

PLAINFIELD PLAN COMMISSION
Sept. 5, 2013
7:00 p.m.

CALL TO ORDER

Mr. Gibbs: I'd like to call to order the Plainfield Plan Commission meeting for September 5, 2013.

ROLL CALL/DETERMINATION OF A QUORUM

Mr. Gibbs: Mr. Carlucci would you poll the Board to determine a quorum?

Mr. Carlucci: Mr. Brouillard- here
Mr. McPhail- here
Ms. Lafata- here
Mr. Brandgard- here
Mr. Dunkin- here
Mr. Kirchoff- here
Mr. Gibbs- here

We have seven present, none absent; we have a quorum for the purpose of conducting business.

PLEDGE OF ALLEGIANCE

Mr. Gibbs: If you would please rise for the Pledge of Allegiance.

Mr. Gibbs: I hope all of the board members have had an opportunity to review the minutes from August the 5th, if there is corrections please note, if not I will entertain a motion.

Mr. Brouillard: I've got a correction, on page 15 on the Mr. Brouillard statement, as far as emptying the dumpsters or the trash do you have a field for when that happens typically, I would like to change field to feel please, that is all I got.

Mr. McPhail: I would move that the minutes be approved as amended.

Mr. Brouillard: Second.

Mr. Gibbs: I have a motion and a second, all those in favor signify by saying aye, opposed, motion carries.

OATH OF TESTIMONY

Mr. Daniel conducted oath of testimony.

PUBLIC HEARINGS

Mr. Gibbs reviewed the guidelines governing the conduct of public hearings.

PETITIONS FOR PUBLIC HEARING

Mr. Gibbs: First item on the agenda is RZ-13-002, Mr. James we will turn it over to you to present the case.

Mr. James: Good evening, the first order of business tonight is to continue RZ-13-002, the petitioners have requested a continuance, and this was the property along Airtech Parkway and Ronald Reagan Parkway. This is a 7.6 acres that the airport owns and so they have to meet with the airport to find out what the airport wants to do with the Airtech Parkway, if they want to make that extension over to their road and the petitioner informed me earlier tonight they are meeting with the airport tomorrow to discuss this and they should have an answer for the Plan Commission in October.

Mr. Brandgard: I would move we grant the continuance to October.

Mr. McPhail: Second.

Mr. Gibbs: I have a motion and a second, Mr. Carlucci would you poll the board.

Mr. Carlucci: Mr. Brouillard- yes
Mr. McPhail- yes
Ms. Lafata- yes
Mr. Brandgard- yes
Mr. Duncan- yes
Mr. Kirchoff- yes
Mr. Gibbs- yes

Seven ayes, none opposed, the motion is approved.

Mr. James: Ok, that brings us to our first petition for a public hearing tonight, this is Verus Partners, LLC petition to rezone 55.54 acres from C-I and GC to I-2. You are probably familiar with this request; this was heard last year in 2012 by a different petitioner. It is the property west of Ronald Reagan, here is County Road 200 South, here is US 40, and then this is Medallion Meadows, which is not in the Town but the request is to rezone this 55.54 acres, most of it is C-I and some of it is GC and to rezone that to I-2. Last year this similar request was heard by the Plan Commission twice and then it was eventually withdrawn and so since it was withdrawn it can be heard again after 3 months have passed, so that is why we are hearing it now. They are offering the same use restrictions and commitments that were offered in 2012. They do have a new concept plan, they are proposing two 625,000 square foot warehouses, and what is different from last year the loading docks have now been moved to the east and west elevations, where last year they were at the north and south elevations. So they are still going to have the same setbacks and buffer yard from Medallion Meadows that was proposed last year. The original zoning of C-I and GC comply with the comprehensive plan, I-2 would comply with the Ronald Reagan Parkway master plan. The site has residential to the north and south, this is all residential that is in the County, south of 200 and then of course you got Medallion Meadows down here. Major difference from the C-I and the I-2 is the building size, the C-I has a limit of 150,000 square feet, where the I-2 has no limit. Because of the uses the C-I would generate more auto traffic and the warehouses are going to generate more truck traffic than the C-I would. C-I has a 25' buffer yard with a level 2 landscaping, where the I-2 has a 50' buffer yard where a level 3 is required and when this was first rezoned a couple years ago back in '08, they committed to a 40' buffer yard with level 5 landscaping. They are going to keep that 50' buffer yard but they have increased the landscaping to a level 5, or kept it at a level 5. They have just increased the buffer yard by 10'. This shows you the area they are proposing and then it has some property owners listed. Here is their concept plan, the 2 625,000 square foot warehouses. The loading docks would be at the east and west elevations and employee parking would be down here. Still proposing an entrance that would align with the existing intersection off the Ronald Reagan but with this proposal, this is proposed with the assumption that all of the homes on 200 South have been bought out. If that is the case then they can have entrances off of 200 and then also connections off of the plan that we call the Adesa collector road which will run north south and intersect with US 40. Here is the comprehensive plan, here is the flex office, general commercial which is the C-I zoning, here is the transportation plan that shows the Adesa collector and also additional collectors provide access if it stays a C-I zoning. If it is changed to I-2 of course the land use would change and then so the access needs for the area would change. Zoning commitments, they are offering the new development would have to comply with gateway corridor standards, south parking line buffer will have a 4-6' tall berm, and a 50' wide buffer yard and level 5 permanent landscaping. All the other perimeters will have to comply with the ordinance and that would be a 50' buffer yard and level 3 landscaping and they would dedicate a right of way for the Adesa collector which would be 35' half width and then some of the I-2 use restrictions that they are proposing would be no green house or nursery, no wholesale produce terminal, no bottle gas in storage, no outdoor recreation and no sewage or water treatment plants. Issues that were raised last year at the 2012 petition some issues brought up by some of the residents that live out there, they felt that marketing petition should not be a reason for a rezone, they should not rezone before the Ronald Reagan opens up to State Road 36, and this may change the C-I and GC demand. The entrance from 200 South would impact residential on 200 South, existing intersection was too close for truck traffic, would have negative impacts on property values. There was some drainage concerns, they already have Medallion Meadows already has some drainage issues because that property already drains towards Medallion Meadows, and

then the loading docks was a big concern with both Medallion Meadows and 200 South. Some of the Plan Commission issues were; is it consistent with the Ronald Reagan Parkway Master plan? And the Ronald Reagan Parkway should remain a limited access, move the County Road 200 South entrance and use the Adesa collector to eliminate those impacts to the residents on 200 South and then finally they should attempt to acquire all of the properties on 200 South, and include that in the petition. So what they have done to address these concerns, the petitioner told me he has made a real effort to acquire all of the residential property along 200 South, the proposed warehouse has loading docks now at the east and west elevations and should help reduce impacts to Medallion Meadows. Building actual warehouses themselves would be over 400' from Medallion Meadows and the parking lot would be about 270' from Medallion Meadows and they kept the detention basin and the buffer yard between the parking lot and Medallion Meadows and that includes the 50' buffer yard and the 150' drainage easement for a detention pond. They have added connection to 200 South and the Adesa collector, this should help reduce truck traffic impacts to the existing intersection from Ronald Reagan and then new development would improve the drainage impacts to Medallion Meadows, they would install the detention pond and they would have to contain all of the storm water on their property. Adesa is receptive to providing a right of way for the collector, which could provide a connection to Medallion Meadows. So in closing some staff comments, what is being proposed is still contrary to the comprehensive plan, Ronald Reagan Parkway has been open to State Road 36 for 9 months and has this had any impact on the flex office commercial industrial demand? The use restrictions, zoning commitments and what modifications of the concept plan have been offered to help reduce conflicts to Medallion Meadows, has enough been done to help those impacts and in 2012 the Plan Commission wanted all residential along 200 South to be acquired including a petition, so has enough been done to satisfy this request and make the proposal more compatible with the area. With that I will have a seat and there are representatives here that will be glad to answer your questions.

Mr. Gibbs: Would the petitioner like to...

Mr. Calderon: Thank you and good evening Plan Commission members, Joe Calderon, Attorney with offices at Bowes, McKinney, and Evans, 111 Monument Circle in Indianapolis. I represent the applicant Verus Partners, with me tonight is Tom Theobald, one of the local Senior Vice Presidents and developers for Verus along with Jeff Banning and Robert Staton from Banning Engineering who have been involved in this project. Joe did an excellent job I think summarizing what was considered by the Plan Commission last year versus this, let me just make it clear that the applicant tonight had nothing to do with the previous application and so we would like to think what we learned as a new applicant is not just re-treading the old, Tom and Verus is no stranger to the Town, in fact Tom and I both rezoned the property to the Westfield Capital property several years ago, ironically to I-2 and that was kind of a similar set of circumstances and concerns even those many years ago. We do know and Tom recognized that he'd have to come before you ultimately with something new and different to address the concerns that were expressed when the previous applicant came before you last year. We think that the new plan and the commitments that Jeff and his group have put together really address a number of those concerns. We think that when you really use all the tools in your tool kit for a zoning recommendation, we think we can meet the test as you know, there is a lot of things you can consider for rezoning applications, the comprehensive plan is always on the forefront of everybody's mind, that is a big thing, but it is only 1 of 5 things and it doesn't rank any higher or lower than this statutory guidelines, which do include things that are kind of market based or community based, things such as current conditions, characters of structures in the district, most desirable use for the land and how it might be adapted, conservation of property values and responsible development and growth. We think that with this plan that we are bringing before you tonight that we can give you the tools that you need to make a favorable recommendation to the Town Council. One thing that we wanted to point out and I think Joe essentially did that. As you can see this is the subject property, it is already zoned C-I and GC. Now C-I and GC have their own development standards and interestingly, things such as building height for GC is the same as I-2, in fact I-2 if you go to the maximum building height, you have to increase your setbacks in the street, so there are built in protections in jumping from GC to I-2 and even C-I to I-2. C-I has

much less buffer yard and setback requirements compared to I-2, in fact it is about half. The other thing that we think is important for the Plan Commission to understand is that the dominate rezoning over the years, and recent rezoning are all to the I-2, and in fact the development on this parcel and of course it all points to the north are all I-2 type properties and those again have similar circumstances in terms of residential properties that have been developed prior to the expansion of Ronald Reagan and 200 which has been improved coming off of the Ronald Reagan. So we think that I-2 particularly with the commitments that have been proposed by the applicant this time will protect many of the adorners particularly the ones at Medallion Meadows particularly to the south, as you can see from the concept plan as Joe mentioned, there is well over 200 feet from the south line even to get to the parking lot and then the building setback, beyond that the one on 200 the building setbacks of a few hundred feet are consistent with the other developments industrial developments that have taken place more recently to the north and to the west. In this swath here, will still remain GC which maybe it makes sense for it, but most of the commercial activity obviously is taken place along Main Street, to the south. So this plan obviously requires cooperation between the applicant and several of the neighbors and Tom can probably answer questions better than I can in that regard because I have not been involved with the direct negotiations, but I have been told that Tom has shaken hands if you will with at least 7 owners along this stretch. And particularly on this side, while he doesn't have them under written contract yet, there has been momentum and at least a handshake on pricing and that pricing is very generous to these folks and these folks, their best opportunity is to be part of a larger compilation of properties versus going at it on their own. Ultimately they will come into the Town, they will be rezoned to something other than residential unless they stay there forever and that doesn't really happen in the real world over time and those are all obviously comp planned by you now even though they are not annexed for commercial/industrial type of purposes. The current zoning if it were to be developed today and it can be developed for many intense uses whether it is very high volume retail or warehousing just on a smaller building size. You are not going to get rid of some of the classic concerns that neighbors raise in terms of traffic, or truck traffic, that could take place today. What we are proposing is something that is not going to necessarily mix additional passenger car traffic which would be surely generated by GC development with industrial traffic which is typically truck traffic. The access to Ronald Reagan is really a secondary access versus a primary, although it is open with the existing curb cut. We think that this plan and the proposal to take it to I-2, represents responsible growth and development and represents something that is compatible and viable as evidence by what has taken place, this plan would make sense and be compatible with the existing and surrounding zoning classifications. Certainly we have done some level of engineering to address concerns about drainage and Mr. Banning and his team is here, and Mr. Theobald is also here to answer questions you may have regarding specific negotiations with the neighbors. We want to be brief and respectful of other people's time, so if you have any questions for me or the other members of the team, we would be happy to answer them at this time.

Mr. Gibbs: Thank you. Anybody on the board have any questions at this time?

Mr. Kirchoff: I guess I am perplexed that you can have 2 different plans that you are proposing, you are showing this one, which is a totally different configuration than the other plot plan, which one are we supposed to be considering?

Mr. Calderon: This is the concept plan which incorporates...

Mr. Kirchoff: But you told me you don't have all of those properties locked up, so how can we consider this one when you don't have it completed?

Mr. Calderon: You don't have to consider this plan tonight because of the...

Mr. Kirchoff: I understand that, but that is the issue we had last year was that of the residential and you don't have that resolved.

Mr. Calderon: We have as I mentioned, we have worked much more closely

with all of the neighbors, there may be one or two that are impossible to get given circumstances, I am not going to get into that because I am not been a part of those negotiations face to face. Because we agreed to the gateway corridor and we have to come back for development plan approval anyway, that would sufficient time before we could ever come back and present a true plan to approve. Zoning, we are just changing the mats, and you understand that, so while we are showing a plan for purposes of the fact that we are trying to pay attention to certain concerns that were raised, i.e. Buffering, and changing loading docks and parking orientations to minimize impact on neighbors, we recognize that there would still need to be work to be done with a number of those neighbors, and there is time to do that either following tonight and during the Town Council approval process, or through the development plan process, those properties are going to have to be on a different timeline because they'd have to be brought in annexation and zoning as well, so I appreciate your comments.

Mr. Kirchoff: That is why we sent it back in 2012 because you didn't have it all done.

Mr. Calderon: Well it wasn't us, it wasn't Tom, it was a different applicant, I certainly was not involved, I didn't even know about it last year and I appreciate that comment. But I think even Joe recognized that part of the problem was last time that the original applicant it really wasn't well vetted in terms of negotiations between that applicant and those neighbors. It is different this time with respect to the number of neighbors in terms of the level of negotiation in that regard.

Mr. Brandgard: Somewhat to say this the concept plan, it looks like a fairly decent concept plan, but it overrides all the other property which you don't have yet and you don't have a concept plan for this area that you are wanting zoned and quite frankly, I would prefer annexing, or zoning contingent to annexing what it is, but then again you as the person bringing it in has to have control of that property, and if you are asking us to rezone this...

Mr. Calderon: You can only rezone what is in, which would not include, this is all we are asking you to do which is already in, it's the property's essentially that will have to come in separately. I think we are prepared to hear it out and what Tom has done developments in town, he does not want to hurt his relationship with any members of the Town, the Plan Commission, Town Council, Town Manager, staff or anybody. If you feel, we'd like to have some guidance, if you feel that it is not right tonight because we don't have people in our contract and just tell us, we will consider tabling it, we don't want to withdraw again because he really has made vary sufficient progress and we don't want him to be in a position where he is held hostage by one owner, that is not fair and that is not really not what planning is all about either.

Mr. Brandgard: You are showing that one property that goes up to 200, between Baker and Sarkine, so if we were to approve something there you would come in with a plan that would run things up through there, with the neighbor still there and again that puts us in a box trying to run trucks out up and out a small area. It creates a problem for you, from my stand I think we are early.

Mr. McPhail: I look at this a little bit differently, they are asking us to rezone the property they own, they brought a concept plan in that says we'd like to acquire these other properties and put this together, but the issue is do we consider rezoning the property they own, and if we rezone it they can't put those other pieces of property together, they are going to have to bring in a plan that satisfies what they own.

Mr. Calderon: I would have to make sense from traffic; the development plan part is where it is going to access tax on the traffic and access concerns and things like that. There is no motivation for him to leave it as is, the plan works much better with everybody on board and sometimes you, if he's on contract with one owner to do all of this and he is trying to get everybody else on board, that is never super easy, but hopefully Mr. McPhail's comments makes some sense. But like I said, Tom is no stranger to the Town and he does not want to walk out of here with the Plan Commission feeling bad about his proposal tonight and I think he has a little bit of flexibility depending on what the majority of the Plan Commission wants to do. We

honestly thought we have enough to bring to you tonight to get passed some of the things that tripped you up last year.

Mr. Brandgard: Don't take my comments from the standpoint that property does need to be rezoned, but I would say there are a lot of other issues that go along with that.

Mr. Calderon: We understand that and I appreciate that too.

Mr. Gibbs: With this being a public meeting, at this time I am going to open it up to the public for those in favor or opposing this petition.

Mr. Burks: Good evening, I am Tom Burks; I live at 10227 E. 200 South which is one of the owners in this petition. I am sorry, I am 80 years old and I am not up to this so I will use this. I don't enjoy being here tonight, number 1, I have a cabin at Kentucky Lake and 14 of my buddies are down there with their wives having a good time but this is too important so I had to be here. The other thing is I don't enjoy being up here addressing you all in my personal problems, but I didn't ask for this, it came my way. Kind of going back if I remember right, our last meeting was in December of 2012, along about this time I had a meeting with a Versus rep at my house and we discussed, he was interested in the Town's feeling and said he planned to attend the Wamsley petition hearing, which he did. We discussed a price for our 6 pieces of property out there and I didn't think there was any big problems and I kind of let him know what I thought it was worth and what I wanted and we discussed some other things and we got around to talking about the cost per square foot for the building and we discussed that if it got close that he had other alternatives for funds that we could make it work. The predicted cost for us would not be an issue. It appeared that the single warehouse for Mr. Wamsley failed; we might be on the right path to get something out there that everybody could buy into and agree to. Well the petition from Mr. Wamsley was unsuccessful and that was in January, and in January 2013 I received a call from the Versus rep and he advised me he was pursuing the possibilities of developing our land out there and he had a plan that would meet the requirements maybe working with the neighbors and Mr. Wamsley, and the engineers to get the job done. As we continued to have concerns about moving from our neighborhood, it is not peaceful and quiet anymore as it used to be and none of us have tried to sell our property though for the last many years, we were happy there and quiet and peaceful, and along came Ronald Reagan Parkway and people wanting to develop it. So I returned from Florida in April and of course we were anxious about what was going on and we had a meeting then with the Versus rep at my house and he advised us at first that the Wamsley property was under contract and he had developed a 2 warehouse plan, and that is the plan that you saw here tonight, we agreed that this would be a good plan for the land use and thought it would satisfy the Town of Plainfield and very optimistic that they get this done. The project looks ok and we started looking at our options of moving. Then we come along now to the land Verus offers in May and the original offer was very low and made some of the neighbors angry and unhappy, the appraises were based on residential values for (inaudible) land will no longer be used, it is not going to be good for family living, my personal discussions with Verus rep on my six pieces of property value, has a problem with 3 homes on 200 South, and this does raise the cost per acre and I can understand that, but these are custom built homes and nice property. Offers on the free property to buyers could be acceptable, what it boils down to, our woods and the other land our offers we had on that were from Mr. Wamsley and Versus need to be acceptable. When we put the houses in there and then it falls in with my neighbors with his house and it simply something at this time did not agree to. But to show our interest in being acceptable offers and we thought it was going to be a sale, I was asked about wet land in the woods and it seemed like we needed an evaluation, well it cost me \$2,700.00 and I spent that \$2,700.00 thinking I was going to sell my property, that was \$2,700.00 I didn't have. But we got it done and I gave the report to Mr. Banning and I will say that later Versus rep said that if the sale didn't go through that they would refund those money. Us and the Robinson, Tim Robinson next door, we had little or no contact since June on the sale of our property and the last call I think I had in June was I will be back from vacation in a week and I will call you when I get back and it was 6 or 7 weeks later. At that point then I realize how much that activity picked up till the people west of me and when we got down to when we could meet,

and was trying to meet, I have a outing for the Sycamore Center people, 120 people out there, they are handicap folks and I was involved with that and I was working with the Rally's on a contract there which we got done, I had the death of a brother and this all was in about 10 or 12 day period and at this point negotiations on the land out there was going hot and heavy west of me. But anyway, we finally got a meeting set up for the 4th of September which was 2 days ago and we are trying to be cooperative and seeing where are and where we are going and we are in our twilight years and this year has been extremely stressful for me and my wife. This meeting that we had on Wednesday was the best meeting that we had since this came up. It was congenial but the (inaudible) from this is all the neighbors were agreeable to sell, except the Birch's and the Robinson's. That is not a true statement, we are agreeable to sell, we just have a little bit of a difference in the value and the remaining cost problem with my 3 houses and Tim Robinson who has a small lot and the cost per acre on those go up. They mention they were going to continue to rezone the land without us. We continue to be in an atmosphere of what are we going to do if you don't go along with us and I don't like to do business that way and I did ask the Versus rep if he would consider any further negotiations and I will but I don't think they will do any good and he will call me tomorrow, which he called me this morning and there has been a lot of, well I was told by my neighbors throughout this process that we were very very close on our prices, on our end of the area out there, but I guess we weren't close at all, because no further agreements for any increases since May. I learned that the 3 land owners up until just a few hours ago had not agreed after to a sale. I guess just after a meeting this afternoon they agreed on the one other land owner that lives out there. When it comes to the property values, they open land a little bit and you all are very well aware, location, location, location is what determines the price of land and I have no way of getting an appraisal, I have not done, I probably should have done, and I may have to do, but just north of us, on Morris Street and the Reagan Parkway, which is less than a mile away, there is 10 acres of ground that is on the market for 2.8 million. My land is right here which is between 9 and 10 acres, and I am asking a lot less than half of that number, I am giving up my home, and I guess I do the stratus of many other issues, this needs to be resolved, I want to be a team player, but I don't think that we have reached a point of where we need to stop negotiating. It is soon to be a year since our understanding use of this land was to be 2 warehouses purchased homeowners along 200 South, that is all homeowners, to date this has not occurred, so why are we here? I gave up my vacation, I've worried myself sick for 2 days, and I don't see why we are here. My recommendation is to table this project until all the landowners are satisfied or agreeable to purchase and without documents in hand and price, payment plan, possession dates and etc., etc. I am very much in favor that the 2 warehouses plan has been established, I think it is the best use for the land and you drive down 200 South there will be warehouses up to Ronald Reagan Parkway and my request from you all tonight is; the board and the predecessors have done what is right for the Town and its citizens, I trust you will do what is right tonight. Thanks for the opportunity to speak.

Mr. Gibbs: Thank you. Anyone else?

Ms. Martinez: Good evening, my name is Cheryl Martinez; I live at 10113 E. County Road 200 South, Avon. I think we are a little premature on rezoning in my opinion. My concerns are although a lot of the property values have been agreed to, nothing has been received in writing, so there is still a lot of other details to be worked out until you have it signed and sealed, you don't really have any offers, my fear is that if it is rezoned and it doesn't come with terms to all of the property owners, I think the 2 warehouses are a good idea, but in order to achieve that all of the property owners have to be bought out, if it doesn't come to where everybody is bought out and it is rezoned, then what is to say with that stretch that is between Sarkine's and Bakers can't be used for trucks coming in, and then come back with a design for a huge warehouse back there. The way it is zoned now I could live with a little ware house, but at 800,000 or a 1,000,000 square foot warehouse is pretty intrusive in your backyard, 150,000 square feet you could learn to live with, they are both big, but I just think until everybody is bought out, I think it needs to be tabled. The negotiations have just started in the last couple of weeks and like Mr. Burk said he has had a lot of things and he has not been able to negotiate and it has been the 11th hour, are you going to take it or not or we will do this or that and they are working with us, they

are trying too, but I just think it is still early to go ahead and rezone, I think it should be tabled until the negotiations can be worked out or not, and leave it as it is for now. Thank you.

Mr. Helms: My name is Ed Helms; I am at 10059 East Co. Rd. 200 South. I would just like to comment that all in all I think the warehouses are a good idea and if Tom can come to an agreement with all of the neighbors I am more than willing to go along with it. We are mighty close to working out a deal, we are within 20,000.00 of doing something satisfactory but I don't want to go along with it until my neighbors are taken care of too. They have been my friends for a long time and I don't want to sell out my property and let them hold the bag. I was under a lot of duress here lately because I don't live here anymore because I can't stand the noise from all that road noise since it has been developed, so I rent out my home and I drove 150 miles to get here today for this meeting just to hear that it is no closer now than it was a year ago. I am in agreement with Tom Burk that we just table it for now until agreements can be reached and in reaching the agreements Tom, the other thing I would like to do is if we come to an agreement, I would like to close next week on it. I don't want to wait until next year, or 10 months or whatever. If we agree to sell and you agree to buy, write me a check. That is all I have to say.

Ms. Thompson: I'm Dorothy Thompson I live at 102 53 Bradbury Drive in Medallion Meadows. I would like to address an issue from our standpoint, you are requiring that they are to buy out all of these properties off of 200 South, but we have the same issues. You are proposing to put up huge warehouses, before it was smaller warehouses, now you are being asked to rezone this area so that even more truck traffic, larger trucks will be coming in and out. I rode with my husband when he drove a semi, I know what it is like in these yards with the trucks going all night long, they pull in there 3:00 in the morning, the neighbors can't sleep, so our whole neighborhood has not been a consideration as far as a buyout, but yet we are going to have the same issue. A 4-6' berm doesn't mean anything for noise abatement when you are talking about 10-15 semi's running their motors and backing up the beep beeps all night, as it is with Adesa going, we can hear that noise coming over that 15' berm, that is ineffective. So if you are requiring them to buyout those properties, Medallion Meadows has the same issues and we should be given the same consideration because our property values are going to be in the ditch and we won't be able to sell, we won't be able to live there because of the noise, we won't be able to do anything but go bankrupt with properties that are worthless at that point. So please give us some consideration before you make this decision.

Mr. Halfaker: Good evening, my name is Steve Halfaker, and I am Tom Burks son in law and I had the privilege last evening to sit out on the back porch on a nice evening and participate in the conversation that Mr. Burks had with the Versus rep and we talked about the night and as Tom very well presented that the conversation was very cordial and a very good conversation, but we are here about a plan that I think you continue to hear that is not bedded totally. You have a plan that we all are saying is the right use of this property, however, we have a problem, all of property as you have noted tonight has not been pulled together, in the discussion that we had yesterday, we were in the negotiation and typically you are able to discuss on both sides, from both parties what each is wanting out of an agreement. Last night when we were sitting down with the Versus rep, that opportunity was not available to us. We were hopeful that in the discussion before tonight, before we were before you that there would be some formal agreement that we could have a handshake on. During that conversation I am just wanting to share with you that I think Mr. Burks presented it well, he is willing to negotiate, I am just trying to give you a picture that at this point, the negotiation there was none available other than what had been presented earlier this year to discuss price that was not available to discuss terms because they are asking for 1 1/2 years before closing could happen and for Mr. Burks and his wife to even consider moving from their property to somewhere else, even trying to discuss terms of any type of how will the payments work and anything about negotiating was not an option. The response was that they were wanting to see the results of the meeting tonight before really any further negotiation currently can happen. I just wanted to share with you a little further detail about the conversation, and I think the Versus rep has a great plan, I think that is all agreeable, but I think the negotiations need to be continued and what is before you is the

ability to allow that to happen. I think it is very concerning if you look at the proposal tonight in that the property that is being asked to be rezoned, I think you have seen a proposal before from the other petitioner of a single warehouse just on that one piece of property and I think that plan if you would look at just approving that property being looked at tonight, you would be back here potentially with that same idea of just one warehouse on that one piece of property and again you are dealing with a plan that doesn't fit your master plan I believe in what you are trying to do with the community. Thank you.

Ms. Harding: It is hard to follow my very well spoken brother in law. My name is Lori Harding and I am Tom Burk's middle daughter, one of three. I am here today to mainly state that I grew up on 200 South and I am certain that my parents intended for their home to be their last place to live prior to their health and having to make other arrangements. So as you could imagine the situation that has been forced upon them has created as my dad has said a lot of stress. My dad is a very deep thinker, he has always think of both sides and I think in this situation I think it he has shown that example in the process. On one hand he doesn't want to live surrounded by warehouses but on the other hand he understands that growth and progress is very important in our culture. My parents have been overly willing to work with the developers and the neighbors and to provide an advocacy for responsible development and growth. The one thing though that they have continued to ask is to be treated fairly, and I think some of the indications that Steve just spoke about, that fairness hasn't been there. They haven't provided fair and equitable compensation package, they haven't provided a timeline of events and given retired 80 year old parents the comfort of what is going on. I feel that with this being said that we would like the zoning to remain as it currently is until an arrangement between the property owners, particularly my parents is made. I think we are very close and ready to make that decision, I think Mr. Helms spoke too, he doesn't want this to go on forever, for an 80 year old parents waiting another year, waiting 2 more years is ridiculous, so we are proposing that if we are going to go down this path, let's make this development something that everybody can be proud of and you guys leave with a planned warehouse development and happy previous owners of property. I am certain that versus with their position within the industry can afford that. Thank you.

Mr. Napier: I live at 10085 Bradbury Dr., Medallion Meadows. My concern with this project, it has always been the same, I am going to put the, and I hate to do this, but an assumption here. To rezone this right now, nobody here right now has any idea of what is going in there, the building could be 70' tall, I mean this is what I am going to look at. The terminal could run 24/7; this is what I am going to hear. I haven't heard anything about what is going to be stored there or what the warehouse is for, what I am going to look at, the berm might not be big enough, I don't know. I haven't found anybody yet that can tell me this. As it stands right now, I am already having difficulty getting out on Ronald Reagan, it is no fault to anybody, traffic has just picked up. Even with the traffic coming off of 200 instead of coming off of coming off of Ronald Reagan, the truck drivers are still going to turn on Ronald Reagan. I am just a little concerned with these things and right now I would like to see this tabled for a while so we can see this tabled for a while just so we can try and get some answers and figure things out, thank you.

Mr. Sarkine: My name is Bick Sarkine, 10205 E. Co. Rd. 200 South. I guess we are kind of really all here because of my father's decision to sell the land in the middle. If my dad hadn't of sold that I don't think none of us would be here over this property. As young as Mr. Burks is here, I have been on this property longer as he has, and in this area, I have seen everybody coming and going and even though I don't live there right now because it was my father's house and it was my home. I know things are going to change, you can't do anything about that and I think everybody else knows it is going to change and I have all of these neighbors that I care about, and I want to see that they are all treated fairly. I don't want to be a, I don't want to be like a cause that caused all of this stuff, but I just want to see everybody get what they need to get fairly and get treated fair. Thank you.

Mr. Gibbs: Anybody else from the public?

Mr. Jaco: My name is Floyd Jaco; I live at 10274 E. County Road 200

South. I am a decorated and disabled Vietnam Veteran diagnosed with an extreme case of post traumatic stress disorder. I am already thrown into flashbacks 3-5 times a week from the truck traffic and the noises, especially the engine compression breaks, they park in front of my house 15-30 minutes at a time in the middle of night with their trucks idling and I don't want to see any increase in any truck traffic or any noise unless someone considers buying my property. Thank you.

Mr. Gibbs: If that is it, then I close the public portion of the meeting and open it up to the board for further discussions and comments.

Mr. McPhail: I guess I have some comments, I believe the issue before us is with this, do we believe it is proper to rezone this property from basically C-I to I-2. The petitioner presented a plan that includes some property he doesn't own, I don't think it is the responsibility of this Commission to decide what is a fair price for somebody to buy a property, and I think that is between the buyer and the seller. What is fair to one may not be fair to another that is an issue that has to be resolved there. The issues that have been brought up as far as truck traffic and noise, I understand those concerns, but life has changed on this roadway, it is going to continue to increase whether we rezone this property or not. There is property to the west or the north that is zoned I-2, and they continue to develop, the noise is going to be there. If it was developed today under C-I, with 150,000 square foot warehouses with trucks coming in and out, I don't think the neighbors would notice any difference between that and a 750,000 square foot building with traffic coming in and out, you could have more trucks going into 100,000 square foot building than you do a larger one, it depends on what is going on. I understand the neighbors' concerns about those issues, but they are not going to go away, they are never going to go away because of what is there now. So I think the issue is do we believe in long term that this should be I-2? I think that is a decision we have to make, I don't think we can be an arbitrator between a buyer and a seller, if you looked at the property to the north, there is a compound surrounded by I-2 up there and the property owners do not want to sell, and they have a perfect right not too, they stayed there and they are still there and completely surrounded by I-2, will they someday decide to leave, I don't know, but that is their right to stay there, if these people don't want to sell the adjoining property, they don't have too. It is their right, but I think our responsibility to do what is best for the community in terms of development and what the futures going to bring about. Mr. Helms, he said it before and he said it again tonight, it is not a pristine country setting it was a few years ago, that Ronald Reagan Parkway and the development to the north changed it.

Mr. Gibbs: Would the petitioner like to address any of this?

Mr. Brouillard: One of the comments I would like to make is, is in 2012 when this first got brought up, I know that northern part of that whole section of land was an issue just because of the truck traffic and noise abatement things like that. Unless all of this is all ironed out and say nobody sells, you are going to end up with the shape part and I would think that you would still have issues with noise abatement or getting enough sound barrier or whatever, so I personally like to see this property kind of ironed out and bought out before I made a decision.

Mr. Calderon: I think from the developer standpoint, as those of you that may have been involved in negotiations with your own properties or as a profession, these are very delicate and tricky time sensitive things. So we have a developer that is proposing ultimately to invest and spend multi millions of dollars, he's got 55 acres under contract and X amount of properties that he would like to get under contract, those folks will not consent to annexation and zoning until they have their properties bought if you will. And that is not always the way it works in the course of accommodation of a commercial acquisition scheme and I think you heard a number of those folks say we agree, it is a good plan to go with this type of development ultimately. So it is kind of a chicken and egg thing that really puts the developer in a very difficult position if he can only come back once everybody is on board. That doesn't always happen and I think you all as a Plan Commission have seen this a number of times over the years and most of you have significant experience in watching the growth. We believe that the idea to change the zoning maps tonight does not adversely affect or

under lever the folks that are out there. The plan if you will, the concept plan works with everybody involved and there are market forces that will kind of take that over, but he can't really proceed to do the things with the other neighbors until he knows that this big chunk is going to go the way he has it planned. Now there is obviously options that we've had discussed in previous portion of the presentation, whether you as a Plan Commission feel, well maybe we table it for 30 days or 60 days, the other option might be, if you were comfortable to certify it we could agree to not schedule it for first read at Town Council for a period of time, they've got 90 days from certification. So there is time even in the course of this process and your recommendation to move forward and allow him to have some comfort so that he can continue on with the folks that have testified from the neighbor's side tonight.

Mr. Gibbs: Ok, thank you. Any comments from the board?

Mr. Brandgard: I will make one, if we do the rezoning, the issue comes when we plat it, where the truck access is or is there a vehicle access, and you don't decide that in a rezoning. You do that at the planning side which comes after rezoning, after it is rezoned for something. It still bothers me when you bring a concept plan that shows property that you don't have yet, other than that I think the rezoning is probably good for what they are wanting to do. I don't know how they are going to do it, but that comes later.

Mr. Kirchoff: I would support the I-2, but I am not in position to support this till I have a better sense of what might be coming because if we do this piece meal, who knows what kind of plans, is going to come in. That is why I can't support it until he has another good effect to try to put together a total package.

Ms. Lafata: I agree.

Mr. Kirchoff: We are hearing his plan is a good plan, it is just not complete.

Mr. McPhail: I feel like this thing is, if we keep kicking this can down the road then the issues are not going to be resolved. We need to believe it ought to be I-2 or it shouldn't and I don't think we are gaining anything by delaying the rezoning and if we believe that is the end use that ought to be, and I don't believe anybody said here tonight in long term they think it is going to evolve under C-I or anything else. If we rezone it, with the shape of the property it is, they are going to have a real difficulty of a time coming in with a very good plan that is going to get a lot of support. I think the delaying it is not going to help us move the process forward.

Mr. James: If you want to move forward with this you can add commitments with regards how this project gets developed, so that is something to think about.

Mr. McPhail: You know it might be in our best interest to continue this thing for another 30 days to see if they can get some of this stuff resolved and if they can't we are going to have to make a decision, but I think more than 30 days then we are wasting everybody's time and effort.

Mr. Kirchoff: I can support that.

Mr. Brandgard: Kent, I would support that and I fully agree, 30 days then we will do it.

Mr. McPhail: Well I would make that motion that we continue this hearing at the October Plan Commission meeting.

Ms. Lafata: That the decision will be made.

Mr. McPhail: Well hopefully, I believe we need to make a decision.

Mr. Kirchoff: Basically to table it, the motion is to table, no other conditions. I will second that.

Mr. McPhail: That will give all parties 30 days to get their heads together and if they can't come up with a resolution then I think anything further down the road is not going to resolve it and we can't

be a part of that negotiation on price and those types of things, and that appears to be the only thing that is holding this thing up right now.

Mr. Kirchoff: More conditions, but we are not involved with conditions.

Mr. Gibbs: I have a motion made by Kent, and I have a second, Mr. Carlucci would you poll the board.

Mr. Carlucci: Mr. Brouillard- yes
Mr. McPhail- yes
Ms. Lafata- yes
Mr. Brandgard- yes
Mr. Duncan- yes
Mr. Kirchoff- yes
Mr. Gibbs- yes

Seven ayes, none opposed, motion is approved.

Mr. James: I'd like to say something before we move ahead. I just wanted to remind everyone that no additional notices required and the next meeting is October 7th.

Mr. Daniel: Just to reiterate what Joe said so there is no mistake, you will not get another notice of a public hearing on this petition it will be set for next month's meeting and this is your notice tonight that is when it is going to be heard so you won't get anything else in the paper or in the mail.

Mr. Gibbs: Next thing on the agenda DP-13-006.

Ms. Sprague: Just a brief summary of what we are talking about here is the Wal-Mart Neighborhood Market; we approved that last month with the development plan. This is the location there in the Saratoga PUD, just to the east of the existing strip center there and across the street from the Police Department, that is the site plan there again with the north to the right just as a reminder and possibly for some of the audience. Last month we approved that with the condition that the hours of operation be limited to 7 a.m. to 10 p.m. and the petitioner has stated to us since then that their business model is based on a 24 hour operation and so they are asking to have that condition removed and just as far as zoning is concerned, as far as all of the other grocery stores in town are 24 hours and all of those are adjacent to some residential or another, so that is the kind of precedent that we have in town so far. I know the petitioner is here and there may be some folks in the audience that may want to talk about that, but that is what is up for grab tonight is to remove the limited hours of operation.

Mr. Gibbs: Would the petitioner like to address the board?

Mr. Calderon: Thank you Plan Commission members again; Joe Calderon, Attorney with offices at 111 Monument Circle Suite 2700, Indianapolis and I do represent the petitioner or Wal-Mart Real Estate Business Trust in conjunction with this proposal. Last month as you recall there was a condition imposed by the Plan Commission basically restricting the retail or the customer traffic portion from 7 a.m. to 10 p.m. It did allow for other business functions loading and unloading and things like that during off hours we accept responsibility as maybe not being as voice tress and opposition last month. I personally more in the back seat last month because it was a development plan approval, a Civil Engineer really had been working much more closer with staff and frankly the condition was brought up during discussion by Plan Commission members after the public hearing was closed, we may not have had the opportunity, but we appreciate the opportunity tonight to revisit the condition and we think that we can give you reasons based on kind of a 3 fold basis, and that would be a zoning basis which is what (inaudible) experts at, we believe there is legitimate business reasons and we believe they are operational things in play as well. Hopefully after you hear a little bit about all of those you would feel comfortable removing that condition. We do have representatives from our Civil Engineer, Matt Shumaker is here and we also have corporate representatives both from store operations and public affairs. So let me talk because my expertise is in the zoning world, from a zoning standpoint why you as a Plan Commission should feel comfortable that the existing zoning ordinance and the PUD already

addresses conflicts that you express concerns about, and we respect those and they are pretty classic like noise and things of that nature and it is always sensitive anytime you have commercial development adjacent or near a residential. Even outside of the standards set in the PUD your ordinance has specific provisions that apply to all operations regardless of what district in commercial or industrial that provides for specific lighting standards and breaks, if you will. As well as noise standards and there is already protection in your ordinance for folks that might operate in a fashion that would create a nuisance effect upon their neighbors. Those standards are in place whether it is 10 a.m., 10 p.m., 3 a.m., 3 p.m. all the time. The ordinance also establishes for businesses which are next to residential, certain as you know, buffer requirements and building setbacks, all of those are in enhanced or increased and they are designed to mitigate those same types of concerns, particularly when you are adjacent to residential, so when you are next to residential and you are in a commercial zone you go from regular setback to buffer yard and depending on the mix of zoning it will trigger the type of landscaping that is in play. In this case under the PUD and the site plan that you approve, the building setback is more than 10 times the requirement that is otherwise required under GC, it is over 250' and there is also by the PUD and by the site plan, significant tree buffering and tree preservation and that buffer yard is about 70', or 3 ½ times what the ordinance requires. Matt will you show the board real quickly just the location of the landscaping, the buffering and the position of the neighborhood to the east that I think folks on the Commission have expressed concerns about protecting.

Mr. Reitnauer: This area right here is the existing tree brush line adjacent to the White Lick Community that we are preserving all the way along that eastern property line and then additional landscaping has been added specifically at the southern corner where the existing landscaping is pulled back a little bit, which provides additional screen for any future outlet as well as the signage to the south. There are also boxwood shrubs installed along the east edge of the parking area here that will prevent any additional car lights shining towards that eastern property.

Mr. Calderon: So there is built in protections not only within your ordinance but within this particular plan. One other thing we would like for you to consider, just from an overall fairness standpoint, neither your zoning ordinance nor the PUD has any restrictions of record in terms of when a business can operate or not operate. You made that in your judgment as a condition to your approval of the site plan, but when you think about the time and the effort that not only this business but anybody else might have in terms of examining property for purchase and going through all of the due diligence and spending money on engineering and everything else. Something that would be restrictive in terms of the business should really be of record before you get to a site plan, development plan, and approval process. If there was an hours restriction in the PUD and we sought to modify that, I think you are well within your purview, but from a fairness standpoint to impose that after nothing being of record makes it a pretty expensive proposition to get all the way to the end of the line without any kind of expectation and your ordinance just doesn't have that built within. In fact the only hour restriction that I could find that could even possibly come into play in this case is with respect to the sign lighting for the sign that will be out on West Main which if it's not screened to the residential then you have to turn the sign lighting off, that is the only place where you really mention that in the code. Furthermore we know that you respect and that you have encouraged businesses to come to Town and thrive and to put this business at a competitive disadvantage and set it up as a possible failure is not something I think would be good for the Town or the Plan Commission at all. And finally because there is already the ability for there to be stocking and loading and unloading, all you are really doing is hurting the consumer from being able to shop the store after a second shift or if somebody even in the neighborhood needs to get cough medicine or Kleenex in the middle of the night during flu season, they are not going to be able to do that, and I am not sure that that was really the intention, I think the intention was to protect folks that are nearby owners from activity and as I mentioned there is already a number of things in play that mitigate those concerns. This is not a super center, we know that it is hard to distinguish the Wal-Mart name from the super center where you got big stores and lots of activity all the time etc. this is 40,000' it is smaller than the typical grocery in

this market place and the level of activity is pretty nominal anyway. I don't know if Dave wants to say anything about the customers coming to the market during these off hours, but he is certainly someone that is responsible for making sure the stores are operated correctly. Thank you.

Mr. Brandgard: I would like to ask one thing when you showed that chart, people in the back has to see the chart. I would like for you to show them as well.

Mr. Reitnauer: Regional Vice President for Wal-Mart, Indianapolis, 4545 Lafayette Road. A couple of things as Joe mentioned earlier, this is a 41,000 square foot, so in relation to what you see as the Plainfield super center; this is 20% the size of that store. Obviously with a store that is much smaller, there is going to be less traffic there and obviously with a store that is much smaller, there is going to be less traffic there, and our business model depends on having the right traffic and having them the opportunity to shop this store 24 hours a day. Not to have that would put us at a competitive disadvantage and obviously something we are not intended to do. As we look at the lighting around this, we are using LED lights, which have the opportunity to cut those off at property barriers which is the intent of those lights. As part of our sustainability initiatives we also, the trucks that deliver to our stores use auxiliary powering units APU's and so we shut those trucks off, they don't sit there at the dock and idle. Those are some of the things to consider about; we feel that our business model afar as noise and light discipline is controlled even more than our competitors. So again we ask that we be allowed to operate 24 hours a day.

Mr. Gibbs: Is the petitioner done at this time? With this being a public meeting we will hear those from the public opposing or in favor of this petition, please come to the front of the room.

Mr. Mason: Stu Mason, I live at 248 Andrews Boulevard, White Lick. I live in White Lick Estates, it is a nice enough area, and now Wal-Mart wants to come in and establish a neighborhood store in our neighborhood and as a good faith gesture I guess they were restricted in hours to 7-10, I think that was just a few weeks ago and circumstances have not changed since then. Not a shovel of dirt has been turned over, they have not had one customer and they are asking you did you really mean what you said. I hadn't heard a grassroots movement clamoring for a 24 hour store out there and I was surprised to hear that the folks in Bentonville do have a business case based on 24 hour operation. The arguments made that other businesses such as the other Wal-Mart, Kroger, etc. are open longer hours, this is true. But they are in an established business areas and have been for years. They are asking to come into a predominately residential area for 24 hour operation. I don't feel that is a real strong argument and do we really need another 24 hour store, do they contribute positively to our quality of life? The competitive store in Saratoga and that is what it is really all about isn't it, competition, the CVS is open from 7:00 a.m. to 10:00 p.m. and they are pharmacy hours which is a draw, they are more restrictive hours. Have we talked about crime yet? It is across the street from the Police Station you say, well my daughter is an IMPD Officer and I can tell you plenty of stories about stupid criminals. Didn't we just have some folks a few months ago try to rob a bank with the FBI practically across the street? A little information, a study in 2004, a 551 Wal-Mart and they were true Wal-Mart's, found that they had a total of a 148,000 Police calls, that is 269 per store. Another similar study in the same time frame, found that the Wal-Mart's have 4 times more reported incidents than Target which is not open 24 hours, you can make the conclusion. I think it is a bit premature to reconsider this issue. I don't have a crystal ball, but I bet if Wal-Mart came back in 6 months after they opened and they are the good neighbors that they advertise, it might be ok and everybody might be real happy. I might be a guy at 6 in the morning wishing they were open, but personal opinion since they haven't' come through on a commitment they made to me yet at the last meeting to send me information, I'm not in a real trusting mood and if things don't work out as promised then our actions here will be seen as prudent. Because once the 24 hour doors open, there is no closing. So I say let's walk before we run they don't always have to get their way, so I am asking for you to reject this request at this time. Thanks.

Mr. Gibbs: Anyone else from the public?

Ms. Richardville: My name is Sheila Richardville; I live at 250 Andrews Boulevard. I moved to that community because I lived on the other side of Plainfield in the business district. My house, my back window was shot out and my house was robbed and I lost everything. I moved to that side of town to feel safe, and now I am going to live next to a 24 hour store again. That is my case, thank you.

Ms. Reed: My name is Pam Reed; I live at 347 Vestal Road. The amount of crime that has occurred in our area just putting in the Aquatics Center 10 years ago about, has gone up tremendously. The Police have more runs; there have been more Police activity on that corridor between 40 and Vestal Road to Plainfield equipment and that area. A 24 hour store, if you look at the research, 24 hour stores do increase the crime rates. We live out there and I bought that house, my husband and I bought it back before any of Andrews was even there, it was all farmland. I understand that the city is moving that way, but there are many other opportunities for 24 hour stores within a 5 minute drive, 10 if you hit the lights wrong within Plainfield. I don't that anything is that critical that you would need to have a 24 hour store in a very very quiet non lit area that would have the board change their mind on a decision that was just made a few weeks ago.

Mr. Gibbs: Anyone else from the public at this time? I will close the public portion of the meeting and I will open it up to the petitioner to address the questions.

Mr. Calderon: Just a couple of things and you're an experienced Commission so I know that you will consider testimony regarding supposed studies 10 from 10 years ago and all of that, that is not relevant to this. This was a condition, not a commitment, not a promise made, it was something that was imposed and something into compare to those businesses that choose to have restricted hours that is exactly the point that is their choice, there is nothing restricting within Saratoga that a CVS remain open 24 hours a day. Again the condition still does not mean that the parking lot won't be lit at night; it doesn't mean you won't have a delivery; all it does is restrict customer traffic, which only impacts the consumer and the business. I don't think that is something that the community and the Commission want to do in an adverse manor, this is just simply asking you to consider the unintended consequences of the condition that was imposed, because there is nothing in your ordinance that would put anyone on notice with restricted hours. There is nothing in the PUD that would put anyone on notice of restricted hours of operation and the things you are trying to protect against, are already properly addressed not only in the ordinance but in the site plan that you otherwise approved. Thank you.

Mr. Gibbs: At this time I will open it up for the board for discussions or a motion.

Mr. Brandgard: Just a quick comment, after our meeting last time, I did go around and check it, to Marsh, Kroger and those stores are open 24 hours a day and I will have to say I live behind the Marsh store and I don't see very much activity there at night. I drive by the Kroger at night and there is not much activity there either. People are in there stocking the stores and I think that is mostly why they are open 24 hours because there are people in there anyways, but the other point I'd make is, that whole strip along there was zoned for this type of business, until several years ago we did carve out a part so they could build apartments. That was a zoning change to allow apartments that was zoned for this type of business. So again I think we probably need to change what we did.

Mr. McPhail: Actually I was shocked that Wal-Mart did not object to that restriction when we talked about it and I think that is probably was because they didn't have anybody from marketing with them that night or something. 3 out of 4 supermarkets are grocery stores we have in Plainfield are 24 hours. We have one that isn't and that is Aldi's, but all 3 of those are adjacent to residential neighborhoods, even the Wal-Mart is adjacent to a lot of residential, the apartments and the mobile home parks and those areas. I do believe putting a burden upon one business versus another when you restrict those business hours. I just think we need to remove that restriction. We have been a number of years trying to get a business developed on the west part of Town and it has been a real mystery to me because I have taken developers

and business people out there for years and say this is our growth area and these rooftops are out there. I don't want to risk losing this project. I think it is good for the neighborhood, I think it is good for the community. I don't think customer traffic between the hours of 10:00 p.m. and 7 a.m. are going to be noticeable by the neighbors. I was out in that area, I had a reason to be out there to pick up some people and take them to the airport at 5:00 in the morning this week. There is more traffic at 5:00 in the morning than I realized, I hadn't been out that early for a long time. There is a 24 hour operation fitness center there and there were several cars there at 5:00 in the morning with people in there, so we have people that work hours that need to be able to do their business at off hours that certainly a small percentage of our population, but there are people that need to be able to go to the grocery store, maybe when they get off work at midnight to stop on their way home and pick things up or going in early in the morning they want to stop. I think we just put a burden on this business that we didn't think thoroughly through when we had done it.

Mr. Brouillard: I don't know if Joe or Dave would be the right one to ask this, if you were 24 hours you would still have trucks coming in the middle of the night loading and unloading?

Mr. Reitnauer: From a Wal-Mart prospective as far as the trucks that we delivered, we have a bread delivery that would drive overnight in a van, you've seen those Wonder Bread trucks. The Walmart truck that we have is a produce truck that comes in about 5 in the morning, so the truck that we would have would come in about 5.

Mr. Brouillard: Whether you are open or not it is going to show up at 5.

Mr. Reitnauer: Whether we are open or not.

Mr. Brouillard: Your parking lot lights stay on 24/7 no matter if you are operating or not.

Mr. Reitnauer: Correct.

Mr. Brouillard: And as far as stocking shelves, you are going to do that whether it is open or not.

Mr. Reitnauer: Correct.

Mr. Brouillard: I needed that information.

Mr. Gibbs: I understand what we have put on Walmart and we did it at the last meeting and why, and some of it was because of the cooperation that we get from Walmart. From the standpoint of the problem we have at the existing Walmart of parking trucks overnight, if I remember right, they pretty much ignored us when we tried to work with them, and for that reason is why we do things as far as I am concerned that we did. Because we don't get the cooperation back. When you do that to our community it doesn't set very well with me, and because of that I have a problem with what you are asking for, because you want cooperation, but you don't give it back and I just have to make that statement to you because corporate is here this evening.

Mr. Kirchoff: I think I was the one that kind of raised this and it is because of a recent project that we approved next to a residential and I still have concerns about the lighting there, and so in life you learn from your mistakes probably more so than you do from your successes and that is why I raised this issue because we are moving next door to an established neighborhood. I also understand fairness with completion. A couple of things came up since the last meeting. I have family that lives in the Saratoga neighborhood and they are as excited as we are for this project to go and be successful, however they raise something that I never thought of. They have children, who will probably be, he is 11 years old, he is getting close enough to the age they could send him to grocery store, they strongly suggested that we have them look at a trail or a sidewalk on the east side of Saratoga Boulevard because now it is only on the west side. My son said there is no way he would have an 11 year go down and try to cross down there at CVS, so I don't know if there is any way we could get that word to Mack as he takes Concord across, if he could consider a sidewalk on the east side of the road. Which would really be a public safety.

Mr. McPhail: I'm trying to picture where the trail starts and ends, because it is on the east side north.

Mr. Kirchoff: It is way north.

Ms. Lafata: It is down by the bridge.

Mr. McPhail: The bridge.

Ms. Lafata: That little pedestrian bridge.

Mr. Kirchoff: It goes to Claymont, so it would not be a long piece, but it really would be a wonderful amenity for the neighborhood and a public safety thing, I don't know how to communicate that to Mack.

Mr. McPhail: That is an issue I would like to address with the developer which is Mac McNaught and he gave me a call yesterday and apologized that he couldn't be here tonight.

Mr. Kirchoff: Could you communicate that to him?

Mr. McPhail: I would definitely do that, and I think he would address that for us, he has been very cooperative.

Mr. Kirchoff: Basically he brought that sidewalk down to where his development stopped, again I wouldn't have thought of it, but having family that lives in the neighborhood.

Ms. Lafata: I live in the area, it is true, it is difficult to get across to the CVS it is a nightmare for cars and for people.

Mr. McPhail: So there is nothing from Claymont south?

Ms. Lafata: No.

Mr. McPhail: On either side?

Mr. Kirchoff: There is, it is all on the west side, but his point is, you got 3 or 4 lanes of traffic for kids on foot or bicycles.

Mr. McPhail: It would make a safer place for them to cross the street and get to the east side is what you are saying.

Mr. Kirchoff: The other thing is and this is a stretch, my analytical nature was, is there any way to move, I am still not convinced that there is enough buffering, there is good buffering close to 40, but as you go north it gets very much thinned out, so I didn't know if there was some way to move this rotate it, I don't know what the case might be and that is a stretch but the reason I brought it up and I think I was the one that probably raised the issue was we recently put a service station right next to a neighborhood that I still think has not been addressed right.

Mr. McPhail: There is a natural tree line up through there.

Mr. Kirchoff: I went over there the other day, if you drive down there Kent, as you go north, it really thins out and again that is part of my other concern as being that I had gone to the site and looked at it, yes it is 200', but from a noise protection and lighting, and again my family is hoping this project goes and is very successful because this is going to be gang busters, it is very much needed in the neighborhood. I am in favor of the project and I think you make a valid point about the cooperate cooperation.

Mr. Brouillard: Thinking back to the last meeting, was there a condition of parking not trucks in that parking.

Mr. Gibbs: That was BZA.

Mr. Brouillard: But that was a condition right?

Mr. Gibbs: They were restricted from any overnight parking in that parking lot, except for delivery vehicles.

Mr. James: I just want to point out the lighting, these are the lights, the location of the lights, so they are going to be a pretty

good distance away from the property line and then this is what they look like and they will have to have a flat lens and they will be LED which concentrates the light where it needs to go. At the property line there has to be at least 0 foot candles, there can't be any light that goes over the property line, but with the lights being setback so far, I don't know what the photometric plan showed, but I would say close to right in here you probably don't have any foot candles. They did agree to, I think they were supposed to move the lights to the other side, no?

Mr. Kirchoff: The sign.

Mr. James: Ok, move the sign and add some more landscaping to screen the sign from the first building in White Lick Creek right there, you can see the line. Then they put the loading docks on the west side away from the property line over here in effort to help reduce impact.

Mr. Brandgard: Mr. Chairman I move that the Plan Commission approve the removal of condition 4 of the previously approved final detailed plan DP-13-006 as filed by Wal-Mart Real Estate Business Trust allowing for 24 hour operation.

Mr. McPhail: Second.

Mr. Gibbs: I have a motion and a second, Mr. Carlucci would you poll the board.

Mr. Carlucci: Mr. Brouillard- yes
Mr. McPhail- yes
Ms. Lafata- yes
Mr. Brandgard- yes
Mr. Duncan- yes
Mr. Kirchoff- no
Mr. Gibbs- no

We have a seven member board, five yes, two no.

Mr. Gibbs: That concludes the public portion of this meeting right Joe?

OLD BUSINESS/NEW BUSINESS

Mr. James: We are going to move to code enforcement, this is under new business on the agenda. I invited some home owners to the Plan Commission based on these violations. First one is 7083 Stone Creek Drive, Larry Bard, furniture, brush, and debris. I inspected it today and the property was still in violation. Mr. Bard called me this afternoon and said he would attend tonight.

Mr. Gibbs: I think he is right behind you.

Mr. Bard: Larry Bard, 7083 Stone Creek Drive. The reason the debris is there is I attempted to do the cleaning out myself and I have an injured left knee which doesn't allow me to bend and clear up the weeds. I start physical therapy tomorrow. I have contacted a land and tree-scaper and I should meet with them tomorrow for an estimate and if I have 10 business days I will have everything cleaned up. It is a little bit more than I can handle, I tried to do my best that is why the debris is around. I got to bring in the professionals.

Mr. Gibbs: So you think you can have it cleaned up in 10 days?

Mr. Bard: Yes, and I appreciate your patience.

Mr. Gibbs: Is there a consensus from the board? Ok.

Mr. McPhail: That is great, that is what we want you to clean it up, we don't want to penalize you.

Mr. Bard: I appreciate your patience.

Mr. James: Next one is 435 Harlan Street, David Cooper is the resident. Failure to remove junk, trash, and debris, I inspected it today and it is still in violation. We have had problems with this property in the past. The property owner is Venetta Sue McDonald we actually went to court with Ms. McDonald and got a court order to clean it up, that was in 2010 and working with someone with a law firm, we

were able to get it cleaned up but as you can see Mr. Cooper is now in the home and it has gotten in poor shape again. These are the photos I took today. We still have all of these items in the back yard. Coming in off the street, off of Pickett Street, that is probably an illegal access, there is no driveway that had this fence up, they keep a truck and a tow truck back there, so with the tow truck back there are they performing an illegal business at this site? Mr. Cooper is here and hopefully he can have some explaining to do.

Mr. Cooper: David Cooper, 435 Harlan, I am in the process of working on cleaning it up, most of the debris was at the residence prior to me moving to that residence. I am disabled and I am trying to clean it up if you could bear with me for 30 days everything will be cleaned up, the trailer and all of that debris, pick-up truck is completely gone and the tow truck is going to be out of there. I am not running any kind of business that was left over from a previous business. I am just trying to get rid of it, it has been for sale. I have going to have a dumpster there within a week to try and get all of the rest of this stuff and out of the back yard. As far as Pickett Street, I didn't know that was a problem because there was a driveway there that someone had covered up at one time. There was a carport back there whenever I moved and we tore it down.

Mr. McPhail: How long have you been there Mr. Cooper?

Mr. Cooper: Almost 2 years. Most of the debris was out there was inside the house and it has been removed from the house.

Mr. McPhail: I would suggest that we give you 30 days and have Joe report to us at the next Plan Commission meeting and if we have not made any progress at that point then we have a fining process we can start. I think we give him 30 days and see how much progress he can make. He's got a lot to do there.

Mr. Brandgard: I agree.

Mr. Gibbs: Okay.

Mr. James: Do you own the property yet?

Mr. Cooper: I have a contract yes. I am buying the property on contract and my name is on the deed now.

Mr. James: Next property is 347 Vestal Road, the property owner is Steven Reed, this is violation of failure to remove junk, trash, and debris. I inspected it today and they have done some work, but there is still more work that needs to be done. All the items on the porch here. I don't know if the garage is full or not, but these items need to go into the garage. Ms. Reed did call me this afternoon and said she would attend.

Ms. Reed: One of the things first, the letter that you all addressed to the home, addressed it to Steven Reed, he no longer lives there. He chose to move to Savannah, Georgia and pursue a relationship with someone else after 30 years of marriage. So if you address anything to us at our home it needs to come to me please, because I don't open his mail. Regardless, I don't know how many of you all know me, I had a stroke, I had 4 now, the last time was Easter, and I am doing the best I can. All of the items, that picture was taken August 6th, because the entire right side is totally cleaned up, between the garage and the fence. There is nothing there, I take that back, the John Deere lawn mower. There are no longer chairs; the stuff on the front porch, the only thing on the front porch is lawn furniture that is supposed to be on the porch. I didn't think it was a violation to have the bicycle outside. But I have hired people over the last 6 months to cut down trees, to haul away all kinds of debris and brush trying to get the property to look nicer, doing the best I can. I am not physically able to go out and do it myself, if I was I would. I live there by myself now. You mentioned that more work needs to be done, could you tell me what else you would like done so I can have someone else do it. There is an umbrella stand on the driveway because when I am outside I can't be in the sun, it is a table with an umbrella stand in it.

Mr. Brouillard: Out in front of the car there is a big tarp covering a bunch of stuff, is that all gone?

Ms. Reed: It was actually covering the debris that they were supposed to haul away when they cut down the trees, and they didn't. I had them come back and take care of that.

Mr. Gibbs: Joe is this something maybe in the next couple of days you can go back out there and show her what we expect to be done.

Ms. Reed: Thank you guys.

Mr. James: That is all of the violations that hadn't been corrected. The rest of them have been corrected and they now comply, so we don't have any more issues with them.

Mr. McPhail: The rest of them are ok.

Mr. James: Yes.

Mr. McPhail: Good.

Mr. James: That is all I have for tonight.

ADJOURNMENT

Mr. Gibbs: I will entertain a motion.

Mr. McPhail: I move we adjourn.

Mr. Brandgard: Second.

Mr. Gibbs: All in favor.