

Zionsville Plan Commission
Date: 05/17/2010

In attendance: Allan Rachles, president; Carol Sparks Drake, attorney; Larry Jones; Jay Parks; Steve Mundy; Wayne Haynes; Peter Hawryluk; Kevin Schiferl

Staff attending: Terry Jones, Planning and Building; Ed Mitro, Town Manager

Pledge of Allegiance

Roll was taken. A Quorum is present.

Rachles Those of you on the commission have the March and April minutes in your packet; however, in reviewing the minutes, continuing to be plagued by some technical difficulties and the minutes are really not suitable for approval and the staff is working on a plan to have a better system for the minutes being transcribed which should begin with tonight's meeting. So, we will pass on approving the minutes and hopefully in June we will have three sets of minutes to approve. We have three items on the docket that are being continued tonight: Docket 2010-08-MP Watts Tree Farm minor plat is being continued, 2010-09-PP Jones Farm primary plat to be continued and Stonegate 2010-04-DP has been continued. Terry, are those all being continued until the next meeting?

Jones That is correct and the date of the next meeting is June 21, 7 p.m.

Rachles Will they have to be renoticed or will the present notices be in effect?

Jones No. These will be adequately continued to that next available agenda automatically.

Rachles Okay then, the first item will be 2010-10-DPA American Coated Products. Petition for development plan approval to allow for a 7,840 square foot building addition with 20 x 160 existing industrial warehouse building, asphalt area will be extended to facilitate access to the addition. Terry, do you want to brief us on this?

Jones Well I will let the applicant get started, if you'd like.

Rachles Okay. Will you please state your name and address?

Moench For the record, my name is Brian Moench with Moench Engineering. The office located at 3996 Clarks Creek Road, Plainfield IN. I am before the board tonight representing American Coated Products which is a business located at 7436 South Mayflower Park Drive. This is the second addition to this particular property. The first building was done in approximately 2001, approved by Boone County and the Boone County Plan Commission. The first addition was done in 2003, again approved in Boone County. We are before you tonight for the next phase of this particular property. This particular property, like I said is on Mayflower Drive as on this photograph. This particular addition is to the west. Like I said, this was approved through Boone County. At that time it was approved with the initial building and the first addition. The Boone County ordinance allowed metal siding and a CPU mesh as far as the building's facade. This particular site again is screened by the heavy woods to the west, (Mr. Moench moves away from the microphone) regional council tour area to the north, Mayflower Drive and _____ to our south. _____. Since that time, we _____ Lot 6A and Lot 6B. _____ on Lot 6A. As mentioned, our addition is 7,840 square feet which is located in this area and it is our intention to match the building facade and the general building lighting plan as currently existing. With that, I will be happy to take any questions.

Rachles Staff comments?

Jones As Mr. Moench stated, the subject site is zoned I2 general industrial district encouraging the development of manufacturing and industrial activities. This is an expansion of an existing permitted use which, as he stated, was approved by the Boone County Plan Commission prior to the town's annexation of this area. The addition's architecture and lighting mirror the existing building with no noticeable change. There is to be installation of an additional truck loading dock and three parking spaces and the landscaping of both the existing and proposed does meet the requirements of the ordinance. There is no additional signage being requested. As far as the drainage is concerned, this particular project has drained to the pond to the south. Its staff's recommendation during review that it became apparent that no evidence the property has an entitled right to use the detention pond for storm water, at least we couldn't find anything in any written type of a document--not to say that one does not exist but again, we do not have access to many of those files since as Mr. Moench stated, it was approved by the County but so therefore staff asked that the applicant be willing to provide information prior to the improvement location permit or building permit issuance of a document giving legal access for storm water drainage and detention to that pond. With that, staff has no other additional items at this time.

Moench If I may address the drainage easement that Mr. Jones referred to, this particular pond at one time was an overall lot. When they divided the lot in two, they made this common pond between. There is a gentleman's agreement between the two parties, American Coated and the trucking company to use that pond; however, it has never been formalized. We're in the process now of getting that formalized and it will be a recorded document prior to issues of building permits. We are aware of this, we are working toward that end--unfortunately, this is based out of Ohio and so we are getting the attorneys working together now.

Rachles Any Commission comments? Anybody from the public wish to speak as to this proposal? There being none, the chair would entertain a motion.

Schiferl I would move that the docket 2010-10 DPA development planned amendment at 7436 Mayflower Park Drive for American Coated Products for a 7840 square foot addition be approved as presented with the condition that written evidence be provided that the American Coated Products has a legal right to use the detention pond to the south of the subject property for storm water drainage prior to the issuance of the building permit.

Rachles Motion made by Mr. Schiferl. Is there a second?

Voice Second.

Rachles Second by Mr. Parks.

Rachles Motion made by Mr. Schiferl and seconded. All in favor, Aye?

All Aye.

Rachles All opposed? No. The motion carries and the docket is approved. The next item is Docket 2010-11- MP Davis Minor Plat 2155 South 950 East. This is a petition to approve the division of eight acres into two lots to be known as the Davis Minor Plat. Roger Burrus, attorney for the petitioner?

Burrus Good evening. I am the attorney for Harold and Joyce Davis and my office is at 410 W. Oak Street in Zionsville. Neither one of the Davises was able to be here. They certainly would have liked to have been here but there are some issues that just kept them from being here so if there is anything that comes up that--I am hoping there's not—but if there is, I could reach them by telephone or we could discuss it but this is a relatively simple

situation, a minor plat for an eight-acre parcel at 2155 South 950 East. The Davises bought this property in 1990 and they have lived there and enjoyed living there for a long time. Harold Davis was the local veterinarian, some of you may have known him from that. He retired, oh, seven or eight years ago. The Davises have been very involved in the community, Lions Club and other things. When they bought this property, they really wanted to make it nice and keep it nice which they have done but kind of knowing that at some point as they got older they were not going to be able to keep up maintaining an eight-acre parcel in the way that they would like to and so they decided actually back in 2006, that they would look into the prospects of dividing this. They always understood that there would be a minimum lot size of two acres for the existing home and then that left about six acres that could be used for an additional home site. When we had the plat prepared, it actually came out as being proposed Lot No. 1 at 2.112 acres and proposed Lot 2 at 5.637 acres and that is due to the right of way dedication along the county road. There are already two driveways because they have a carriage-house style mini-barn garage on the north parcel on Lot 2 and that is shown on the plat. I submitted additional documents tonight. We had to move one line on the Lot No. 1 because that line was going through a mini barn on the property and then we wanted to make sure that there was a drainage easement for Lot 1 to get back to Eagle Creek. The original lot backs up to Eagle Creek on the right hand side. If any of you are not familiar with the area, it is just north of Saddlebrook. It's surrounded by single-family homes, some on large lots and then Eagle Creek on the east side. Back in 2006 when the Davises had a survey done to possibly subdivide the property in the future, they did go ahead and have soil borings done in order to confirm that a septic system would work on the property and got approval from that from the Boone County Health Department. The Davises wrote to their neighbors, we've heard no concerns but certainly if there are any questions or concerns we would like to address those tonight. I also submitted some proposed subdivision declaration of covenants restrictions that are kind of a simple but common set for nice homes out in the country to make sure that no offensive uses are put to the property, things like that. We think that we have covered things pretty well. We think that we have complied with the provisions of the zoning ordinance and that this minor plat could be approved. I would be happy to answer any questions.

Rachles Is that it?

Burrus Yes.

Rachles Staff?

Jones Mr. Burrus did a fine job of pretty well putting this particular quest in a nutshell. It is, in fact, zoned R2 residential and is a part of the rural area of the town. The county highway, county surveyor's office and myself have met on this. As stated, the Health Department some time ago actually did soil borings for additional septic systems. That has been reviewed and found to be adequate. The driveway itself for the second lot will need additional permitting by the county highway. At the time of the construction of a home site there and as far as all of the other details, this has been reviewed and staff has no further comments and recommend favorably.

Rachles Any commission comments?

Schiferl I have a couple of questions for Mr. Jones. Is this R2 or R1 zoning?

Jones My understanding is as I read the zoning map, it is R2.

Schiferl Okay. The reason I ask is actually Mr. Burrus you did a great job on the CCRs but the CCR talks about keeping horses which is a desired thing in my book in this area. But that would be inconsistent with the R2 zoning as I understand as opposed to R1 having that.

So I'm just—I'm concerned about it, not wanting to upset the apple cart, but we need to make sure we've got the right zoning qualification because as it says in the CCRs allowed as long as it is allowed by the zoning board. So, I would like to make sure we know that that's correct. The other question Terry, is you mentioned that a driveway cut would have to get the County Highway Department--

- Voice When is that going to revert to the Zionsville Street Department versus the Highway Department?
- Jones That would be as part of the normal transition process with the consolidation process. It might be a while in this particular area for it to work its way to that area.
- Rachles Any other comments from the commission? Any comments from the public on this minor plat? I will entertain a motion for 2010-11-MP Davis Minor Plat petition to approve the division of eight acres into two lots to be known as the Davis Minor Plat.
- Schiferl I would make a motion to approve petition 2010-11-MP for the minor plat subject to the condition that Mr. Burrus work with staff to rectify the CCR section 4.03 just so we make sure we're consistent with the applicable zoning.
- Rachles Motion made by Mr. Schiferl. Is there a second?
- Parks I'll second it.
- Rachles Seconded by Mr. Parks. All those in favor say Aye.
- All Aye.
- Rachles Opposed, no. The minor plat is approved. Thank you Mr. Burrus.
- Burrus Thank you.
- Rachles Before we go to the next item, our new council doing her job and being on the ball has advised us that the Jones matter 2010-09-PP does need to be properly noticed for the June meeting since the reason we're not hearing it tonight was because of the defective notice. Okay? We have to do findings of fact, I believe for this--so I will pass them down this way--need to make sure all of the commission members sign the findings of fact. The last item on the agenda is 2009-03-0A Planned Unit Development petition for the urban rural town of Zionsville to approve a planned unit development ordinance. This is a matter that has been pending for a year. This is a public meeting so I am going to start out and ask for Mr. Jones to give us a history of how we got to where we are tonight and explanation of the proposed ordinance and then we will have commission comment and we will open it up to the public for their comment and then back to the commission for any action that they might need to take so Mr. Jones, you have the floor.
- Jones Thank you. By way of some introductory historic remarks, during the June 1, 2009 Town Council Meeting, the counsel voted to direct the Plan Commission to conduct a public hearing for consideration of a Planned Unit Development Ordinance. The proposed ordinance is intended to provide flexible managed development growth. This development option could be a useful tool in the coming months as consolidation of Eagle and Union Township Zionsville has taken place. After that public hearing, it was, excuse me, the Plan Commission did in fact conduct a public hearing in July and after that public hearing it was set for subcommittee of the Plan Commission to consider further detailed information about Planned Unit Developments. The Boone County Economic Development Commission sponsored a Planned Unit Development Ordinance Seminar which was conducted on August 20, 2009, and the subcommittee then

subsequently conducted another meeting held on September 16, 2009. On September 21, 2009, the Plan Commission heard this item again. It was decided at that time that due to the fact that consolidation of the three entities was nearing that the best thing to do at that point would be to continue this matter until that had occurred based on the Town Councils concurrence of that recommendation. The Town Council did in fact agree with that and this was subsequently continued until sometime in 2009 at which time a new Town Council with representation of the new areas would be affected on the Town Council. A new Town of Zionsville Plan Commission in fact would be put in place as there are those of you here this evening and earlier this year the Town Council Subcommittee or Lands Use and Economic Development asked that this matter be again brought up for public hearing which brings us here this evening. On May 11 of this month, there was another opportunity for public information provided by a private citizens group and there was in fact information distributed at that meeting, questions handled by a couple of individuals Brad Johnson from Ground Rules and Jeff Kingsbury from Greenstreet Limited to discuss issues of Planned Unit Development again in an effort to educate and get information to the general public on Planned Unit Developments. In your packet, you did receive the Power Point presentations that were provided at that meeting as well as the Planned Unit Development Ordinance that was published with legal notice. That particular document is an enabling piece of legislation that the town would have at its disposal for consideration of developments that would seek the use of the Planned Unit Development Ordinance itself. There has been a good deal of discussion. This has, as Mr. Rachles pointed out, been on the agenda for the Plan Commission for a year. I think everyone's pretty well familiarized with what this particular ordinance does as far as Planned Unit Developments. It is an enabling document. It is not an entitlement as has been discussed and also in your packet you received what was titled as an edited May 2010 version of the ordinance. That particular edited version is the result of a meeting that I had with our legal counsel, Ms. Drake, and in that there are some cleanup items with respect to various things within that document, I will let her address those at this time if she would like.

- Drake Thank you, Mr. Jones. As Mr. Jones indicated you do have an edited version. Some of those are redlined. Some of those are not in color but the effect of the redlined version is to incorporate and correct what I would term as more administrative-type errors, the wrong verb, the wrong text in some instances with the word adjacent. I recommended expanding it to encompass neighboring so as to be broader than it was drafted but substantively, I believe the redlined version to track with what has been presented to you previously. If you have any specific questions regarding changes which were recommended, I would be glad to address those. These changes are also available prior to the commencement of tonight's meeting and copies are out in the foyer.
- Jones Mr. Chairman, there was also--I would like to ask if Mr. Mundy would like to give a brief explanation of the subcommittee that he chaired with the Plan Commission in 2009.
- Rachles Yes, and I would be remiss in not having congratulated you on your recent selection as a new member of the Town Council. Your landslide victory was impressive.
- Mundy Thank you.
- Rachles And I want to thank you again for agreeing to serve last year as chairman of the subcommittee that studied this and we welcome your comments at this time.
- Mundy Thank you, Mr. Jones covered most of the outcome of that so I will not repeat any of that and try to add some to that. First of all, the subcommittee took a look at the PUD enabling ordinances of a number of other Indiana communities and explored with some of those what seemed to work best, what didn't work at all, what worked poorly, what we would or would not want to do, so that group got a chance to look at the experiences of a number

of other communities. The other events that Mr. Jones also mentioned I think were helpful for us to better understand from noncommunity members rather professionals in the field a bit more about the ordinance and I think it is one of those things that many of us knew absolutely nothing about a year ago. The--again the recommendation--I think the general feeling of that group and by the way those were public meetings--and we did have representatives from both the outlying what are now the rural areas of Zionsville attend those subcommittee meetings as well. So, we did have representation from the old Union and unincorporated Eagle Township there as well. The overwhelming conclusion was we needed to delay this, continue it until we did have a reconstituted Plan Commission and a reconstituted Town Council before we took action.

- Rachles Thanks. I would like to start by asking if any of the members of the Plan Commission have any discussion with which they wish to proceed at this time. Okay, you are going to have another shot after we have the public have their say and here is how we will do the public portion of this hearing. When you come up to speak, please give us your name and your address and try and speak into the microphone so that we do not continue to have problems with the clarity of our minutes. Secondly, this will not be my first rodeo and so the rules are going to be a little bit more lax than what sometimes the Town Council does or the School Board or the County Commissioners. I want to try and let everybody have their say. We got a little bit of a break tonight in that we have had some continuances but we do not want to be here all night and my rules are basically be civil and let everybody have a chance. There can be some applause, there is to be no booing and try not to keep coming up and saying the same thing over and over again or I will eventually get irritated and have to rule you out of order. So, we can start now, form a line at the right and come on up and identify yourself and make your comments. It doesn't make any difference whether you are going to be pro or con on the amendment or on the ordinance or whether you just are wanting to ask some questions. So, the floor is now open for the public, please take advantage.
- Brandt Good evening. My name is Wendy Brandt. I live at 9240 East 350 South Zionsville. I do have a couple of questions before I make comments. Mr. Jones, could you explain to me is this--
- Rachles Excuse me, start out by addressing me--
- Brandt Oh, sorry.
- Rachles And then I will decide what we are going to do next.
- Brandt All right. Excuse me. Could I get an understanding of whose ordinance this is? Who originated it?
- Rachles Okay, I am going to ask Mr. Mitro to come forward and explain what I think you are referring to.
- Mitro To answer the question I believe is being asked directly is there was an ordinance that was proposed that was given to Terry Jones and me last year. We looked at it and essentially rewrote the entire ordinance to the version essentially lacking the redlines of what you have before you. So, if you're asking whose ordinance it is, I guess Terry Jones and I would either have to take the blame or praise depending on how this comes out.
- Jones Well, the clarification there is that that proposed ordinance--there was not one part of that proposed ordinance that we had. We completely rewrote a different ordinance altogether.
- Voice Is there any semblance to the original ordinance?

Voice Maybe it will help if I read this letter that I received today. This is a letter from Mark--

Brandt I'm sorry, I understood how that went. My question is—there--as I understand it are only two bodies that can authorize an ordinance. One is the Plan Commission, the other is the Town Council.

Voice Correct.

Brandt This started as the Town Council's ordinance. Whose ordinance are we considering tonight?

Jones The ordinance that was directed for hearing by the Plan Commission is the one that is being heard this evening. It was directed by the Town Council on June 1, 2009.

Brandt So this document represents the Town Council as they are the originator of this ordinance?

Jones Correct.

Brandt Thank you.

Jones I understand now.

Brandt That is what I was trying to get at. I have missed a lot of meetings and like so many people probably in the audience, with subcommittees and everything going on, it has been very difficult for me to try to understand the sequential progression of what is before us tonight so I have put together something and I'm perfectly willing to stand corrected but this is the best way I understand it. Tonight you are being asked to consider a Planned Unit Development ordinance that inherent in its name represents a tool for development that will negligently affect both urban and rural Zionsville before a new town has come together to develop one comprehensive master land use plan. This PUD ordinance is not the same one that was proposed last year. Should this proposed PUD ordinance be adopted by the Town Council, the property rights and welfare of residents living in our new town will be unalterably affected. This new PUD ordinance will control both the rural and urban land in our consolidated town. It was not advertised on any Town Council agenda after the changes. It was created through a directive to Mr. Jones out of the purview of the public. There were no agendas or minutes from the Town Council or the Zionsville Plan Commission that show who authorized the changed PUD ordinance. That causes me to believe the change occurred at Zionsville's only other land use entity, the Land Use Economic Development Subcommittee. But that subcommittee, though it advertises its meetings, does not post minutes for the public to access. As a result, we have a PUD ordinance now applicable to all the new town of Zionsville, not just the urban area. It allows a PUD of any size, anywhere and there is no public record who authorized this. Now clarified, it's still the town's document. Town resolution number 2010-103 sets forth the Town Council's protocols for organization. The pertinent part for the record is that the committee's chairperson acts as a liaison between various boards and committees and is tasked with "presenting sponsored legislation, ordinances, resolutions and other actions to the Town Council." I have checked all of the agendas and minutes of the Town Council and the Plan Commission for 2009 to date. Neither the Town Council nor the Plan Commission is on record from an agenda item or actual minutes authorizing this changed PUD. According to state statute, only the Town Council or the town's Plan Commission can authorize this new zoning ordinance and it is changed. It is a new zoning ordinance and that has to be an agenda item discussed in a public meeting. The result of what has happened is that the public has been denied first-hand understanding of how this change came about and how through a public process they have been represented by their elected officials. The ordinance before us tonight

should have been on the agenda of the originating body, either the Town Council or the Zionsville Plan Commission. We've clarified it's the Town Council's ordinance. Clearly this changed PUD ordinance was not sent back to the Town Council by the Land Use Subcommittee. If it was, there would be a public record before us. It was sent to the APC and all of this has happened before the residents of our town have had the opportunity to decide how we should manage development. First, we should have a new master land use plan and then consider the ordinances necessary to accomplish the goals and objectives that our residents have hammered out together. For these reasons, I ask you to send this ordinance to the Town Council with no recommendation. I think it presents a very problematic situation both procedurally and if it prevails for the negative impact it would have on our residents' existing zoning, taxes, welfare and quality of life. Thank you very much.

Rachles Thank you, Ms. Brandt. Former member of this commission, Mr. Carr.

Carr Mr. Rachles. Good evening. My name is David Carr and as some of you know, my good friends, I served for 10 years on the Zionsville Plan Commission and the Zionsville Town Council. While on the Plan Commission, I often referred to "It's a Wonderful Life" and asked the question of various people before us of whether you want to live in Bedford Falls or do you want to live in Pottersville. I have enjoyed my retirement immensely and frankly the last six months have made not being on the Town Council look better than ever but that aside, I feel compelled to be here tonight to talk to you about this PUD and what I would say to you is that a PUD is a conceptual entity for the promotion of development and it can be useful particularly if you are trying to attract development. If one lives in Clay City or Elwood or some other depressed locale, you would want to have developers come in and you want to have a special enticement because a PUD at its root is a circumvention of your ordinary zoning. I would submit to you first conceptually that I am not convinced that Zionsville is particularly in need of the attentions of developers. Quite the contrary, I believe Zionsville to be very attractive to developers as is with ordinary zoning in place. Theory aside about PUDs in general, my secondary concern is this PUD lacks any of the ordinary specificity that one would find in a PUD ordinance. The current Town Council president recently said that a PUD ordinance should be as thick as a phone book. This PUD ordinance is 4-1/2 pages. It has no minimum size component. It has none of the restrictions that you so often see in a PUD ordinance to prevent circumvention of the master plan or of the zoning and people will say, well it does require Plan Commission approval, and that is true. But, I have to admit that in the 10 years that I was on the Plan Commission, we as a Plan Commission sometimes made mistakes. Anyone need go look no further than downtown Main Street and the Carter Toy Museum. We're still not sure quite how that happened. No, don't applaud, I was on the Plan Commission that approved it. But the point is, that a PUD allows that kind of mistake on a catastrophically larger scale because you are circumventing the normal breaker, the normal safeguard of a zoning program. Because of this, I urge you to not move forward with this PUD in its current form. Instead, this should be sent back for further assessment, further work to 1) decide conceptually if Zionsville needs a PUD at all and 2) to give any PUD ordinance the appropriate structure that it needs that it currently lacks in this form, so that it will actually promote what we all want is to maintain Zionsville as a very unique community. When I was on the Town Council, we called it a town within a park but indeed an elite community, a desirable community not a Fishers, not a Plainfield, not a Noblesville but instead something that is uniquely Zionsville. Not a Pottersville but a Bedford Falls so please think carefully, this will be an opportunity for you to make an important decision and I found when I was on the Plan Commission, these decisions were more difficult than the Town Council decisions that I made and there were a lot of tough calls as a Plan Commission member. This one tonight is not a tough call, it's an easy call. Send this back for further consideration.

Voice Sir, may we have your address for the record please?

Carr Absolutely, 1940 Mulsanne Drive.

Rachles Next member of the public.

Kunz Good evening, Fritz Kunz, 9211 Knorr Road. I run the Traders Point Creamery and I am also a physician. I am here tonight before the APC to sort of, I don't know the particulars of the PUD ordinance--I came to the last meeting a week ago because of my concern. We've spent a lot of time in this area to try to keep that rural character that makes Zionsville so special. That could be whisked away pretty quickly with the wrong developments in this area. It does not take a lot to damage it because it's a very delicate organism and to that extent we have tried to put some safeguards in place to protect this and I know protectionism sounds bad but some of these pieces are really in need of protecting and I would just ask the Area Plan Commission to give themselves a very, go slow, more accidents happen when we go fast, you know, things when you slow them down you get a clearer picture of what's happening. There has been a huge consolidation, you know to think that Zionsville is now bigger than Westfield and Carmel in square mileage, you know 52. I think that we are really in need of a plan, a vision, how we maintain this very, very special space and we can only look around us to every side of the mistakes that have been made and you know land values stay better in a community that makes itself distinct and special and so my concern about moving too fast is that we will make a mistake and an accident and I wish you all to take more time and effort in moving forward with this ordinance.

Rachles Let me ask you a question. You said that you were concerned about the wrong development. What's your--help me out and tell me what you mean by a wrong development.

Kunz I think that is an opportunity for a community to help define itself. I mean, I think that as the Village of Zionsville and as the Town Council before the expansion into Union and the rest of Eagle Township, I believe that Zionsville had a sense of itself but when you think about all this new green field that we have ahead of us and all of these opportunities we have for a large developer to come in and dramatically change those areas, I think it behooves us to know exactly what we want and to have that vision of what we want to be. I don't think I am the one that needs, I am happy to help but I don't think I'm the one to design that vision. I think it's something that a community as a whole needs to work on before we get to the technicalities of ordinances, I think it is important to do a master planning opportunity so that people can actually get a chance to feel some--to have a feeling of what lies ahead, what is in there for them. I mean people have made large investments in this community with their land space and they really need to have some idea of what just swirl out of the sky into their neighborhood and the PUD ordinance can be scary to people that have land and have preserved their lands and have a sense of what this community is—so--

Rachles Let me ask you a question. Are you nervous about seven residents of Zionsville or seven residents from Zionsville that on an elected Town Council wouldn't have the same concerns that you have? Do you think that these people and the people to come that serve on the Council and on the Plan Commission don't have the same concerns that you have?

Kunz I think it's about trust. I think you verify too. You know, I think what you're saying is that's great. I've had a very, very good relationship with the Town Council of Zionsville. I've held them in high esteem for years and thought they've done an excellent job so I'm not here, I'm not here to, you know, throw aspersions anywhere, I'm here to say that my concern is that this is a new day for Zionsville and I'm just saying in that new day let's take a good look at what we've got and be careful because it's so special that we could lose it. You

know, I lived at Geist growing up, I saw what can happen. You know, I've lived places and seen these things happen and it's easier to have that happen than it is to have it special, it's very hard to keep it special.

Rachles Thanks for your comments.

Schiferl Mr. Chairman. Can I ask Dr. Kunz a question?

Schiferl Dr. Kunz, I heard you give us your address--

Kunz Our farm is in Marion and Boone County--so we have

Schiferl Do you live in Zionsville?

Kunz My physical address is in Marion County.

Schiferl Thank you.

Kunz But, our farm extends into Boone.

Stacy Ralph Stacy, I've resided at 60 South Street for the past 64 years. I had my first reading of the proposed PUD. I read the proposed PUD from the subcommittee meetings that Mr. Mundy had referred to which I think comprised of three members of the subcommittee. It was interesting when the final meeting happened, it seemed as though one member seemed to be feeling just like she did before any of the subcommittee meetings. Another member who is no longer a member of the Plan Commission didn't feel that there was a need for PUD at that time and it was interesting that Mr. Mundy seemed to kind of be in between the two of them and doing a nice job to try and keep things on a calm move-ahead mode but that was an interesting thing that I observed first hand by attending regularly those subcommittee meetings and especially the last one. In reading the proposed PUD, I would just like to share with you some of my notes, some of my thoughts. In the first paragraph where they talk about a PUD being comprised of a combination of residential, commercial and industrial, it sure seems to me, at least from right now and probably in the very near future that what we really need to be nurturing is the enhancement of generating tax revenue from commercial and industrial new development. I don't know that we can afford any additional residential development and I can't tell you when that would be. That's a big question mark out there. I do agree that I think it would be a good idea to consider a new master land use plan for the new town of Zionsville. This is something new and different and I think we really need to spend some time like we have in the past on previous master plans but it's different. This is a much larger area and we really need to have more input, I think. I was quite interested in hearing what Wendy and David and Fritz had to say about what their thoughts were. On page 2, I wondered about the minimum of at least 20% of the gross area of a site should be retained in open area. That is under item D under guidelines for design. I have not taken the time to see what we actually have now on the books. Terry, could you possibly educate me and the audience on that or very similar?

Jones It varies.

Stacy It varies? Yes. To me that's something I think we really need to take a good hard look at and when I read that and some other things in the PUD, it reminded me of a very outstanding program that we went to about 10 or 15 years ago up at Wabash College where Randall Arendt, a well-known national planner was there and we went up at seven o'clock and got back at quarter till one in the morning. It was very informative and some of the things that I think I see in here seem to be things that he was talking about and I liked what he said about what he was saying. On down, under lot area and the low width

general, I was surprised that there shall be no requirements for a minimum lot size noted. Again, one of the earlier individuals that talked about, I mean, this, this is like four pages, this isn't a small telephone book. There's a lot of things like that, that came in mind to me. I was surprised to see the section in here--if the PUD uses any combination of private well or an on-site sewage treatment septic system, the minimum lot area and lot width requirements shall be met or exceed the minimum imposed by the Boone County Health Department or any successor agencies there too, and I think the Boone County Health Department was around when we had Cedar Bend and when we had other package sewage treatment plants in the past in some development areas that seemed to outlive their natural or their built use and had to get on town sewers eventually. I just had those few comments that I wanted to make this evening. It's sort of a preliminary for me but I think you've had some good input up to now but I just question whether the residential PUD--is the timing correct? We sure need some tax generation to help our constituents, no longer constituents to me but we need some tax enhancements. Thank you very much.

Rachles Thanks Mr. Stacy. Next up. Name and address please.

Lamberjack Cindy Lamberjack, 7103 West Street and my question I guess if I may direct it to Mr. Mundy. You had mentioned that your, the committee that you sat on had researched different PUDs throughout the State of Indiana, and I was wondering if maybe you could tell us a little bit about the--and you also said that there are good points and bad points that you saw--if you could tell us some of the, the-- so we could have a picture in our minds of some of the goods ones. In your mind what your committee thought was good and if those good things are incorporated into the ordinance, if you feel they are.

Mundy You are testing my memory now.

Lamberjack I know, sorry.

Mundy It's been sometime ago so I miss a target on some of these but uh--and those of you who might have attended, Mr. Johnson's presentation last year or more recently, Mr. Johnson and Mr. Kingsbury who gave probably the poster child for bad examples would be the Shell Station in Fishers which is a PUD and obviously that's not what PUDs were designed to do but it resulted in that because it was approved as a PUD so it was examples which turned out to have unforeseen consequences or certainly ill effects as a result of being approved and developed. Now, I do not know if you were asking about specific communities which had good or bad--

Lamberjack I was actually.

Mundy Okay. I am not going to be able to sort out--we looked at probably six communities and I can tell that none of the six became exactly what we have. We tried to select those things which we thought were beneficial to put into a PUD. A lot of that was derived from Mr. Johnson's presentation from last year that took place while the subcommittee was meeting and I think that having enough elements in there which do provide a framework is necessary, at the same time having and I will go back to something that Mr. Carr said earlier, I think there's a misconception that the PUD is to be the size of a phone book. What was said was that the PUD, the development plan for a PUD might be that and if you have an Anson, you probably have a PUD request that is the size of a phone book but none of these communities have an elaborate PUD ordinance. It is all condensed into a matter of a few pages. Some as little as one page. So, I think that the one thing that you've got to get comfortable with is that the enabling ordinance gives you only a framework and that it then requires good judgement by a Plan Commission and a Town Council to make good decisions based on their knowledge of the community, what they would like to see the community become but it is not a set of phone book size ordinances

that make up the structure that forms a PUD ordinance. So I don't know if I answered all of your questions or not but I....

Lamberjack No, thank you, that was good. I was hoping to get just a little more specifics just so we could have an idea of what you guys think is good. I guess it maybe just goes along with that trust question that somebody talked about because I agree with you but I just don't know what those specifics are.

Mundy Again if you have taken a look at this one, it does provide some basic framework for what would need to be done in order to come in with a request for a PUD if we have an ordinance but not the great detail that some of the zoning ordinances might have. I think that's one of the hallmarks of a PUD in probably every community is that they are not elaborate and cover every conceivable element that the developer might come in with.

Lamberjack Okay. Thank you.

Rachles Next speaker. It is actually okay to come up and get in line. It will save us a little time if you could.

Rapp My name is Captain Douglas Rapp, I live at 4544 Skipping Rock Court. I am a career military officer and it may have worked out to my advantage to haven't been allowed to participate in politics for quite sometime so excuse me if I am a little informal up here but you know I went to the meeting the other night and it was extremely informative. Some things that came out of it were the fact that this PUD does not have to be used. Is that correct?

Voice Yes.

Rapp And the other thing that came out that I heard over and over again is--and I think you just said it--was it--you know that PUD process has to be approved by either you or the Town Council. So, the final thing I heard there that really struck a chord was both objective presenters said, well this would be a good thing to have in your tool bag so I'm kind of--I found it kind of incredulous that you know we can't move forward with a tool before architects lay out a plan. I mean, the master plan, the master use plan, you know, it exists and it will continue to be refined. It has to be a living process. To not have this tool will confine us by the regular ordinances. So, I heard a lot when I as an outsider just moving here 14 months ago when I looked at Zionsville as somebody who was looking at coming here versus somebody whose lived all their life. You know, I looked for the things that attracted me to this community not the things I was comfortable with. You know, the thing I keep hearing over and over again is controlled growth, controlled growth, controlled growth. This is the ultimate way to control the growth, you know. I have faith in this process. I have faith in you as, as the Zoning Committee and I have faith in the Town Council and if we want to move forward instead of continuously dragging our feet and waiting and waiting, then we need this ordinance. Thanks.

Rachles Thank you. Next.

Postelthwait Good evening, I am Kathleen Postelthwait, I live at 7274 Hunt Club Lane in Zionsville and I have just a couple of comments. I guess I would really like to see us have a very clear and well-articulated vision for what the town of Zionsville, which includes the undeveloped rural areas, Eagle Township and Union Township, should look like going forward. It seems to me that it's important to have tools for development but tools are the second step after you have an articulated vision for what we want this area to look like in the future. I also just want to make a brief comment about well-meaning individuals because having been involved in the Hunt Club area Homeowners' Association, we have dealt in Lebanon with Area Plan Commission. Mr. Parks I think has seen us in front of his

Board a number of times. We never had any doubt about how well meaning the individuals were both on the APC and also the County Commissioners. What we found was that ordinances have to be very well written and defensible because ultimately if the decision comes down to something that is not palatable to a developer or somebody who wants to use the property in a given way, you often find yourselves having to defend those things in court and so it is not about well-meaning individuals or somebody who is not worthy of trust, it's about the possibility of litigation and being able to all be satisfied with the outcome of those ordinances. The other thing that concerns me about this in looking at the proposal that is in front of us here is the sentence that says--land uses which would not be otherwise permitted to locate within the existing zoning districts are proposed for development so on and so forth. So would there be no areas which would be exempt from these possible PUDs? Are you going to confine them to only certain parts of these undeveloped, unincorporated or these areas that have been added to the town of Zionsville or will they be possible in any place? Will the Hunt Club area possibly be subject to a PUD? Could somebody apply to 100 acres within the Hunt Club area? I guess that would be question number one and secondly, at some point I would really love to have somebody explain to me what is listed in item No. 4 which describes the objectives and goals of smart growth, the last being performance-based implementation developments which doesn't make any sense to me but hopefully one of you can describe what that means at some point later. Thank you.

Rachles Name and address please.

Pittman Hello, good evening. For the record, my name is Steve Pittman, I reside at 370 Sanner Court, that's in Carmel, Indiana. My principal office is at 12400 North Meridian, Suite 190. I want to make sure I get full disclosure of who I am and why I am here. Like the previous gentleman who owns the dairy farm who lives in Marion County, I live in Carmel, I live in Hamilton County. I have probably four land parcels that I have an ownership interest and significant investments in Zionsville and Boone County that makes this area of interest to me. So part of that full disclosure let me tell you who I am. I'm a broker, I'm a realtor, I'm in construction, I'm in development, I'm in real estate consulting, I'm a real estate investor, I'm a farmer and I'm a taxpayer. Extremely enough, I have never developed real estate in Zionsville; however, I would say for the last 10 years I have tried to stay abreast of what is going on in Zionsville so I have attended many of these meetings. One of the things I'm interested in is that I think this is a good document. I think it's important that real estate values being both houses, farms, raw land that values increase. We want economic development tools and documents allow property values to increase. I think probably everybody in here would want their values to go up. I think we want our quality of life in this town to increase and we want our tax base to become diversified. I think this document helps do that. That being said, I would like to thank the people who hosted the meeting the other night, the Cornerstone Group. I had not met them before and felt that they did a very good job of bringing in two professional land planners who had different takes on what a PUD is and I thought they did a really good job. In addition to that, I would I like to thank Terry Jones, unfortunately for him he's got to deal with all of us that come in and want to share our opinions, and he's nice enough to spend a little bit of time with me when I talked to him about it. A PUD versus no PUD. I guess let me start out by saying, people who are scared of this today, I would have the right if I was a developer and wanted to go and develop a piece of land off of Hunt Club Road, I would have the right to come to you and say, you know, I'd like to make this beautiful horse farm and office park--I have the right to ask that and you have the right to tell me no. This PUD is the same thing as any other zoning ordinance, you have the right to tell anybody no when they come forward with a plan. So this is an opportunity for you to have an additional tool in your toolbox. If you don't like something that someone is offering, you just say no and to give you an example of that in the real world, I'm not a golfer but I'll use a golf analogy. If you're out playing golf and you're ready to go out and you don't have a sand wedge in your set of clubs and someone says here's a sand wedge, would you like to take this with

you? You don't know if you are going to need it or not but you probably want to take it. That would be a reason to use that additional tool. Then another comment I want to make also in analogy is the fear of the unknown, the fear of how you guys are going to use this and how the Town Council is going to use this. I remember when I was a youngster starting on my basketball team and a new kid moved into town. A new kid came to our school and the rumor was that he was a really good basketball player. Well all of us were afraid that we were going to lose our starting position so we kind of maybe didn't like that guy, we didn't want him to be there so we were afraid of the unknown. If we had the big picture in mind we would of thought maybe I lose my starting position but maybe our team is better for it. So goes a PUD. It gives the municipality extra protection that those voted into office have the final say on land use change. I think that's an important thing that you guys as the planners look at this from a planning prospective. You're just one layer and it'll go on to you Town Council to review this as well. You have another layer and those are elected officials so I think there's a lot of protection there. A PUD is good because it allows for additional integration of uses that a straight rezone currently doesn't allow. Through this process the municipality can get very specific commitments from developers. Example. I recently was involved in a large development in Carmel, this is an example of the PUD document that we wrote and then in addition to that, we created these design guidelines that we shared with the municipality where we specifically called out things as detailed as what plant material can be used. We actually designed three different landscape patterns that had to be used so it was very specific and people knew what they were getting. So it allows development to deviate from the single-use monotonous developments that dominate the landscape and I am not saying that dominate the landscape here but dominate the landscape in many places in Indianapolis. I was thinking about something about Zionsville that people really like and one thing that pretty much everybody likes that I've talked to is the downtown Zionsville area and when I was thinking about that, I was thinking, boy if I wanted to go out and recreate the downtown Zionsville area, I probably would need a PUD to do that. Correct me if I'm wrong but I would probably need a PUD if I wanted to integrate office, residential, if I wanted to have a civic place for a library. I guess you could have all of these different rezones for every area but a PUD would allow you to do that in one document. Here's another reason from a developers perspective why I do think it a PUDs good. It gives the developer flexibility as he attempts to market his property usually for several different uses. An example of that would be in the past when the market was good, a developer would come in with a plan, he would buy the property or he would get it rezoned, he would buy the property then he would immediately start developing it. Now, as part of the landscape has changed economically and as we are trying to diversify our tax base, I think a PUD tool is a nice tool because it would allow a developer to get his plans approved and then he has the ability to go out and market that and go talk to companies and retailers and say--these are the uses allowed on this property, would you like to be here?--and now I'm seeing developments that we thought were going to take five years to develop they are going to take 20 years to develop and we've gotten PUDs approved. We've gone in and we've said okay, in this particular pocket we would like for this area to be several different uses because we don't know what the market is going to allow. So for instance, in this pocket we think regular business office would be appropriate, medical office, a continuing care retirement center. We would list a number of different things and when we would list those things we would work with the planning staff, the Plan Commission, the Council and we would make commitments on how tall the buildings could be, what the materials of that building would be, what the landscape requirements would be, what the lighting would be, what the signage would be and when everybody got comfortable with that five years down the road, if we made a sale to let's say Conesco wanted to put their headquarters on a piece of property in Zionsville, they'd be subject to that PUD and they would have to come back in and get development plan approval for you all to review to make sure that their plan complied with the PUD. Anyway, I talked about downtown Zionsville. I think another really good development to look at that has been very popular and has been popular to my demise, is the Village of

West Clay. I didn't develop that, I've developed a lot of single-use neighborhoods around it and the times that we have competed directly with the Village of West Clay, we've probably lost the sale to the Village of West Clay 70-80% of the time and people have been willing to pay a premium to be in West Clay over our developments. So I think, I think that's--both are examples of good PUDs and then last I want to talk specifically about--I read the PUD and I made a few comments as well and I thought I would just discuss it with you quickly. On page one of your Planned Unit Development, I think it's important that you all and your Town Council have the ability to turn down a PUD for any reason, in fact, you don't have to give a reason and so on the last sentence of the first paragraph it says--the review of the Planned Unit Development by the Plan Commission assures that such developments are consistent with the objectives of the town's comprehensive plan...and as the planners that came in the other night, I heard this question being asked and they said that the comprehensive plan is just a guideline and coverage of plan is typically updated once every 10 years and the world changes and most rezones, many times that I've seen them at least, are not consistent with the comprehensive plan. There's a reason for it not to be consistent and you guys have the ability to decide whether or not a plan should be consistent with your comprehensive plan. So I would recommend that you strike that sentence. In addition in the paragraph, it's added uses within a Planned Unit Development. You discussed comprehensive plan there as well. I think that should be crossed out. On page two when you talk about guideline for design, an example, really a PUD you want it to be pretty general because you are going to review every aspect of that plan when it comes in. There's a one sentence I noticed that says streets should curve so as to discourage fast movement of traffic. There's times where that's not a good example, a good way to slow down traffic because the street curves and how much does it curve. Many times, if you look at traditional neighborhood developments, if you look at the Village of West Clay as an example, most of those streets are straight in your design and not a curve in your design and those smaller blocks actually slow traffic down so there's many ways for traffic-calming devices. I also noticed, it says height of buildings in excess of 35 feet, this would be on E, should be designed and planned to be reasonably consistent with the neighboring property. Okay the reason why I wouldn't get specific there is because that might lead someone to believe that a building 34 feet in height doesn't need to be consistent with adjacent properties. If it's 20 feet, 35 feet, 40 feet, it needs to be consistent and work well with those things that are around it and then as I jump back to page four, item 10, it says the location and sizes of existing and proposed sanitary and storm sewers, water mains, culverts and other underground facilities in or near a project giving a list of things that should be determined during the PUD process, well the PUD is a, once again, it's a rezone process and you don't go into that type of specifics during a rezone. You--a developer will bring you construction plans and at that point they determine exactly where the pipes go, how big the pipes are, there's another time that that would be reviewed but to have a developer be spending hundreds of thousands of dollars doing design plans, only for you guys to say I don't like your PUD, you don't need it at that point in the process and I also went back on page five, actually it would be under the heading, Review Standards, and it talks about--here's where I think you're covered with everything. It says the Town Council--the Plan Commission and Town Council may consider and base their recommendations and decisions on the following information, conformity and purpose and intent of the PUD. Okay, that's a good place to discuss the PUD. The quality of site design, all those things and I just added on item I--it says the provision of a performance bond equal to one-half the total cost of the proposed development. Okay, developers will bring in performance bonds when they develop the property so they'll bring in for all the public infrastructure and it will be 100% of the public infrastructure and then when they go to a maintenance bond it's typically 20-30% and so to have that provision, provision of performance bond equal to one-half the total cost of the proposed development, I mean, you're going to bond for your buildings and your landscaping and your lighting and your signage, I mean your protected in that area so I think if this was something you kept in here it would be a document that wouldn't be used

and ultimately I think you want people to use that. I also added once again a subparagraph J where I just said--any item determined to be important to you all. If a developer doesn't comply for whatever reason, you should have that. You don't have to give someone a reason why you don't like the PUD. So that closes my presentation and I guess I would encourage you to support this tool for your toolbox and not be afraid of that basketball guy that might take your starting position. Thank you.

Rachles Thank you, next speaker.

Price Thank you, Mr. President. My name is Matt Price, I'm on the Zionsville Town Council. I have an address of 485 West Sycamore Street right in the Village in Zionsville. I think there's been many good comments tonight and I certainly understand how there could be some angst over a proposal like this because I think there are certainly some folks in our community who have done an excellent job of developing zoning ordinances to regulate their own properties and by that I mean formulating and having the county adopt an equestrian residential district covering their properties that was very effective and I can certainly appreciate why they would not want to have any new proposals following consolidation which would, in any way, detract from their hard work and really what I think the promise of consolidation is, for our community is, not only detracting from or taking away from something like the equestrian residential district that many of our neighbors on Hunt Club area have been able to get past but rather to emulate on a community wide basis that approach to land use and what I mean by that, is having land uses and zoning classifications that really reflect the will of the people who live in the area. So to hear today that like Mr. Carr indicated and Mr. Stacy that our community has no trouble attracting new residential investment, well of course, I mean I think that's self evident and no one is suggesting that the appropriate use of this PUD, at least in the near term, is the development of more residential properties. We've proven that as a community we can be very effective at developing or ineffective at developing more and more residential uses, many of the same types of residential uses over and over again at densities that are even higher than what I would consider low density and have driven all types of expenditures, in particular with our school corporation, which is a quarter of a billion dollars in debt right now because of the growth policies in part that were followed over the last decade in our Community. Consolidation was not approved because we didn't know what direction we were going as a community, it was adopted by overwhelming majorities because we knew precisely where we were going as a community which is that we're committed to low-density development. We want target economic development in areas where the community at large has expressed a will to diversify its tax base and we have a commitment to open space and where I would like to see this PUD ordinance be employed potentially or at least be available should an attractive proposal present itself, is the area adjacent to or perhaps neighboring now under your new verbiage the areas in and around Street. And the reason why that's important to me and I think important to the Town Council and to the community at large, is that as a community dating all the way back to 1998, we created a tax increment for the Anson District with the idea that we were going to realign Street and the areas neighboring Street were going to be specifically identified for diversifying our tax base. It dates all the way back to 1998 beginning with Tom Easterday was on the Town Council back in those days and over the time from 1998 to present we've pretty much followed that plan as the Council and as Plan Commissions have changed from time to time we've basically followed that plan. Most recently opened up a new Street last fall and winter and the town through a combination of federal funds and our own tax dollars spent about \$8,000,000 to realign the new Street. So that road that you travel on today, had a lady pass me on it this morning by the way on the way to work, that road you travel on today cost \$8,000,000 to build and in part being funded by tax dollars that are coming out of that tax district. Then secondly you'll see if you could go south down Zionsville Road today, you'll see sewer lines that are beginning to be installed down Zionsville Road. That represents another \$2,000,000 in part again being financed by tax dollars coming out of that same tax

increment district that was really the brainchild of Tom Easterday and then about half of that or 40% of the funding for that sewer project coming from the Recovery Act dollars. We were fortunate enough as a community to get a grant of the tax dollars that many of you sitting in this room pay to the federal government. So, I think that at least for the immediate future, that we owe it to this community and to ourselves to see that the hard work beginning with Tom Easterday and continuing through to the present day is not delayed anymore than it has to be and that we have the appropriate tools in our toolbox so that if someone comes along with good proposal for diversifying our tax base that requires the ability to perhaps mix uses where perhaps you could locate a restaurant in the same place where somebody worked, that's what we're really talking about. If you could do something like that in a creative fashion, extend perhaps some of the themes that we have on Main Street today, extend them south down Zionsville Road, incorporate the Citgo Station perhaps and areas adjacent to Street, you could do that and have development standards which were of a kind and quality that reflected our communities values and at the same time diversify our tax base, then I think we can all say that we did our part or fulfilled our part of the equation that really Tom Easterday began back in 1998. I think that's important. That's what this PUD is designed to be used for and I'll just close by saying one other thing which is that I do agree, I think with Kathi Postelthwait's comments and perhaps even some comments from Ms. Brandt that to the extent that a vehicle like, somebody would come along and want to use it in areas that were formerly unincorporated, whether it's in the Hunt Club area or whether it's in Union Township, I can certainly understand why we may want to further develop and refine our comprehensive plan so that well-intentioned people like yourselves and well-intentioned people like those serving on the Council with me, would have I think a clear indication of what the community's desires were as far as the type of development that they'd like to see in a particular area. So, this does not preclude us from continuing to work through the comprehensive planning process. In fact, I kind of take it as a given that that is exactly what the community wants to see and not taking anything away from what the county did to develop the current comprehensive plan we have for the former unincorporated areas now because I think they did a very good job and I think that left us with a body of work that we can build on and refine and just make all the better as we continue to work through the issues that affect those areas. But we've got time to do that and we've got bigger fish to fry in the interim but we can work those issues as a community just like we worked consolidation but I think for the immediate future, we need to have this tool, I think it's a reasonable request. It's one that goes to one of the core objectives of our community right now which is to sensibly diversify our tax base. The areas around Street are screaming out for that, for every tool potentially available. We do not have investment knocking down our doors adjacent to Street. Anybody who's trying to tell you that doesn't know what they're talking about. So, I would ask you to pass this along with a favorable recommendation and then we can all roll up our sleeves and continue with the comprehensive planning process as we work through the years. I thank you.

Rachles Thank you, next.

Pittman Mr. President, my name is Chad Pittman. I reside at 11675 East State Road 334 in Zionsville, IN. I am going to cut to my comments because I don't want to repeat what's been said but I do want to say that Cornerstone Group, that was a great presentation last week and I think it answered a lot of questions. I work for the State of Indiana right now, my charge is to go out and recruit investment from around the world to come to Indiana so I'm competing against any place in the world trying to give a compelling reason why Indiana makes sense to grow their business so that's—I don't compete within Indiana—that's the Jack Gordon, I'm not sure if he's here but he's your economic development leader, that's his job to compete for Boone County and Zionsville. I will tell you it's a global marketplace. You know that from your businesses. It's a competitive marketplace and businesses are looking for reasons to say no, to find that one place in the world they can go to grow their business. I will tell you that Mr. Price is right when he says that

people are not knocking on the door to come to Street. You got to have the tools in your toolkit in order to be able to track the kind of investments that I think that you guys are looking for. The Dow Agro Sciences which are just on the other side of Street. It's a beautiful campus. I question whether or not they could actually execute that under the current zoning. I don't know but I would like the PUD enabling ordinance which is an enabling ordinance like Mr. Mundy referred to and not an actual PUD which are the books that my brother showed you that usually those projects look like. It's an edge credit. You can use it if you want to. You don't have to use it. You're not compelled to use it. There is absolutely no downside to having it. You can say no for any reason that's not—unless it's unconstitutional. That's a good position to be in when you're negotiating with a developer or a would-be investor. You know, candidly I've heard a lot of concerns here and I agree with them and I'd be more concerned about our existing subdivision control ordinances and some of the uses they permit. Specifically on the Dow Chemical site as it exists today and under its current zoning as I3. You can look across the community at some things--we maybe really do not want that use here and I think we can point to some examples over the last years where that's indeed been the case, we've spent a lot of money litigating and I think, I'm not sure if we've won any of those lawsuits because you don't have, even if we had this enabling ordinance, somebody could still come in and put one of those uses that permitted under the current Subdivision Control Ordinance so I think this is just one step along the way to at least give a developer or an investor the next Dow Agro deal or whatever it is that we as a town decide to go after the right tool to be able to encourage them to be flexible and developed with what this town's looking for. To just hit a few last points. We talked about commercial diversification. I'm telling you, the people your competing against around the world have flexible tools and have a leadership that say, yes quickly, when they know what it is that they want. It's almost like Peyton Manning can see a receiver and hit him before anybody knows what happens because they all know what the game plan is faster than the defense knows and you can decide not to throw the ball if you don't want to throw the ball. That's totally in your court and again we can actually win once as a town when we say no in litigation. Being cautious, I think we should be cautious but again when there's no downside to have the ability to have a forward pass in your inventory but we lost some key terrain to Whitestown as a community. When I take my kids to play soccer every weekend, I'm playing soccer at the Zionsville Soccer Fields in Whitestown. So if key terrain that another community will be able—I mean it should be great commercial ground and hopefully our friends in Whitestown will develop it appropriately but we have really no say in that community because we were so cautious looking for reasons not to control terrain and I would hate to see us continue down over cautiousness especially when a tool has no downside and you can say no and miss more opportunities that could avail themselves. Another great point is the Traders Point Creamery which I love taking my kids to and great chocolate ice cream by the way but it's in Marion County and Marion County has a PUD enabling ordinance. You could do a PUD on that site today if the owner decided to sell it to a developer or decided to do a PUD there himself. You could that there in Indianapolis today. So, you know that, it exists today but no one's decided to do it yet and it would have to go through the Marion County City Council so I'll conclude my comments of that but I think it's a tool that will help you compete globally. Thank you.

Rachles Do we have another speaker? We will allow you to rebut. Hopefully within three minutes.

Brandt Again, my name is Wendy Brandt and I think I don't have to go into anything more than that. I'm on record. I wanted to just quickly review the history in Boone County of PUDs because Boone County is where this town is located. Boone County has only had to my knowledge a PUD proposed for Royal Run which was defeated. After we defeated it, we were able to reduce the number of houses proposed out there considerably but it still has the highest or one of the highest rates of default out there. When Randall Arendt was here, he said it was a terrible place to have a housing development out there but there were other reasons. The next PUD, I was a county commissioner when that came up.

That PUD was around the Indiana Golf Course, it really wasn't a PUD, they wanted to put houses around the golf course. We never understood what the PUD issue was about unless there were plans for something future that hadn't come up yet but in any event, the vote was 2-3, I voted against it because I thought it was simple residential development around a golf course and within three years it went away. They never developed it. Never. The last one was, that I know of, the one that is now called Anson, it was in Boone County at the time and after it was approved it was annexed into Whitestown. Zionsville got all the housing and the schools and Whitestown got the commercial. Now, in regard to our need for PUDs, there are other ways of creating a mixed use development. You can have an overlay zone, you can have a lot of things but I'm not here representing myself as a planner. The one thing I want to say about this ordinance that I'm very concerned about is when you go through a Planned Unit Development process, as Mr. Guernsey when he was a commissioner said, he thinks there should be a lot of hoops that you should have to go through. I'm very concerned in the ordinance here, it seems that the Board of Zoning Appeals is almost purposely not as involved as I think they it should be in a PUD ordinance and the reason I say that is that once PUD is approved the only quasi legal group that can overturn the decision of a plan director is, if I'm not mistaken, the Board of Zoning Appeals. It also has the ability to hold public hearings if there are issues so I think there is a great deal of need to go over this but in general I think you're being asked to do and I think it should be on the fast track, is we have two sets from two separate master plans controlling the urban and the rural area and I'm a little confused how you can start adding a thing like a PUD when you're still under two separate master plans. That's why I think we need to get a master plan and it seems to me that you have to get the ordinances that support the wishes of the people that are affected within the area that we're talking about. The rural people out in what used to be Union, the decisions for that came from all of Boone County. I think we need to get together the rural and the urban and knock out a master land use plan on a fast track and then add the supporting ordinances that back up what the will of the people in the now new town of Zionsville. Thank you very much.

Rachles Okay, last chance, anybody else who wishes to speak? Okay, any comments from any of the commission members.

Mundy There were a number of questions asked I guess and I know I didn't get all of them and I don't think we could probably answer all of those immediately now but one of them I think asked by at least two people and Ms. Postelthwait being one, was about the ability to say no to a developer. We've heard from one developer who said you can say no for any reason and I had that same concern. Can we really say no and not risk putting the town at risk and I wonder if our council would respond to the ability to say no to a developer because we feel, obviously I don't think it'd be for frivolous reasons but for good reason to say no.

Rachles Carol—

Drake I'm probably not as black and white on that as some of the comments you've heard. I do believe that both the Plan Commission and the Town Council if presented with a proposed Planned Unit Development District have a great deal of discretion particularly the Town Council because these are legislative acts. That said, they don't have unlimited discretion. I think one gentleman did recognize within constitutional limits. I would go further and say not just constitutional limits but it cannot be an arbitrary and capricious action in total disregard of constitutional or similar rights. However, there is a lot of discretion to say no when presented with a Planned Unit Development District. The bottom line is that it just needs to fall within the criteria, is it consistent with your comprehensive plan, is there something about it that you think is now consistent with the area where it's proposed. Will it be detrimental to the traffic? Will it be detrimental to neighbors? So there's almost an unlimited menu that you can turn to the developer and

say, we need you to reconsider this if you would like us to consider your plan further, but the lawyer in me won't let me say you can turn it down for any reason but it's a lot of discretion.

Rachles And that's a good point. At the meeting the Cornerstone Club had the other night, we did hear that the Plan Commission could turn it down at anytime and we think that is not necessarily correct?

Drake I think any reason you could be challenged by the same folks who would tell you that but there is no question your discretion is very broad and because it is a legislative act, the judicial branch reviews it with differential review for constitutionality or arbitrary capriciousness but they leave zoning to the zoning folks.

Rachles Steve, do you have any other comments?

Hawryluk I believe, a very important part of the PUD, whether for or against, is I believe the town must as a screening process have a documented set of goals of where we want to be in years to come. For example, we're lacking on a tax base, an over supply of residential and as Mr. Price pointed out we've got to increase the industrial base, the commercial base. There are certain areas where we want to preserve and probably be off limits for a PUD. You know the Hunt Club area was pointed out as a equestrian special area so I think the town really must have stated goals that are used as a screening process and goals that everyone understands so that when decisions are made they're made in accordance on a moving positive plane. That's one input.

Rachles Any other comments by members of the Plan Commission?

Mundy I will share my feelings. My wife and I purchased property here 11 years ago and we chose Zionsville. We could have gone anywhere. We weren't living in the United States at that time and we knew we wanted to retire relatively soon and we chose Zionsville so it's a community we liked before we lived here and now we love it. So, we don't want to see it greatly changed. I became somewhat involved in the community later after we were here, first with the Homeowners' Association so that if any of you've had that experience you know what that's like and Mr. Stacy, I think, hit the nail on the head. The subcommittee was made of up left, right and center. I was center because I really didn't know, didn't know what a PUD was and I took that opportunity to learn as much as I could about it and what impact positive or negative or both it might have on the town of Zionsville. I did it for only that reason and so I kept my mind open and I tried to listen and learn and the first public hearing which some of you attended my conclusion if I had to conclude after that meeting would have been that this is a bad deal. We don't need it, it has some devious hidden agenda which will bring the wrath of something to Zionsville that we don't want. Over the next six months I learned a lot more about PUDs and I found that much of that is ill founded. They can be horrible instruments and they have proven to be bad things for when a proving body makes a bad decision; however, my ultimate conclusion was that I have a lot of faith in this group and I'll be honest too, one of the reasons I pushed for this to be continued until this year was that we were going to have four new people on the Plan Commission, probably more than that because I didn't expect to be here and I didn't know what kind of decisions they would make but after four years on the Plan Commission and a number of people who have served on that Plan Commission, I have a great deal of faith that the people on this commission want exactly what the people of Zionsville want. Now, I'm not 100% because you got some that want to go left and some that want to go right but they still have the same intent in terms of the outcome for this community so I really changed my view of what a PUD can do for the community and I believe that it is valuable tool to have, it's a valuable instrument that we can use and we will use it well. Is it going to be absolutely perfect in 100% of the time, probably not but our current zoning is not either so my feeling is that this represents a

good way to do something which does provide us the opportunity to have some mixed use, to broaden that commercial and that industrial base. The element of wrong thinking to begin with that this is Village of West Clay in my mind, that's what a PUD was and it's not, it can be a lot of things but it's not just that but I think it's a useful tool and it is a tool that we currently have for the old Union and the unincorporated Eagle right now. They have an ordinance which does allow a PUD. We do not have that in the old town of Zionsville. I think it makes sense for all of us frankly.

Rachles Any other comments?

Schiferl Mr. Chairman?

Rachles Yes, Kevin.

Schiferl I have some comments but I first have some questions for our attorney. Ms. Brandt raised some procedural issues and she indicated she was ready to be corrected if needed and I don't know so I'm going to ask but I heard her use the word authorizing, and to my understanding she was using it two different ways, so my real question is do we have any procedural problems with what's before us tonight on what I understand to be a second public hearing?

Drake As you know, Mr. Schiferl this predates when I became the Plan Commission's Council. I am relying on the propriety of how this was originally placed on your agenda. I do believe it was deferred then and that the minutes which have not yet been approved, should reflect a discussion that I heard at my first meeting about having an additional hearing on this specifically because of the rural area had come in so that it would be properly noticed for both the rural and the urban areas. But, that's when my knowledge on this started and I'm not familiar with the problem.

Schiferl Thank you, and I just wanted to clarify for the public, I think Mr. Rachles, our Chairman, wisely suggested we have another public hearing on this and I'm fairly confident that we've crossed all the T's and dotted all the I's with regard to that issue. I do appreciate you weren't here for those but I also wanted to just address the comments about authorizing. While I understand and have read the statues, the authorization, that is the voting on it, can only be done by this body or the Town Council but as far as "authorizing" Mr. Jones or Mr. Mitro or Joe Six-Pack if we wanted to write something and bring it to us, that's a separate issue, correct?

Drake That is a separate issue.

Schiferl And for that reason, I just want to make sure that we're all on the same page, that I didn't see unless you tell us Carol, an issue with any ill authorization as to how this got before us to be put on the agenda.

Drake That was what I was addressing earlier, not the latter.

Schiferl Okay. Well, my only other comments really are getting to the substance. I think I'm the only person or the person most recently on this board that has dealt with PUDs. I was the chair of the Boone County Plan Commission for six years, from 2004 just to December, and I will tell you that I heard the comment about a phone book and I think this is the Zionsville PUD Ordinance. It's three pages long and it's exactly what someone said that the point behind the PUD ordinance is it's an enabling legislation. When you actually get to the PUD itself, you have a booklet that's quite thick and Anson was a development which is about 181 pages and that's the phone book when you get to the actual implemented Planned Unit Development. I think I would echo a lot of the comments Mr. Mundy made and I won't repeat them but I do want to address the comment that was

made by someone that spoke this evening that said, don't adopt a PUD because it would circumvent our normal safeguards. Well, in fact, it does just the opposite. A PUD could send a two-step process through legislative enactment that has to take place. First this body which is an appointed body has to vote on it and there's public hearing and comment on it and a vote is made and a recommendation one way or the other up or down is made to the Town Council. The Town Council, then the elected body then votes on that and so there is a two-step process that takes place with the PUD. Unlike, our "normal safeguard" that's in place right now which is a subdivision ordinance. The subdivision ordinance that is in place is that if someone before us and meets the subdivision ordinance, we are in a ministerial position and we just have to say yeah or nay, if it meets within the bounds of what's in that subdivision ordinance and that's this body, this nonelected body, not the subdivision. So, if we have land that's zoned right now one way or the other industrial, commercial, residential and someone comes before us and says this is what I'd like to do on that land and they meet those things, we really have no discretion as Carol used the word before it's an administrative function and I think that this PUD enabling ordinance actually gives us and enhances the process. Lastly, I don't know why there's so much vehement opposition to the whole concept of having a tool in our toolbox to use. I did check and do my homework the Indiana Planning Council as well as the National Planning Council over—can you tell us has there ever been a city or town that has had an enabling ordinance for a PUD put before that has voted down having it?—and the answer I got was no. There have been amendments to them, there have been changes to them, there has been suggestions to it. I think we've had that as part of the public discussion we've already had. I have voiced publicly before and will again tonight while I'm in favor of this PUD ordinance, I do think that at least in my mind, it still should have some minimum acreage requirements and I haven't yet quite yet put my finger on it but I do think that's something we should look at.

Rachles

Any other comments?

Parks

I've got some comments and I predate Mr. Schiferl on the APC and it was during the time I was on the APC that the actual first county PUD ordinance, enabling ordinance, was actually incorporated into the zoning ordinance for the county and I was there for the one that Ms. Brandt talked about at the golf course. The thing that was surprising to use when the Plan Commission at that time was the inordinate amount of time, effort and paper that it took to write that ordinance so anytime somebody comes forward to want to do a PUD it's going to be with the idea that this board, the Town Council and especially Mr. Jones and his staff are going to be spending upwards of 8-12 months putting together that ordinance and the 181-page tome that will come from it. So therefore one of the suggestions that I'm going to make is that and I as some of the ones who watched us work before, I've been a strong proponent for major developments that the developer comes forward with a development plan ahead of time that says okay, this is what I want to do and this is why I want to do it in a PUD. One of the things that zoning ordinances and subdivision control ordinances are they're very static and they reflect what might have been the best knowledge of people at the time they were written and many of these are written sometime ago. The actual PUD ordinance that is our current ordinances is in error because it was the ordinance that actually I drafted because the chart that is there is one that came off my computer. That's bad because it was actually repealed by the county but the commissioners hadn't communicated that on to us so we're going to have to change the PUD ordinance anyway in order to conform with the county. We might as well do it right. The other thing I did after the meeting the other night, I started writing down some of those areas where you might think about where a PUD would be of value. One of the things that on the APC the Area Plan Commission for the county, that I always wished we had a PUD for was Hoosier Village because there is no place where you can think about that doesn't have anymore different kinds of uses in the same ground space, and remember zoning ordinances deals with ground, and therefore, the ideal place for a PUD is a retirement center. My mother lived in Robin Run and the building that she lived

in the basement there was a bank, there was a pharmacy, there was a pub, there was a restaurant, there was a beauty shop, etc. then on the second floor they had a chapel, they had a meeting rooms and game rooms, there was a swimming pool and then above there were various types of assisted living apartments. You can't do that under a zoning ordinance the way we've got it set up right now. That's one idea of where you might want to do it. The reason why we did the PUD around the golf course was we wanted to protect an existing asset. What other existing assets might we have in our now 50-square mile area that might be conducive to that kind of planning? One of the questions for council is one of the stipulations in the current county PUD ordinance is that the property being presented needs to be under one owner. I'd like to take a look at that because one area you might want to take a look at saying okay, how do we develop effectively using a major asset might be the airport and what that might mean. It was mentioned the downtown center is another type of an area where you would use a PUD and that type of thing. Major intersections. How would you develop now with five lanes coming in from the east, and all four of those corners effectively to tie in with the idea of building our tax base which may not call for that being total residential. Mixed-use developments like West Clay of course, the whole corner that has been developed on 421, also on I65 but we have overlay districts on top of overlay districts. A PUD is nothing more than one major overlay district or a smaller and more minor type of an overlay district. Cluster communities or unusual topography and Ravina is a classic example. You built and people came. Minimum lot size is significantly lower than what you allow. Stonegate's the same way. Many of the big houses over there by the school where they had their open house, all of those houses are on lots that are significantly smaller than what was envisioned by the county and yet those are snapped up for the most part and used. Remember, that zoning goes with the land and therefore it can't deal with multiple uses within a single property. I'm just going through my notes here real quickly. One other question for counsel that goes back to the golf course. If we approve a PUD, there ought to be a sunset rule that says you got to start before that allows it to get off the books. Then the issue that came up on Tuesday, I agree that was a great seminar, at the end of the development of the PUD do we go back to reverting back to the underlying zoning in order to handle ongoing kinds of changes after the development is completed. One last thing that was mentioned that the BZA has been specifically excluded from the ordinance the way it's set up and that is on purpose. I sit on the BZA, at this point in time I've been to two meetings so therefore I'm deadly but the one thing about it we are legislative. It is not an administrative function and therefore the decisions are made by people that you don't vote for. The way this ordinance has been written, all of the changes would be handled as zoning amendments and thereby having public hearings required in front of this body and the Town Council so you get a chance to come back and talk at that point in time about any changes that might be made to the PUD. That also falls in line with the idea saying that you would start off with a development plan that has concept but then you would flush out the design standards for each individual sections within the PUD as it moves forward. As you can tell, I'm in favor of the PUD as a means of being able to entice people more creative than I am in how to develop effectively, design and propose facilities that the town would like to have that we have no idea what they would be like for a market that we cannot predict and therefore the PUD provides that creative paradigm in which we can operate while still providing the capabilities for multiple levels of public input at multiple times during the process.

Rachles Any other comments by any members of the commission?

Haynes Yes.

Rachles Wayne.

Haynes If I could ask Terry something. The county ordinance requires that there be existing sewage and water available and eliminates the possibility of package sewage plants. Is

there some reason the ordinance as proposed doesn't have that? Or is it just because it was proposed when it was just an urban district and maybe that wasn't a concern?

Jones Well, it would allow for that as a consideration. It doesn't necessarily mean that has to happen. As a matter of fact, that comes under the purview of the sewer district that would have jurisdiction within that area in the event that sewage could not be provided there are other options available. That's regulated again by local jurisdiction whoever would have the territorial authority for that utility and then eventually through the Indiana Utility Regulatory Commission as far as the ability to put any type of a package treatment plant in there anyway. So whether it's in this ordinance or not, it would still have to receive other approval beyond this body if you were to try to submit an alternative type of sewage disposal system.

Haynes The history of their package plants is not very good.

Jones I would agree.

Haynes I was just wondering why we wouldn't just close the door and say you must have this available as the county's done and then there's no question. I'm just saying---

Rachles Last call for members of the commission to have comments so now one of the few good things about being the president of the commission is you get to speak last and so I am going to try and be as succinct as Commissioner Brandt and take three or four minutes and give you my thoughts about where we are on this. Probably in the last year, I've had at least 80 or 90 people come up to me on the street or in some of the local watering places or whatever asking me about this and giving me their opinions. When I first came on the commission, people would come up and testify and say they lived in Zionsville for 60 or 70 years and I was overwhelmed by that and almost invariably they never wanted to see anything change and it occurs to me tonight that I'm not a spring chicken and I've lived here half of my life, obviously not 60 or 70 years, and I've developed a strong sense of trust and respect for the people in all these years different philosophies who have served on the Town Council and the Plan Commission and I've grown to trust them as I trust the people who on the Plan Commission now and the Town Council now and the same people that I think might be there in the future. So, I've lived here for 36 years, owned a house here, had three daughters go through school and graduate, two of them have done very well, the third one the jury's still out on we'll know a little bit more when she graduates from IU next week. My wife has a business downtown on Main Street and I've come to really have strong feeling about this place and desire to see it stay in some ways the same but also change in such a way that it still retains kind of the history, the tradition and the customs we have but prepare ourselves for some new generations coming in here. I really have appreciated listening to Commissioner Brandt and David Carr who is my colleague here for many years and for the other members of the commission. I think that this ordinance should be passed tonight, should be passed as it's written. I think it's probably truly a work in progress. I feel like the Town Council will have a final say on this and they are a legislative branch and they're going to be responsible to the voters for whatever we and they decide to do. We will suffer much less than they will if there's a mistake being made and so for those reasons because I trust the people who serve on this commission and serve on the Town Council will do the right thing, who love the town as much as I love it, will want to see it stay the same but improve as much as I want it to. I will support this ordinance and would want a motion to send it forward with a favorable recommendation to the Town Council and having said that I want to thank everybody for this ability tonight and the decent way they've conducted themselves. We've had two probably controversial meetings since I've been here, the Wal-Mart meeting and this meeting. This one I think set the tone what the town of Zionsville is all about and I want to thank everybody for that. It means a lot to me and I'm sure it means a

lot to everybody else up here so up or down, I'll entertain somebody to make the motion for up or down for approval or denial of this PUD ordinance.

- Schiferl Mr. Chairman, I would make a motion that we approve the ordinance as written with one amendment and that would be the amendment that Wayne suggested that we include verbatim language 2E from the existing PUD ordinance to require that all uses within the PUD be connected to water and sewer services and not on well and septic.
- Rachles Would there be a second?
- Haynes Second.
- Rachles Motion made by Mr. Schiferl and seconded by Mr. Haynes.
- Drake Mr. Schiferl, you said motion to approve just for point of clarification, is that a favorable recommendation?
- Schiferl Motion approved with a favorable recommendation to the Town Council, yes ma'am. With the amendment of course.
- Rachles Seconded by Mr. Haynes. Any discussion on the motion? Because of the significance of this rather than just have a Aye or Nay vote, I would ask the secretary to call the roll.
- Voice Mr. Hawryluk.
- Hawryluk For.
- Jones Mr. Haynes
- Haynes Yes.
- Jones Mr. Jones.
- Jones Yes.
- Jones Mr. Mundy.
- Mundy Aye.
- Jones Mr. Parks.
- Parks Aye.
- Jones Mr. Rachles.
- Rachles Aye.
- Jones Mr. Schiferl.
- Schiferl Aye.
- Jones Mr. President, that's seven votes in favor and none opposed.
- Rachles The motion is unanimously sent to the Town Council with a favorable recommendation. There is no further business on the agenda. I will entertain a motion for adjournment.

Voice So moved.

Voice Second.

Rachles The meeting is adjourned.