

# AREA PLAN COMMISSION OF EVANSVILLE AND VANDERBURGH COUNTY

Regular meeting held at 4:00 P.M. in Room 301  
Civic Center Complex - Administration Building  
Evansville, Indiana

November 10, 2016

## ROLL CALL

**Ms. Stevens:** I would like to call the November 10, 2016 meeting of the Area Plan Commission of Evansville and Vanderburgh County to order. Will the secretary please call the roll?

### Members Present:

Dan Adams, Marty Amsler, Roger Lehman, Lynn Lowe, Earl Milligan, John Montrastelle, Jeffrey Mueller, Joy Payne, Bruce Ungethiem, Stacy Stevens

### Members Absent:

Mike Rudolph, Bill Pedtke

### Area Commission Staff Present:

Ronald London, Executive Director; Janet Greenwell, Zoning Administrator; Donna Holderfield, Zoning Enforcement Officer; April Spraggs, Senior Secretary; Dirck Stahl, Counsel

## APPROVAL OF MINUTES

**Ms. Stevens:** Is there a motion to approve the October minutes? (Motion was made and seconded.) Upon unanimous voice vote, the minutes of the October meeting are approved.

## REZONINGS

**Ms. Stevens:** For rezonings, it takes seven affirmative votes to recommend approval of a petition or seven negative votes to recommend denial of a petition. In the event that there are not seven votes, it still goes forward to the City Council or County Commission with no recommendation.

The Area Plan Commission has established the following guidelines to be followed for both rezonings and subdivisions. Mr. London will begin each presentation. As each case is called, the petitioner and the remonstrators who intend to testify will please stand and

be sworn in at the beginning of the process. If your name is not on the petition, those who plan to testify need to please fill out the sheets in the back of the room. All testimony must begin by stating your name and address for the record. The petitioner or person appearing for the case being heard will have a maximum of 10 minutes for the presentation of evidence, statements, and arguments in support of the petition. Then there will be a total of 10 minutes for the remonstrators. This testimony will be followed by a five minute rebuttal period for the petitioner as a summation of the case. Any request for additional time must be voted on by the Board. A timer will be used to help enforce the time limits. Both petitioners and remonstrators should organize their testimony to adhere to these guidelines. When there is a group of individuals remonstrating against a petition, we strongly encourage the group to designate a spokesperson. If it is necessary for more than one remonstrator to speak, the group should meet out in the hall before the Area Plan Commission discussion of the agenda item, to coordinate the information presented, so that each speaker addresses a different issue of concern. In order to expedite the meeting, remonstrators should refrain from repeating the same concerns already expressed by another speaker about a particular development proposal. The Plan Commission appreciates the cooperation of all participants with these guidelines. If the Commissioners have questions about issues we feel have not been sufficiently addressed by the applicant, we have the option to request a continuance until the information needed to sufficiently answer our concerns is available or provided by the applicant or technical staff.

**Ms. Stevens:** The City Rezoning considered tonight will be heard at the City Council meeting on Monday, December 5, 2016 at 5:30 pm in Room 301.

The County Rezoning considered tonight will be heard at the County Commission meeting on Tuesday, December 6, 2016 at 4:00 pm in Room 301.

Now let's move on to the first item on the agenda.

**Mr. Stahl:** Mr. London, on all matters before the Board, do you swear or affirm that the testimony you will give is true and accurate so help you God? (Mr. London has been sworn in.)

## **CITY REZONINGS**

Docket No: 2016-29-PC R-2016-27 Petitioner: SES, LLC/Steve Schmitt

Address: (Complete legal on file.) 614-618 N. St. Joseph Avenue

Nature of Case: Rezone from R-2 to C-2.

**Mr. London:** SES, LLC (Steve Schmitt) is requesting to rezone the property located at 614-618 N St Joseph Avenue from R-2 to C-2. This is a 0.23 acre site located at the southwest corner of St Joseph Avenue and Delaware Street. Mr. Schmitt also owns the vacant C-2 zoned lot at 612 N. St. Joseph Avenue adjacent south of this rezoning site. If all lots were to be combined, there would be a total of 0.68 acres available for development (238' x 125'). This is a request for rezoning to allow development of a

commercial use on the site. These three R-2 zoned lots are the only residential lots remaining along the St. Joseph Avenue commercial strip from Lloyd Expressway to Maryland Street. Over the years, all of the lots except these three remaining parcels have been zoned for commercial or high density residential projects. The Comprehensive Plan Future Land Use Map in the newly-adopted Comprehensive Plan identifies the frontage along St. Joseph Avenue from Lloyd Expressway to Maryland Street as predominantly commercial, with residential development adjacent both east and west of the site. This rezoning to C-2 will result in all parcels fronting on this strip of St. Joseph Avenue being consistent with mixed commercial development. This corner site is at a controlled intersection. There are currently no curb cuts or access drives on either St. Joseph Avenue or Delaware Street that serve these three lots. Evansville Metropolitan Planning Organization states: "Any access should meet the guidelines given in the "MPO's Access Management Manual and Development Guide." Compliance with access standards and with all code requirements will be determined by Site Review upon submission of plans for the development of a commercial use on the site.

**Mr. Stahl:** All those who will speak on this petition please raise your right hand. Do you swear or affirm that the testimony that you will give is true and accurate so help you God? (Those persons have been sworn in.)

**Mr. Schmitt:** Steve Schmitt, 3220 Orchard Road.

**Ms. Stevens:** Ok, thanks. Did you have anything to add to the staff report?

**Mr. Schmitt:** No, I do not.

**Ms. Stevens:** Ok. Are there questions for Mr. Schmitt? Mr. Lehman?

**Mr. Lehman:** No.

**Ms. Stevens:** Anybody else? Ok. (None). Are there remonstrators on this petition? (None). Is there a motion for approval? (Motion was made and seconded). Call the roll.

Ayes: Dr. Adams, Mr. Amsler, Mr. Lehman, Mr. Milligan, Mr. Montrastelle, Mr. Mueller, Ms. Payne, Mr. Ungethiem, Ms. Stevens

Nays: None.

There being 9 affirmative votes, Docket No: 2016-29-PC R-2016-27 goes forward with a recommendation for approval.

Docket No: 2016-31-PC R-2016-28 Petitioner: Hemang Shah

Address: (Complete legal on file.) 202 S.E. Second Street

Nature of Case: Rezone from CO-2 to C-3.

**Mr. London:** Hemang Shah is requesting to rezone the property located at 202 SE Second Street from CO-2 to C-3. This 1.07 acres site is on the east side of Southeast Second Street, from Walnut Street to Chestnut Street. Mr. Shah is proposing construction of a 139 room, 5-story hotel on the site. The existing CO-2 zoning classification does not allow hotels. The Scottish Rite Office and Cathedral was established on the property located at 203 Chestnut Street in the mid 1930's. Prior to their establishment of their use on the site, it was the home of the Shriner's Temple. Over the years, the building was expanded and now occupies the entire half-block on the south side of Chestnut Street from SE Second Street to SE Third Street. Over time, the Scottish Rite acquired the property at 202 SE Second Street and installed a paved parking lot for the Cathedral. The paved parking lot that currently occupies the eastern half of the block along the SE Second Street frontage from Walnut Street to Chestnut Street is the site that is the subject of this rezoning request. Mr. Shah plans to construct a new Hyatt Place Hotel on the site, and is seeking to rezone the site to C-3, a classification that is consistent with its location in the Downtown TIF Redevelopment area and is an appropriate classification for a hotel. The Scottish Rite Cathedral will be razed, and a new parking lot for the hotel will be constructed on that site. The overall scope of this development will require vacation of a part of Chestnut Street to connect the new hotel to its drop-off/pick-up area and the parking lot. The plans indicate that the primary entrance is to be located where Chestnut Street currently intersects with SE Second Street. A second entrance is planned onto Walnut Street. Evansville Metropolitan Planning Organization states: "Access should be designed and maintained in accordance with the Access Management Manual and Development Guide." Hotels require one parking space for each rental unit plus one space for each 5 employees of the largest working shift. The 139-room hotel would require 139 spaces plus additional parking to accommodate employees. The site plan as submitted would indicate that the hotel would be entitled to a reduction (an exemption) of at least 6 parking spaces due to the provision of parking lot islands and trees. The site plan indicates 129 spaces are planned on-site. The zoning code allows the provision of additional/alternate parking off-site if it is within 300 feet of the subject use. There is a City-owned, public parking garage at 120 SE Third Street, less than 300 feet from the proposed new hotel site. Also, there are numerous surface parking lots that appear to be underutilized in very close proximity to the new hotel where there may be an opportunity for some shared parking agreement(s) if necessary. The Comprehensive Plan Future Land Use Map 2035 recently adopted as part of the new Comprehensive Plan indicates that this site on SE Second Street has been projected to be for "mixed use". The majority of land within the Downtown TIF Redevelopment area is designated for mixed use. The rezoning of this site from CO-2 to C-3 is consistent with the Comprehensive Plan in that the C-3 classification allows mixed use.

**Mr. Stahl:** All those who will speak on this petition please raise your right hand. Do you swear or affirm that the testimony that you will give is true and accurate so help you God? (Those persons have been sworn in.)

**Mr. Shah:** Hemang Shah, 2011 Anderson Road, Newburgh.

**Ms. Stevens:** Ok, and did you have anything to add to Mr. London's report?

**Mr. Shah:** I think they did a fantastic job. Thank you.

**Ms. Stevens:** Ok, great. Are there questions for the petitioner? Ms. Payne?

**Ms. Payne:** I have a question. I was really kind of curious what is the largest working shift? I was back looking at the parking. Is it nights, days, weekends?

**Mr. Shah:** We have 24-hour shifts, 8-hour shift, and 3-hour shifts at the hotel, morning, evening and nights. So, there's always employees there. Usually morning time is the main time where we will have more employees like housekeeping, maintenance and other staff. The rest of the time it's just going to be front desk.

**Ms. Payne:** Ok, thanks.

**Ms. Stevens:** Other questions? Mr. Montrastelle?

**Mr. Montrastelle:** Really just a comment. Mr. Shah, I want to thank you for coming to Evansville to invest this type of money, upwards of 18 million dollars, into our community to build a new hotel. You know, I called Bob Warren today, who is the Executive Director of the Evansville Convention and Visitor's Bureau, and I asked him how this hotel will fit within our marketplace. He was very encouraged that you would come to Evansville, and how's this going to affect our new Convention and Visitor's hotel downtown? That's going to have like 241 rooms and Bob believes that some of the larger conventions there will be some market overflow and other hotels will need to step up. The Double Tree may reserve 150 to maybe 200 of those 241 rooms and he believes overflow will be needed. Also, with your timing I understand it's going to be about spring of 2018?

**Mr. Shah:** Yes.

**Mr. Montrastelle:** That's going to tie in really with when the Medical Facility's going to pretty much be up and running. So, the timing is great. With Tropicana going to a land base there will probably be some opportunities for some overflow there and in fact, your hotel being a brand new hotel will probably force some of the little bit older hotels to upgrade to stay competitive. So, that's really good for the hotel industry and Vanderburgh County and Evansville, so thank you.

**Mr. Shah:** Thank you for giving us the opportunity and support.

**Mr. Montrastelle:** Why did you choose Evansville? What was in your head?

**Mr. Shah:** Well Evansville, I've been in this area the last 15 years and my kids go to school here. They're growing up here and always looking for opportunity in Evansville area, and we recognize that there are things happening here. We just picked the right timing and we want to just go with everything happening here. We also feel very excited

that we are here at the right time to have a good experience in the hotel development. It just recognizing the timing is just important and that's what happened. So, we've been looking into it all these years and just decided now was the time.

**Mr. Montrastelle:** Very good.

**Ms. Stevens:** Thank you. Thank you, Mr. Montrastelle for those comments, too.

**Mr. Shah:** Thank you.

**Ms. Stevens:** Timing is everything isn't it?

**Mr. Shah:** Absolutely.

**Ms. Stevens:** Yeah. Other comments or questions?

**Mr. Milligan:** I have one.

**Ms. Stevens:** Ok, go ahead.

**Mr. Milligan:** Again, I have to reiterate what Mr. Montrastelle indicated. Thank you for taking a chance on downtown Evansville. Two questions.

**Mr. Shah:** Sure.

**Mr. Milligan:** Will you have any space allotted for any type of small convention space at the hotel, one? And two, with the demolishing of the Scottish Rite temple, will your parking be a structure or strictly level on the ground?

**Mr. Shah:** Number one, there won't be any facility for a convention. However, we will have small meeting rooms for board meetings or small 40-50 people type of meetings. For smaller gatherings we will have some open areas, we have a couple of lounges for social hours and things like that. The parking lot is just going to be a ground level parking lot. We do not have any plans to have any building there. It's an open parking lot with lots of greenspace.

**Mr. Milligan:** I see. Again, thank you very much.

**Ms. Stevens:** Thank you. Anything else? I didn't see any remonstrators. Are there remonstrators on this petition? I can't imagine what they'd say, but we'd love to hear it. I would like to read into the record the Riverside Neighborhood Association has written a letter dated November 7<sup>th</sup> to Mr. London. At the October 19, 2016 meeting of the Riverside Neighborhood Association the topic of the New Hyatt Place Hotel, which is to be located in the 200 block of SE Second Street, was discussed. Hotel developers Hermang Shah and V.T. Gala, Mayor Lloyd Winnecke and Kelley Coures, the Executive Director of the Department of Metropolitan Development were in attendance to answer

questions. As this hotel will be within the boundaries of our neighborhood association, there was concern expressed over the rezoning of the property as well as the closing of a portion of Chestnut Street. While there was general support for the street closure, the association members present expressed the hope that this closure would not cut off public pedestrian traffic through the closed section of Chestnut Street between SE Second and SE Third Street. At the conclusion of the discussion, the Riverside Neighborhood Association voted to support both the rezoning of the property and the closure of the street. Sincerely, Dennis Au, President of the Riverside Neighborhood Association. So, I wanted to read that as I guess a remonstrator in favor. And I just had a question. You're calling it the New Hyatt Place. Are you associated with Hyatt? Is that...?

**Mr. Shah:** Hyatt Hotel Corporation is a franchise company and I will be a franchisee of that company.

**Ms. Stevens:** So, it will be under the Hyatt umbrella?

**Mr. Shah:** Absolutely. It will be under the Hyatt umbrella. We do have a franchise already approved.

**Ms. Stevens:** Ok.

**Mr. Shah:** We have already signed the documents, so it's all ready to go.

**Ms. Stevens:** Alright, terrific. Ok, if there are no more questions, I would entertain a motion for approval. (Motion was made and seconded). Call the roll.

Ayes: Mr. Amsler, Mr. Lehman, Ms. Lowe, Mr. Milligan, Mr. Montrastelle, Mr. Mueller, Ms. Payne, Mr. Ungethiem, Ms. Stevens

Nays: None.

Abstention: Dr. Adams

There being 9 affirmative votes and 1 abstention, Docket No: 2016-31-PC R-2016-28 goes forward with a recommendation for approval.

### **COUNTY REZONINGS**

Docket No: 2016-30-PC VC-7-2016 Petitioner: Keith A. & Jennifer A. Karges  
Address: (Complete legal on file.) 13000 N. Warrick County Line Road  
Nature of Case: Rezone from M-2 to agricultural.

**Mr. London:** Keith and Jennifer Karges are requesting to downzone their property located at 13000 N Warrick County Line Road from M-2 to Agricultural. The 10.27 acres site is on the west side of Warrick County Line Road, north of Boonville-New Harmony

Road. The Karges plan to construct a new home on this site. No residential uses are permitted in the M-2 zoning district. This 10+ acre site was rezoned from Agricultural to M-2 in 2002 for an unspecified industrial use. The industrial use never developed. This is a request to rezone the site back to its original zoning classification to allow construction of the new home on the site. Currently there is a driveway access on this site for access to the barns. Any new or changed access will require approval by the County Engineer. The Comprehensive Plan Future Land Use Map 2035 recently adopted as part of the new Comprehensive Plan indicates that this site on Warrick County Line Road is designated as agricultural. The downzoning of the site to Agricultural is consistent with the Plan.

**Mr. Stahl:** All those who will speak on this petition please raise your right hand. Do you swear or affirm that the testimony that you will give is true and accurate so help you God? (Those persons have been sworn in.)

**Mr. Norton:** Tom Norton, representing the petitioners, Keith and Jennifer Karges, on the matter. My office is at 2230 W. Franklin Street for the record. I think the staff report pretty much says it all. We're here to downzone and hope that's not a real controversial item. Unfortunately, we didn't have our architect get together a plan like they have over here, but we're doing our best. A residence is planned to go in there ultimately. I did ask the Karges', and they are here tonight if you have any specific questions on what they intend to do? The footprint for the house is going to be located where the old farmhouse was on this property.

**Ms. Stevens:** Is that where the star was? I'm just asking?

**Mr. Norton:** Do you know about where it is?

**Ms. Stevens:** No, it doesn't matter, Mr. Norton. I'm just.... I kind of look like it would fit right there.

**Mr. Norton:** Probably, is my guess.

**Ms. Stevens:** Yeah, it looks like it would fit nicely right there. Ok, alright.

**Mr. Norton:** If you have any questions, we're willing to answer them.

**Ms. Stevens:** Ok, are there questions for Mr. Norton or petitioners? Go ahead, Mr. Montrastelle.

**Mr. Montrastelle:** What is the business to the...?

**Mr. Norton:** Advanced Disposal. It was previously Onyx Corp. It's a recycling center for them. I think they have a small single-street operation out there. I'd suspect that's why the M-2 was sought previously if that was going to grow or add to it, but it hasn't developed that way.

**Mr. Montrastelle:** Ok.

**Ms. Stevens:** Ok, thank you. Anybody else? Alright, you couldn't see, but there were no remonstrators holding up their hands. Are there any remonstrators? No. Ok, seeing none. If there's no other discussion I'll entertain a motion for approval. (Motion was made and seconded). Call the roll.

Ayes: Mr. Lehman, Ms. Lowe, Mr. Milligan, Mr. Montrastelle, Mr. Mueller, Ms. Payne, Mr. Ungethiem, Dr. Adams, Mr. Amsler, Ms. Stevens

Nays: None.

There being 10 affirmative votes, Docket No: 2016-30-PC VC-7-2016 goes forward with a recommendation for approval.

Docket No: 2016-32-PC VC-8-2016 Petitioner: Daniel C. Fuquay  
Address: (Complete legal on file.) 8425 Schmuck Road and part of 8028 Azalea Drive  
Nature of Case: Rezone from agricultural to C-4 with a use and development commitment.

**Mr. London:** Daniel Fuquay is requesting to rezone his property located at 8425 Schmuck Road and part of 8028 Azalea Drive from Agricultural to C-4 with a use and development commitment. The 2.5 acre site is north and east of the intersection of Schmuck Road and Azalea Drive. The use and development commitment included as part of this rezoning request limits use of the site to a commercial and residential landscape business only. A copy was included with the staff report. The effect of the approval of this rezoning is to bring the existing use into compliance with the zoning code. Mr. Fuquay was contacted by staff after complaints that the landscape business "Aching Acres" was operating from this site. A commercial landscape business requires the C-4 zoning classification. This site is located in a completely agricultural and residential area. The Comprehensive Plan Future Land Use Map 2035 recently adopted as part of the new Comprehensive Plan indicates that this site is in an area identified as agricultural. There is an existing two-way gravel access drive onto Schmuck Road that provides access to the site. Site Review will determine if the existing access is adequate for the proposed continued use as a commercial landscape business upon submission of plans for the required change-of-use improvement location permit. Access and parking for commercial use must be paved. Commercial vehicle parking areas must be screened from public ways by a solid 8-foot fence. The rezoning of the 2.5 acre site includes all of one parcel and a part of a separate parcel of land. A minor subdivision plat is required to "clean up" some lot line adjustments that have been made without subdivision approval. The business on this site was established without permits. All required permits must be obtained. Site Review will address compliance with all code requirements upon submission of plans for the change-of-use of the site.

**Mr. Stahl:** All those who will speak on this petition please raise your right hand. Do you swear or affirm that the testimony that you will give is true and accurate so help you God? (Those persons have been sworn in.)

**Mr. Goedde:** Craig Goedde, 2230 W. Franklin Street is our law office. I represent Mr. Daniel Fuquay, who is here in person. We've also brought with us some additional supporters of the petition that we have filed. As Mr. London had read, we are basically trying to get compliant with the current use of the property. We've also filed a use and development commitment for that intended use if for some reason it is not going to be used for that use, then it would simply revert back to the agricultural.

**Ms. Stevens:** Ok, thank you. Are there questions for the petitioner? Mr. Ungethiem?

**Mr. Ungethiem:** How long has the business been in operation?

**Mr. Fuquay:** 20 years total, 17 years there.

**Mr. Goedde:** Can you identify yourself?

**Mr. Fuquay:** Dan Fuquay, owner of Aching Acres Landscaping.

**Mr. Ungethiem:** 17 years at this site?

**Mr. Fuquay:** Yes, Sir.

**Mr. Ungethiem:** Ok.

**Ms. Stevens:** And do you live at this site?

**Mr. Fuquay:** No. It started that I used to live there. Now I live close to there, but at another property.

**Ms. Stevens:** Ok. Could you go ahead and state your address?

**Mr. Fuquay:** Yes. My address is 8028 Azalea Drive.

**Ms. Stevens:** Thank you. Ok, other questions?

**Ms. Payne:** I don't see the use and development. Has there been a U. and D.? It's just not attached to what I have.

**Ms. Stevens:** Yeah, it was on what they emailed to you. Does anybody...? Yeah, thank you.

**Mr. Stahl:** It's got handwriting on it.

**Mr. London:** It should be the second sheet.

**Ms. Stevens:** Ok. Anybody else? Other questions?

**Mr. Milligan:** Again, what will the existing structure be used for?

**Mr. Fuquay:** I'm sorry?

**Mr. Milligan:** The existing home that's on there?

**Mr. Fuquay:** It's just a residence for my in-laws that live there. My wife passed away about 6 years ago, so they moved in when she died and helped raise my kids. So, it's just a residence.

**Mr. Milligan:** So, it will be occupied?

**Mr. Fuquay:** It's been occupied. Yes, it will be occupied.

**Mr. Goedde:** Just for information I probably should have added this. This is not a retail business. This is kind of like a dumping lot. Most of what they get, and most of what they order, gets shipped directly to the site that they are actually working on. What you'll see in some of the pictures is basically there's an area for pallets of rock and there's an area for mulch. Other than that there isn't anything else there. But there's not commercial business in and out.

**Ms. Stevens:** Ok.

**Mr. Goedde:** I don't drive up there and knock on the door and then buy a pallet of rocks. This is kind of just their holding area.

**Ms. Stevens:** Ok, and is this your only facility?

**Mr. Fuquay:** Yes.

**Ms. Stevens:** Ok. Anybody else? Remonstrators? (None.) If there's no other discussion is there a motion for approval? Oh, Mr. Montrastelle? Sorry.

**Mr. Montrastelle:** I'm sorry, I've got a question.

**Ms. Stevens:** Go ahead.

**Mr. Montrastelle:** How did this come out? Did it just dawn on you that you weren't compliant or did somebody complain?

**Ms. Stevens:** Yeah, it was in the.... Yeah, go ahead.

**Mr. Fuquay:** Apparently someone complained. I started the business when I was 22 and it just kind of grew from there. The neighbors are all farmers and we used to grow some trees, so I just... Ignorance is the only defense I have. Yeah, I guess somebody complained, which I never found out who that was.

**Mr. Montrastelle:** Was it because of traffic or the trucks or...?

**Mr. Fuquay:** Don't know. I was never told other than someone had a complaint.

**Ms. Stevens:** Excuse me. Somebody called Area Plan? Is that who they complained to?

**Ms. Greenwell:** Yes.

**Ms. Stevens:** Ok.

**Mr. Montrastelle:** Ok, thank you.

**Ms. Stevens:** Mr. Ungethiem?

**Mr. Ungethiem:** You mentioned the traffic. What kind of traffic normally goes in and out of this area on a daily basis?

**Mr. Fuquay:** You mean like the local residents?

**Mr. Ungethiem:** No, I mean your traffic. How often do you go in and out and with what kind of vehicles?

**Mr. Fuquay:** In and out one time. At 6am in the morning we leave and we come back at 3:30-4pm and that's typically it, you know, for our vehicles. Occasional mulch semis. We used to have more traffic, honestly, but now we keep half of our stockpile in Chandler at our supplier, so it's less than it's ever been. But it's pickups, a couple of dump trucks.

**Mr. Ungethiem:** No semis?

**Mr. Fuquay:** The mulch comes in on a semi, but there's probably 25-30 semis in the spring, then after that it's down to maybe 1 every 3-4 weeks.

**Mr. Ungethiem:** Ok.

**Ms. Stevens:** Ok. Back to where we were. Is there a motion for approval? (Motion was made and seconded). Call the roll.

Ayes: Ms. Lowe, Mr. Milligan, Mr. Montrastelle, Mr. Mueller, Ms. Payne, Mr. Ungethiem, Dr. Adams, Mr. Amsler, Mr. Lehman, Ms. Stevens

Nays: None.

There being 10 affirmative votes, Docket No: 2016-32-PC VC-8-2016 goes forward with a recommendation for approval.

Docket No: 2016-33-PC VC-9-2016 Petitioner: Henry Schlensker

Address: (Complete legal on file.) (Part of) 4100 Kansas Road

Nature of Case: Rezone from agricultural to M-2 with a use and development commitment.

**Mr. London:** Henry Schlensker is requesting to rezone an 8.652 acres' part of his 80.29 acre agricultural/ residential property at 4100 Kansas Road from Agricultural to M-2 with a use and development commitment. The site is located on the north side of Kansas Road, between Hedden Road and Baldwin Drive. The use and development commitment included as part of this rezoning request limits use of the site to storage of raw materials (dirt, mulch, etc.), mixing of soils and raw materials, sale of soil and raw materials, and ancillary structures necessary for the operations such as trailers, sheds, and office spaces only. A copy was included with the staff report. The effect of the approval of this rezoning is to bring the existing use into compliance with the zoning code, allowing continued operation of a commercial business at this Agricultural location on Kansas Road. Mr. Schlensker was contacted by staff concerning the establishment of a business "A P & P Soil Masters" was found to be operating from this site. The commercial soil blending, storage yard and sales business requires the M-2 zoning classification. The Comprehensive Plan Future Land Use Map 2035 recently adopted as part of the new Comprehensive Plan indicates that this site is in an area identified as residential. There is industrial development along Hedden Road and Highway 57 west of the site. Soil Masters has two entry drives onto Kansas Road, one at the east end of the 428' frontage on Kansas, and one at the west end of the frontage. The two entry drives are connected by a frontage drive across the front of the site which appears to be partly in the Kansas Road right-of-way, and partly in the required front yard green space. Site Review will determine if the existing access is adequate for the proposed continued use as a storage yard business upon submission of plans for the required change-of-use improvement location permit. The business on this site was established without permits. All required permits must be obtained. Site Review will address compliance with all code requirements upon submission of plans for the development of the site. Access and parking for commercial and/or industrial use must be paved. Commercial vehicle parking areas must be screened from public ways by a solid 8-foot fence.

**Mr. Stahl:** All those who will speak on this petition please raise your right hand. Do you swear or affirm that the testimony that you will give is true and accurate so help you God? (Those persons have been sworn in.)

**Mr. Clayborn:** Josh Clayborn, Jackson Kelly, PLLC, 221 NW Fifth Street. I'm joined here by Chad Waggoner, Surveyor, and also Henry Schlensker, the owner, is here as well. I think the description did a pretty good job of describing it as mentioned. This

request for rezoning does come with a use and development commitment. It's generally surrounded by all agricultural and the owner residence as well. I don't know if you have anything you want to add or any additional questions?

**Ms. Stevens:** Ok, thank you. Are there questions for the petitioner or Mr. Clayborn? I imagine Mr. Schlensker would come up here and talk if we asked him to.

**Mr. Clayborn:** Yeah.

**Ms. Stevens:** Ok. Oh, sorry. Mr. Ungethiem?

**Mr. Ungethiem:** Same question I had with the other operation before. How long has this been in operation before today?

**Mr. Clayborn:** That's a good question. I'm going to defer to you, Henry.

**Mr. Schlensker:** Henry Schlensker, 4100 Kansas Road. How long it's been in business is probably since sometime in the late 70's. I'm 73 years old. I've always been there. Our family has had this property for over 200 years, so we are somewhat established.

**Ms. Stevens:** Well, if you think 200 years does it, then yeah.

**Mr. Schlensker:** It ought to be getting close.

**Ms. Stevens:** It ought to be getting close. OK, thank you. Does that answer your question, Mr. Ungethiem?

**Mr. Ungethiem:** Uh-huh.

**Ms. Stevens:** Ok. Any other questions? Ok. Are there any remonstrators on this petition? I didn't see any hands go up, so... Ok. Oh, Mr. Montrastelle?

**Mr. Montrastelle:** Well, just a comment. I talked to Ron earlier about this because we had two come before us tonight that weren't in compliance and hadn't been for a long while and I asked, "Is there a penalty or is there something that they would have to do to get in compliance?" He's informed me that when they come before you to do the paperwork they have to pay a triple amount... Can you explain it a little bit, Ron?

**Mr. London:** Yeah, whenever they file their application to go through site review, once they come in to get their permit, the permit fee is tripled. So, if you start construction without a permit, it's on the fee schedule that typically you get triple fee. So, that's what occurs.

**Ms. Stevens:** Ok, and to that same question. It's presumably agriculture they're dealing with dirt. What makes it different than agriculture? And this is just for my information. Let's put Janet on the hot seat. Janet?

**Ms. Greenwell:** Well...

**Ms. Stevens:** I didn't mean to really put you on the hot seat, but there it is.

**Ms. Greenwell:** I think it's more like an open storage yard with mounds of gravel, mounds of mulch, and mounds of different kinds of dirt.

**Ms. Stevens:** Right, but if he had that whole place filled with cows or a chicken coup, which he used to have when I was a little girl, I just... You know what I'm saying? I just am curious as how...? If you look at the aerial view of it, he has developed all around The Schlensker's, so I'm just curious because I think it's a fair question of what happens.

**Mr. Montrastelle:** I just thought it would be interesting for everyone to know that. I didn't know that. I mean, I hate to see you pay an extra fee, but that's, you know, that's what happens when you're not in compliance.

**Ms. Stevens:** Yeah, but if they started their business 200 years ago...

**Mr. Montrastelle:** I understand. I understand.

**Ms. Lowe:** This is the way I feel, too. If this had been underway before we had zoning it doesn't seem like it's their fault that they are out of compliance and the zoning should have taken...

**Ms. Greenwell:** Excuse me. I believe it said his family has been there for 200 years.

**Ms. Stevens:** Right, right, right, I know it was. But I'm just saying if it's been a farm, which it's been a farm for a long time. My question is, and I'm just trying to figure out how we go from here?

**Mr. Milligan:** Do these fees apply in this case?

**Mr. London:** They apply for everybody who starts without a permit, so I believe what happened, correct me if I am wrong, but PP&G is a retail business it's not a...

**Ms. Stevens:** Farm business.

**Mr. London:** It's not a farm business.

**Ms. Greenwell:** It's not a farm business. Right.

**Mr. London:** It's retail sales for those supplies, so...

**Ms. Stevens:** Ok.

**Ms. Greenwell:** It's for storage and sales of materials.

**Ms. Stevens:** Right.

**Ms. Payne:** Which would make it different from agriculture.

**Ms. Greenwell:** Right.

**Ms. Stevens:** Right. Well, and again, I'm not saying that this petition shouldn't be here tonight. I'm just asking because as Mr. Montrastelle said this is the second one in a row. Ok, are there other questions or comments?

**Mr. Mueller:** I've got a comment.

**Ms. Stevens:** Yeah, Mr. Mueller?

**Mr. Mueller:** I do think John asked a good question. It's does get a little foggy because city folks think of farming as taking a tractor out with a disc and you bring up corn or wheat or whatever. And farming operations do tend to spread out into more than just what we think of as farming. I know the tough part is where is the line where you're not a farming organization anymore versus some other things? I also want to state that I'm not going to vote on this because I know Mr. Schlensker. I know his brother. These folks have been out here farming for years. I haven't been around for 200 years, but these folks have been out there long before these subdivisions and road improvements were out there. They're also highly respected people in the community. Henry used to don a red and white suite at Christmas time. I'm not going to say any more than that, but they're good people and I know that he signed a commitment here and I have all the faith in the world that he'll abide by it. Now, I do think it's a little bit confusing what is Ag and what isn't and when do we cross the line, but I don't know if we can put it in writing how we get there either?

**Ms. Stevens:** Right.

**Mr. Mueller:** So, you know.

**Ms. Stevens:** Right, and we're not going to rewrite the code right this minute, you know, I was just asking a question. Ok. Anybody else?

**Mr. Milligan:** I have one. Mr. Schlensker, what percentage of your business doesn't relate to fertilizer for the farmers?

**Mr. Schlensker:** What percentage? Probably less than 20 percent.

**Ms. Stevens:** Ok. Thank you.

**Mr. Stahl:** You know part of the problem is that ours doesn't define agriculture. You know, and that's part of what we're wanting with the ordinance that we're going to bring forth later on, but they're right. It's hard to know where that line is because when I drive by his place and as he said he's had this kind of business since the late 70's. When was the zoning code enacted?

**Ms. Greenwell:** In the County? 1945.

**Mr. Stahl:** Yeah. I knew one of the codes was enacted in like 1981, but the... It's hard to notice when someone has an agricultural operation and then all of a sudden you see a different kind of piece of equipment or a different kind of building or materials or something like that. That's part of the problem is we don't have a very clear definition.

**Ms. Stevens:** Right. Well, and in fairness, if The Schlensker's Farm was 10 miles north and off the beaten path, this may not have become an issue.

**Mr. Stahl:** Right. (Inaudible...too many speaking at once).

**Ms. Lowe:** They were off the beaten path.

**Mr. Stahl:** Yeah.

**Ms. Stevens:** Yeah, I know.

**Ms. Lowe:** Someone has come to them and... (Inaudible...Interrupted).

**Ms. Stevens:** Ok, Mr. Montrastelle and then we're going to move forward.

**Mr. Montrastelle:** Yes. So, to be in compliance you have to jump through a few hoops. And I think you have to put up a fence? Is that how I understand this for the parking?

**Ms. Stevens:** That is part of the... Put up a fence. He said... (Inaudible...Interrupted).

**Mr. London:** I'm sorry?

**Mr. Montrastelle:** To be in compliance he has to put up a fence for the parking?

**Mr. London:** That's correct. Once this goes through site review, I mean, we just have to review it and see.

**Mr. Montrastelle:** And you just determine then?

**Mr. London:** Right. Correct.

**Mr. Montrastelle:** Ok. Thank you.

**Ms. Stevens:** Ok. Alright, anything else that we need to address before I entertain a motion to approve? (Motion was made and seconded). Call the roll.

Ayes: Mr. Milligan, Mr. Montrastelle, Ms. Payne, Mr. Ungethiem, Dr. Adams, Mr. Amsler, Mr. Lehman, Ms. Lowe, Ms. Stevens

Nays: None.

Abstention: Mr. Mueller

There being 9 affirmative votes and 1 abstention, Docket No: 2016-33-PC VC-9-2016 goes forward with a recommendation for approval.

## **SUBDIVISIONS**

**Ms. Stevens:** The rezoning portion of the meeting is now over and we will now hear the proposed subdivisions that are on our agenda. As stated earlier, the Area Plan Commission is the sole authority on subdivisions. State law and our Subdivision Control Ordinance dictate the issues the Plan Commission can consider when reviewing a subdivision application. Unlike a rezoning, consideration of a subdivision is limited to whether it complies with the standards and requirements in the local Subdivision Control Ordinance. If a subdivision application meets the requirements set forth in the Subdivision Control Ordinance, the Area Plan Commission must approve the primary plat. Indiana Courts have indicated that Plan Commissions have no discretion in this regard, and that our role in reviewing and acting on subdivisions is purely ministerial. Seven affirmative votes are needed to approve a subdivision plat and conversely, seven negative votes are required to deny a plat. In the event that there are not seven votes for or against, this is considered a no action vote and the plat returns to the next APC meeting for consideration.

The guidelines for testimony on subdivisions will be the same as those explained at the onset of this meeting. Petitioners and remonstrators should remember that the only testimonies the APC can consider are facts that prove whether the plat complies with the specific standards in the Subdivision Control Ordinance. Copies of the Subdivision Control Ordinance are available in the Area Plan Commission office in Room 312 or on our website at [evansvilleapc.com](http://evansvilleapc.com).

Now let's move on to the subdivisions.

## **MAJOR SUBDIVISION & SIDEWALK WAIVER**

Docket Nos: 10-S-2016 & 35-SW-2016 Mortensen Sunrise Lots: 3

Location: 2311 N. Green River Road

Engineer: Andy Easley Engineering Applicant: Sunrise Development II, LLC

**Mr. London:** The proposed Mortensen Sunrise plat is a 3-lot commercial subdivision located on a 1.6-acre site along the east side of Green River Road north of Smythe Drive. All three lots are developed with commercial uses. The applicant proposes to address a non-compliant property split by this replat of Hirsch Commercial Subdivision Section 1 Lot 1, which was recorded in 1995. This original plat contains an Access note that states: *“Lot 1 shall access Smythe Drive and not Green River Road.”* The Subdivision Review Committee reviewed the replat on October 10, 2016. All of the proposed lots are connected by an ingress & egress easement shown on the plat, and their existing access is on Smythe Drive. The applicant is also requesting a sidewalk waiver for this subdivision, which will be considered by the Area Plan Commission and the Board of Public Works. Comments on this subdivision from the City Engineer are: Add the statement to the plat that “no access (shall be allowed) to Green River Road”. City water and sewer are available on the site. The City Engineer indicated that submittal of drainage plans is not required for this subdivision. There is a history of Subdivision and Zoning Code violations for this site. The subdivision violation dates back to 2005 when Lot 2 was split off without going through the platting process. The Subdivision violation would be resolved by the recording of this proposed plat. The zoning code violations involve a change of use without a permit on proposed Lot 2; unscreened car storage on Lot 3; and other possible parking related violations. To determine if there is adequate parking to meet code, a site plan must be submitted to the Area Plan Commission for all three of the existing businesses on the site to show the parking spaces currently provided, the proposed location for any fencing to meet screening requirements for vehicles waiting to be repaired, and any shared parking agreement between the lot owners if needed. The staff recommends that the Mortensen Sunrise subdivision be granted primary plat approval as it complies with both the Comprehensive Plan and the requirements/ standards of the Subdivision Code with the conditions listed in the staff field report. The subdivision and the sidewalk waiver shall be addressed in separate votes.

**Mr. Stahl:** All those who will speak on this petition please raise your right hand. Do you swear or affirm that the testimony that you will give is true and accurate so help you God? (Those persons have been sworn in.)

**Mr. Shofstall:** Justin Shofstall, Easley Engineering. In theory this is relatively straightforward. We’re trying to clean some past violations in regards to the lots themselves and put the actual building lots themselves into compliance. At the time of sub review last month is when we were made aware of some of the actual site use violations in regards to Lots 2 & 3, which is the Stanley Steamer on Lot 2, and Lot 3 being The Answer Automotive. That being the case we were going to wait until we had a definitive answer in regards to the sidewalk waiver to submit the final site plan along with discussing that with the property owners because there are a few items that have to be addressed site review wise, tied to, connected with the subdivision process. At this point I’d be happy to answer any questions you might have and request that you approve the subdivision and sidewalk waiver.

**Ms. Stevens:** Ok. Thank you. Are there questions for Mr. Shofstall? Ok, Mr. Mueller?

**Mr. Mueller:** Are we going to discuss the subdivision and then the sidewalk waiver or are we going to discuss both right now?

**Mr. London:** I figured we would do the subdivision first and then I have a few comments for the sidewalk waiver because there are comments from the City Engineer.

**Mr. Mueller:** I've got comments, too. I'll just hold off on that part until we get to that.

**Mr. Shofstall:** And I understand with the sidewalk waiver that would be separate, so regardless, if the subdivision would be recommended for approval as is, meeting all the current requirements, and the waiver would be separate and apply after the fact.

**Ms. Stevens:** Ok. Alright, any questions on the subdivision? Ok, are there remonstrators on this subdivision petition?

**Mr. Lehman:** Motion for approval.

**Ms. Stevens:** Ok, thank you. We have a....

**Mr. Lehman:** Subject to the Chairman's... (Inaudible).

**Ms. Stevens:** Motion with the following conditions. Conditions of Approval, 10-S-2016, Mortensen Sunrise, APC Meeting November 10, 2016. Prior to recording the plat: Since sidewalks are required, the developer will either need to get them constructed and approved before the plat is recorded, or a letter of credit will need to be filed for the sidewalks. Resolve the existing Zoning Violations by: placing the required screening for car storage on Lot 3; submitting a site plan that proves adequate on-site parking requirements are met, or obtain variance approval from the BZA; and obtaining a Change of Use permit for the business on Lot 2. Revise the plat by adding under General Notes the following statement: Access. All lots shall access Smythe Drive. Direct access to Green River Road is prohibited. Remove the sidewalk notes (6A and possibly 6B under General Notes), and remove the wording on *Installation of Sidewalks*, prior to recording. Since Lots 1, 2 and 3 have already been developed, the sidewalks will either need to be installed and accepted or placed on an irrevocable letter of credit prior to recording. And you're ok with that?

**Mr. Shofstall:** Yes.

**Ms. Stevens:** Ok, so subject to those conditions we have a motion. Do we have a second? Yes? We have a question.

**Mr. Montrastelle:** Do all three of these lots, are they all owned by the same person?

**Mr. Shofstall:** No. Lots 1 and 3 are owned by Sunrise Development, LLC. Lot 2 is owned by Chris Bartnick. Lot 2 being the Stanley Steamer building in the rear.

**Mr. Montrastelle:** So, we're here today to vote to bring them in compliance, right?

**Ms. Stevens:** Right.

**Mr. Montrastelle:** All three together?

**Mr. Shofstall:** Correct.

**Mr. Montrastelle:** Alright.

**Mr. Shofstall:** And the reason why it's split into three is because this would be simply a 2-lot minor subdivision if it wasn't for the fact that the sanitary and water services for Chris Bartnick, being Lot 2, cuts in between both buildings.

**Mr. Montrastelle:** Right.

**Mr. Shofstall:** So, at that point you cannot have those lateral services, via easement, serve the other building. It has to be on their property, and that's the reason why it's kind of that weird hammer shape.

**Mr. Montrastelle:** Ok.

**Ms. Stevens:** And these conditions will clear a lot of that up as well.

**Mr. Montrastelle:** Ok. Thank you.

**Mr. Shofstall:** Sure.

**Ms. Stevens:** So, we have a motion and a second. Janet please call the roll.

Ayes: Mr. Montrastelle, Mr. Mueller, Ms. Payne, Mr. Pedtke, Mr. Ungethiem, Dr. Adams, Mr. Amsler, Mr. Lehman, Ms. Lowe, Mr. Milligan, Ms. Stevens

Nays: None.

There being 10 affirmative votes, Docket No: 10-S-2016 is approved.

**Mr. London:** Sidewalk Waiver Request Existing Conditions: Mortenson Sunrise is a replat of Hirsch Commercial Subdivision Section 1. Sidewalks have been installed across the street along the south side of Smythe Drive and along the west side of Green River Road in front of the Theater Drive Commercial Park Section 1 lot (2121 North Commons Complex), which is the second lot south of this proposed subdivision. Subdivision Review Technical Committee Member Reports: Attached for your use is the information provided by the petitioner for the partial waiver request along with any technical reports, if submitted, from specific Subdivision Review Technical Committee

members regarding the sidewalk waiver request along with recommendations from each. Please note that the sidewalk waiver request will be considered for approval, denial, or approval with conditions by the Area Plan Commission and the Board of Public Works. Both entities will need to approve the waiver for it to pass. If either entity turns down the waiver, the waiver will automatically be denied and sidewalks shall be required to be installed. We have a letter from the Evansville MPO, which I will read into the record. It says, "Green River Road is an arterial roadway, which is utilized by the Evansville Fixed Route Transit System (Mets). This area of Green River Road and Smythe Drive is serviced by three routes, either directly or within a short walking distance, the Highway 41 N connection, the east connection, and the Lynch route. MPO does not support a complete waiver of sidewalks for this reason. We also believe that the developer should coordinate with Mets to determine if a bus stop and associated facilities will be appropriate along this frontage." We also have an email from the City Engineer's office that says, "Ron, our office would not be in favor of a sidewalk waiver for the above mentioned subdivision. Please call with any questions." So, those are the two letters that we received from our technical staff.

**Ms. Stevens:** Ok. Mr. Mueller gets to go first.

**Mr. Mueller:** Can you go back to the first picture? Yeah, that one right there. Just to make everyone aware that when we have minor subdivisions come through we can vote on those as far as sidewalk waivers, and there's five of us that vote on that. We have, as Area Plan's representative to the site review committee, I have strongly emphasized that don't be coming in asking for a whole lot of sidewalk waiver's on Green River Road and Burkhardt. That this group is not a fan of not having sidewalks out there with the problems. In addition to the sidewalks if they would be put in place... To give you a feel for Green River Road, Subway up to the north, I'd put sidewalks in. The area in front of the little strip center where Azzip and Tom and Chee has. We've also had a request come in from the minor subdivision on Cheddar's and we turned a waiver down on them. We're hoping that maybe something can be worked out. But the goal has been, and what the City Engineer's office has said, is they want to see sidewalks up and down Green River Road and I've been stressing that point, too. So, just kind of wanted to let you know our conversations that have been going on. There's been times where we've waived pieces of sidewalk somewhere, but if it's on Green River Road, we push Green River Road heavily. So, I hope that represents at least the majority of everyone's thoughts in here.

**Ms. Stevens:** Ok, thank you. Ok, any other comments or questions? Ms. Payne?

**Ms. Payne:** So, there's no frontage? I mean, their access to the three properties are off of Smythe Drive? So, the sidewalk's we're talking about would be along Green River, Jeffrey?

**Ms. Stevens:** They can be on both.

**Mr. Mueller:** They're both.

**Ms. Stevens:** Yeah.

**Mr. Mueller:** They got to have them on both unless... And the request is to waiver them.

**Ms. Payne:** Does he have them on the south side of Smythe now?

**Mr. Mueller:** But not on the north side.

**Ms. Payne:** Not on the... Right, I can see that on the map. Ok.

**Ms. Stevens:** Ok, anybody else? Mr. Montrastelle?

**Mr. Montrastelle:** Do the sidewalks on the south side, where your cursor is Janet, about where they extend to? Right there?

**Ms. Greenwell:** Yeah.

**Mr. Montrastelle:** And that's in existence already? The sidewalks?

**Ms. Greenwell:** Yes.

**Mr. Shofstall:** Correct.

**Mr. Montrastelle:** So, these sidewalks would go from really pretty much across where that ends, the current sidewalks, up, around in North... (Inaudible).

**Mr. Shofstall:** Correct. The frontage on Smythe Drive for the Mortensen Sub would approximately mirror that on the south end.

**Mr. Montrastelle:** There would be no sidewalks inside the grounds? It's just on Smythe and Green River Road, correct?

**Mr. Shofstall:** Right.

**Ms. Stevens:** Right. And I have a question for Mr. Mueller in terms of you had addressed the Cheddar's because it's just so obvious when you look at this that there's nothing on the west side on Green River Road. You know, as you said, we've had this conversation here multiple times. Are they waiving the Cheddar's one or why didn't they have to?

**Mr. Mueller:** We denied the Cheddar's. They came back through for a minor and we denied their sidewalk waiver.

**Ms. Stevens:** Ok.

**Mr. Mueller:** And we did suggest an alternative that we're hoping they will come back with.

**Ms. Stevens:** Ok. How did they get away with not doing it the first time? We just didn't...?

**Mr. London:** Well, you've got to remember that subdivision lot was done back whenever the original subdivision where Meijer and Mendards and all that was, but now that they've come back for a minor subdivision....

**Ms. Stevens:** Yeah.

**Mr. London:** They had to replat. So, whenever they did that they have to request a sidewalk waiver at that time.

**Ms. Stevens:** Ok. Is there an opportunity on the rest of that? I mean, will they be re-platting where Meijer and where the Lucas Oil and all that...?

**Mr. London:** At this time we've not heard anything in regards to that.

**Ms. Stevens:** So, we're putting him on notice right now.

**Mr. London:** Well, yes and in fact if you look at, I believe, where the Subway location went in.

**Ms. Stevens:** Uh-huh.

**Mr. London:** They put the sidewalk in front of that along Green River Road.

**Ms. Stevens:** Right.

**Mr. London:** And now, I believe, they will at least have to put the sidewalk in along Cheddars and where another establishment will be going in on that lot also.

**Ms. Stevens:** Ok.

**Mr. London:** So, we are eventually getting those up along Green River, it's just a matter of time.

**Ms. Stevens:** Right. Ok. Just to be clear on how that works because you had mentioned that. Ok, anybody else?

**Ms. Payne:** I just wanted to say that I agree with Jeffrey. I think both sides of Green River Road should always have sidewalks. So many people use bus and public transportation. I see people walking along Burkhardt in the grassy areas.

**Ms. Stevens:** Right. Yeah.

**Ms. Payne:** I just hate that.

**Ms. Stevens:** With the weeds on both sides.

**Ms. Payne:** So, I'm with Jeffrey all the way on the sidewalks along Green River.

**Ms. Stevens:** Ok, does anybody have any other input on that? Are there remonstrators? (None). Ok, if there's no other discussion let's move forward with a motion for approval. Unless, you know, we have the option as Mr. London said, for approval, denial, or approval with conditions." So, keep that in mind. I'll entertain a motion for... (Interrupted).

**Mr. Mueller:** I'll make a motion to deny. (Seconded).

**Ms. Stevens:** Ok. Alright. Janet will call the roll.

Ayes: Mr. Mueller, Ms. Payne, Mr. Pedtke, Mr. Ungethiem, Dr. Adams, Mr. Amsler, Mr. Lehman, Ms. Lowe, Mr. Milligan, Mr. Montrastelle, Ms. Stevens

Nays: None.

There being 10 affirmative votes, Docket Nos: 35-SW-2016 is denied.

### **OTHER BUSINESS**

Docket No: 11-S-2006 Summer Creek Applicant: David Meyers & Thomas Merrill

Request for a 5-year extension of time to record Section 1 of the subdivision.

**Mr. Meyers:** David Meyers, 4122 Candlewick Place, Newburgh.

**Ms. Stevens:** Ok, thank you.

**Mr. Merrill:** Thomas Merrill, 600 S. Cullen #707, Evansville.

**Ms. Stevens:** Ok, thank you. Did you guys have anything to add to this? You just want to extend this?

**Mr. Merrill:** Yeah, in 2006 we bought the property and we extended the sewer line from Highway 57 over to our property on north Green River Road. In 2008 everybody knows what happened with the real estate market, and we put it on hold. Things have finally started to come back, and we've invested a lot of money in the plat, utilities, and things like that. So, we'd like to keep it extended.

**Ms. Stevens:** Ok. Alright, any comments, concerns or questions? Mr. Mueller?

**Mr. Mueller:** Sorry, I'm hogging up all the time. The subdivision that was originally put in for was about a 220 or 240 lot subdivision. In what we have here was, I guess you would call it, a phase. But the full subdivision, which now no longer exists on paper, would have addressed these roads going around and the cul-da-sac issues. Everything that were there, but now we have a subdivision that we're asking to extend that has four roads that essentially just stop. So, the problem I have is when people come in with a preliminary subdivision, the idea of the preliminary plat is that you see grandiose plan, which is what at one time was provided, and then you come in with secondary plats realizing that well, we can only build fifty lots at a time because it would be very cumbersome to build the streets and water and sewer for all that, and I understand that. But I guess the problem that I have is that we have a subdivision now that really doesn't have, other than I know you guys own the property to the north. Is that not correct?

**Mr. Meyers:** Yeah.

**Mr. Merrill:** That is correct.

**Mr. Mueller:** You know, and I'm sure that your thought is that once this goes through you would come back, but you would have to come back through with the preliminary because the preliminary to the north no longer exists. The only thing that exists on paper is this. Nothing else.

**Mr. Merrill:** Yet.

**Mr. Mueller:** And of course, I guess a couple questions and comments I have is why is the preliminary to the north no longer in existence? Why did you not ask for approval of that so we have a better picture? The second thing would be, I'm not going to say I'm against it, but I would recommend that if we approve moving forward, our code on our drainage has changed, and you have a final drainage plan on this. But I would like to see a revised final drainage plan put in on this section if we do decide to extend it.

**Mr. Meyers:** We understand that is required.

**Mr. Mueller:** Well, no it's not right now. That's why I'm asking if you guys are willing to come back in on a revised final drainage plan?

**Mr. Merrill:** Just on the 17 acres?

**Mr. Mueller:** Yeah, right now. Yeah.

**Ms. Stevens:** Well, is it good enough for them to say this on the record or do you need something else?

**Mr. Mueller:** Well...

**Ms. Stevens:** I mean, for us to move forward with the...

**Mr. Mueller:** They can say it on the record and if they never come through, then I'm going to go to the Drainage Board and suggest that they deny it. So, you know...

**Mr. Merrill:** Can I answer your question, though?

**Mr. Mueller:** Yes.

**Mr. Merrill:** Keith Poffs was our engineer on this.

**Mr. Mueller:** Right.

**Mr. Merrill:** And he got out of the business and went to work, I believe, for the Water Department.

**Mr. Mueller:** Right.

**Mr. Merrill:** So, that's kind of where the rest of it kind of fell by the wayside.

**Mr. Mueller:** But why was the whole preliminary never approved? Why did we back off on the preliminary because, you know, the preliminary's got a nice layout with all the curves and the hookups and everything that everybody wants to see? I know Roger wants to see school buses being able to turn around and all the other things that are there. But why was it...? I'm curious why 10 years ago a preliminary was backed off. Do you know?

**Mr. Merrill:** I think that's what Keith recommended.

**Mr. Meyers:** Yes, the engineer recommended we do it that way, and the time got away from us because of the downturn in the economy.

**Mr. Mueller:** And I understand that.

**Mr. Merrill:** Because I think we paid for all the lots. It's was like four thousand dollars when we did the preliminary plat when we submitted it for approval.

**Mr. London:** Right now the primary plat is what you see before you.

**Mr. Mueller:** Right.

**Mr. London:** That the remainder...

**Mr. Mueller:** Inaudible

**Mr. London:** Well, I mean at one point in time to be reviewed was never approved and never taken to meeting to be approved.

**Ms. Stevens:** Right, and that's his question. Right, so it was never... It just ...

**Mr. London:** It just never happened, but the only thing that was brought before us is this. Is what you see here is Summer Creek Subdivision. This is what is was approved as a primary at the time.

**Ms. Stevens:** Yeah. So, maybe the answer to the question, and correct me if I'm wrong, is the economy changed around that time and you guys just decided not to spend any more money on it or...?

**Mr. Merrill:** No, we paid to have the whole... When we submitted for the approval it was so much a lot and we paid like 4 thousand dollars to do the whole 240 lots. Keith recommended that we do it this way. That's what he told us right before we came in.

**Ms. Stevens:** Ok.

**Mr. Merrill:** I mean, this was 10 years ago, but that's what happened.

**Ms. Stevens:** Does that answer your questions, Mr. Mueller? Ok, Mr. Montrastelle?

**Mr. Montrastelle:** I don't have this in my packet. Where is this located?

**Mr. Merrill:** North of Daylight. On the north side of Highway 57.

**Ms. Stevens:** Yeah, can you see it goes to the right... (Inaudible...Interrupted).

**(Inaudible...Too many people speaking at once).**

**Mr. Montrastelle:** Is that Green River Road there to the right?

**Mr. Merrill:** Yes.

**Ms. Stevens:** Yep.

**Ms. Lowe:** (Inaudible...Mic not turned on).

**Ms. Stevens:** Yeah.

**Mr. Meyers:** It's halfway between 57 and Old Petersburg Road. It starts halfway there and goes up almost to Old Petersburg Road on the west side of the road. The land is fairly high.

**Ms. Stevens:** Can you see the...? Do you know where it is?

**Mr. London:** Does everybody know where Creek Side Subdivision is on Petersburg Road?

**Ms. Stevens:** Yeah.

**Mr. London:** This is adjacent to that.

**Mr. Montrastelle:** It's to the north of 57?

**Mr. Mueller:** Yeah.

**Mr. Montrastelle:** I know exactly where it's at.

**Ms. Stevens:** Yeah. See, 57 runs to the right there. Where Donna has the cursor. Does that answer your questions?

**Mr. Montrastelle:** It does. I know where it's at.

**Ms. Stevens:** Ok, any other discussion on this? I mean, really I think we can extend it. I think Mr. Mueller's concern is, you know, if we extend it these guys need to be aware that the rules have changed in the last 10 years and that you're open to coming back and going through the whole process, and the site review, and...

**Mr. Meyers:** We were told that IDEM would get involved.

**Ms. Stevens:** Ok.

**Mr. Meyers:** And also, we went to the Core of Army Engineer's and I talked to them about what they would recommend. They gave me some insight into what we need to do.

**Ms. Stevens:** Ok, great. So, are you satisfied, Mr. Mueller?

**Mr. Mueller:** Core and IDEM for this phase or for your next phase?

**Mr. Meyers:** No, for this.

**Mr. Merrill:** Well no, it's for the next phase, Dave.

**Mr. Meyers:** Is it?

**Mr. Merrill:** It was for that...

**Mr. Mueller:** For the creek. Ok.

**Ms. Stevens:** Oh, ok.

**Mr. Mueller:** In the wooded area up in there? Yeah.

**Mr. Merrill:** Yeah.

**Mr. Mueller:** Because this is all just farmland.

**Mr. Merrill:** Correct.

**Mr. Meyers:** Yes.

**Mr. Mueller:** Ok. I'll make a motion to extend, but with the understanding that you guys are going to have to come back in and resubmit a final drainage plan on this. Ok?

**Ms. Stevens:** Ok. Ok?

**Mr. Merrill:** Just on the 17 acres?

**Mr. Mueller:** Yeah. Well, and of course you can have one on the remaining part. But yeah, if you want to just move ahead with these 17 acres, that's all I need to see right now. Of course, when you move ahead on the other part, you'll have to do that anyway because we don't have anything. OK?

**Ms. Stevens:** Ok, so we have a motion with that condition.

**Mr. Mueller:** Yes.

**Ms. Stevens:** And then do we have a second? (Seconded) So, we have a motion and a second. Janet, will you please call the roll?

Ayes: Ms. Payne, Mr. Ungethiem, Dr. Adams, Mr. Amsler, Mr. Lehman, Ms. Lowe, Mr. Milligan, Mr. Montrastelle, Mr. Mueller, Ms. Stevens

Nays: None.

There being 9 affirmative votes, request for a 5-year extension of time to record Section 1 of Summer Creek Subdivision is approved.

An Ordinance amending the Vanderburgh County Zoning Code regarding confined feeding operations.

**Mr. London:** This past year we received some information from the Purdue Extension Office where there was a study done throughout the state regarding confined feeding operations. I'm sure you've heard a little bit about this over in Warrick County where they're going through right now about the chicken confined feeding operation. With the

information that we received from the Purdue Extension Office, and with that going on, we started looking at our code and come to find out we have nothing in Vanderburgh County regarding CFO's. So, we went ahead and took that Purdue Extension study, looked at it, and came up with just the general language that IDEM has and what the Purdue Extension study came up with as far as those operations. What we're trying to do is basically protect any residential properties in regards to a confined feeding operation moving next door to an existing subdivision or a proposed subdivision. So, the information that we received from the Purdue Extension Office is what we used in coming up with this ordinance. So, we're bringing it tonight for discussion and just seeing what everybody thought. We can move forward however the Plan Commission would like to.

**Ms. Stevens:** Ok. Did everybody have a chance to look this over and...? I know there were some questions about whether this had been really discussed and flushed out enough. I'm not sure, are you guys here to discuss or to comment on this? Ok, just one sec. So, our option are tonight, you know what? I think we should here whatever discussion and my recommendation would be to continue to work on this. We're not necessarily going to vote on this tonight because I don't think we're there yet. Just so everybody knows, we don't have anything on the agenda for December, so this, I mean, whatever we do tonight will probably have to continue it until January. Or we'll have a December meeting just to discuss this, which I don't think is what we're going to do. So, does anybody...? Before we get into open comments?

**Mr. Stahl:** I do want to say something that I think will take care of some things.

**Ms. Stevens:** Ok, then you go right ahead.

**Mr. Stahl:** Just to be clear this ordinance, just like any other zoning ordinance, only applies to new activity. It only applies to new establishment of feeding operations. It does not apply to any kind of previously established operations. Those fall under, I think we all use the term grandfathered, they're grandfathered in. Things like that. It's what we would call a legal non-conforming use. So, if you have a use, your structures, and all of that stuff, if a zoning ordinance comes in and is otherwise applicable after you've established that, you could still operate. The only limitation really is that it can't be discontinued or expanded. I think there have been a lot of questions about, "Well, my neighbor, or I, have this situation and what is this going to do to us?" And the answer is, if you already have what would fall under the operation ordinance definition, it would only be effected to the extent that it would be expanded or discontinued and somebody else wanted to come in and reestablish it.

**Ms. Stevens:** Can you just...? Again, this is for me, but just probably for some people in the audience. But define expanded. I mean, if you build another building? If you buy more acreage? If you get one more cow or chicken. Again, I just want to be fair to the process and I'm glad you shared that because I know there were some concerns that it was existing.

**Mr. Stahl:** Well, I can say definitely you wouldn't be able to buy up ground around you and then push into those areas.

**Ms. Stevens:** Ok.

**Mr. Stahl:** As far as whether you add or subtract animals, that wouldn't be an issue because you're not changing the use. The ordinance deals with non-conforming uses, non-conforming structures, and the combination of uses and structures that are non-conforming. Structures in the zoning code, when we talk about that were talking building development standards like setbacks and easements and things like that, about height requirements or limitations. When we talk about use restrictions, we're talking about the use groups and that sort of thing and zoning. Under the use section on non-conforming uses of land it says, no un-conforming uses shall be enlarged or increased or extended to occupy a greater area of land, and it can't be moved in whole or in part to any portion of the lot other than the portion that it occupied at the time. So, if you've got an 80 acre lot and you have a 20 acre CFO, you also would not be able to expand into your own lot further.

**Ms. Stevens:** Ok.

**Mr. Stahl:** If that answers part of your question.

**Ms. Stevens:** Right. It does.

**Mr. Stahl:** Now whether you can...

**Ms. Stevens:** May I ask a question? As it's written in the draft. Is that what you're saying? I mean, you're answering....

**Mr. Stahl:** What I'm reading is the Nonconforming Use Ordinance.

**Ms. Stevens:** Ok.

**Mr. Stahl:** Ok?

**Ms. Stevens:** So, not the...?

**Mr. Stahl:** Yea, right. This and any other ordinance that we pass, or that you pass or anything...

**Ms. Stevens:** Goes back to that.

**Mr. Stahl:** Goes back to this.

**Ms. Stevens:** Ok.

**Mr. Stahl:** For various constitution reasons.

**Ms. Stevens:** Ok.

**Mr. Ungethiem:** So, what you're saying is if you expand that operation you would have to bring that up to current ordinance? You would have to then comply with the current ordinance as it is at the time you expand it?

**Ms. Stevens:** Right. The ordinance that we really don't have yet.

**Mr. Ungethiem:** Well, whatever the ordinance is.

**Ms. Stevens:** Right, but that's...

**Mr. Ungethiem:** Whatever is on the books at that point in time you would have to comply with that ordinance.

**Ms. Stevens:** Right. And that ordinance wouldn't have anything to do with this. Right? I mean, the new ordinance. I'm pretending this is the ordinance, it's not, but thank you, you've got it. So, what I'm saying is even no matter what is in this, if somebody who had a CFO, Confined Feeding...

**Mr. Stahl:** Operation.

**Ms. Stevens:** Operation, not Organization. If they had one already and they were expanding at all onto their own property, it wouldn't have anything to do with the new ordinance, this ordinance. It would have to do with the conforming.

**Mr. Ungethiem:** If that ordinance is already passed when you do the expansion, it would.

**Mr. Stahl:** It would, yeah.

**Mr. Ungethiem:** You would have to then go under whatever the current law is.

**Ms. Stevens:** Right. I'm saying that what you're reading from supersedes whatever's going to be in this new ordinance.

**Mr. Stahl:** This is the basic rule for grandfathering.

**Ms. Stevens:** Ok.

**Mr. Stahl:** Ok? And grandfathering only holds to the extent that the use is not expanded. That the... Well let me read you about the structures. It says no unconformity structure may be enlarged or altered in any way which increases its nonconformity, but it may be altered to decrease its nonconformity, which probably

wouldn't apply here unless you're making a KFO structure bigger to use for something else. So, that would be fine.

**Ms. Stevens:** Let me ask this question, Dirck. Why would it be nonconforming? What makes it nonconforming? If it's agriculture and you have a confined feeding operation within agriculture? How does it come into nonconforming?

**Mr. Stahl:** By passage of this ordinance because if it's there before the ordinance...

**Ms. Stevens:** It automatically is a nonconforming.

**Mr. Stahl:** If it conformed in 2015 when we had no CFO regulations, then it will conform in 2017 when we do have CFO regulations. When something is enacted. So, in other words, the legislative body can't pass ordinances that suddenly make what you're doing illegal.

**Ms. Stevens:** Right.

**Mr. Stahl:** In that way.

**Ms. Stevens:** Right, but can the ordinance make it conforming instead of having to make it nonconforming? Can we write it in the ordinance in such a way that anything is grandfathered...? I mean...

**Mr. Stahl:** It already is.

**Mr. London:** It already is.

**Ms. Stevens:** I know. Ok, I'm not making myself clear. So maybe we should ask another question.

**Ms. Payne:** It can never be conforming.

**Mr. Stahl:** It's legal.

**Ms. Payne: (Inaudible...Too many people speaking).**

**Mr. Ungethiem:** It's not conforming, but it's legal.

**Mr. Stahl:** It doesn't happen to conform to the present...

**Ms. Payne:** She's saying... (Inaudible)

**Ms. Stevens:** I understand, but why doesn't it conform? Yeah, why doesn't it conform?

**Mr. Stahl:** Because if it doesn't meet these standards....

**Ms. Stevens:** I know, that's what I'm saying. Can't we write it so that the majority of what's already existing does meet the standard? That's what I'm wondering.

**Mr. Ungethiem:** Well, you can, but you would have to take a lot of restrictions out of this.

**Ms. Stevens:** Right.

**Mr. Ungethiem:** Yeah, you would to...

**Ms. Stevens:** Well, that's all I'm asking.

**Mr. Stahl:** And then you would want all future to conform to those.

**Ms. Stevens:** Right. All I'm trying to do is not, you know, again not penalize people for doing things that they've already done. I'm just trying to say, "Here's an opportunity right now before we put these laws in place. You know, or this ordinance, not really a law, but it will be. They'll have to conform to it. And again, I don't want to undo the ordinance as it's written right now, I just think we need more discussion, more input, to make sure we don't pigeon hole our residents.

**Ms. Lowe:** I've got a question about the buildings. If a building falls into disrepair or perhaps a storm damages it so it's no longer usable, then if they want to replace that building, that's not allowed?

**Ms. Payne:** If it's the same size. It can be decreased or the same size, but... (Inaudible...Interrupted).

**Mr. Stahl:** There is a special section on repairs and maintenance.

**Ms. Lowe:** And it also seems if it's the same land and they're not expanding the land and continuing with the same business, they ought to be able to rearrange their buildings with whatever it takes to do it. Maybe one of them is in an inconvenient place and they need that same type of building in a different place on their property. It seems like they should be able to do that.

**Ms. Stevens:** Right. Well, I agree. I think that's part of where we are right now, and if everybody wants to take a look at this over the next two months. Mr. Montrastelle?

**Mr. Montrastelle:** Let me back up here, you know, I guess we're talking about this because of what is happening in Warrick County. Correct?

**Ms. Payne:** Can we talk about what's happening in Warrick County because I don't everybody knows?

**Mr. Montrastelle:** Well, my question is, I don't know if they have a CFO Ordinance, I'm not sure? You're saying no? And if it's not going to happen there are we talking about this because they may want to come to Vanderburgh County and do the same thing or they're going to seek out other land or...?

**Ms. Stevens:** Yeah.

**Mr. Montrastelle:** I mean, is that what's...? Why would... (Inaudible...Too many people speaking).

**Mr. London:** Yeah, that is a possibility. There's two-fold reasons why this came about. Number one is because of that, and number 2 is that the Purdue Extension contacted all the Area Plan Commissions in the State of Indiana. All 92 counties. So, with that, there are I believe 64 counties in the State of Indiana that have a CFO Ordinance.

**Mr. Montrastelle:** 64 out of the 90?

**Mr. London:** 64 out of the 92.

**Mr. Montrastelle:** So, the others are probably talking about it?

**Mr. London:** They are probably talking about it with having that information now from the Purdue Extension Office. That information that we have been given coming to find out that we had nothing in our codes whatsoever, and this is mainly for protection for residential properties, subdivisions. Things to that nature to make sure we have something on the books.

**Mr. Montrastelle:** Right.

**Mr. London:** And that's the reason why that came about for those two reasons.

**Mr. Montrastelle:** And we should... (Inaudible...Too many people speaking).

**Ms. Stevens:** I want to be really clear. I mean, I think this is a good idea, I'm not saying it's not a good idea. But right now we already have neighbors who we've been, kind of like the Schlensker's, been living with this for years and years. Everybody's fine, you know, I don't want to create problems that aren't already there by not thinking it all the way through. That's all I'm saying, and I don't think we need to do this like the sign ordinance and take a decade to do it, but I do think it's important that we have zoning laws and that we understand how residential fits next to some of these other uses. Otherwise, we want to keep our community in harmony.

**Mr. Montrastelle:** So, what do you think the next steps are? Where does it go from here as far as how do we talk about this? How do we move this forward?

**Ms. Stevens:** Ok. Great questions.

**Mr. London:** Well, I think we probably have some people in the audience that would like to speak and then once they do we can get their get their contact information so if we need to get with people we can do that and we can move that forward.

**Ms. Stevens:** And we can do like we did the sign ordinance...

**Mr. London:** Sure.

**Ms. Stevens:** Where we form a committee of people who are have an interest and who can flush this out to something that's a win/win.

**Mr. Montrastelle:** Right. Right.

**Mr. Milligan:** What other counties currently that have an ordinance that we could maybe look at that's a comparable size to ours, and use that as some type of benchmark or guide post to look at...(Inaudible...Interrupted).

**Mr. London:** That's exactly what we're doing... (Inaudible...Interrupted.)

**(Inaudible...Too many people speaking).**

**Mr. London:** There's 64 counties that have these. What we did is we looked at the Purdue Extension and they had every single county listed, so they had a bunch of averages that were being done.

**Mr. Milligan:** So, they took the best of them.

**Mr. London:** So, we took the averages and used the language from IDEM and that Purdue Extension Study and we've put that into this ordinance.

**Ms. Stevens:** Right.

**Mr. London:** That's where we've come from.

**Mr. Milligan:** So, we've got the best of, basically?

**Ms. Stevens:** Right, and you guys, everyone should have that and if not, Ron can send it to you, again. So, we all have it, it's just that we haven't really had time to digest it and...

**Mr. Milligan:** It came today I think, didn't it? As an e-mail?

**Mr. London:** No, this came about a month and a half ago.

**Mr. Milligan:** I mean, as far as the download?

**Mr. Stahl:** It would have been a link.

**Mr. London:** Yes. Yeah, we sent the information out a while back.

**Ms. Stevens:** And again, we're not, I will say I'm not an expert on this. So, I think we need...

**Dr. Adams:** Oh, CFO's you're not?

**Ms. Stevens:** Since I thought it was organization, I think not. Ok, let's go ahead...

**Dr. Adams:** Are there any surrounding counties that have an ordinance?

**Mr. London:** I believe Warrick County has something because they are going through the Board of Zoning Appeals right now to decide if the confined feeding operation can go in in Warrick County. So, I believe they may have something in place. I couldn't tell you the other counties that we have. Like I said, there were 64 in the state that do have CFO Ordinances. I think 81 counties out of the 92 have zoning codes, so there's 11 counties in the State of Indiana that don't even have zoning ordinances.

**Ms. Stevens:** Yeah. You could probably Google it.

**Mr. Ungethiem:** Keep in mind if you don't have a local county ordinance there are state ordinances on the books that apply, so it's not like we don't have anything.

**Ms. Stevens:** Right.

**Mr. Ungethiem:** We abide by the state ordinance and then if a certain county would like to make something more restrictive than the state ordinance, then they can do so. But the state ordinance is on the books.

**Ms. Stevens:** Ok. Good point. Does anybody else have anything else because I want to have the input? Ok, I don't know if you guys have a spokesperson or if everybody's going to come up, but you're welcome. Looks like you're the spokesperson.

**Mr. Springston:** Oh, yeah.

**Ms. Stevens:** And you're going to state your name and address for the record, no doubt. Ok.

**Mr. Springston:** Philip Springston, I'm actually a resident of Warrick County and I'm here at the request of some residents of Vanderburgh County to help you through this process, and some of those people are in this room. If you need my exact address I'll give you that. It's 899 E. Tennyson Road, Boonville, IN. I can answer a lot of the questions that you just asked. I'm right in the middle of the Prime Foods Project, so if you've got any questions about that, I can answer that. My first question was going to be

what was the purpose or the intent of this ordinance, and Sir, you kind of answered that in your opening remarks. I would also hope that you would have a part in the ordinance that protects the CFO owner, not just the residents around that or near it. That we also need to protect the CFO owner and I appreciate your comment, Sir, about the grandfather law.

**Mr. Stahl:** And it does.

**Mr. Springston:** The second question I do have though is I need to be a little clearer on, and I think you just answered that Mr. London, about the setbacks. So, let me back up a little bit. There was a study done by Purdue, and that study was done at the request of some legislatures. That's why they did this study. So, the study shows how many counties had rules and don't have rules. I'm glad to hear that you're not in a hurry to pass this because too many times the government passes an ordinance or a rule without a lot of communication or input and all of a sudden we have a bad rule. So, I'm glad you're not in a big hurry to do this because there's some bug, red flags in this document that you're looking at. Now, I need to kind of correct you, Mr. London. There may be 64 counties that have something on a CFO, but there's only 26 counties that have setback rules, I believe. Ok?

**Mr. London: (Inaudible...Mic not turned on).**

**Mr. Springston:** And as far as the rules in Warrick County, the rule in Warrick County is on the books that a CFO or a KFO has to have a special use permit. So, that's why they have now gone before in front of the BZA Hearing Board, they've given their projects, they've had all their remonstrations, which ended at 4 o'clock in the morning, for the input of that. And that's for a special use permit. Other than that, they had no rules, and don't get stuck on the rules just like Mr. Ungethiem said, there's rules in place. IDEM has rules in place, and even though you don't have rules, don't let that scare you because if somebody wants to do it the only thing is, and I guess I would refer to your attorney there, since you have nothing then they would go direct to IDEM and file for the permit. They still have to have the public meeting, they still have to go through all of that. I think that's correct because you have zero. Now, like Warrick has... All you have to do is get a special use permit. They're not responsible for any of the setbacks or none of that stuff. They're a lot of things in this document that are to me red flags and two of them are legal red flags. One of them is your definition in the document... Someone sent me the document, so I assume I'm looking at the same one that you did, but on page four your definition of a confined feed operation is different than the definition in the Indiana Code. So, that could be a problem for you down the road where you have a different definition of a confined feeding operation that what the Indiana Code definition is. I want to make it clear too, that these setback requirements that you've got in your document are not a recommendation of Purdue because I verified that today through Purdue Extension that all the study did was how many counties had rules and what are they? They are anyway from no rules to the simple rule like Warrick has where you have to have a special use permit. Then other counties, and I don't have that in front of me, of how many different levels of setbacks. So, I guess what you did or whoever put this

document together took a county similar to the size of Vanderburgh and that's how you came out with the setback rules.

**Mr. London:** Well, we came up with the... In the Purdue document it has, under setbacks, a mean or an average setback, and that's what we used in this document.

**Mr. Springston:** So, that's the aver...? So, understand that. That's not Purdue's recommendation, that's the average...

**Mr. London:** For each.

**Mr. Springston:** Of all the counties that have setbacks.

**Mr. London:** Correct.

**Mr. Springston:** And so some of them are lower than that and some of them are higher than that.

**Mr. London:** Correct.

**Mr. Springston:** The thing that I think is important for you to know is these setbacks are much higher than the current setbacks that are covered by IDEM rules and IDEM laws. You also need to know that the IDEM laws in place, Indiana Department of Environmental Management, are stronger and stricter than federal laws. Ok? The rules they got are tested and proven. What we don't know yet is whether the legislatures or Purdue is going to tell us what they are. The reason why they asked for this study is that they didn't want 92 counties to have 92 different rules. So, that was the purpose of trying to do this study. The other part of it is Indiana is an agriculture state, so we need to protect that and promote that because if we are going to continue to feed the world and the population's growing... I think somebody mentioned earlier that, I wrote this down, your code does not define agriculture, and agriculture has changed a lot in the last 10 years, and a lot more in the last 200. My farm's actually been in our family 145 years, so I'm not... Don't have the roots that Mr. Schlensker has, but you know, it's important. The other thing I think you need to do before you finalize the document is, I did a little bit of looking on the website and you have very good access to the website here with GSI mapping and things like that. So, I would suggest before you create that final document is that you plug in whatever number you want to plug in over Vanderburgh County map, and just see what that means. I don't know if you're trying to keep any CFO out or all CFO's or what you're trying to do, but I played around a little bit with these numbers and I think if you do that and you overlay it on the Vanderburgh County map you're going to find out nothing's going to happen. They're be no sites left that meet this requirement. Now, it's hard for me to do because I don't have the access to the water wells. I mean, you have setbacks and the wells... There's only one setback in your document, I believe, let me... On page eleven, that talks about your permits, your setbacks, your sizes and all that. The only thing on there that is the same as IDEM is number two. The other thing your document is doing that IDEM is not is when IDEM talks about setbacks

they don't talk about boundary lines. They talk about building to building. So, if you're on a 25 acre parcel or you're on a 25 thousand acre parcel, the IDEM rules that they are going to look at that's on their permit that they have to get is, they'll draw a straight line from that building on your site plan to the closest resident. OK? And they don't go by property lines, they go by building to building. That's part of why if you plug these numbers in on your map when you're talking about boundary lines that makes a big difference. Part of what is driving this that I can tell you with certainty that the guy standing on t.v. that says Warrick County has no rules... that's false. I mean, the rules are there on the state level. Yes, I guess it's half true if that's the correct term. You know, Warrick County specifically doesn't have setbacks, but the State of Indiana does. The other thing is your parcel size is a minimum of 25 acres. Well, CFO requirements start at all levels. There's a different number whether they're cows, pigs, sheep, fowl, chickens or turkeys. The number for a CFO definition for Indiana on poultry is 30 thousand birds. 30 thousand birds in today's world is not very many, so if you restrict somebody that says you have to have 25 acres to put those 30 thousand birds on, you may keep somebody from having that kind of operation. The other thing I saw in your document, I mean they're several, I would suggest you form a study committee to look at this. I'd be more than happy to serve on that with you or I can serve through Vanderburgh County residents and provide help with that. I am excited that you're not in a hurry to move on this because I think the document that I've seen would be a mistake for not only CFO owners, but residents as well. The other thing you document talks about is a Use Group 17, and I didn't see anywhere in this document where it defines what that is. So, you've addressed, I didn't write down what page that was, but it says that people that are under Group 17, that would be page 9.

**Mr. Stahl:** He's referring to the existing ordinance.

**Mr. Springston:** Ok, so that's why it's not in this.

**Mr. Stahl:** Right.

**Mr. Springston:** Ok. Well, my apologies. But I'll be happy to take any questions. I think that's, let me check my notes here. There's several other things. The setback rule, Indiana Code, and I can get those codes for you. There's a lot of these things are covered already, and it really bothered me when I learned this a couple of days ago when they said they were told Purdue made this recommendation. I said I found that hard to believe, I must have missed something. So, you're setbacks are actually the average.

**Mr. London:** Yeah. The setbacks for all of these are just the average that was found in the Purdue Extension Study.

**Mr. Springston:** Yeah.

**Mr. London:** So, that's where those came from.

**Mr. Springston:** I'll take any questions, and try to answer them. If I can't I can...

**Mr. London:** Ok. If after this I can get your contact information?

**Mr. Springston:** Sure. I'd be happy to.

**Ms. Stevens:** Yeah, and he gave it. He stated it for the...

**Mr. Springston:** Yeah, and I can...

**Mr. London:** Well, and I want to get email and phone number, too.

**Ms. Stevens:** Yeah. Right.

**Mr. Springston:** I'll give you my card.

**Mr. London:** Ok.

**Ms. Stevens:** Ok. I think Mr. Montrastelle has a question?

**Mr. Montrastelle:** Can you explain a little more about, you said if you take our map and you put an overlay on it...? Are you saying that nothing would be in compliance? I missed what you meant there.

**Ms. Stevens:** Yeah, what he's saying...

**Mr. Springston:** With my limited technology skills, Ok? If you overlay... I mean the thing that was easy for me to find was what's zoned agriculture.

**Mr. Stahl:** What's what?

**Ms. Stevens:** What's zoned agriculture.

**Mr. Springston:** What's zoned agriculture. So, you've got, you know obviously the area around Evansville and the sprawl around from that is not zoned agriculture and so you can use a mapping service and figure out what's zoned agriculture. The two things that I could not do, because I don't have access. I know people that have access, and with a little more time, I can get those. But in the short amount of time in learning about this, just a couple of days ago, I wasn't able to get people to volunteer to help me. But I think from what I can tell is if you look at what's zoned agriculture and you also identify parcels, so it has to be under your rules of at least 25 acres, I could do some of that. But if you start plugging in boundary lines... What you do is you layer that map, and I think if you layer that map with all these numbers, you're going to find that...

**Mr. Montrastelle:** Nothing.

**Mr. Springston:** Nothing can fit. I may be wrong because I don't have that technology available.

**Mr. Montrastelle:** Right. What's your...? Can I ask you what your stake is in the Warrick County where you're...?

**Mr. Springston:** I'm a resident of Warrick County. I'm a farmer, and I also serve on the largest farm organization, the State Board of Directors, we support animal agriculture. So, my stake there is trying to educate the BZA with animal agriculture and their role, and provide facts that all these things that the people are opposing and saying on t.v. are not accurate.

**Ms. Stevens:** Right.

**Mr. Montrastelle:** Ok.

**Mr. Springston:** I can tell you...

**Ms. Stevens:** Excuse me. This goes to the idea of making it a win/win.

**Mr. Springston:** Yeah.

**Mr. Montrastelle:** Right.

**Ms. Stevens:** And I think your question is very good, like what's your objective? If your objective is we don't want any of these, then you set up your ordinance so that you can't do it.

**Mr. Springston:** Right.

**Mr. Montrastelle:** Yeah.

**Ms. Stevens:** And I can tell you a great example is strip clubs. I mean, it's very difficult to put a strip club in Evansville, Indiana.

**Mr. Springston:** Yeah, I was wondering if I got the correct document because the first few pages I'm reading is... I couldn't tell. I don't know nothing about that. I'm sorry.

**Ms. Stevens:** Yeah.

**Mr. Springston:** I'm sorry.

**Ms. Stevens:** Well, it's a great example, though because our ordinance states that it has to be so many feet from a residence and to find that location is very difficult.

**Mr. Springston:** And I know these programs are available because there are some there's some counties north of Indianapolis that have dealt with this and they have ridiculous numbers, so the people that I have access to or can put you in contact with, have done these models and said, "Ok, you passed this," and guess what? Nothing. So, no animal growth period.

**Ms. Stevens:** Right.

**Mr. Springston:** I can tell you that the site in Warrick County is a perfect location. The closest resident is over four times the setback rule by IDEM. The second closest resident is almost seven times.

**Mr. Montrastelle:** Are the setback rules there because of the odor?

**Mr. Springston:** The setback rules are to protect the environment, the ground water, the runoff, I mean, I don't have that document in front of me. It's in my Prime Foods folder, but that's what it's there for. That's what the rules are under IDEM, and the most important thing is, you know, IDEM has stronger rules that what the federal's are. So, we in Indiana, livestock producers in Indiana, have stricter rules than other states. The rules in place for a zero discharge. Now, does that mean somebody couldn't do it? Well, that's like comparing that to that speed limit sign says 55 miles an hour. Does that mean everybody's going to drive 55? So, the rules are in place to protect the environment. To protect the residents, and all the above. See the next step, if BZA says yes and the vote's going to happen in November, then they can file the permits with IDEM because that's the step they have to take. The application for IDEM is about like that.

**Ms. Stevens:** Uh-huh.

**Mr. Springston:** You know, they have all these requirements, all these rules. Test bearings??, you've got to find out the closest water source, closest stream. All that stuff has got to be documented until IDEM signs off.

**Ms. Stevens:** Uh-huh.

**Mr. Springston:** But if that happens, this company is going to spend 70 million dollars.

**Ms. Stevens:** Right. Well...

**Mr. Springston:** And create a lot of jobs.

**Ms. Stevens:** And take that same scenario and somebody whose now found themselves out of conformance. They've had an operation that's maybe not fowl and no offense, but there's some animals that are worse for being their neighbor than others.

**Mr. Springston:** Well, yeah there's bad actors in every business.

**Ms. Stevens:** Yeah.

**Mr. Springston:** I mean, I'm not going to say that don't happen. That's unfortunate, but that one person out of many just gives us a black eye and we don't like them either. And I never could say Henry's last name...

**Ms. Stevens:** Schlensker.

**Mr. Springston:** Yeah. As far as him, I mean, I'm sure that when he started that he started like a lot of us start something else to supplement our farm income. So, he was there 200 years, and I have the same thing. I live about 5 miles from the City of Boonville. I live on my wife's family farm of 145 years. When she rode the school bus there was four houses from her house to the city limits. We are now 40 something and so they're moving out.

**Ms. Stevens:** Right. Ok, are there other questions because again, I think this is very valuable and is what I was hoping we would do and had no idea you were out there in the audience. But I think your input would be very valuable. Are there other people who wanted to speak or are you speaking on behalf of the group?

**Mr. Springston:** I spoke for several of them, I wouldn't dare speak for someone else.

**Ms. Stevens:** Well, no nobody else raised their hand.

**Mr. Springston:** I think you get the gist of it. I mean, I think that had you started reading and moving this thing too quick others would be willing to speak and I'll give you my contact information afterwards, Sir. I need to get yours and I can put people in touch with you that can help you walk through this.

**Ms. Stevens:** Great.

**Ms. Payne:** Stacy, I want to... Will you explain to us what is happening in Warrick County? I just saw a little bit of it on the news, so I need to go back.

**Mr. Springston:** We have a very small group of people who are driving the conversation.

**Ms. Stevens:** Start with they're trying to put in a new...

**Mr. Springston:** Ok. Prime Foods is an established business that's been in business for 80 years.

**Ms. Stevens:** And tell them what Prime Foods does.

**Mr. Springston:** Ok. Prime Foods used to be called Kramer Farms, Ok? Jay Kramer is the owner of Prime Foods, he's 3<sup>rd</sup> generation. They've been there for 80 years. They process a million eggs a day.

**Ms. Stevens:** Hard-boiled eggs, right?

**Mr. Springston:** Hard-boiled eggs.

**Ms. Stevens:** Yeah.

**Mr. Springston:** The last 5 or 6 years, their process is the get raw eggs, hard boil them, and then they go on from there. So, a million eggs a day, and they all leave the plant hard-boiled. Ok? They currently own chickens in Ohio, but they don't own the buildings, they're contracted out and those buildings are old and dilapidated. So, they are driving 300 miles one way to get these eggs and 300 miles back. Remember, they're using a million eggs a day.

**Ms. Stevens:** So, the chickens are coming home to roost? Is that...?

**Mr. Springston:** So, they're trying to bring the chickens closer to the operation. Ok? So, Prime Foods are the ones, it's their project. They're going to spend 70 million dollars. They are willing to purchase 2 thousand acres. Of the 2 thousand acres their IDEM permit and their use permit that went to BZA is 600 acres on those 2 thousand. Now, it doesn't take 600 acres for these buildings, but that's the larger buffer zone. That's the protection. It's a state of the art facility. The manure system that they are going to have in there, you have to go a long way to see one because no one wants to spend that much money. So, they are going to dry that manure, it's going to come out every day on a belted system. It's going to be totally enclosed. The manure storage facility has a concrete floor, concrete walls, and a roof on it.

**Ms. Stevens:** Can they sell that? Are they going to sell manure?

**Mr. Springston:** They can sell that. Yes.

**Ms. Stevens:** Ok.

**Mr. Springston:** If this moves forward they, Phase 1, there's 3 phases. Phase 1 is 500 thousand layers and 1 pullet building. Pullets are chicks raised up that are going to replace the hens. Phase 2 is a million birds, a million layers, and adding pullets to facilitate that. Phase 3, if they get that far, and they don't even know. I mean, they're being so proactive that they are making sure everybody knows that if this continues to grow, it may take 10 or 15 years who knows. We want to go ahead and get the permit and get everything out of the way so that if we want to we can have 2 million layers and the pullet facility to support that. Somewhere between the 1 million mark and the 2 million mark in bird count they're going to put in a feed mill. So, when they put in their own feed mill they're going to be buying corn locally. So, this facility will be using 2

million bushels of corn a year. They will employ somewhere between 80-100 people full time jobs. The oppositions says it's going to be illegal workers and migrant workers. These are full time jobs. These are jobs that somebody is going to drive to work every day and leave. There is two buildings on that site. One is located close to the pullet buildings and one located close to the layer buildings for the manager to live in because they want that manager there and his or her family 24 hours a day. It will be a bio-security facility with a fence around it. Any vehicle that goes on that facility will have to go through a disinfectant wash and any vehicle that leaved that facility will be disinfected. Ironically, that's not to protect the humans, but to protect the birds. They are spending money and putting things in place. They wouldn't have to, I mean, they could do this operation a whole lot cheaper, but they're not cutting any corners. They want to be environmentally friendly and be good neighbors. Most of those people that live out there won't even know it's there.

**Ms. Stevens:** Yeah.

**Mr. Montrastelle:** Sir?

**Ms. Payne:** Where's the 2 thousand acres?

**Mr. Springston:** It's located between Boonville and Lynnville. It will be on the east side of the highway. The main entrance is off a state highway. There will be no county upgrades needed. The City of Boonville, they're in talks with them, if this goes through they're going to run a 6 inch water line. So, anybody that's got a 6 inch water line coming through their property and there's going to be fire hydrants out there, it's going to lower...

**Ms. Payne:** Insurance.

**Mr. Springston:** Insurance and all that stuff.

**Mr. Montrastelle:** Sir?

**Mr. Springston:** Yes.

**Mr. Montrastelle:** How many years can a bird lay eggs before they have to be processed or put down?

**Mr. Springston:** Well, it depends. It's not really years. It also depends, I don't know and they don't know either, you can get about 2 years if you want them to go through the molting process, but when they're molting they aren't laying eggs. So, that's the decision of them whether they want to do that or not. That's why they want to support the pullets is to continue... See at their current operation they need a million eggs a day.

**Mr. Montrastelle:** So, this is for laying eggs only. It is not a processing plant like the one, Tyson, down there...

**Mr. Springston:** No. No, there is no plan. They have plans to maybe add a processing, but it's not a meat processing plant. It's to process the eggs. Ok? And if they do that they are will have to be zoned commercial. It's already zoned agriculture, the whole 2 thousand acres is already zoned agriculture. It's been strip mined. There's part of it that they can't actually buy. It's all contingent on whether they can do this or not. I mean, they own a few acres out there regardless of what happens, but they have an agreement with Peabody that if this moves through they'll get the permits and they're going to buy the 2 thousand acres. There is no intent for any meat processing there whatsoever.

**Ms. Stevens:** What would they do with the chicken if the...?

**Mr. Springston:** Well, whenever they're done laying a company will come in... They used to go in Campbell's Soup, but Campbell's has discovered that they can buy chicken breasts that taste better and they're more tender and cheaper than they can buy a 1 or 2 year old hen. So, most of them now go into pet food.

**Ms. Stevens:** Ok.

**Mr. Springston:** But the truck will come in and load them up and take them to, there's some rendering facilities in northern Indiana that they get turned into pet food.

**Ms. Stevens:** Ok.

**Mr. Amsler:** Inaudible...Mic not turned on.

**Mr. Springston:** Yes, they are hard-boiled eggs.

**Mr. Ungethiem:** If you'd like to know more detail about how that process works I did it when I was a teenager.

**Ms. Stevens:** No you didn't.

**Mr. Springston:** They don't think that the hard-boiled industry is going to be able to expand. When they first started doing that they had... I went through the plant about 5-6 years ago, but they've been doing this about 7-8 and when they first started doing this there was 20 women I think, don't quote me on that. They hard-boiled them and they sat there and peeled them by hand.

**Mr. Amsler:** Well, you know what's funny? When they hard boil an egg they do a hell of a lot better than we do.

**Mr. Springston:** Yes, it's perfect isn't it?

**Mr. Amsler:** It's perfect. There's no green in it. I mean, it's perfect all the way out.

**Mr. Springston:** And they're doing a million of those a day.

**Ms. Stevens:** Wow.

**Mr. Springston:** And when they first started they were catering to restaurants and they would leave there in a 5 gallon bucket or a big crate or whatever. They just recently in the last 12 months have added, maybe what you're talking about, is called a Pro-Go. It's a protein pack. It's got a hard-boiled egg in it, got some dried fruit and cheese. I've heard there's even one that has chocolate covered almonds, but I haven't found that one yet. In Schnucks and some of the products are in Sam's I've been told. I don't know that, but every egg is hard-boiled. Now, their goal is not to increase production there because they think that's all the market they can stay in. If they get more eggs than they need, then they want to be able to market those as fresh eggs and that's where the processing will come in place on that site.

**Ms. Stevens:** Yeah.

**Mr. Springston:** And they'll be able to provide fresh eggs in local stores.

**Ms. Stevens:** Cool. Ok...

**Mr. Amsler:** Give them to you shelled or not shelled, right?

**Mr. Springston:** Well, I mean, they currently... There's not at that facility, but there's currently eggs you can buy in a carton that's already...

**Mr. Amsler:** Shelled.

**Mr. Springston:** Yeah. I mean, already cracked and opened and everything. But everything they deal with now leaves their plant hard-boiled.

**Mr. Amsler:** Because I've seen some of these groceries that have them in 5 gallon buckets sitting there.

**Mr. Springston:** They're already shelled.

**Mr. Amsler:** They're already shelled?

**Mr. Springston:** Yeah, they're already shelled. I actually think all their eggs leave shelled. I don't think any of them leave with the shell on.

**Ms. Stevens:** Ok, thank you. Honestly, I'm fascinated by this and could keep on listening...

**Mr. Springston:** Yeah, I can...

**Ms. Stevens:** But we have 5 more minutes before we have to pay for another half an hour.

**Mr. Springston:** Sure.

**Ms. Stevens:** Is there any other questions that...?

**Mr. Springston:** I'll talk to you afterward. Yeah, sure.

**Ms. Stevens:** Mr. Ungethiem and then Mr. Montrastelle? Ok. Anybody else?

**Mr. Montrastelle:** He sounds like he knows as much about CFO's as you do. You should have someone like...

**Ms. Stevens:** I should take him to lunch.

**Mr. Montrastelle:** Yeah.

**Ms. Stevens:** Thank you. Does anybody else want to say anything else before we move on? Alright, thanks.

**Ms. Stevens:** That guy back there.

**Ms. Stevens:** Oh, I'm sorry. I didn't see... Come on up and you're going to have to really talk fast. State your name and address for the record.

**Mr. Maroni:** William Maroni, 8108 N. St. Joseph Avenue. I know it's a CFO and ??? Are we referring to grazing cattle at all? I know we're talking about CFO, but I have grazing cattle. Small herd...

**Ms. Stevens:** Not grazing cattle. This would be a confined feeding operation.

**Mr. Maroni:** Confined. That's... I was sure of that, but I just wanted...

### **Inaudible conversation**

**Mr. Mueller:** When you talk about confined it talks about lagoons and other things, so I guess that's a good question. Are we talking about just being in buildings or are we talking about...?

**Mr. Stahl:** I can answer that. It has to do, if you look at C under the definition. Ground cover or vegetation is not sustained over at least 50 percent of the animal confinement area. So, if you're looking at a grazing pasture, that's 100 percent of the confinement area. If you put a fence around a grazing pasture, that is not a CFO. The word confined means confined in a space that's not like that. Ok? If you think about what we think of

now as a CFO it would be buildings. In other words the lot coverage would be by the footprint of buildings and detention lagoons and things like that.

**Ms. Stevens:** But couldn't it also...?

**Mr. Mueller:** So, what about dairy situation?

**Ms. Stevens:** What about a what?

**Mr. Mueller:** A dairy situation where you've got dairy cows and you're feeding them hay and you're in a building. Does that fit under this?

**Mr. Stahl:** If there are 300 of them it is.

**Ms. Payne:** You have to have 300.

**Mr. Mueller:** Well, I wouldn't want to milk 300 cows, but I mean, is that a possibility that something like that would fit under that?

**Mr. Ungethiem?:** Inaudible...Mic not turned on.

**Ms. Stevens:** Yeah. Ok, and I don't want to get into all the defined...

**Mr. Mueller:** I know, but I'm just saying I don't think...

**Ms. Stevens:** It does not apply to you.

**Mr. Maroni:** I can tell you this. I've been on many cattle farms around this area and they are very hard working people.

**Mr. Stahl:** Uh-huh, sure.

**Mr. Maroni:** Please take that into consideration. I'm not a dairy man, but none of us up here, I'm not a dairy person, but I can assure you that nobody in this room including myself besides these gentleman want to do what they do for a living.

**Ms. Stevens:** Yeah.

**Mr. Maroni:** It is tough work.

**Ms. Stevens:** Yeah.

**Mr. Maroni:** Thank you very much.

**Ms. Stevens:** No, no, thank you for the input. Anybody else that didn't get a chance, and I'm not really trying to rush this, but I don't think we really need to talk about it for

another half an hour. I think that these questions that we have, you know, we now know people that want to be on this study committee.

**Mr. Stahl:** I have two things to say.

**Ms. Stevens:** Well, wait, yeah, ok.

**Mr. Stahl:** One is part of the problem in Warrick County is they don't have any regulation and that's not a problem just for the residents who don't like KFO's. That's a problem for the KFO because all they have to do is get a special use permit, but there are no standards as to what gets them that special use permit. So, you can have a room full of people who come up and say, "I don't think this permit ought to be granted because it's within one mile of my house," or because anything. The owner wears a purple hat. There are no standards. When you establish standards, and I think you're right, you need to make sure the standards conform to the realities of the operations. But when you do establish standards that's also to say, "Ok, you can't deny me a permit because I meet these requirements." The other point I was going to make is that if you go to the Indiana Department of Environment Management and find what's called their Virtual File Cabinet, you can look at the permits, they're on file, that's been issued in the past however many years. I just did a search while we were sitting here and there is one CFO in Vanderburgh County. There are two others that one has expired and the other one was voided at the request of the owners recently. So, just for point of information.

**Ms. Stevens:** And I think that's important because it's not like it's a big problem, but we do need to have as you just said, the ordinance needs to protect both sides. Ok, now we're not going to have a December meeting, so everybody can study this and I also want you to know this is our last meeting to be on WNIN. So, for anybody who watches it on that it will be streamed live and you can also you can watch it anytime from the internet. But just so you know and so we can just keep on going in January. We don't have to stop every half an hour. Won't that be fun? Ok, anything else before we...?

Meeting adjourned.

---

Stacy Stevens, President

Attest:

The undersigned secretary certifies that the foregoing are minutes and not intended to be a verbatim transcript. An audio version of the proceedings can be heard or viewed on our website at [www.evansvilleapc.com](http://www.evansvilleapc.com).

---

Ronald S. London, Executive Director

---

April Spraggs, Transcriber