next to my house. I'm afraid that's what's going to happen, so, with all that said we are...I am adamantly opposed to that project also. Thank you.

President Mosby: Thank you. Brad. Pass? Okay. Dan Buck. Pass, okay. Clarence Weber.

Clarence Weber: I pass.

President Mosby: Kevin Flittner.

Kevin Flittner: Yeah, I'm going to say a few more things about that. That apartment building thing is not going to be any different than if you put a gas station or whatever else in. You may have less trash blowing around. I worked for C.R. Smith Power Sweeping for a while, and believe me, this city has more trash than you can deal

with. I have never picked up and seen more trash in my life. I really don't want it blowing around on the west side. It's bad enough in by Red Bank. If you don't believe that, go look in your ditches, because it's horrible. What comes down my creek is horrible. You would not believe the debris I see floating down that creek.

Residential housing, single units, I mean, as far as someone wanting to build a house up there, that's fine. Five something acres that they are talking about, he knocked it as it's just farm land. Five acres of farm land will soak up a lot of rain water. I mean, and to shed off that much water on a parking lot, you wouldn't believe how much water would come off of there. The other guy said something about down the road there is residential and there's a tree break and there is some beautiful homes, that's true. These people want to live there, and they want to beautify their land, they want to make it worth more money. They ought to just make it worth more money and fix it, because it's a nice place up there. I would rather look over when I'm pulling out of Schutte Road and see a corn field than see a bunch of apartments that are going to be run down like in 15 years. Construction on apartments is really shoddy. I've worked construction all my life. I've seen apartments just like USI that's built up there, I worked on those apartments, and I'll tell you, they're not that great. I mean, they're not. I mean, I'm glad I don't have to live in them. Those were on state ground, that those were built, and they had to meet certain codes. What they build up there may not be so great. That ground, you know, they are going to have to go in and bulldoze it and start leveling it, and then you got soil erosion again. I'm big on that because I've watched my farm just deteriorate because all the water coming down there. I need to talk to the Corp of Engineers Soil Conservation Officer. I don't, you know, I'm kind of scared to do that. There's a lot that can be done with that property. I think you all really ought to hold back, take a good look at what could be done with it to best benefit the west side improvement people, and try to do what you can do best, and not rush into it. Apartments ain't the answer either. There is plenty of them across the road the other way. There is plenty of ground to build on over. If the state wants it for the college students, there is plenty of ground. I can't tell you how many thousands of acres USI owns. I know, they own everything around me. There is plenty of places they can build apartments if they want them. If not, that school is better off to be isolated. Keep the riff raff away from that school. Keep convenience stores away from that school, because that is where you are going to get your outside people come in there messing with your students, you know. There's enough trouble inside that campus, you don't need to put trouble around it.

President Mosby: Marc Fine.

Marc Fine: This is a land use issue. Many of the issues that have been addressed by some of the other people are really beyond land use. We have met the statutory criteria for appropriate land use. This is within the Master Plan as residential. 75 units is not high density for this type of development. Dan Buck has been in the development business for 20 plus years. Significant landscaping is a part of everyone of his developments. To a large degree the complaints today with regard to matters beyond land use, trees, etcetera have been resolved through appropriate and good development processes, which he can stand on with 20 years of experience. He does not intend to be a land lord for all these units. He anticipates selling them, and he needs to build quality units with nice landscaping which will have a curb appeal and will sell. That's his intention. This is a tremendous opportunity, consistent with the Master Plan to forge an excellent partnership between the private and the public sector. Infrastructure would be provided to resolve a lot of the matters that you've heard from the neighbors today. This is an excellent land use issue. We've met the criteria. I'm encouraging you to vote in

favor.

Commissioner Mourdock: I have a question, Mr. Fine. Would you clarify once and for all, Mr. Seibert raised the issue and I know you were not at the Area Plan meeting, that Krista was representing. Will the improvements to Schutte Road be made if this zoning request passes given that the previous two did not pass?

Marc Fine: I thought the question you were going to ask, so with regard to the infrastructure on Schutte Road, and I think the comment that was said earlier, traffic studies are typically the precursor to improvements. Anticipating that the traffic study appropriate liens need to be installed, we are going to do what the traffic study tells us to do.

Commissioner Mourdock: Okay, so if the traffic study that you do for the residential, since commercial is now out of the question here, if the traffic study for the residential says there are improvements needed on Schutte, you are committing to make those improvements?

Marc Fine: Yes.

Commissioner Mourdock: Thank you.

President Mosby: I just want to ask you a question. How many times did you meet with the neighbors? Or I know you didn't, but—

Marc Fine: Twice? How many times did you meet with the neighbors?

Dan Buck: I met twice. My Vice President once, and Krista (Inaudible) times. (Inaudible. Not at mike.)

Marc Fine: Do you want me to reiterate that?

Commissioner Mourdock: Yes.

President Mosby: Yes, I didn't hear what he said about Krista.

Marc Fine: Dan said twice himself, his Vice President once on another occasion, and Krista Lockyear was available and I think she has talked to numerous people on the telephone. So—

President Mosby: Okay.

Marc Fine: —I don't know if that answers.

Unidentified: David, could I follow up on that? Would you mind?

President Mosby: No, I don't mind, because I hadn't had a meeting with you so go ahead.

Unidentified: The—

President Mosby: But I need you at the mike, Gregg.

Gregg Baker: We met with Krista after you asked us to—

President Mosby: Uh-huh.

Gregg Baker: –and we gave some recomm...or what we would like to see, and we got no answer back from that meeting.

President Mosby: Okay, that's what I was wondering. Any other questions of Mark? Thank you. Chair would entertain a motion at this point.

Commissioner Mourdock: I'll move approval of VC-10-2001, 800 and 906 Schutte Road, from Ag to R-3 with a use and development commitment .

Commissioner Fanello: Second.

President Mosby: I have a motion and a second.

Roll Call Vote on VC-10-2001

President Mosby: Commissioner Mourdock?

Commissioner Mourdock: I think it was at the first zoning meeting I ever attended as a Commissioner when Rick Borries took me aside after the meeting and said the meetings you'll hate the worst are the one's when you leave and everybody's mad at you. Well, tonight I have that chance, I guess, because I again am going to be consistent which is going to make a lot of you mad. Mr. Conner said it best, you know the Area Plan Master Plan does say that this is to be a residential area. The Master Plan does not differentiate between multi family residential and single family residential. We also need buffers in this community, and I don't think we do nearly enough of that, and I see this type of multi family as, in fact, being a buffer to those single family residences that all of you represent, or most of you represent. So, for this one I will vote yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Due to the fact that the residents are not happy and they could not work out something with the developer, I do not feel comfortable in voting yes, so I vote no.

President Mosby: And as someone who asked the residents to meet with the developer and was hoping there would be a lot of dialogue in working through to a decision, and I don't really see that that happened, I am going to vote no. There being two no's and one yes, the petition is denied. Motion to adjourn?

Commissioner Mourdock: Motion to adjourn.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second to adjourn the meeting. So ordered.

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

Those in Attendance:

Catherine Fanello
Philip Hayes

David W. Mosby
Madelyn Grayson

Richard Mourdock
Beverly Behme

Les Shively
John Strange
Pat Conner
Dan Buck
Bob Hornbrook

Marc Fine
Jim Seibert
Randy Brown
Clarence Weber
Others Unidentified

Gregg Baker
Bob Doerr
Brad Ellsworth
Kevin Flittner
Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Rezoning Board
December 17, 2001**

The Vanderburgh County Rezoning Board met in session this 17th day of December, 2001, at 7:35 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: Call to order the Vanderburgh County Rezoning meeting for December 17, 2001.

Approval of Minutes

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

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. So ordered.

First Readings:

President Mosby: First readings. Petition A, VC-1-2002, University Shopping Center, Incorporated, 111 North Red Bank Road, Request from Ag to C-4. VC-2-2002, Petitioner: Gene Whitney Properties, 401 North Elm, R-1 to R-3. VC-3-2001, Petitioner: Catherine Elbert and Linda Kay Elbert, 4950 Seven Hills Drive, from Ag to R-1.

Commissioner Mourdock: On first reading, I will move approval of the three zonings.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second to approve on first reading.

Final Readings:

**VC-16-2001: Petitioner: Martin Woodward
15515 N. Posey County Line Road
Request: Ag to C-4 with UDC**

President Mosby: Final readings. Tonight we will hear VC-16-2001, Martin Woodward, 15515 North Posey County Line Road, Poseyville, Indiana, Request from Agricultural to C-4 with use and development commitment.

Martin Woodward: I'm Martin Woodward. My attorney is here somewhere. I don't know where he has gone.

Commissioner Mourdock: Mr. Bohleber represents Mr. Woodward, I believe.

President Mosby: Yeah, he does. I got the letter—

Martin Woodward: If you could wait just a minute.

Philip Hayes: He was here earlier.

Martin Woodward: Yeah.

Commissioner Mourdock: If as he walks in we say, so ordered—

President Mosby: Yeah, that's fine.

Commissioner Mourdock: —approved and so ordered.

President Mosby: I don't have a problem with that.

Unidentified: Here he comes.

Steve Bohleber: Boy, when you say ten minutes, you mean ten minutes. Mr. Shively and one of my clients come running to get me. I apologize. Lady and gentleman, I represent Mr. and Mrs. Martin Woodward, and I'm Steve Bohleber. The Woodwards are the petitioners in this petition. I don't want to repeat myself from the Plan Commission particularly, but so I'll do this very quickly. Mr. Woodward has operated a back hoe and concrete business at this site for the past nine years. It's adjacent to his home. It has not only provided financial support for the family has serviced customers throughout the area, and often many of his neighbors as well. He recently sub-divided the lot, which is the subject of this rezoning, and now is seeking to rezone a portion of it. All the documents, including my letter of December 13th, describe that section as 1.14 acres. The actual legal description would reflect that there is 1.256 acres, I believe. So, there have been several scribbners errors made in that regard, but the legal description does reflect the slightly larger parcel. That doesn't include the residential portion of the Woodward property, or the residential portion of the sub-divided lot. Unfortunately, he does need this C-4 classification to allow the business to operate, and to make the improvements that he intends to make at the site. The site plan that was submitted to you does show the conceptual plan for a proposed office and a shop building of 2,400 square feet on that location. Yet he's been operating there, but he wants to improve it. We believe this will improve, will result in a more functional and pleasing operation. There is a use and development commitment submitted, since it is a C-4 use. The only types of activities permitted are those that we felt were consistent with the types of services provided by my client, Mr. Woodward, historically. Everything else has been excluded. He has no intention of changing his business operation. No intention of doing anything different than he has done over the past nine years, but simply wants to bring into compliance with current zoning regulations. We've encountered no opposition in the neighborhood. No one showed up to remonstrate at the Area Plan Commission meeting, and it has been our opinion all along at this remote location, and the type of business is really not a detriment to the neighborhood. The pole barn structure that he envisions, the type of equipment that he uses to operate in his business are very similar in appearance and size and configuration to the agricultural buildings and the machinery used in connection with that throughout the neighborhood. This matter comes with a 9-2-1 due pass recommendation from the Plan Commission. Mr. and Mrs. Woodward are here to answer any questions, as am I, and we ask for a positive consideration from the Commissioners. Thank you.

Commissioner Mourdock: One question, Steve, the use and development commitment is specific to the Woodwards, is that correct?

Steve Bohleber: No. It's specific to the land.

Commissioner Mourdock: Okay, so—

Steve Bohleber: But it's specific to the Woodward's use of the land. He doesn't plan to do anything different. Expand his business.

Commissioner Mourdock: Right, but—

Steve Bohleber: This is his home. This is his business. This is where he's (Inaudible).

Commissioner Mourdock: —if Mr. and Mrs. Woodward sold their property to John Smith, would John Smith have the rights to do—

Steve Bohleber: Yes.

Commissioner Mourdock: Okay.

Steve Bohleber: Yes, it's the standard use and development commitment . There's not one that's specific to the current owners. It's just specific to their use, which they anticipate, probably for the rest of his life, and beyond, if the kids take up the business? Okay.

President Mosby: Any other questions? Is there any remonstrators that would like to speak? Seeing none. Chair would entertain a motion.

Commissioner Fanello: Motion to approve.

Commissioner Mourdock: Second.

President Mosby: I have a motion and a second. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Yes.

President Mosby: Commissioner Mosby, yes. Being three yes' and no nays, it goes (Inaudible) due pass, passed. Excuse me.

**VC-17-2001 & VC-18-2001
Petitioner: Three I Properties LLC
600 & 601 E. Boonville-New Harmony Road
VC-17-2001: Request: Ag and R-1 to C-4
VC-18-2001: Request: Ag to C-4**

President Mosby: Next we will hear VC-17-2001, Three I Properties, 600 East Boonville-New Harmony Road, Agricultural to R-1 and C-4.

Commissioner Mourdock: And I think you want to hear concurrently this one and the next one? Is that correct?

Les Shively: Yes.

Commissioner Mourdock: David, so.

President Mosby: Okay. Then VC-18-2001, Three I Properties, 601 East Boonville-New Harmony Road, Ag to C-4.

Les Shively: Mr. President and members of the Board of Commissioners, my name is Les Shively, representing the petitioner, Three I Properties LLC. My presentation will concern both petitions. I have given you all a map, a drawing, prepared by Bernardin Lochmueller Associates, Jim Farney from that firm. Back in December of 2000 the area in green as we start to the west and move east was rezoned to C-4. The first part of last year, or this year, we came to you with a request to rezone an additional eight acres, part of which would be on the north side of Boonville-New Harmony Road. The balance which would be on the south side. That request was denied by the Board of Commissioners. We since then have modified the request down to 5.7 acres. The area that you see that is in pink or salmon, depending upon how you identify the color, is the area that is being rezoned now. A part of that, which is cross hatched, has already been approved as a parking lot facility under a special use permit granted last month by the board of zoning appeals. We have also entered into a use and development commitment, a revised use and development commitment, with folks that were here before you, I believe in February, the Voice for Opposition, that were represented by Mr. Bohleber, who is present here this evening. Essentially, without reading that verbatim, we have eliminated 52 commercial uses on, in the pink area being rezoned. We have left, we have left in the provisions that were there before that is anything that we do out there, before we pull any permits, we will have to complete a traffic impact study to be reviewed by the Indiana Department of Transportation, the Evansville Urban Transportation Study, and Mr. Stoll, your County Highway Engineer. In addition, we have set forth buffers for the north, and buffers on the very sides. We've also, in very great detail, and this is the input from the neighbors, from Mr. Bohleber's clients, outlined how the parking lot will be laid out with landscaping and such. This was negotiated in great detail, and with a lot of effort by both sides, and what is attached and was approved by the Plan Commission at its meeting earlier this month incorporates those negotiated provisions in the use and development commitment, which will be part of the rezoning ordinance, if adopted here this evening. In addition, the area that's still shown in green, the far eastern area, where the existing lake is located, we have entered into a private covenant with adjacent neighbors, landowners, which in effect keeps the property at its present classification, and prevents it from being changed, the northern portion for a period of 35 years, the southern portion a period of 15 years, with some other stipulations in there as well. We understand that you can't enforce, cannot enforce those private covenants. However, the reason I'm making them a record here this evening, is that is a representation that everyone is relying upon in doing this rezoning request. As you know, state law provides if you find out that we've misrepresented something, you can request of any party, or on your own, you can nullify any approval you may have given. So, we are simply entering that of record because since everything is not completely signed yet, so we keep our good faith commitment to the residents out there. Also representation I made to this Commission back in October, when we requested to come back in less than one year, representation, the commitment that I made to your counsel that we would dismiss the pending law suit before we came back to you. I am pleased to represent, it's dismissed. It's finis, finished and the judge, I believe it was Judge Meyer, a special judge in this case will be sending us an entry any day now. We have filed our dismissal, and that law suit has been eliminated. Again, that's pretty much an overview of what took place. It took several months to work it out. Mr. Bohleber very vigorously represented his clients. I think we have a good result here

that balances all of the interests. For your information, the vote on these two petitions, respectively, was ten in favor with two abstentions. The other petition, the one for the south side, was 11 in favor, with one abstention. Mr. Jim Farney, Bernardin Lochmueller, is here this evening to answer any technical questions regarding this particular request, or requests I should say. Mr. Bohleber is here this evening to correct me if I say something that was not correctly stated with regard to our agreement. Most importantly, the Broerman's are here, the McKinley's are here, the Anderson's are here and the Habermel family is represented because their property, the Welch's are not here this evening, but they are the properties closest to this project, and also the properties we are acquiring, which will also benefit, be the one's who benefit initially if this rezoning request is approved.

Steve Bohleber: I can confirm to the Commissioners that what Mr. Shively states is accurate. We do have one of the two covenants that Mr. Shively made reference to executed. That's the one for the parcels to the north, the 35 year restrictions, with Three I Properties. Mr. Habermel, however, principal in Habermel Investments, LLC, has taken a powder till the first of the year, apparently, for a vacation. So, we don't have that signed, but upon Mr. Shively's representations made here this evening, we are comfortable moving forward and saying that we have reached a compromise and no longer have opposition to these rezonings. I will leave with the Commission copies of the covenants, just for your record, that we have entered into. Neither of these are signed. The one with Three I Properties was executed, and I have that copy. The one with Habermel Investments will be executed upon the return of Mr. Habermel on January 2nd or thereabouts.

Commissioner Fanello: Do these covenants, are they mainly to, I guess, address concerns of aesthetics more than anything?

Steve Bohleber: Actually, these two covenants address adjacent property that is not the subject of this rezoning. They provide an additional buffer by requiring that property to remain residential, one for 35 years, one for 15. Which means, in essence, that there can be no commercial rezonings petitioned for, or approved during those time periods. So, they should remain pretty much the same. The only exceptions we have is if the government condemns those properties, or a significant portion of them, then that would take this off the rolls, and also if there is some adjacent rezoning all around it—

Commissioner Fanello: Uh-huh.

Steve Bohleber: —that would permit them to do it, so.

Commissioner Mourdock: So the covenants actually cover the green shaded area?

Steve Bohleber: Yes. The covenants cover areas beyond the scope of this rezoning that are under the control of the principals of Three I. One parcel being owned by Three I LLC, the other by another LLC that's owned by one of the principals, and that's Mr. Habermel, and he's the one that is on vacation. So, the covenants themselves impact, not what you are considering here this evening, but they are a consideration for my clients not opposing this rezoning.

Les Shively: But that doesn't (Inaudible), as you recall, the big concern was rezoning out to Old State Road.

Commissioner Fanello: Uh-huh.

Les Shively: We took the area in green out of our request, pared it down to 5.7 acres. Mr. Bohleber, who's representing his clients, said, well, that's fine, but what prevents you from coming back next year—

Commissioner Fanello: Uh-huh.

Les Shively: —after you've already zoned the 5.7, and that's when the covenant came into place, suggested by Mr. Bohleber, representing his clients. So, basically, that's why the covenants are in place to at least preserve this area in its present classification, assuming other things don't change around it. To keep it at its present classification so that Mr. Bohleber and his people don't have to keep coming back here every year.

Steve Bohleber: Right, and then again, this is the portion of where Mr. Habermel has a 15 year restriction, the portion to the north is a 35 year restriction against any commercial or industrial sites.

Commissioner Fanello: So, basically, a safe guard against future development?

Steve Bohleber: Yes. Yes.

Commissioner Fanello: Which really doesn't address my concerns about traffic.

Steve Bohleber: Well, the traffic concerns have been addressed.

Commissioner Fanello: Well, I'm looking at this letter from November 5, 2001 from INDOT. So, I guess, Jim, do you have any comments on?

Jim Farney: My name is Jim Farney. I'm with Bernardin Lochmueller. I'm an engineer on the project. We did do a traffic impact study. We had a meeting with INDOT approximately, I think, I think it was around November 3rd, or thereabouts, regarding this project. It was held at the local sub-district. Present at that meeting was a EUTS representative and also John Stoll. We discussed the project and the traffic considerations that surrounded the project for about an hour. It was concluded that there were two things that the state wanted us to add to the traffic impact study; number one being the left turn lane for the west bound approach, which would be the road in front of, between the north and south end of the (Inaudible). That lane would be extended further east through the intersection into the project, onto Old State Road to increase the length for that turn lane. At that meeting we concurred and agreed to do that. The second item that was discussed in that meeting is the need to lengthen the right turn lane, northbound on 41. When we did the original traffic impact study, that study made the assumption that there would be a right on red that would be allowed at that intersection. It's from that that we derived our length. However, Dale Lucas, with INDOT suggested that he didn't want us to assume that was available. Therefore, taking that into account, that added, I think, about 200' onto the length of that lane. We concurred or agreed to do that. Shortly after that then, we wrote a letter to the state saying that we agreed to do those two elements, and then in response to that there was a letter forwarded from EUTS, I think, first that said that they were in agreement with that, but suggested that if there need be consideration for additional right-of-way granted for a future lane that could be built on Boonville-New Harmony Road as part of an INDOT study or plan project to improve 41 from, I think, Petersburg Road up to this location. With that response in their letter, then, I think, INDOT followed up with this letter that you've got here tonight. They may have reiterated that about the right-of-

way or not, I don't know if it. Then last, in response to that particular request, at this point in time, we have, or the state I should say, currently has 90' of right-of-way in that stretch. We are proposing as part of this traffic impact study to build five lanes, 12' lanes, which would be 60', in that 90'. So, if they were to build, or want to build another lane in the future, that would bring the total pavement width from 60' to 72'. That's still less than the 90' that's there.

Commissioner Mourdock: And that's for the entire Boonville-New Harmony stretch from 41 to Old State?

Jim Farney: That's from the 41 to the entrance. Beyond the entrance, I don't think they ever planned on widening the road, but if there is additional right-of-way required on the north side of Boonville-New Harmony Road, I think I'm speaking on behalf of Three I, that that's not a problem in granting that.

Commissioner Mourdock: I thought I heard you say a moment ago that you were going to widen all the way to Old State.

Jim Farney: We are going to widen the road all of the way, yes.

Commissioner Mourdock: Okay.

Jim Farney: The widening, what it will add to the original traffic impact study is one additional lane on Boonville-New Harmony between the entrance and Old State Road to create that additional length of left turn lane. Now the other thing that that accomplishes and helps out is, if this rezoning is passed tonight, you can see on the part that's salmon shaded that the, to enter into the properties to the south, the intersection will, the drive will line up with the intersection to the north. That is why it's very important that that rezoning be approved tonight. But the addition of that lane from that intersection east to Old State Road will allow a short left turn lane for someone wanting to negotiate a left turn into that south side. So, in light of that fact, we agreed that it would be a good idea, along with INDOT, to add that lane, or lengthen that lane all the way back to Old State to provide that additional left turn, plus provide additional storage for the left turn at 41. So, those two lane improvements that were asked for at that meeting, we've concurred with that, and in the letter we've said that, and this was Dale's response to that.

Commissioner Fanello: (Inaudible. Mike not on.) The last sentence in Dale's letter that says;

In addition INDOT also agrees with EUTS recommendation that the right-of-way, if necessary, to construct an additional 12' lane be dedicated to INDOT, so that if an additional lane is required on Boonville-New Harmony Road that it could be constructed during the future US 41 reconstruction project.

So, how does a reconstruction project affect this development?

Jim Farney: The reconstruction project that INDOT's talking about, they are saying that at that point in time that they do that reconstruction project, they may deem that they want to add another lane on to Boonville-New Harmony. What they are trying to ask us is, is there sufficient right-of-way there at this time that they would have room to do that if they decided to. Or should there be additional right-of-way granted at this time to make that possible to do that at a future time. What we've said so far

is there is 90' of right-of-way, and we're only using 60' of it for pavement with our project. So, we believe there is adequate right-of-way there to add that lane in the future. Now if EUTS or someone wants to come back and say, no, we want so many more feet, then that needs to go back to the owners, but I would assume that that can be worked out. At this time, I guess, our position is that we've got 90' of right-of-way. So, we feel that we've got adequate room.

Les Shively: Does that answer your question? Let me just point out again, Commissioner Fanello, the use and development commitment requires that, number four, where it says;

Petitioner commits to conduct a Traffic Impact Study for the proposed development. Petitioner further commits to take all action necessary, including the dedication of any right-of-way necessitated by the proposed rezoning request, in order to comply with all requirements or recommendations made in the Traffic Impact Study and that may be additionally made by INDOT and/or the County Highway Engineer and/or Evansville Urban Transportation Study.

So, we are locked in to following their recommendations, and our own traffic impact study as a condition of development of this property. So, granting this rezoning incorporates that condition on us being able to pull any permits or do any development out there. So, we are locked into whatever INDOT dictates, EUTS dictates, and the county dictates.

Jim Farney: I think what Les is saying in that, I think, just to add to that is, basically, we, the understanding that I have is we did the initial traffic impact study, we came up with recommendations. We had a follow up, or final meeting, to discuss any changes to that. EUTS was at that meeting, John Stoll and the state, and as a result of that, what came out of that meeting that day were the two lane improvements. That day there wasn't a question on the additional right-of-way. Since then, EUTS has come out suggesting maybe they need right-of-way, and INDOT has said that if EUTS thinks they need it, then we agree with that. So, I guess, what, where we're at at this point, is we need a final directive as to based on how much right-of-way is there and them understanding that, if they feel like they need more right-of-way then, of course, what Les has just read is we've agreed to give that to them. Is that correct, Les? So, I guess, we are needing a final, in order to completely close it, we need a final, we need something affirmative or not affirmative from EUTS that says, yes, we want it, or no, we don't. In other words, they suggested if we need it, we want it. Well, we need for them to say, yes, we don't believe you've got enough, we need more. They need to say, okay, you've got 90', that seems to be enough, we're okay. In either instance we've agreed to conclude whatever they think they've got to have. If they think that the 90' isn't enough, then, I guess, Dave should stand up here and say it, but instead of me, but I think the response would be, yes, we'll give it to you.

Les Shively: Let me also add this too, one of the biggest issues back when we actually rezoned the area to the west a year ago, was the fact they didn't like the idea of the proximity of our entrance, proposed entrance. It was too close to the intersection of and Boonville-New Harmony. This rezoning, much to the delight of not only INDOT, the County Engineer, but also EUTS, moves that entrance further to the east. Not only is it lined up with the south, but puts it at a location which everyone of the traffic folks, the governmental traffic folks, feel is far superior, and therefore this rezoning not only brings this other property on line for commercial, it

makes the property already commercial safer and better for ingress and egress. We are sharing that ingress and egress for all that land that's been previously rezoned, and what's before you this evening. That's a major step forward that I think INDOT, EUTS, and everyone was pleased with.

Jim Farney: Yeah, I think that's a very good statement that needed to be said, that it's...this plan, the current traffic impact study that INDOT has tentatively agreed upon, and also EUTS and John Stoll is based on the premise that this property is rezoned and this intersection into the properties can occur in this pink or salmon shaded area. If this property cannot be rezoned tonight, then we go back to having to move that intersection closer to 41, which no one wants. No one being EUTS, John Stoll or INDOT. Basically, INDOT in their light of the world, with only their concerns, would like the intersection to be, of course, as far away as possible from 41. So, any opportunity we have to increase that distance is only a betterment to the improvements that we can make, rather than being forced to propose an intersection closer to 41.

Les Shively: Can I just add, you know, that the state and the county can only make us do things on the property we own. If this rezoning doesn't go forward, then we are not compelled to buy the property. We don't own it, and so we are going to have a substandard ingress and egress point. If this rezoning is approved, then we've got to buy the property from these folks back here who, obviously, want to be able to relocate. Then because it's common ownership, then all of the governmental agencies can force us to have common entrance, like we have here, and can force us to have it as far east as it will work, as it will go, and it's an overall better project. What you are seeing right now in this correspondence is, normally that correspondence would take place after the rezoning was approved. We're just a little bit ahead of the game, and you are sort of seeing the back and forth that happens once the traffic impact study is done, and you've got three governmental agencies looking at it, and we're like 95% there before the rezoning is even approved. So, we're a long way farther ahead of the game than we normally would be, but the big news, the best news is the fact that if this rezoning is approved, you have a far better ingress and egress point for the property that is already zoned C-4. Incidentally, this will come back to you again for drainage approval. That's another condition, we can't pull any permits or do anything until we file our drainage plan and have you all approve it.

President Mosby: Excuse me, questions?

Commissioner Mourdock: Just formally, any remonstrators? Seeing none. Are you ready? Do you have any other questions?

President Mosby: No, I'm ready.

Vote on VC-17-2001

Commissioner Mourdock: Okay. We do need to vote on these, obviously, separately. So, I will move approval of VC-17-2001, 600 East Boonville-New Harmony Road, from Ag and R-1 to C-4.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. Commissioner Mourdock?

Commissioner Mourdock: Yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Well, I do appreciate you all working together and trying to come to resolve, but I still have major concerns about development on 41, so I'm still going to have to vote no.

President Mosby: Commissioner Mosby? I haven't changed my mind from the previous time. I still have concerns further on back towards Old State Road, and I'm going to vote no.

Vote on VC-18-2001

Commissioner Mourdock: For VC-18-2001, 601 Boonville-New Harmony Road, Ag to C-4, I'll move approval.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. Commissioner Mourdock?

Commissioner Mourdock: I'll again vote yes, and note that with the Master Plan that is in place for the US 41 Corridor, I think this certainly fits as what they describe as a buffer. I also think it sends a bad signal when we encourage people to leave this meeting after, either APC or this meeting and tell them to work together. They work together to come back so there are no remonstrators, and then we change our mind, it appears. So, again, I vote yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: Just in response to what Commissioner Mourdock just said, it's great to work together, and I think they did work together very well, but the fact remains that there are traffic problems on US 41. Things haven't been developed properly out there. I'm still concerned about...the day I can drive down US 41 and not think I'm going to get killed, then maybe I'll be happy about development out there. That has nothing to do with residents working together. You know, their concerns were, I believe, safe guarding against future development out there as well. So, I don't know that their completely in favor of it, they were just trying to meet in the middle. So, I'm still going to vote no.

President Mosby: Commissioner Mosby. Just to answer your one question, I will state for the record, I was not here when this was brought up for reconsideration. Have I to this day talked to anybody since the last rezoning meeting about any of this? The answer is no. So, I've had no info on this, and I was not here at the reconsideration meeting to vote that night. I vote no.

Les Shively: Mr. President?

President Mosby: Yes.

Les Shively: May I make an inquiry of the Commission?

President Mosby: Sure.

Les Shively: I will request this, first of all I was working through your counsel, because of the things that were pending. We thought we had met all of the concerns. In fact, we were told that, in fact, when we were here for the reconsideration, I did not realize you weren't here, Councilman Mosby, I would have been more than happy to table it at that time. I thought you were here at that meeting, I don't recall you being absent at that meeting.

President Mosby: I believe I was in Indianapolis, I think.

Les Shively: The only thing I recall, the conditions were for us coming back is that we satisfy the concerns of the neighbors, and that we come back and that we dismiss the pending litigation, which we have done.

Commissioner Mourdock: Let me add one more, that you address the issue of traffic going out on Old State Road, which you have also done.

Les Shively: The point of the matter, and I guess, Commissioner Fanello, you have a piece of property that is commercial that will be given a, it will have to be given a cut on Boonville-New Harmony Road. You have an area that has already been approved for parking. What you are going to have and, Commissioner Fanello, I know that your interests are in the best interest of the people of Vanderburgh County, but this rezoning resolves in, comparatively speaking, a sub standard development. What I would respectfully request, and I know this is highly unusual, would you feel better if we had everything signed, sealed and delivered with INDOT, and with EUTS that showed that they had reviewed our plans, and that we were doing everything they told us to do? Would that put you in the comfort zone?

Commissioner Fanello: I don't know. You made an interesting comment earlier that we've seen more information because you've kind of given more information than you usually get before rezonings. I think that is good. I just have a lot of concerns about development on 41. I don't know, I mean, not knowing what that correspondence would be, or what their answers would be—

Les Shively: They basically have said the only thing left is the commitment to donate additional right-of-way. I've told you here, we've told you here this evening that my client is prepared to donate that right-of-way. He is committed to do that directly or indirectly as a result of the use and development commitment. What I'm saying to you is, if that is somehow in writing where the tender of the right-of-way is made and accepted by the state, because, again, I reiterate, we are improving an area for development that has already been approved for C-4. Plus we're eliminating a lot of the high traffic generators. What I, and Commissioner Mosby, with all due respect, I certainly, it was not my intention to keep the Commission in the dark. In fact, we communicated through your counsel. Did the things we were supposed to do, and I tried to do it in a professional way. I'm just, I have to admit to you, I'm somewhat surprised and I don't know what more we can do. Here's the other unfortunate thing, these folks back here, homes will remain here. This was an opportunity for them to relocate. It also was an opportunity for Mr. Bohleber's clients to not have to come back year in and year out. I'm not saying that there is going to be other developments, petitions out there and such, it was going to provide a permanent 35 year covenant, private covenant, protecting this area. I would respectfully request an opportunity to come back. Commissioner Mosby, again, I am more than happy to meet with you at any time. If that is appropriate. To have Mr. Farney meet with you, but I, if there has been a miscommunication here, I will on behalf of my clients will take that responsibility. I thought we were working through the appropriate

channels. I would like to have the opportunity to come back the first of the year and be able to fill in any of the gaps, but as you can see, there are no landowners out there that oppose this. In fact, everybody is benefitting from this, including the public in general, because, again, I don't want to repeat myself, you have a tract of land that is already ready to go that is, unfortunately, going to have a relatively sub standard ingress and egress because of where this thing stands today. I'm simply asking you to, I know you have a lot of stuff on your plate lately, I just would like to have an opportunity to answer any questions you might have, and please reconsider this. We could come back at your January 14th meeting. I would appreciate being able to do that. There is no remonstrators here. All the affected people are here this evening, and I think you could appropriately do that. Mr. Mosby, I will make myself available to you at any time and place to and you can have anybody there to answer the questions. I'm sorry, I thought we had covered everything.

President Mosby: I don't know that it can come back without a reconsideration, but the point I was making when Mr. Mourdock made his comment is, I was not here at the meeting where you voted for reconsideration. I didn't make any commitments to anybody. I just wanted to clarify that and leave it at that.

Les Shively: No, no, Mr. Mosby, I didn't signify that you had made any commitments.

President Mosby: I didn't say you, I said when Mr. Mourdock made his comments in his vote, that he kind of made, acted like, maybe somebody led you on. I was not here at the reconsideration meeting. I didn't vote, and I didn't lead anybody on.

Commissioner Mourdock: My comments were not regarding the reconsideration meeting anyway. My comments were in regards to when this came the first time and was voted down, that's when the comments were made about the access on to Old State Road, and the necessity of having the neighbors protected with some long term covenants. During the reconsideration meeting, and I don't have the minutes in front of me—

Commissioner Fanello: (Inaudible) really said anything.

Commissioner Mourdock: —yeah, all it was, is are we going to hear this again? And the answer was, two to nothing, yes.

Commissioner Fanello: I know there were no commitments from me that night.

Commissioner Mourdock: No commitments from Catherine or me.

Les Shively: The fact, and—

President Mosby: At that point I wouldn't have misled them and I would have voted no.

Commissioner Mourdock: And it still would have passed, two to one.

President Mosby: Exactly, but I would have been on the record.

Jim Farney: Can I add something to this, if I may? I don't want to be repetitive, but I do want to try to get the point across that I have as an engineer. As an engineer I feel that it is very vital that this salmon piece be rezoned. If this salmon piece is not rezoned, it makes it much more difficult to engineer as well as we could with the

salmon piece the project as it will be. Because, as Les said, that part of it is already rezoned. I really, you know, I think it would be very important for you Commissioners, if this is possible, to discuss this project with any technical staff you have, be it EUTS, be it John Stoll, be it State Highway, be it Dale Lucas. I think everyone of those entities will tell you that this is a much better situation than what you currently have, and what was rezoned previously. I really faithfully believe that, and I think that you need, I think you should take the time to discuss this project with those peoples and get their inputs.

Commissioner Fanello: I guess my question right there would be, I guess, if they are talking about the other, this rezoning really needs to happen to go along with the other rezoning, why was the other rezoned in the first place first?

Les Shively: We didn't--

Commissioner Mourdock: They didn't own the land.

Commissioner Fanello: Oh.

Jim Farney: They don't own the property.

Les Shively: Ms. Fanello , let me explain what happened.

Commissioner Fanello: Because I don't know the sequence of events.

Les Shively: The sequence of events were this. After we rezoned this property, we were approached by the landowners that live closest to it. They were, obviously, wanted to look at the possibility of selling their property and being able to relocate. So, the people most affected by that rezoning we accommodated, and said, and we worked out a number with all of them, and said we'll buy your property if we can get it rezoned. So that's then when this took place. In the meantime, there was a prospect, a couple of prospects which would justify economically buying these people's property and moving forward to expand the project. Plus, there again, I know we've said it several times, when this rezoning was approved, December of 2000, comments were made that, gee, we wish you owned property further to the east so that you could move that access point further to the east. We said we didn't, but we also, in effect, said if we did, we would. Well, now we, well, we don't, right now, but we would. If the concern is 41, I mean, that horse is out of that barn, and we've eliminated 52 commercial uses, including truck stops, all those high traffic generator situations, which there in effect, in itself, is a significant reduction. Plus we're now working with the state well farther in advance than most developers ever do. I mean, we've committed, what INDOT tells us to do. What EUTS tells us to do, what the County Engineer tells us to do. We're going to have to do it whether we like it or not in order to pull any permits, to be able to build any buildings, to be able to sell any property out here. It's going to be a far better project than just selling this acreage that has already been rezoned and using the area that has been approved, especially used for parking. I respect the Commission because the way our zoning laws are set up is that the elected official should have the final word. If there is something, information that you don't have, I take it as my responsibility to get that information to you. Again, I thought I was working through the proper channels, and I would like to have the opportunity to answer any more questions that, again, as Mr. Farney suggested, have you all independently through whoever you want to talk to Mr. Lucas at the Vincennes office of INDOT. Or have someone from EUTS, or Mr. Stoll, I mean, whatever you need we can provide. We are committed to do whatever

they tell us to do anyhow, but if seeing it in writing, or for them to say, hey, we've looked at their plan, we believe these folks can do this. Then, if it takes another two or three weeks to do that, fine, but please don't ruin the dream for these folks and don't prevent this project from being a quality project, and something that enhances what's already out there, makes it better. So, I would respectfully ask that this, that you this evening orally accept our request for reconsideration and put this on your January 14th docket.

Commissioner Mourdock: Let me ask the question of staff, Bev, and I don't recall one coming back to us, in effect, a third time, or coming to us a third time. Is there any reason that you know of through the APC ordinances and rules that we could not do that? Oh, just happen to have it in front of you, okay.

Philip Hayes: (Inaudible. Mike not on.) 17.36.070, Time Limits, Section B says that there is an exception to the rule that a denial by the County Commission prohibits the Area Plan or the Commission from hearing the petition on that property or any part thereof for 12 months after the date of denial, but the exception is that by a unanimous vote of the County Commission, then that may be heard at an earlier time. So, the body could by it's unanimous decision consent to rehear the petition or a part thereof, and that would apply to both of those.

Les Shively: Also the vote in this case was not a recommendation of denial by the Plan Commission.

Philip Hayes: We understand, right, there was not a denial recommendation before.

Commissioner Mourdock: Right.

President Mosby: Is that a unanimous vote of the members present?

Philip Hayes: It would be a unanimous vote, it just simply says of the County Commission—

President Mosby: Then I guess my question is—

Philip Hayes: --a quorum, yeah, I couldn't answer whether that's of a quorum or not.

President Mosby: Well, my question is, when you heard it the first time, it was illegal. I thought that when I heard that. When I got back in town, because you heard that for reconsideration on a night I was gone. If it takes unanimous approval of this body, you only had two present.

Philip Hayes: It does say unanimous.

President Mosby: That is the rules for reconsideration. The same rules we used over in the City Council.

Commissioner Mourdock: Well, I'm not sure that's the case, but let's assume it is for a moment. We can correct that mistake. I move approval, or I will move that we rehear this petition, or these two petitions at the regularly scheduled zoning meeting of January 2002.

Les Shively: May I just request this? I mean, I didn't mean to get in the middle of your motion, but if in so you would place it on the January zoning docket, so there

is no confusion, we will renotify all adjacent land owners. Although, I don't know that necessarily is required, to make sure that everyone understands that this is back on the docket, and everyone has an opportunity to be heard. So, that we haven't left any stone unturned.

Commissioner Fanello: (Inaudible. Mike not on.)

Philip Hayes: You have a-

President Mosby: There is a motion on the floor.

Philip Hayes: I'm sorry.

President Mosby: I'm not seconding it.

Commissioner Fanello: (Inaudible. Mike not on.)

President Mosby: It dies for lack of a second. Is there any other questions or comments?

Commissioner Mourdock: Motion to adjourn.

President Mosby: I have a motion, hold on a second.

Commissioner Fanello: To adjourn?

President Mosby: Yes.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second. So ordered.

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

Those in Attendance:

David W. Mosby	Catherine Fanello	Richard E. Mourdock
Philip Hayes	Beverly Behme	Madelyn Grayson
Steven Bohleber	Les Shively	Jim Farney
Others Unidentified	Members of Media	

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