

# 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

December 11, 2008

## ROLL CALL

**Ms. Stevens:** I would like to call the December 11, 2008 meeting of the Area Plan Commission of Evansville and Vanderburgh County to order. Will the secretary please call the roll?

### Members Present:

Dan Adams, Dewey Colter, Roger Herrin, K.C. Jain, Bill Jeffers, Lynn Lowe, Bill Pedtke, Tom Shetler, Jr., Erika Taylor, Stacy Stevens

### Members Absent:

Anthony Brooks, Jeff Korb, Mike Lockard

### Area Commission Staff Present:

Bradley G. Mills, Executive Director; Janet Greenwell, Zoning Administrator; Donna Holderfield, Zoning Enforcement Officer; Joe Harrison, Jr., Counsel

## APPROVAL OF MINUTES

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

## REZONINGS

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

The Area Plan Commission has established the following guidelines to be followed for both rezonings and subdivisions. Mr. 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 City rezonings considered tonight will be heard by the City Council on January 12, 2009 at 5:30 p.m. in Room 301. The County rezoning considered tonight will be heard by the County Commission on December 16, 2008 at 5:30 p.m. in Room 301.

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

**Mr. Harrison:** Mr. Mills, do you swear or affirm that the testimony you will give tonight is true and accurate so help you God? (Mr. Mills has been sworn in.)

### **CITY REZONINGS**

Docket No: 2008-39-PC R-2008-23 Petitioner: Kathleen and Brandon Field

Address: (Complete legal on file.) 1450 Bellemeade Avenue

Nature of Case: Petitioner requests to rezone from a CO-2 zone to a C-1 zone with a use and development commitment.

**Ms. Field:** Dr. Jeffrey and Susan Gray are the current owners of the property. I am Kathleen Field. We are looking to purchase the property.

**Mr. Mills:** Jeffery & Susan Gray are requesting to rezone the property located at 1450 Bellemeade Avenue from CO-2 to C-1 with a use and development commitment. This is a small lot located at the northeast corner of Bellemeade & Lodge Avenues. The proposed retail use is required one parking space for each 200 sq. ft. of gross floor area of the building as a retail or office use. The absence of number of required parking spaces may be considered a legal nonconforming characteristic of the use of the building, as the building was constructed prior to the establishment of parking requirements in the zoning ordinance. There is a small area at the rear of the building which provides two on-site parking spaces. The existing parking requires vehicles to back out into the street. On-street parking is currently permitted along both Lodge and Bellemeade Avenues. Evansville Metropolitan Planning Organization indicates that this rezoning should have no significant impacts on the existing transportation network. This site was rezoned from R-2 to R-0 in 1978 to bring the existing commercial building into compliance with zoning code use restrictions. In 1989, all existing R-0 classifications were changed to CO-2. This classification change had no effect on any existing R-0's, as the CO-2 restrictions and requirements exactly matched the previous "R-0" classification. The building on this site was constructed in 1925 and has been utilized for a number of office and commercial uses. This is a request to rezone the site to allow establishment of a neighborhood retail use in the building on this site. The use and development commitment included as part of this petition limits retail use of the site to a specialty store for family, children, and baby items. This site is located in an older area of predominantly residential zonings and uses. The site is zoned CO-2 and is currently utilized as a neuropsychology office. This rezoning to C-1 to allow a restricted neighborhood commercial use is consistent with the commercial building on the lot.

**Mr. Harrison:** 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. Field:** My name is Katheleen Field. I live at 1375 E. Chandler.

**Ms. Stevens:** Are there any questions?

**Mr. Colter:** In the comments, it talks about the accessibility of rear parking and the conflict with the Access Management Manual. I notice on the back of that parking area, there is a grass area. That is part of the property you want to rezone?

**Ms. Field:** Only a small portion of the grassy area is part of this property. The property line runs on that grass. So the other part would be the neighbor's property. So it can't be graveled over.

**Mr. Colter:** I am looking at access for the neighbor who wants to park back there, if that would improve that accessibility.

**Ms. Field:** Lodge, where it runs right there, all of the properties between Willow and Lodge have that entire lot between there. So there are no houses facing that side of

Lodge. So really that whole street never has parking on it. There is one person with a garage that faces Lodge, but that is it.

**Ms. Stevens:** And parking is allowed on Lodge?

**Ms. Field:** Yes, on both sides of the street.

**Ms. Stevens:** Are there any remonstrators?

**Ms. Benson:** My name is Patricia Benson. I own the property at 1451 Bellemeade, directly across the street. I have no quarrels with the business. The only two things, one is the parking that has always been a problem. I do disagree that the parking on Lodge on their side. I have seen times when there has been parking on both sides of the street with one car going through the middle. That doesn't concern me. On my side of the street, that is a dangerous corner. Several cars have ended up in our yard. Right now, you don't see a lot of parking. But the house on the other side of their building that currently is not being lived in, in the last few years there have been college students renting it. That is when parking has been real bad. The next house to it has parking behind it. So it is alright. Then there is an alley then the business. So that leaves what is in front of their place and our lot to the alley for people to park because I don't see them parking anywhere else. I don't know how big of retail it is going to be. That is my objection to that. The other thing I would like to understand is the use and development. I can understand you restricting changing it for what they want. But if they would move out, then how would that affect someone else moving in?

**Ms. Stevens:** Basically, they would have to come back and have it rezoned. If somebody bought it as the exact same retail store. That is the only thing that can be used for in that zoning. Otherwise, they would have to come back to Area Plan and have it rezoned if they wanted to put an office in there or something different.

**Ms. Benson:** I was more concerned that the type of business, like a smoke shop.

**Ms. Stevens:** They couldn't have anything like that. A use and development commitment is what we really encourage so that the neighbors will know what is going in. It is very restrictive.

**Ms. Benson:** I have no objection to the business. The parking I think is a problem at different times of the years.

**Ms. Field:** Regarding the parking, one of the reasons I had picked this spot is we actually live a couple blocks away from it on Chandler. One of my goals with the business is to be a local place where moms can walk to. So that was part of the reason. I know eventually there will be some that will drive there. But to me, the focus wasn't on people driving. It is all the people I see walking around the neighborhood with their kids in the stroller and biking. That was more the target audience we are going to. You really can't have that many people in there before it gets over-crowded.

**Ms. Stevens:** Are there any other questions?

**Ms. Mills:** I have one comment just to be sure that you are aware. In C-1, there is no outside display of any of your materials or anything.

**Ms. Field:** Yes. If you look at the picture of the outside of the building, there isn't any outside display.

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

Ayes: Dr. Adams, Mr. Colter, Mr. Herrin, Mr. Jain, Mr. Jeffers, Mr. Pedtke, Mr. Shetler, Ms. Taylor, Ms. Stevens

Nays: None

There being 9 affirmative votes, Docket No: R-2008-23 goes forward with a recommendation for approval.

Docket No: 2008-41-PC R-2008-24 Petitioner: David Herrmann

Address: (Complete legal on file.) 1919 E. Virginia Street

Nature of Case: Petitioner requests to rezone from a C-1 zone to an R-1 zone.

**Mr. Mills:** David Herrmann is requesting to downzone the property located at 1919 E Virginia Street from C-1 to R-1. This is a residence located on the south side of Virginia Street, just west of Weinbach Avenue. This is a request to downzone this small C-1 zoned site to bring the existing residence into conformance with zoning code restrictions and to remove the legal nonconforming status designation and the accompanying legal nonconforming restrictions from the site. This downzoning to R-1 is consistent with the adjacent residential neighborhood development and is appropriate to the small size of the lot which makes the provision of adequate on-site parking for commercial use of the site difficult. This site is located in an older area of very mixed zonings and uses. This residence is in an area designated by the Comprehensive Plan as an area of commercial strip development along the Weinbach Avenue corridor. A number of the residences along and adjacent to both sides of this commercial strip are zoned C-1. This downzoning to R-1 is consistent with the existing use.

**Mr. Harrison:** 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. Herrmann has been sworn in.)

**Mr. Herrmann:** My name is David Herrmann. 1919 E. Virginia Street.

**Ms. Stevens:** Are there any questions?

**Mr. Colter:** The lot to the west of the lot being requested, that is going to remain commercial?

**Mr. Mills:** He can only rezone the property that he owns. So we can't have partial zonings on lots.

**Ms. Stevens:** Are there any remonstrators? Is there a motion for approval? (Motion was and seconded.) Call the roll.

Ayes: Mr. Colter, Mr. Herrin, Mr. Jain, Mr. Jeffers, Mr. Pedtke, Mr. Shetler, Ms. Taylor, Dr. Adams, Ms. Stevens

Nays: None

There being 9 affirmative votes, Docket No: R-2008-24 goes forward with a recommendation for approval.

Docket No: 2008-42-PC R-2008-25 Petitioner: Bible Center Cathedral/Trustees of Radio Tabernacle

Address: (Complete legal on file.) 4912 N. First Avenue

Nature of Case: Petitioner requests to rezone from an R-1 zone to a C-1 zone.

**Mr. Mills:** Bible Center Cathedral is requesting to rezone a part of their church property at 4912 N First Avenue from R-1 to C-1. This is a 0.04 acre site located along the west side of First Avenue, between Concord Ave & Sheffield Dr. The 1,807 sq ft proposed for C-1 zoning classification on the church site is the location of the church's existing sign. The application states that an 8'4" x 11'6" sign (95.8 sq ft) with an electronic message unit is proposed on the C-1 site. This site is in an area designated by the Comprehensive Plan as an area of residential development. The surrounding area is predominantly residential. The zoning code requires approval of a special use permit (SU-13) by the Board of Zoning Appeals for all electronic message boards and/or signs with flashing, moving, rotating or intermittent lights, or animated messages. The electronic signs are not permitted in any residential district. This is a request to rezone a 31' x 58'4" part of the 6+ acre church site to allow application to the Board of Zoning Appeals for approval to allow erection of a commercial electronic message sign on the site. This site is in an area designated by the Comprehensive Plan as an area of residential development. The surrounding area is predominantly residential.

**Mr. Harrison:** 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. Husk has been sworn in.)

**Mr. Husk:** My name is Kip Husk. I am representing the Bible Center Cathedral. I want to add to what Mr. Mills said that this sign is, its major plan is for outreach and for public service. The church currently runs food programs Monday and Sunday, full meals, for the hungry. They also Wednesday basketball programs for the neighborhood children. They

have alcohol and drug programs that run on Monday and Wednesday nights. They have food baskets from time to time. They also serve as a portion of the church network that communicates with each other to not only make sure that not only the indigent are fed, but that they are not seeking more meals than are traditionally necessary to stay healthy. The request is for replacing the existing sign that is a fairly large neon sign that they are having a hard time keeping repaired. They want to replace the section of the message center with an electronic message center that would be able to communicate with the community a little bit better. The square footage of the sign is actually smaller than what is out there right now. It would actually be brought closer together to be a little more aesthetically pleasing. I would also note that there is quite a bit of commercial property around that area and residential areas that are connected to the property are mostly owned by the church itself.

**Ms. Stevens:** Are there any questions?

**Mr. Shetler:** The two pieces of property that are immediately south on First Avenue, you own those then? Okay. That is my only concern. I live across the street from a church and they put a sign up and it is pretty bright. If it is not going to be interfering with any residences, then I have no problems.

**Mr. Colter:** The size of the sign is going to be smaller. Just how small will it be and how high will it be off the ground?

**Mr. Husk:** The size of the sign is 8'4" x 11'6" is the overall size. That is the total size of the sign, not the size of the message center. The message center is 5 x 10. It will be approximately the same height as the existing center.

**Mr. Colter:** The reason I asked is there is a gravel driveway on the north side of your property that accesses some houses back there.

**Mr. Husk:** I believe there is a 10 foot clearance to the following sign. If necessary, I'm sure it could be raised.

**Dr. Adams:** Do you plan to alter the upper sign?

**Mr. Husk:** It will be removed and replaced by an internally illuminated sign that has a kinder appeal than the neon. The neon has a tendency to be very rash sometimes. We are trying to class the sign up.

**Dr. Adams:** But it would be about the same size?

**Mr. Husk:** It will be a little smaller than the other one.

**Ms. Stevens:** Are there any remonstrators? (None.) Is there a motion for approval? (Motion was made and seconded.) Call the roll.

Ayes: Mr. Herrin, Mr. Jain, Mr. Jeffers, Ms. Lowe, Mr. Pedtke, Mr. Shetler, Ms. Taylor, Dr. Adams, Mr. Colter, Ms. Stevens

Nays: None

There being 10 affirmative votes, Docket No: R-2008-25 goes forward with a recommendation for approval.

## **COUNTY REZONING**

Docket No: 2008-40-PC VC-13-2008 Petitioner: James and Jacqueline Johnson

Address: (Complete legal on file.) 6611 N. Green River Road

Nature of Case: Petitioner requests to rezone from an agricultural zone to a C-4 zone.

**Mr. Mills:** James and Jacqueline Johnston are requesting to rezone their property located at 6611 N Green River Road from Agricultural to C-4. This is a half-acre lot located on the east side of Green River Road, between Heckel & Millersburg Roads. This petition is a request to rezone the one-half acre site to C-4 for unspecified general commercial development. In 1996, a 10.7 acre site was rezoned to C-4 immediately west of this site across Green River Road. In 2002, another 11.4 acres was added to the C-4 site, making a 22 acre site available for commercial development. The 22-acre site was filed as a 13-lot commercial subdivision in 2007 (Heckel Road Commercial), but has not proceeded for approval by Area Plan Commission. The Johnstons have indicated on this petition that they are the owners of the C-4 site immediately west of this proposed rezoning site. In 2007, two additional undeveloped agricultural parcels were rezoned to C-4 on the east side of Green River Road (5 acres and 20 acres) further north of this site across from the Goebel Soccer Complex. Adjacent properties north, south, and east of this half-acre site remain Agricultural. Evansville Metropolitan Planning Organization recommends that access should be limited to one two-way drive and should be aligned with the access proposed as part of the Heckel Road Commercial subdivision. Public sewers have recently been extended to the area, and the County has plans for widening of Green River Road at this location. The Comprehensive Plan Future Land Use Map has not yet been updated to reflect these improvements which make future development of the area more likely to occur.

**Mr. Harrison:** 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. Worthington:** My name is Maria Worthington. I am the legal representative for James and Jacqueline Johnston. The Johnstons are here as the applicants for this half acre rezoning request. They are present. This request is in regard to a half acre parcel which is presently zoned agricultural. The request is to zone this small parcel to C-4. The exact location is N. Green River Road between Heckel and Millersburg Road. The surrounding zoning can be a little confusing. I want to talk a little about that. The Johnstons have zoned other property in this area to commercial. This is a colored

drawing I will hold up. You can see there is a very significant amount of C-4 zoning directly to the west of this parcel. Then if you look at this close up picture, it looks like everything else is agricultural. But really, if you were to zoom out, you could see that there is quite a bit of commercial zoning in this area and that this whole corridor is going in that direction. This purple is the commercial development just to our west. To the east, this look yellow and agricultural. But is owned by Kendall Development, LLC. While a rezoning hasn't been applied for yet, it is owned by a development company. One might assume that a development company would potentially not leave that agricultural. We don't have any remonstrators present. We did send out a letter offering to meet with anybody who might have a concern or question. We didn't get any replies, other than folks interested in selling their property for this exact kind of purpose. A couple things to note from the staff field report are that public sewers have been made available to this area and there is a widening coming to Green River Road. But things make future development to this area likely to occur. With that, I will just say we would like you to give this a positive recommendation. If you have any questions, I would be happy to answer those.

**Ms. Stevens:** Thank you. Are there any questions?

**Mr. Pedtke:** Not really a question. From recollection, we have had a couple of applications for rezoning come along this corridor in the last year or so. Some of them have been for C-4 and probably quite appropriate, except for some of it was already up against some residential. So we asked for some stipulations. This area of this corridor is not necessarily abutting any of that planned for residential. So in my mind, it is different than what we have addressed in the past.

**Ms. Lowe:** Didn't we want some of those other folks to join together to bring sewer?

**Mr. Pedtke:** My understanding was they did that privately. They have a private covenant.

**Mr. Jeffers:** Do the Johnstons own any property adjacent to this petition, other than across the street to the west?

**Ms. Worthington:** As a matter of fact, one of the neighbors owned a very small piece immediately to the south. It is even smaller than this half acre. We decided not to include it in this request. But she did just sell that to the Johnstons. She thought it sounded great and she really didn't want it.

**Mr. Jeffers:** Has the County already purchased the right-of-way from this parcel for the widening?

**Ms. Worthington:** If not, we are aware that these tiny parcels are still going to be subject to that widening.

**Mr. Jeffers:** So it is smaller than one-half acre?

**Ms. Worthington:** INAUDIBLE... I understood from the staff field report it was going to be widened and then I wasn't clear on which side.

**Mr. Jeffers:** I was just perceiving it as having very little impact at this time. One-half acre is very limited in its potential uses.

**Dr. Adams:** Can someone explain to me the significance of the entire site as in flood zone A. Does that mean it floods easily?

**Mr. Pedtke:** My understanding is that it has to be brought up to, the first floor standards have to a certain height before flood insurance is not required.

**Mr. Jeffers:** This area is subject to flooding during the so-called 100 year event. It has flooded recently. As Mr. Pedtke said, the elevation would have to be brought up to base flood elevation before construction could commence. Then the finished floor elevation would have to be two feet above the base flood elevation.

**Dr. Adams:** So there would be a process if they decide to develop this, they would have to bring it up?

**Mr. Jeffers:** It would have to go to Site Review and present a plan to the Building Commissioner who administers floodplain ordinance and shows satisfactory code compliance.

**Dr. Adams:** Thank you.

**Ms. Taylor:** What type of business are they proposing to put in this area?

**Ms. Worthington:** That is not determined at this time. I mentioned to the Johnstons that one of you might ask that question. All we can say about that is that the desire is to sort of be a little forward thinking, that this is the direction this area is going and it just makes sense, given the fact that they are in the real estate business. We have been before you with other developments in the area. It just makes some sense to go ahead and get it done. But specific plans have not been made.

**Mr. Johnston:** My name is Jim Johnston. I live at 6340 Lincoln. We have 20 acres of commercial INAUDIBLE... we have 60 acres of high rise. INAUDIBLE. We have 150 acres of farm. So we are going to be kind of protective of what goes in there. INAUDIBLE So it is something that we can do that is going to be difficult for somebody else to do down the road.

**Ms. Taylor:** I was just curious because I am a northsider. I just hope for good things.

**Ms. Stevens:** Are there any other questions for Mr. Johnston?

**Mr. Colter:** Just a point of clarification as Brad read through this. The additional acreage that has been rezoned, is that lying south of Heckel?

**Mr. Mills:** You are talking about the five acre and the 20 acre? Yes, that was properties to the north where we had some commercial up front and there were some condos in the back. Then there was another strip of commercial that was closer to the creek.

**Mr. Colter:** So it is off our handout.

**Mr. Mills:** That is correct. There is a church up there and it is just south of that church on the hill.

**Mr. Jeffers:** The most recent piece was rezoned commercial by the fellow that Ms. Worthington pointed out. Mr. Kendall came in just north of this picture. It is almost identical to this parcel, just a little larger.

**Ms. Stevens:** It is in front of the new condos they are building.

**Mr. Colter:** So as far as future land use, you don't see any conflict?

**Mr. Mills:** I see this continuing along with what has been happening along Green River Road. There is going to be residential, commercial, residential, commercial. That will continue all the way up to Boonville-New Harmony.

**Ms. Stevens:** Other questions or comments? There are no remonstrators? Any other discussion? Is there a motion for approval? (Motion was made and seconded.) Call the roll.

Ayes: Mr. Jain, Mr. Jeffers, Ms. Lowe, Mr. Pedtke, Mr. Shetler, Ms. Taylor, Dr. Adams, Mr. Colter, Mr. Herrin, Ms. Stevens

Nays: None

There being 10 affirmative votes, Docket No: VC-13-2008 goes forward with a recommendation for approval.

Meeting adjourned.

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Stacy Stevens, 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 or can be heard or viewed on our website at [www.evansvilleapc.com](http://www.evansvilleapc.com).

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Bradley G. Mills, Executive Director

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Karen Yokel, Transcriber