

# AREA PLAN COMMISSION OF EVANSVILLE AND VANDERBURGH COUNTY

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

September 8, 2005

## ROLL CALL

**Mr. Foster:** I would like to call the September 8, 2005 meeting of the Area Plan Commission of Evansville and Vanderburgh County to order. Will the secretary please call the roll?

### Members Present:

Tammy Barnett, Derek Dunigan, Roger Herrin, Bill Jeffers, Jeff Kniese, Mike Lockard, Cheryl Musgrave, Phil Offerman, Bill Pedtke, Stacy Stevens, Curt Wortman, Mark Foster

### Members Absent:

Yvette Payne

### Area Commission Staff Present:

Brad Mills, Executive Director; Beverly Behme, Zoning Administrator; Janet Davis, Zoning Enforcement Officer; Donna Holderfield, Zoning Enforcement Officer; Kevin Winternheimer, Counsel

## APPROVAL OF MINUTES

**Mr. Foster:** Is there a motion to approve the August minutes? (Motion was made and seconded.) The minutes of the August meeting are approved.

I would like to welcome all of you here this evening on behalf of my fellow Commissioners and the members of the staff of the Area Plan Commission. For those of you who have not been here before and are not familiar with the process, we are generally a recommending body that meets the second Thursday of each month. We recommend zoning decisions to the City and County legislative bodies. However, the Area Plan Commission is the sole authority on subdivisions.

## **REZONINGS**

**Mr. Foster:** For rezonings, it takes seven affirmative votes to recommend approval of a petition or seven negative votes to recommend denial of a petition. In the event that there are not seven votes, it still goes forward to the City Council or County Commission with no recommendation. The City rezonings we hear tonight will be heard by the City Council on October 10, 2005, at 5:30 p.m. in Room 301. The County rezonings considered tonight will be heard by the County Commissioners on September 20, 2005, at 5:00 p.m. in Room 301.

**Mr. Foster:** The Area Plan Commission has established the following guidelines to be followed for both rezonings and subdivisions. Mr. Mills will begin each presentation. As each case is called, the petitioner and the remonstrators who intend to testify will please stand and be sworn in at the beginning of the process. If your name is not on the petition, those who plan to testify need to please fill out the sheets in the back of the room. All testimony must begin by stating your name and address for the record.

The petitioner or person appearing for the case being heard will have a maximum of 10 minutes for the presentation of evidence, statements, and arguments in support of the petition. Then there will be a total of 10 minutes for the remonstrators. This testimony will be followed by a five minute rebuttal period for the petitioner as a summation of the case. Any request for additional time must be voted on by the Board. A timer will be used to help enforce the time limits. Both petitioners and remonstrators should organize their testimony to adhere to these guidelines.

When there is a group of individuals remonstrating against a petition, we strongly encourage the group to designate a spokesperson. If it is necessary for more than one remonstrator to speak, the group should meet out in the hall before the Area Plan Commission discussion of the agenda item, to coordinate the information presented, so that each speaker addresses a different issue of concern. In order to expedite the meeting, remonstrators should refrain from repeating the same concerns already expressed by another speaker about a particular development proposal. The Plan Commission appreciates the cooperation of all participants with these guidelines.

If the Commissioners have questions about issues that we feel have not been sufficiently addressed by the applicant, we have the option to request a continuance until the information needed to sufficiently answer our concerns is available or provided by the applicant or technical staff.

The following petitions will not be heard tonight:

Docket No: VC-9-2005 Gregory Moore 8530 Middle Mt. Vernon Road  
CONTINUED TO OCTOBER AT PETITIONER'S REQUEST

Docket No: 15-S-2005 Ansbro Subdivision  
CONTINUED TO OCTOBER – NO DRAINAGE APPROVAL

If you are here on either of these petitions, you may wish to leave at this time.

**Mr. Foster:** We have a request from Andy Easley, representing Mystic Creek, Docket No: VC-4-2005. This is a request to withdraw the zoning request and the waiver for the one year rezoning freeze of the property. We need a motion to approve the request to withdraw. Since we have not actually heard it, I don't think there would be a freeze on rezoning it.

**Mr. Mills:** The rezoning was for a PUD that wasn't adequate and did not meet all the requirements. So it did not come before you. I believe they are trying to iron out some difficulties they have.

**Mr. Foster:** Is there a motion to grant this request? (Motion was made and seconded.) (Voice vote.) Upon unanimous voice vote, the request is granted.

Now let's move on to the first rezoning petition.

**Mr. Winternheimer:** Mr. Mills, on all petitions this evening, do you swear or affirm that the testimony you will give is true and accurate so help you God? (Mr. Mills has been sworn in.)

### **OLD BUSINESS** **CITY REZONING**

Docket No: 2005-22-PC R-2005-14 Petitioner: Interprop Fund VIII, LP

Address: (Complete legal on file.) 2600 Oak Hill Road

Nature of Case: Change from an R-4 zone with a use and development commitment to an R-3 zone with a use and development commitment.

**Mr. Mills:** Les Shively is representing Interprop Fund VIII, LP and this petition to rezone the property located at 2600 Oak Hill Road from R-4 with a use and development commitment to R-3 with a use and development commitment. This is a 45 acre site located on the west side of Oak Hill Road, between Pigeon Creek and Lake Drive. This site was rezoned in 1998 to R-4 with a use and development commitment. This is a request to rezone the site from R-4 with the use and development commitments detailed previously to R-3 with a new use and development commitment. This petition was continued one month at the petitioner's request to allow changes to the use and development commitment, and continued a second month to allow satisfaction of notice requirements. The new use and development commitment addresses access and certain improvements to Maxx Road. The commitment also includes a paragraph that seeks to relieve the Petitioner from any obligation to pay for the costs of a traffic control signal at the intersection of Maxx Road and Oak Hill Road. The installation of a traffic signal was not part of the original use and development commitment of ordinance R-98-3 which rezoned this site in December, 1998. The covenant regarding the traffic signal is a private agreement between Interprop Associates Inc. and the City of Evansville, dated December 21, 1998. Relief from this private covenant with the City of Evansville is more appropriately addressed directly

between the two agreeing parties, and not made part of the new rezoning petition. A copy of the proposed new use and development commitment was included with the staff field report that went out in the Plan Commission packet. The Shadowlawn subdivision plat (now known as "Ellington Ridge Subdivision"), which received primary approval by the Area Plan Commission on June 9, 2005, covers 21.6 acres on the western side of the site. Although the right-of-way for an extension of Maxx Road adjacent to the site was previously dedicated, only 270' of this roadway has been built connecting to Oak Hill Road. This short segment of Maxx Road would not provide access to the proposed subdivision entrance road (Road 1). The existing commitments include extending Maxx Road 425' west of Oak Hill and 150' south from its current southern terminus and utilization of this 150-foot extension as the exclusive construction entrance and as an access for the apartments, construction of culverts under Maxx Road and construction of engineered fill for the remaining Maxx Road extension. These items have been removed from the proposed Use and Development Commitment. The petitioner needs to show that the subdivision entrance will access a paved portion of Maxx Road. The Comprehensive Plan Future Land Use Map 2025 details this area for residential use. The site was rezoned to R-4 in 1998 for multi-family development. This change in zoning from R-4 to R-3 is consistent with the residential plan for the area.

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

**Mr. Shively:** My name is Les Shively. Brad's report is pretty comprehensive. Let me just hit the highlights. Half of this property has been platted and parts of it recorded. The developers will be developing the northwest half as a single family residential subdivision, and the plat that was recorded shows that portion of Maxx Road that will still need to be constructed extending up to the entrance of their subdivision. They have a letter stating that they have worked all this out with the City and Pat Keepes is well aware of what they are going to do. Back in 1998, this was rezoned R-4 for 600 apartment units. So we have changed this quite a bit to single family residential and the remaining will be for multi-family for no more than 200 units. My guess would be that there is a good chance those may be converted into condos later. But this is a major change from what it was originally zoned for. It is something the neighbors welcome. The neighbors also don't want that Maxx Road going all the way through for obvious reasons. They want to try to keep the residential character there. The developers don't want it either. So everybody is on the same page. The additional right-of-way has already been dedicated back in 1998 for the widening of Oak Hill Road. Most of the work there at that boulevard area, which is Maxx Road, that has been done. The turn blisters for the most part are in. There may be some more work that needs to be done. But for the most part, all the things that were supposed to have been done as part of the 1998 use and development commitment have been done, with the exception of taking Maxx Road all the way to that northwest point because that will no longer be necessary. They have given their blessing to this. Councilman Melcher and Councilwoman Koehler-Walden has also indicated that their people don't want to see that go through. So that is it in a nut shell.

**Mr. Kniese:** The City Council, through budget hearings, has recently taken money away and out of CIP for the extension of Maxx Road. So that is not even in the works for City Council's budget for '06.

**Mr. Shively:** Thank you Mr. Kniese. As part of that original arrangement, the City was obligated, when we did the basic road bed work, they were going to have to come in and do some work and spend some taxpayer dollars. So that alleviates the necessity for that expenditure. Thank you for bringing that to our attention.

**Mr. Foster:** If Maxx Road did go through, they wouldn't cut through my parking lot at the corner. Any other questions?

**Mr. Jeffers:** On the bottom of the first page of the staff field report, City Engineer, Pat Keepes' comment is no longer applicable. Would that be the case? The way Mr. Mills presented the petition?

**Mr. Mills:** That would be correct.

**Mr. Jeffers:** Pat Keepes is aware that he has withdrawn that comment?

**Mr. Mills:** I don't know that he has withdrawn that comment. That was his comment at the time.

**Mr. Shively:** I don't represent the folks that are doing the subdivision. But it is my understanding that Mr. Keepes and the Mayor and the Councilmen came to an agreement. The whole reason for the traffic control signal was envisioning Maxx Road going all the way through. Well, that won't be necessary any more if we don't take it all the way through. Going back to the budget concerns, 50 percent of the cost of that signal would have been born by the City.

**Mr. Foster:** In reference to the traffic signal, that is a private covenant.

**Mr. Shively:** I wasn't involved in that rezoning. The private covenant sort of cropped up on it's own. It somehow tied in with the old use and development commitment. That's why we addressed it here. But from a practical standpoint, that isn't going to happen.

**Mr. Foster:** But that is between the two parties of the private covenant. What we do here has no affect on that covenant.

**Mr. Shively:** This will be the largest subdivision done within the City. These are going to be homes that will be in the moderate price range. So this is a great project overall. I think it is something the Mayor would want to encourage.

**Mr. Jeffers:** These are single family homes?

**Mr. Shively:** Yes.

**Mr. Jeffers:** But we are changing it to R-3?

**Mr. Shively:** From R-4 to R-3.

**Mr. Jeffers:** Is there a reason why we are not taking it down to R-1?

**Mr. Shively:** Part of the reason is because of the setbacks and things of that nature, to be able to get more lots in there and the layout of the properties. It made a lot more sense. It is still a downzoning no matter how you slice it. The plat has already been recorded. So we are bound by the plat. The plat dimensions of the individual lots meet the minimum requirements.

**Ms. Stevens:** INAUDIBLE QUESTION

**Mr. Shively:** No. What I said was, the part that is not currently part of the subdivision, the plan right now is to use that for a 200 unit multi-family facility. I was saying, depending on how successful the subdivision is, there is a good chance we might see that go to condominiums.

INAUDIBLE QUESTION

**Mr. Shively:** It is 21.6 acres.

**Ms. Stevens:** But the whole plat we have here, every one of those lots will be single family?

**Mr. Shively:** Yes. And you have already approved the plat. Under the zoning ordinance, you couldn't get two structures on one lot.

**Mr. Mills:** It looks like in the packet, we gave you a reduced version of the subdivision plat. It looks like 81 lots.

**Mr. Shively:** That is a medium density type situation.

**Mr. Foster:** There are 81 single family residences. Then there will be 200 apartments and/or condominiums.

**Mr. Shively:** The original plan was for 600 multi-family units.

**Mr. Foster:** Are there any remonstrators?

**Ms. Harp:** Susan Harp, 2515 Glenn Avenue, president of Oak Hill. Yes, we are very happy that the 600 apartments will not be there. Had they been there, then we would

have needed the traffic signal. This is a much better use for this land. We think everybody is happy. We are glad the Maxx Road issue got solved because that would bring all that traffic through. We are hoping that maybe condos would go in on the other portion.

**Mr. Shively:** We really appreciate Susan's help. She had some good ideas for Mr. Neville and was helpful to the developers of the single family subdivision. She keeps a good eye on the property.

**Mr. Foster:** Is there a motion for approval? (Motion was made and seconded.) Call the roll.

Ayes: Ms. Barnett, Mr. Dunigan, Mr. Herrin, Mr. Jeffers, Mr. Lockard, Ms. Musgrave, Mr. Offerman, Mr. Pedtke, Ms. Stevens, Mr. Wortman, Mr. Foster

Nays: None

Abstention: Mr. Kniese

There being 11 affirmative votes and 1 abstention, Docket No: R-2005-14 goes forward with a recommendation for approval.

### **NEW BUSINESS** **CITY REZONINGS**

Docket No: 2005-30-PC R-2005-19 Petitioner: David and Barbara Wood

Address: (Complete legal on file.) 4220 N. Fulton Avenue

Nature of Case: Change from an R-1 zone to an R-3 zone.

**Mr. Mills:** Easley Engineering is representative for David and Barbara Wood and this request to rezone their property located at 4220 N Fulton Avenue from R-1 to R-3. The Woods' have a 3.229 acre site located on the west side of Fulton Avenue, between Buena Vista and Mill Roads. The conceptual site plan indicates that a single access point is planned onto Fulton Avenue to serve as access to the 18 condominium apartment units planned on the site. The plans indicate that Fulton Avenue is widened at this site, tapering back to the minimal two-way roadway just south of the site. Access will be determined by Site Review Committee after submission of plans for the development of the site. This site is located in a growing area of multi-family residential uses. Residences are adjacent south and west of the site. Where new multi-family development is adjacent to residences, it is desirable to incorporate landscape features into the site design as buffering for the adjacent homes. The Future Land Use Map in the Comprehensive Plan designates this area for residential uses. This step up in zoning to R-3 for this 3.2 acre site is consistent with the surrounding zoning and uses. Multi-family development is considered a residential use.

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

**Ms. Lockyear:** My name is Krista Lockyear. I am here tonight representing Randy Johnston. Randy has this property under contract from the Woods. He would like to develop it with 18 condominium units. Last spring, you may recall Mr. Johnston was here to develop Ivy Gardens condominiums. This property is directly across the street from the subject property. Ivy Gardens were so popular, they have sold out in approximately 10 months or less. So Mr. Johnston has had demand and requests to build some additional condominiums and managed to find a property directly across the street that would be suitable for this. The site plan does allow for to the west of the property, there is a large area that will remain undeveloped and provide a nice buffer to the residents to the west. The residents to the south, Mr. Johnston has spoken to them and it is my understanding they talked about saving as many trees as they can to buffer that area. In addition, there is about 40 feet located between buildings 1 and 2 that will be green and landscaped. Mr. Johnston is going to use all the efforts he can to keep this as green as possible while getting the 18 units in there that will make this project feasible. These condo units are very desirable. They are single store, have attached garages with them. This is multi-family rezoning. There is multi-family across the street and one side of this property already. This is an appropriate zoning for the area. The roadway has already been widened by Mr. Johnston when he developed the first phase of the project. For all those reasons, we ask that you recommend approval of this to City Council. Thank you.

**Mr. Foster:** Are there any questions? Are there any remonstrators?

**Mr. Goebel:** My name is Marlin Goebel. I have appeared before this Commission quite a number of times. I have a few concerns. I tried to contact Mr. Johnston through his attorney and engineer and wasn't able to. As you know, I am the owner of Kenzie Estates right next to the property. If you look at the picture, it is the property with all the trees. That brings back a memory when I came down here and the neighbors were concerned about the trees then. I am concerned about the density and about saving some of those trees. The neighborhood is not very dense. All those homes are pretty deep, and the density isn't that high. Mr. Johnston did a good job with his construction across the street. But I am concerned about the density and some trees between Kenzie Estates to maintain the integrity of what has been designed there. I am all for development. I found that it doesn't take a whole lot in the way of expense, just in the way of design, to improve the project a lot. He has indicated on the plans that they are going to widen the street. I would like to make sure that would happen. I didn't see anything about water retention. I would like to talk with him about it. They mentioned between buildings 1 and 2 that there would be green space there. I am wondering if they could leave some trees there to blend in with the property next door. Maybe Randy and I could get together to make a covenant on this. Thank you.

**Mr. Foster:** Are there any questions?

**Ms. Lockyear:** Mr. Goebel did call me and expressed his concerns about the density and saving of trees. With regard to the density issue, the 18 units is really what needs to happen to make this a viable project. I think it is interesting. We did do an analysis of the apartments compared to this property. The apartments have 64 units on 5.832 acres, which comes to 10.97 units per acres. Whereas, this project will be 18 units on 3.229 acres, and that is 5.57 units per acre. So we are half as dense as the apartment complex. They are two story so that explains some of the difference there, but we are not overall even taking into consideration the two stories. We are not any more dense than that property is. As far as the trees, Randy and I walked the property. Those trees in the back will remain as a buffer. Randy will try to save as many as he can. It will help his property sell as well to keep as many trees there as possible. I would be happy to talk about some specifics with Mr. Goebel in regard to the buffering. In general, I think this is a consistent rezoning with the area. It is a desired rezoning by the market and we would ask for you approval.

**Mr. Foster:** Are there any questions? There is a motion for approval. Call the roll.

Ayes: Mr. Dunigan, Mr. Herrin, Mr. Jeffers, Mr. Lockard, Ms. Musgrave, Mr. Offerman, Mr. Pedtke, Ms. Stevens, Mr. Wortman, Ms. Barnett, Mr. Foster

**Mr. Foster:** (During roll call.) I think it is appropriate land use. Hopefully the parties can get together and identify those trees that can remain and keep it consistent with what Mr. Goebel did at Kenzie. So I vote yes.

Nays: None

Abstention: Mr. Kniese

There being 11 affirmative votes and 1 abstention, Docket No: R-2005-19 goes forward with a recommendation for approval.

Docket No: 2005-32-PC R-2005-20 Petitioner: Community Action Program of Evansville (CAPE) Address: (Complete legal on file.) 3012 Dearborn Street  
Nature of Case: Change from an R-2 zone to a CO-2 zone.

**Mr. Mills:** Alice Weathers, representing the Community Action Program of Evansville (CAPE), is requesting to rezone the CAPE property located at 3012 Dearborn Street from R-2 to CO-2. The 0.14 acre site is on the south side of Dearborn Street, between Cumberland & Delmar. Access to this 50' x 125' site is from a public alley along the east side of the site. There is an existing 4-space gravel parking lot on the rear of the lot which provides parking for the two residential apartments. The conversion of half of this building to an office use will require a review of access and parking by the Site Review Committee. Parking lots for commercial uses must be paved with a hard and sealed surface. Commercial uses adjacent to residential development must maintain the minimum 25-foot green front yard and a minimum 10-foot green buffer area along

property lines adjacent to residential. The Comprehensive Plan designates this area for residential uses. The site is in a residential neighborhood adjacent to commercial strip development along Broadway Avenue. All adjacent properties are R-2 zoned residential uses. If commercial development is to be permitted within residential areas, office development can be the least intrusive commercial use, as it limits the kinds and types of uses which are permitted.

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

**Ms. Reed:** My name is Mary Reed. Alice Weathers is our executive director. I have been asked to submit this petition for review. This will be a light office on the first floor. Right now it is two different residential apartments used as a shelter for temporary and transitional. We have walked the neighborhood to get the opinion of the neighbors and the church. This building is the old fire house at Howell. It is the only building that is facing Dearborn. We have had some complaints from the neighbors because there is no security or no way of policing the transitional people in the shelter. So we would like to turn the first floor into a light office where someone would be there all day Monday through Friday. It would make the area secure and make sure it is maintained the way it should be. All the neighbors were in favor of it. We have talked with Mr. Padget. They seem to be in favor of it. I think it would be a good thing. Moving part of our community services to that area would give the west side people a chance to have the opportunity to use our services because now they have to get the bus or have someone drive them. This would put them closer to their own area.

**Mr. Foster:** So this would be a CAPE office?

**Ms. Reed:** Yes. What we want to do is extend and expand on our community services. So this building would not be for sale at any time.

**Mr. Foster:** You wouldn't rent it out to anyone else? You would be occupying it yourself?

**Ms. Reed:** Right. In the packet you received, I was told, we posted the sign and we also sent letters to everybody. We talked to the people that were available on the abutting property as well as across the street. Everybody seems to be enthusiastic about the change. So we ask for the change from residential to light commercial.

**Mr. Dunigan:** How many staff members will be located at the facility?

**Ms. Reed:** Probably no more than two at a time in the beginning. Since it is a shelter right now, but if there is the opportunity to house some families there due to the hurricane, we will do that and delay so we can help those people. But we plan on starting in November.

**Mr. Dunigan:** So you anticipate your current parking would be more than adequate?

**Ms. Reed:** There is a four-parking spot area over there now. It is not hard surface. There is also the street. I don't think you are going to have the traffic there that we have at our main office.

**Mr. Jeffers:** With regard to having a manager on site to monitor the behavior of the tenants to relay some of the complaints from the neighbors, other apartments that are zoned R-2 or R-3 can have a manager's office without a CO zoning. Is that correct?

**Mr. Mills:** That is correct?

**Ms. Reed:** This proposal is for putting a light office in there. They will be taking applications for community services that we provide.

**Mr. Jeffers:** With regard to a satellite office on the Westside in Howell, I would note that there is thousands of square feet of vacant office space available at this time. Many buildings are vacant and available for light commercial. Is this building on the historic register?

**Ms. Reed:** I don't know.

**Mr. Jeffers:** And you say that no more than two employees at any one time in the beginning.

**Ms. Reed:** We start in November. I think there would be two people there. They will be taking applications for our energy assistance program. They will take the people from the Westside and any overflow we may have from our main office. But they could possible change to one of our office operations such as a Head Start office.

**Mr. Jeffers:** With regard to energy assistance, that is where I was headed. Your energy assistance includes persons who install and other things in the home.

**Ms. Reed:** The energy assistance is for income eligible households so they don't have to have shutoffs or disconnects in order to apply for it.

**Mr. Jeffers:** Will this evolve into something that will have service trucks and in need of a dumpster?

**Ms. Reed:** No. There is a dumpster there now. But is supposed to be accommodating the shelter. We were planning on utilizing the downstairs for offices. We think that having someone there working would curtail some of the mischief and all that has been going on, and help keep it cleaned up. We are trying to keep the place cleaned up and improve the neighborhood.

**Mr. Jeffers:** I am thinking in the future, if it is zoned CO, what may happen in the future. I am just trying to determine what you need for what you want to do. Apparently, you do need CO. But I thought maybe you didn't at first.

**Ms. Reed:** The proposal they put together and tried to show you was what we planned for the two apartments. We have had that for a number of years. We renovated and put a lot of money in it. The City gave us the building

**Mr. Jeffers:** I am familiar with the building. It was a total wreck.

**Mr. Foster:** Are there any remonstrators?

**Mr. Padget:** My name is Fred Padget with Westside Improvement Association. I would like to bring forward a letter to put into the file please. We agree this would help to provide better security with the residents that live here now. There have been some complaints. The other thing, this would allow some of the services to be provided more locally, especially to the Howell residents and with the energy assistance program. We think that will be a real benefit to the neighborhood. Mr. Jeffers talked about what would happen afterwards. Who knows when that might be. But that is one thing we don't really have a provision for that if this building was sold, that it would revert back to it's previous zoning. But we don't have a mechanism for that. But it would be nice to have. Even though this would be a spot zoning, we do support this project and think it is a good project. Thank you.

**Mr. Foster:** It is CO, and light office is the only thing that can go in there. It can't be commercial. Is there a motion for approval? (Motion was made and seconded.) Call the roll.

Ayes: Mr. Herrin, Mr. Jeffers, Mr. Lockard, Ms. Musgrave, Mr. Offerman, Mr. Pedtke, Ms. Stevens, Mr. Wortman, Ms. Barnett, Mr. Dunigan, Mr. Foster

Nays: None

Abstention: Mr. Kniese

There being 11 affirmative votes and 1 abstention, Docket No: R-2005-20 goes forward with a recommendation for approval.

## **NEW BUSINESS** **SUBDIVISION**

**Mr. Foster:** The rezoning portion of the meeting is now over and we will now hear the proposed subdivisions that are on our agenda. As stated earlier, the Area Plan Commission is the sole authority on subdivisions. State law and our Subdivision Control Ordinance dictate the issues the Plan Commission can consider when reviewing a subdivision application. Unlike a rezoning, consideration of a subdivision is limited to whether it complies with the standards and requirements in the local Subdivision Control Ordinance. If a subdivision application meets the requirements set forth in the Subdivision Control Ordinance, the Area Plan Commission must approve the primary plat. Indiana Courts have indicated that Plan Commissions have no discretion in this regard, and that our role in reviewing and acting on subdivisions is purely ministerial.

Seven affirmative votes are needed to approve a subdivision plat and conversely, seven negative votes are required to deny a plat. In the event that there are not seven votes for or against, this is considered a no action vote and the plat returns to the next APC meeting for consideration.

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

Now let's move on to the subdivision.

### 16-S-2005 Morgan Estate, Replat of Lots 9 & 10

Part of Section 15, SE T6S/R10W Knight Township Map C1-217

Location: Located on Welworth Avenue, north of the intersection with Morgan Avenue.

**Mr. Mills:** The Morgan Estates 2 subdivision is a 3-lot residential subdivision located on 3-acres north of Morgan Avenue at the end of Welworth Avenue. This proposal is both a replat of and a small expansion to the existing Morgan Estates subdivision. Lots 9 and 10 are proposed to be larger than originally platted and Lot 21 will be a new, additional building site. The area is zoned R-3 and contains one residence. The remainder of the property is currently undeveloped. The Subdivision Review Committee reviewed this plat on July 12, 2005. This plat was continued in August due to failure to meet notice requirements. The plat shows that frontage for all three lots will be provided by the Welworth Avenue cul-de-sac. Submittal of a drainage plan for this subdivision is not required according to the City Engineer. Water is available at the site but a sewer extension will be needed. Utility easements on the plat should be revised to the satisfaction of the Utility Department prior to recording. The plat should be revised before recording to indicate the name and title of the person who will sign for the Ohio Valley Insurance Agency. Staff recommends that the Morgan Estates 2 plat be

approved with the conditions stated in the staff field report, as the plat complies with the Comprehensive Plan and the requirements of the Subdivision Code.

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

**Mr. Shofstall:** My name is Justin Shofstall with Easley Engineering. This was originally set up as a two lot minor subdivision replat. During the course of the replat, the 2.5 acres was not properly platted with the other subdivisions in the past and this is to incorporate that to make this a legally conforming lot. This is for Lots 9 and 10 to be replatted to add that additional 25 foot strip of frontage on the north ends. The remaining 2.5 acres to the north, at this time, the developer has no intentions of developing that. If he does, then it would be reserved for a single family residential property.

**Mr. Foster:** Any problems with these two conditions: 1. Add the name and title on the plat of the person who will sign for Ohio Valley Insurance Agency. 2. Revise the plat prior to recording to show utility easements that are satisfactory to the Water and Sewer Engineering Department.

**Mr. Shofstall:** No problems with that.

**Mr. Foster:** Any questions? Are there any remonstrators? (None.) Is there a motion for approval, subject to the following conditions: 1. Add the name and title on the plat of the person who will sign for Ohio Valley Insurance Agency. 2. Revise the plat prior to recording to show utility easements that are satisfactory to the Water and Sewer Engineering Department. (Motion was made and seconded.) Call the roll.

Ayes: Mr. Kniese, Mr. Lockard, Ms. Musgrave, Mr. Offerman, Mr. Pedtke, Ms. Stevens, Mr. Wortman, Ms. Barnett, Mr. Dunigan, Mr. Herrin, Mr. Jeffers, Mr. Foster

Nays: None

There being 12 affirmative votes, Docket No: 16-S-2005 is approved.

## **BUSINESS MEETING**

**Mr. Mills:** I have one other item. If you look on the screen, you can see a page from our web site. If you go to the Area Plan Commission web site at [evansvilleapc.com](http://evansvilleapc.com), it will show you agenda and minutes which is highlighted in red. When you select that, it will take you a location where you can select either Area Plan Commission or Board of Zoning Appeals, which will give you agendas and minutes. You can see that we have agendas and minutes for the entire year on our web site. If you click on the current month, we put the links to the rezoning requests and the staff field report. As you pan down, you can see the color rezoning map that was shown earlier. All this was

prompted by Mr. Lockard who had been spending his spare time surfing the Internet for all the zonings across the United States. It is an excellent suggestion and we would like to be progressive and help our community and give them information. So this will make it more available. You can see that we have highlighted in red "continued to October" So that would give the residents the opportunity to go to our website and see if the item they have concern with has been continued so they don't have to take a day off of work and drive down here and talk to us.

**Mr. Lockard:** And to you guys and the entire staff, this is a really neat thing you have done. I think it is very helpful.

Meeting adjourned.

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Mark Foster, President

Attest:

The undersigned secretary certifies that the foregoing are minutes and not intended to be a verbatim transcript. Audio tapes of the proceedings are on file in the area Plan Commission office.

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Bradley G. Mills, Executive  
Director/Executive Secretary

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Karen Yokel, Transcriber