

The Madison County Plan Commission on the above date at 9:30 A.M. with Bill Maxwell, President, presiding.

Members Present: Bill Maxwell, Paul Wilson, Brad Newman, John Simmermon, John Randall, Jr., John Orick, and Wesley Likens.

Members Absent: Mark Gary and Scott Tischler.

Also Present: Michael Hershman, Executive Director, Gerald Shine, Jr., Attorney, and Beverly Guignet, Secretary.

Current Business

1. Roll call was taken and two members, Mary Gary and Scott Tischler were absent.
2. The minutes of the December 12, 2006 meeting was distributed to each member prior to the meeting. Mr. Wilson made a motion to approve the minutes. Mr. Likens seconded the motion. The vote was unanimous in favor of the motion.

The minutes of the December 12, 2006 Special Hearing was distributed to each member prior to the meeting. Mr. Wilson made a motion to approve the minutes. Mr. Orick seconded the motion. The vote was unanimous in favor of the motion.

3. Election of Officers:

Mr. Shine said, prior to the election of officers I think it needs to be put in the record that we received a letter from the Board of County Commissioners regarding a new appointment to this board.

Mr. Hershman read a letter submitted by the Board of County Commissioners (letter on file in the Plan Commission Office). This letter stated John Simmermon was appointed to serve on the Plan Commission and his appointments runs from January 1, 2007 until December 31, 2010.

Mr. Shine informed the board the County Council has not made their appointment. I have talked to them this morning and a request has been made to the council that at their organizational meeting tonight to appoint the member to the Madison County Planning Commission.

Mr. Wilson said, I make a motion that we nominate Bill Maxwell to continue in his position as President. Mr. Orick seconded the motion.

Mr. Wilson said, I move that we close the nominations, seconded by Mr. Orick. The vote was unanimous in favor of the motion. Bill Maxwell will serve as President of the Plan Commission for 2007.

Mr. Newman said, I nominate Wesley Likens as Vice President. Mr. Wilson seconded the motion.

Mr. Randall moved the nominations be closed, seconded by Mr. Orick. The vote was unanimous in favor of the motion.

Wesley Likens will serve as Vice President of the Plan Commission for 2007.

Mr. Newman said, I make a nomination that we retain Jerry Shine as Attorney for the Plan Commission. Mr. Orick seconded the motion. The vote was unanimous in favor of the motion.

Jerry Shine will serve as Attorney for the Plan Commission for 2007.

Mr. Orick said, I move that we retain Michael Hershman as Director of the Plan Commission. Mr. Wilson seconded the motion. The vote was unanimous in favor of the motion.

Michael Hershman will serve as Plan Director for 2007.

Mr. Orick said, I also move that we retain Beverly Guignet as Secretary for the Plan Commission. Mr. Likens seconded the motion. The vote was unanimous in favor of the motion.

Beverly Guignet will serve as Secretary to the Plan Commission for 2007.

Mr. Hershman said, we have received a series of commitments. I thought they had been e-mailed to everybody and I have found out they had not. I want to pass out some voluntary commitments that the applicant has proposed.

Mr. Shine said, at the last hearing it was also requested during the hearing that the commitments that had been previously submitted to you be modified. What you are receiving is a modification of those. They have indicated that the property would only be used for the removal of sand and gravel pursuant to your request.

Mr. Randall said, for hearing proposes today I would like to combine Petitions #483 and #484.

Gordon Byers, Attorney representing IMI was present.

Mr. Byers said, pursuant to your last meeting I indicated to you that IMI was willing to put in writing a commitment that would allow the only use to be on this real estate is the extraction and removal of sand and gravel. That was the modification of statement, commitment A. These are our second commitment that obviously you have to render an advisory opinion, yes, no opinion to the commissioners. The commissioner also has to execute a written ordinance to rezone the real estate. The rezone to General Industrial allows extraction of sand and gravel and stone. This commitment as drafted allows only sand and gravel.

A member who retired wanted us too put in a commitment about a mound. We added that as E. We have agreed to install a mound from adjacent landowners and with a maintainable slope not exceed 3:1 and plant vegetation to preclude erosion. That was the request from the retired board member.

These commitments are set up to be recorded. They have trigger obviously to rezone --- is the trigger that would be --- Irving Materials doesn't own this site but would acquire the site, record this with --- contemporaneous with the zoning ordinance.

We ask for a fair recommendation and the commissioners execute it.

There is a provision that sets up modifications --- basically it requires that if these commitments ever be changed to would have to be a public hearing and due notice.

I put a provision in there that the jurisdiction would be with the Madison County Commissioners but I also put in a provision that if someone else --- the possibility exist I suppose that if someone else would annex this property --- right now it's under the jurisdiction of the Madison County Commissioners and could be annexed by the City of Anderson or by the Town of Pendleton. So, there is a modification provision, primary modification going after public hearing with prior notice to the Madison County Commissioners.

But, to reiterate, the commitment only allows sand and gravel to be extracted. It precludes processing on this site, it requires IMI to transport the product to be processed at the adjacent processing site that has been there -- - in operation since the 60's. That's primarily to the west of this site.

There are also some commitments that were the same that relate to operational hours. But, the only two new things are, the restrictions for one use, sand and gravel. And I will just say it, my definition that does not allow stone. That's the thing we removed. The word extraction could include stone but by saying extraction sand and gravel my implication removed the stone and the mounds. So, that's our commitment. They would obviously be reviewed by --- before they would be recorded by Mr. Shine our legal council for the Commissioners to make sure they fully comply with the law and say whatever your recommendations.

Mr. Maxwell said, Mr. Shine on A there where it says, shall be use of extraction and removal of sand and gravel, should that say only or? I mean is that good enough? The way it's written.

Mr. Shine said, it's saying the specific use is that. Now there was a question of the phrase to have that would exclusively being used. Now that may be something you may want to ask the petitioner.

Mr. Maxwell said, I know we talked at the last meeting when he volunteered not to take the stone, the blasting unless he came back before the board or someone, you know, when the sand and gravel was all finished. Before they would do any stone removal.

Mr. Shine said, the word exclusive would tie it just that much closer.

Mr. Byers said, I am not married --- I think it says that but if you're more comfortable with the word sand and gravel only we could --- it would be voluntary --- I could agree to insert --- the first one would read, the use on the subject real estate which is rezoned to General Industrial shall be the use of extraction and removal of sand and gravel --- I am happy to add the would only there.

Mr. Maxwell said, I was just asking council if the way it was written was good enough or --- cause it doesn't really say we will not do stone unless you come back.

Mr. Byers said, I think the next sentence says no other use authorized shall be allowed. Does that --- by only saying sand and gravel I am clearly excluding some that --- we can add the word sand and gravel and can add only. The intent was exactly was as you said it. To remove --- we're making records here, I think it's going to be rather clear when we're done that it was not going to be stone or blasting on this subject real estate by the action you take without another hearing ---

Mr. Shine said, and by having that modification clause are not getting ourselves in to another landfill situation. I want that to be understood by the board. But, if this is the point where you want to add the word only inserted in there that would obviously be more of a clarification for our consideration and recommendation.

Mr. Wilson said, when we had the discussion last time there was a lot of discussion in reference to the stone but a lot of the discussion in reference to the blasting. It says here in A it says shall be the use of extraction removal of sand and gravel yet there is no written preclusion of blasting. In other words it addresses what's coming out but it doesn't address the method that it's coming out. So, what kind of guarantees do we have that there wouldn't be blasting used to loosen the ground for the stone extraction or the gravel and sand extraction?

Mr. Hershman said, that would be --- because at the last meeting there were several comments specifically relating to the blasting ---

Mr. Wilson said, your addressing the aggregate that's coming out or what the type is but there nothing in to address as to method of operation.

Mr. Byers said, we can blast. Blasting is not used to remove dirt, sand and gravel, it's just common knowledge. It's a similar thing if your rezoning it to a McDonalds they could still go out to their site and blast and sell hamburgers. We can take for clarification, since it's commingled, we can put language in to put that there will be no blasting on this real estate.

I think in a lot of instances when you're rezoned you probably don't eliminate everything. The intent here was to make the sand and gravel, which is obviously done by mechanical removal of dirt and giant bucket that goes out and becomes a wet operation pending on the water at the time. If you have concerns about that we can address it. Our commitment is, that there will be no stone and no blasting on this site pursuant to this action -- the recommendation by the Plan Commission --- this ultimately has to go to the Commissioners.

Mr. Maxwell said, we could by you adding the word only were we talked about we could put, removal of sand and gravel only with no blasting.

Mr. Shine said, when we use the word blasting --- can we say blasting and then in parentheses have use of explosives?

Mr. Maxwell said, I am not familiar with the blasting procedure ---

Mr. Byers said, in layman's terms blasting is --- so blasting and explosives kind of go hand in hand. So, I guess I am volunteering it we could say, it would read, the removal of sand and gravel only with no blasting, parenthetical use of explosives in parenthetical period.

Mr. Wilson said, that gives a better understanding of what this means. I am curious now as to what the people in the neighborhood feel about it.

Mr. Simmermon said, what percent of the time do you look for operational hours to be after 5 P.M.?

Mr. Byers said, ten to 20 percent typically, if there's a big project, it could be a road project --- in the summer season it could be later. It's not going to be 50 percent.

Mr. Simmermon said, most of the concern is blasting.

Mr. Byers said, we talked specifically with four or five families impacted on Ridge Road and they really didn't raise --- we made this commitment, I think it came from our Tech meeting when we first appeared on this rezoning where it passed, it came up how many employees and what are your typical hours and we tried to pin it down with that little --- specifically it could be a five acre across the street or something like that. So, in speaking with the people that are directly next to the site on Ridge Road ---

Mr. Simmermon said, ten to 20 percent seems reasonable then for your request for the time it would be after five o'clock.

Doug Layman, Area Manager for Irving Materials.

Mr. Layman said, our extraction operation runs more tons per than the processing plant. Our processing is on the existing site. When we run after five o'clock it's our processing plant. So, it would have to be a very big job that would make us have to run the extraction process after five o'clock. The extraction right now does not go after five o'clock. The processing site does.

Mr. Byers said, we would have to get permission from the Commissioners to run the conveyor over the county road or to the north to cross the county right of way. We can go up and over Ridge Road with the Commissioners permission.

Mr. Layman said, if we get permission from the Commissioners to get an access to cross the road, they would all be highway trucks they would not be the junk that you see everyday and it would be just a direct 90-degree crossing. It would not be running up and down the county road. We are open to either the conveyor or the trucks.

The conveyor would be in the height range of 13 to 20 feet or whatever was allowed and we would build a protective device underneath the conveyor so if something happened the material wouldn't be falling on the ground.

Anthony Candieno was present.

Mr. Candieno said, I was wondering how close your digging area would be to my property. Is there going to be an easement, also as far as the conveyor, I would much rather see the trucks than the conveyor. That part from 500 to Ridge Road is ugly. I don't want to see it any uglier. I live there. The main question I have is, how close to the property line are they allowed to dig? I think we were all pretty much in agreement that we did not want a high dirt berm that is like at the end of Ridge Road and 500. The gentleman here mentioned something about planting trees. I would just like to know how that all works out. Is somebody going to hold IMI to those stipulations?

Mr. Byers said, we have also put in there a commitment on the mounting of three to one. We are permitted to put a mound up that is ten feet high and three to one would be 30 feet away from the property line. The other thing we will commit too, we go around and talked to the property owners that would like to see some form of deciduous tree or shrub planted, we are committed to do that. If we don't do that these commitments will be in

writing and will be enforced by the Madison County Planning Commission so, if we commit to do it and don't do it they can force us to do it.

It is our commitment to all the people who surround this site and own real estate that's not IMI that we are committed to do this three to one. The actual height will be in the ten to 12 to 15 foot range. We will make insure it does not cause drainage problems or floods their property or interfere with the natural watercourse.

Mr. Hershman said, there setbacks according to the ordinance they have to go by that is, side yard 40 feet, rear 40 feet and right of way 30 feet.

Mr. Byers said, we have committed to comply our document and it imposes a 50-foot setback from right of way, which is more than the ordinance asked for.

Mr. Layman said, the main sand and gravel that lays in this property is up here in the Scott piece and in the northern part of the lower section. This field right here is planted in trees with Bluegrass Nursery and that's going to stay in trees. We have a five-year commitment with them. They would like to extend that commitment another five years. So, this is probably going to remain in trees for along time. The mounding would be along Ridge View Road and along the backside here, against your property. We will have to go around the power lines. It is going to be a number of years and it may not be feasible to mine all the way down to 500. This may stay in trees with Bluegrass Nursery forever

Jeff Hawhee said, I understood they agree to shut down the operation by 11P.M.

Reply: yes.

Mr. Hawhee said, the equipment will use strobe lights and how much right of way?

Mr. Layman replied, law requires strobe lights. The right of way will be 50 feet. If they want the mound higher we can build a mound to a certain height with a three to one slope, extract once it's extracted we can come back and build the mound on up. Roughly 15 feet is as high as the mound can be.

There will be no mounding along 500 at this time or the property to the east. There will be some buffering and it will be maintained.

Carol Kincaid was present.

Mrs. Kincaid said, we have some property on the south side of 500S. The trees that are planted on the north side of the road which is farmed but they left a space where there no trees in the middle, and what they have done is created a wind tunnel coming down from the north. If we have a snow storm that will close 500 at that point. Who would address that problem, IMI, Bluegrass or the county?

Mr. Wilson said, I sitting here looking at this and on the west side of it you've got R-2 zoning, on the south side you've got R-2 zoning, on the east side of it we've got R-2 and on the north side of it you have the Interstate right of way. When have we ever dropped a General Industrial zoning classification in the middle of a completely surrounded area of R-2 zoning?

We've spent a lot of time discussing the business of stone extraction or gravel extraction and so forth, which was a valid discussion because that was the points that were raised by people in the neighborhood. If we get back to the foundation of the book and what the book says, I thought that spot zoning in the book that there was a desire when the Comprehensive Plan was passed and the county zoning was passed in 2002 to stand clear of spot zoning.

I would assume the R-2 zoning runs all the way to the Interstate right of way. So, if that's the case and they don't own the property from the north of the requested change in zoning, then in essence if you look at that aerial the whole place is completely surrounded by R-2 zoning. So, if this board advises and the commissioners agree to it we're going to be putting an industrial operation for extraction in the middle of already zoned R-2 district. It's not like it abuts up to something else because it doesn't.

Mr. Byers said, since the 1960's General Industrial has been allowed for extraction. The property to the south is Conservation, which allows extraction as a Special Exception.

This ground had all been zoned agricultural, which allowed extraction. The county rezoned it four years to R-2. For years this could have been used for extraction until it got rezoned R-2. This is a non-urban area, which is State Statute that says, you as a landowner in a non-urban area have the right to extract minerals or timber. We think we approached your Plan director and he suggested the appropriate zone classification would be General Industrial. We have taken everything off of the General Industrial except sand and gravel. IMI owns a couple of parcels to the west and in the future will own more parcels to the west. We have talked to all the property owners except for one on the Interstate to the west and they don't have any concerns about this operation.

So, given the fact that this is where the product is, this is where sand and gravel is, you can't --- unlike the commercial rezoning you guys say, we appreciate your effort to some where else, we've got a lot of property.

You've heard Mr. Layman say, it's not even on all of this site. It's on a substantial portion of it. We thought it was zoned agri and we could do that in the agri zone, it was switched four or five years ago --- we are pulling off the table every other intense use except removal of sand and gravel.

You set no legislative precedence on your decisions. You are not bound by this decision any more than your bound by --- the commissioners have the last say.

Mr. Wilson said, the ultimate decision by this board, and I guess you would say the commissioners if they change it, it is what is the highest and best use for the ground. That's the ultimate question. So, the ultimate question on highest and best use is what is your vision. Is it a short-term vision for the ground or is it a long-term vision for the ground on highest and best use. You have repeated several times in reference to in the 1960's when that was passed and you began work and such in that area. That's 46 years ago. The question I have, in Fall Creek Township where there has been residential growth to the east, residential growth to the south and the number of houses that are built on that stretch between Ridge View Road and your current operation, I think probably there might have been one house in there in the 1960's.

So, it's obvious that wherever the situation was in the 60's isn't necessarily the situation in the 21st century as we stand now. So, the question is, if the county set that R-2 zoning in that area as a result of development that had occurred over those 46 years with a vision to the future as to what would be the highest and best use of the

ground, why would the county want to step backwards now and put a General Industrial zoning in the middle of an R-2 set.

Mr. Byers said, I would think the county would want to allow sand and gravel where it is in the county.

Mr. Wilson said, so in any area where there's current housing if there's available extraction if you would deem it all right for the county to turn around and rezone for extraction proposes.

Mr. Byers said, the State Statute says in a non-urban area which is what we are in here, we are not annexed in to the town, we only have eight residences in a non-urban area adjacent to ---

Mr. Wilson said, so you're saying that if you take that literally that any area in the unincorporated area of this county that you can find gravel that it's okay for you to extract it?

Mr. Byers said, I say the State law says in a non-urban area sand and gravel you can't preclude someone from removing timber and sand and gravel in a non-urban area.

I think the common sense of this is, everyone to the west of this land has no problem with it.

Mr. Wilson said, if that is the case then why are you standing here asking to have this rezoned? If you think that you have a green light by the State Statute why are you even in here?

Mr. Byers said, I am rezoning it back to allow for something that I think that we have the right ---

Mr. Wilson said, to allow for something that you say you are all ready allowed to do.

Mr. Byers said, I realize that zoning is a legislative process in most instances you are trying to balance ---

Mr. Wilson said, but is it not true, you got a problem in making this argument in here today, you're all ready under litigation in the Carmel area, basically --- there's a problem over there in references to growth around where your extracting is that not true?

Mr. Byers replied, that's Martin Marietta.

Mr. Wilson said, the point is, I don't care a, b, c extraction business whether it's your company, another company or whatever, is it not true in the Indianapolis Metropolitan area that you are very quickly bumping in to a problem with residential and growth coming around areas where you're extracting and your bumping heads because of that?

Mr. Byers said, Carmel is Carmel number one as a unit of government annexed the area and number two it involved blasting. The homeowners put together ---

Mr. Wilson said, but your description a minute ago in --- you started out by saying that you wanted preclude the possibility of annexation in reference to your agreement as far as the commissioners were concerned on the gravel extraction because it might be annexed by Pendleton and it could be annexed by Anderson.

Mr. Byers said, I don't think I said preclude, I said put a provision if that happened. I can't control annexation.

Mr. Wilson said, I understand that but my point is, if those two communities are growing and there is the possibility of annexation out there and the county has already used the vision that they think that because there's residential growth out there that it's zoned residential and it's residential all the way around, where is the wisdom of allowing it to happen?

Mr. Byers said, this land that is the subject of this rezoning is owned by Irving Material or will soon be owned by IMI, the property owner is asking you in your advisory capacity to say, we think it makes sense to remove sand and gravel because it's there. We as a property owner are attempting too assign a zoning class that allows us to use this property.

We realize that whenever you do this it impacts people around you. But, we think that we've cut that down as low as it can go.

Mr. Wilson said, I think that you impact the people that are all ready there but I also think that you impact the value of the ground that is all ready zoned residential but the potential for a housing development in there under the residential rule, you impact that value as well.

Mr. Byers said, from what I have heard in this hearing though is, the property owner said it's been in his family for 90 years and it is all ways going to remain a farm. He has no intention of selling.

Mr. Wilson said, if you look at that map and you go east from the two parcels that are in question to that huge housing development we got a petition that was delivered to us at this last meeting where almost all the people in there sign against this. Those are all residential homes too.

Mr. Byers said, we are not to affect that site.

Mr. Wilson said, my point is, that's all ready residential that's been developed, it's all ready zoned residential in between that you don't own. Then you're petitioning for General Industrial and then you come to the west of that and it's residential again.

Mr. Byers said, we own the property to the south of this subject site, we substantially own all the property to the west and we heard the property owner to the east say he wants to leave it in the farm and I don't think we're hurting or devaluing anyone's property especially with these commitments. I think that you have to look at that as the State law says, hey, in rezoning it's timber, sand and gravel is there you have the right to take it out. If not no one would ever be able to remove sand and gravel. Almost every county in central Indiana is residentially zoned. No one would have any building products to build their homes, roads, etc.

Mr. Wilson said, I would think that people who bought houses in areas where there was sand and gravel, when they buy their houses in area that's zoned would surely not want somebody coming in taking two parcels of ground in the middle of their area and zone it something else so they could turn around and dip sand and gravel.

Mr. Byers said, this got rezoned without knowledge to the property owner and it was agri, which allowed extraction of sand and gravel. This whole area was agri. The area to the southwest is conservation, which

allows extraction of sand and gravel. So, I would argue that this whole environment --- everyone has been on notice that there could be sand and gravel and even stone taken out of this area.

The reason we are here is that's where it is. That's where the product is. You can't manufacture this you have to take it out of the ground.

Mr. Hershman read the following Findings of Fact.

1. Does the proposal comply with the Comprehensive Plan?
No, the area is designated for residential build out. There is not adequate infrastructure to the site.
2. Would the proposed classification be consistent with current conditions, the character of current structures and uses in the immediate districts:
Fields, houses and the existing mining characterize the surrounding. The proposed GI/General Industrial zoning would be consistent with the existing mining operation in the near vicinity. However, it is out of character for the existing residences and field that characterize the remaining parts of the surrounding area.
3. Would the proposed classification be consistent with the most desirable use for which the land is adapted?
No, the land is adapted for fields and housing.
4. The proposal substantially conserves property values throughout the jurisdiction:
No, the expansion of the mining would harm adjacent property values.
5. The proposal is reasonable in regard to responsible development and growth?
No, the property does not have public sewer and water. Further, the comprehensive plan has the area as residential build out.

Staff Recommendation:

The request should be denied. It does not meet the requirements set for approval in State Law and the Ordinance. It is not in keeping with the Comprehensive Plan. The site doesn't have a connection either public sewer or water, which is a requirement for the GI zoning district. It is not in keeping with the character of the surrounding area. Staff is concerned about the negative impact on the surrounding area. Finally, staff is concerned about the precedent that granting the rezoning would set.

Mr. Byers said, I don't know where those Findings came from. I supposed the Plan Director drafted them. You are an Advisory Plan Commission and I don't want to insult you but this is a non-urban area. There is a State Statute that requires --- allows you to extract in a non-urban area. I think those proposals should be looked at with the fact the property was rezoned about four or five years ago away from agricultural.

Mr. Orick asked, what is the definition of a non-urban area and does this property meet that definition?

Mr. Hershman said, eight houses in a quarter square mile is the definition for urban area. The primary rule of thumb is, eight in any quarter square mile.

Mr. Byers said, the requirement is, you have to take a quarter square mile, 1320 by 1320 square and apply it and if you get eight residences in that piece of square it's an urban area. This is a non-urban area.

Mr. Shine said, I have asked Michael to take a drawing to obtain from COG after our last meeting because this had not been --- I don't think Michael had determined whether or not it was an urban area by the Statute. The Statute is Indiana Code 3674-1103. This section, Miscellaneous Provisions - Use of Alienation of Mineral Resources and Forest outside urban areas. This section does not apply to a Plan Commission exercising jurisdiction in a population more than 20,300 or less than 20,500. That's not us.

The Area Advisory, that's what we are, for proposes of this section, urban areas include all lands and lots within the corporate boundaries of a municipality, any other lands or lots used for residential proposes where there at least eight residences within any quarter mile square, and any other lands or lots that have been --- residential areas contiguous to that municipality.

Mr. Orick asked, so even zoned residential?

Mr. Shine replied, yes. It's a quarter mile square area. Michael has interpreted how you draw the line and what you have done --- and the petitioners have. We have been involved in this quarter mile square area --- we were involved with one in Alexandria and with the one over on the county line at that was with IMI at that time.

Now, in those definitions of how we figured the eight residences we did use the way that the petitioner has advised us on how he determined it. In those cases. Now, I have not seen any specific definition of how that quarter mile square area is determined. By doing a general reading of that there must be eight residences in a quarter mile from off the property area and we used the map and we get into that quarter mile, are there eight residences. I personally have not reviewed the map.

Mr. Byers said, this site will not truly ever be (not audible) remember this site has a power line easement running through it as well as a gas line easement so it's got some characteristics that I think lends its self to the extraction verses potential for future development. We think it complies fully with that requirement of being a non-urban area.

Mr. Simmermon said, on this map that we are looking at on the other side of 69 there is no way you are going to get eight houses in that square mile. Yes, there is a lot of homes but not within a quarter mile. Same thing with the east of the property there aren't eight homes in that quarter mile.

Mr. Byers said, which makes it a non-urban area.

Mr. Simmermon said, my question of this whole thing is, if there is not eight homes within a quarter mile then it looks like to me we have no jurisdiction over this any way. If we elect not to do it then you're going to go to the State and do what you want. If we elect to give this to you, if there are not eight homes within that quarter mile area, then we have the right to stop you from blasting.

Mr. Wilson said, if in deed their point is taken that they can mine in a non-urban area then any restriction we put on here can be taken to court and be made moot.

Mr. Simmermon said, no that's not right. The blasting part is not part of the State law, only sand and gravel.

Mr. Byers said, I am voluntarily committing to remove blasting. If you turn it down I could litigate this and two years later I could blast. I am voluntarily committing to pull that off the table as trying to work with the neighbors. That's coming from me as a person but from IMI. They want to work with the neighbors.

Mr. Shine said, if this were to be denied today and lets assume it is not appealed, they are saying this is a non urban area, tomorrow morning they could go out there, only if they own this property, they could go out there tomorrow morning and start mining. They could start blasting. Because they are saying it's a non urban area then we would be required to take court action against them to stop them and say number one it's not property zoned and number two it's a non urban area.

Now that would be left up there for the court to make that determination. Now if we would approve this we would recommend sending a favorable recommendation to the county commissioners and if the county commissioners would approve it with these conditions then whether it be tomorrow or five years to ten years IMI could commence their work and they could remove sand and gravel.

Mr. Wilson said, in the minutes from the last meeting there was an indication in there that there would be no extraction period for a period of four years or greater. But that doesn't appear any where in your document for conditions.

Mr. Byers said, in all honesty we didn't put that in there. We did do our best estimate as to when we would start and that was four years. It could be three years or it could be five years. If you want we can see if they would like to make that part of the commitment. It depends too on the market conditions. If that is a critical factor and you think it is absolutely important to you as a planning body we can put Mr. Layman on the spot and see if he will agree make that part of his commitment.

Mr. Shine said, planning does not have statutory authority to obtain conditions. Board of Zoning Appeals has statutory authority for conditions. There is case law, which states that if the parties agree in a rezoning matter for certain conditions and limitations and covenants if those are approved there are voluntary and they are recorded, they run with the land, those conditions will apply. We have done this on several recent cases and we are getting written conditions and having those recorded. Those will be binding on the use of that property.

Mr. Randall said, if this is denied today, they own the land, it's in a non urban area and according to State law they could go out there tomorrow with a backhoe and start moving dirt.

Mr. Shine replied, yes, they could do that today, tomorrow or whenever. If that were to happened we could commence a lawsuit stating this was an urban area and therefore, number one it's not zoned, number two it's an urban area and therefore they don't have the statutory right. The Indiana legislator did grant for timber and minerals the right to come in and to mine timber and minerals basically wherever those were if they were in non-urban areas.

If this were approved today they could only do what their commitments and the modification to these commitments state. They could never do any blasting.

Mr. Orick said, what I am trying to reconcile in my mind is, do we have enough cause to go against our Comprehensive Plan and the recommendation of our staff.

Mr. Newman said, don't forget you have the Technical Review approval as well. They did pass on a favorable recommendation to us.

Mr. Randall said, you look at the aerial maps and you see these two parcels of land and what's around them, IMI has a big parcel where they have been operating, and then you go north across the Interstate and northwest across the Interstate it's all Industrial, Commercial development and they are pushing that Industrial development clear on west to the township line. So, the whole area in there is not going to be residential and the area right across from IMI entrance probably being Industrial or Commercial. No one would build homes in close to Industrial or Commercially zoned ground.

Mr. Simmermon said, if I were a landowner next to that area that we are talking about right now I would rather the county put in a set of guidelines and rules than take my chances and not have any rules. Then as a landowner I have no protection as to what would happen in the next few years.

Mr. Hawhee said, I am curious why you said you were going to buy the Scott Family farms, why haven't you all ready bought it?

Mr. Byers said, it's kind of a common sense thing. You don't buy something unless you get the appropriate zoning to remove it. The Comprehensive Plan is a guideline which you have here and each rezone is case specific and you can look at it, plan, make a decision and in my opinion extract these types of commitments from property owners and end up in a lot better position than just sort of turning your back on it and letting it go. Our goal from the start was to make this useable for the neighbors with this set of commitments. We volunteered these commitments. We went to Tech and the only personal against it at the Tech meeting was the plan director. We talked to all the neighbors to the west of it and unfortunately we didn't talk to some of the neighbors further to the east but it was our opinion that this was the right way to approach these and that's how we done it. We are going through your process and procedures and we are removing a lot of issues from the table and trying to address the concerns of the neighbors.

I don't think your setting any precedence where someone could come back and say hey you gave this to Gordon Byers two years ago and look what you gave him. You can say that was case specific. They put a lot of commitments on the table and your not bound by any precedence on any rezone. You're making an advisory opinion, your case specific and facts specific.

Mr. Hershman said, I just received a letter from remonstrator, Timothy Trueblood objecting to this request. I just received it. The letter states Mr. Trueblood's objections to this request and is on file in the Plan Commission office.

Jodie Munhan told the board she lives on 500S.

Mrs. Munhan said, I am very concerned about blasting and my well. On December 2 there were two large blast and also on December 14 and the 18. The one on the 18th was a very strong blast. We are also very concerned with our well going dry and also the flow of the water.

Mr. Randall said, they would not do any blasting on this if it's approved. I believe at the last meeting that a statement was made that it would probably be 14 to 15 years before it would get down to where you could even

find out whether there was a deep enough vein of stone under there to be worth doing anything with. I there was enough then they would have to come back and get permission to extract the stone.

It is my understanding that you say on the property that you do own on the south piece that less than half of that or not more than half of that has enough sand and gravel to extract.

Mr. Layman replied, yes, that's what we think at this time.

Carol Kincaid said, where does the water come from that will create the lake?

Mr. Layman said, simply put it's the ground water. Statute says if they would affect your wells and damage your wells then they are liable. It's regulated by the Department of Natural Resources as well as the blasting.

Pete Higgenbottom told the board he built his house about nine years ago and my son built his about 15 years ago. There's only three more homes to the north of me. I would say there's been one or two of the homes that were built after IMI had already been in operation.

Mr. Likens said, I would like to make a motion. With the commitments that IMI put on this paper with the adding in of sand and gravel only and no blasting, they also added the 50 foot setback and with the berm -- mound, having trees or whatever I would like to make a favorable recommendation to the Commissioners.

Mr. Wilson said, I would like to ask a clarification on this before we vote. Are you committing to no blasting on this property in perpetuity, in other words forever? Your commitment is, you'll never come back to this body, to this county ever, ever, ever and ask to mine stone out of that ground?

Mr. Byers said, the commitment is, until it's modified after a period ---

Mr. Wilson said, your commitment is only good till it's modified?

Mr. Byers replied, that's why there is a modification paragraph. It's hard to commit to never or ever. It's IMI's decision but I think they have instructed me as --- that's a commitment they can't make. So, the answer is no.

Mr. Likens said, the Findings of Facts, I find it would not be injurious to the safety, health and moral standards. I would say it is consistent with the character of the surrounding area. I think it will be the most desirable use of the land. I feel it would not adversely affect the surrounding property values. This motion is for Petition #483.

Mr. Randall seconded the motion.

The vote was four yes; Simmermon, Newman, Randall and Likens. Three no's; Orick, Wilson and Maxwell. The motion died.

Everyone was informed that with two members absent it would take a majority of the vote to pass an item.

Mr. Wilson said, I make a motion that we approve the Findings of Fact of the Planning Director, which denies Petition #483.

Mr. Orick seconded the motion.

The vote was four no's; Simmermon, Newman, Randall and Likens. Three yes; Orick, Wilson and Maxwell. The motion died.

Mr. Wilson said, I make a motion that we pass this on to the Board of Commissioners with no recommendation.

Mr. Newman seconded the motion.

The vote was unanimous in favor of the motion.

The vote was four yes; Simmermon, Newman, Randall and Likens. Three no's; Orick, Wilson and Maxwell.

The motion died.

4. Petition #483 of Scott Family Farms, landowner, and Gordon D. Byers, petitioner, to rezone property from R2 to GI for extraction of aggregate products. This property is located on the northeast corner of Co. Rd. 500S and Ridgeview Road in Fall Creek Twp. and containing 55.969 acres, more or less.

Petition #483 of Scott Family Farms, landowner, and Gordon D. Byers, petitioner, to rezone property from R2 to GI for extraction of aggregate products will be forwarded to the County Commissioners with no recommendation.

5. Petition #484 of Irving Materials, Inc., landowner, and Gordon D. Byers, petitioner, to rezone property from R2 to GI for extraction of aggregate products. This property is located on the northeast corner of Co. Rd. 500S and Ridgeview Road in Fall Creek Twp. and containing 62 acres, more or less.

Mr. Wilson said, I make a recommendation that Petition #484 be sent to the Board of Commissioners with no recommendation.

Mr. Newman seconded the motion.

The vote was unanimous in favor of the motion.

Petition #484 of Irving Materials, Inc., landowner, and Gordon D. Byers, petitioner, to rezone property from R2 to GI for extraction of aggregate products will be forwarded to the County Commissioners with no recommendation.

Mr. Shine informed everyone the Commissioners hearing will be on the 16th of January at 10 A.M. in Room 110.

It was the c consensus of the board to take a five minute recess 10:57:16 A. M.

The meeting was called back to order 11:11:33 A.M.

New Business

1. Miscellaneous

Mr. Hershman informed the board a Plan Commission meeting was scheduled for May 8th and we have since found out the building would be closed on that date. It was the consensus of the board to change it to May 7.

Mr. Shine said, the board has been presented with three lawsuits. They are all involving the ethanol plant. One is by the Closser's, the Parker's and Keesling's those have been determined that our county attorney has taken over those on behalf of the Planning Commission per the County Commissioners.

We have filed a motion for change of judge and a motion to consolidate the cases and have discussion with the interested parties.

Mr. Shine said, the Planning Director has received an official letter from council for the KCCA requesting that Michael review the permit that was issued by the county for the landfill.

This is just for general information, Ingalls met last night at their town hearing regarding some annexations they have in the county. I have been advised that one of those petitions that was approved for annexation was for the Mann property that is on the northwest corner that abuts I-69 and also the southwest corner of 800S and St. Rd. 13. We were given no notification.

It was the consensus of the board to take a one hour break 11:30:53 A.M.

The meeting was called back to order 12:39:09 P.M.

2. Resolution of Redevelopment Commission.

Mr. Hershman said, we are going to start on the Subdivision Control Ordinance Article 3, Administrative Subdivisions, 3.3 we are just changing the procedure of how we handle especially on the final level.

Mr. Newman said, currently what is taking place the way it's been established, whenever a final plat is approved by the Plat Review Committee, the second time it appears before Plat Review, at that point it comes to our office to be placed in to the mapping system. When we receive these Administrative Plats at that point, in general we find a minimum of three to four different minor errors and in some cases as many as 20 to 25 and in a lot of cases we have to send these plats back to a surveyor to edit. Then send it back to us and in some cases this process has taken three or four times.

So, somebody may receive an approval for an Administrative Plat in January but it may not actually get recorded until March or longer. So, why we are trying to deal with this procedural change is to set it up to where all of those errors are taken care of before it comes before the Plat Review Committee for the final plat approval. So, basically everything will be done when they appear before Plat Review and the day that it's approved by the Plat Review it could be recorded.

They only exception will be is if the Plat Review would happen to find something they would like to see additional on the plat and in which case the surveyor would have to go back and make those changes and then get it back to the Surveyors office. But, that is a very rare occurrence. So, for the most part each

Administrative Plat will be recorded the day it is approved. You will be able to pull a building permit the day it's approved rather having to wait until afterwards.

For what ever reason the Plat Book Maintenance Department was not part of the Plat Review Committee. So, the Plat Book Maintenance Department is the department that actually takes the Administrative Plat and places it on the parcel base map for Madison County. Without them being a part of that process it was difficult for them to be part of the procedural changes and the process of the Administrative Plats. Now that the Plat Book Maintenance Department is part of the plat review committee then a lot of these ideas are able to come to life.

The entire procedure was discussed with the surveyor's, each of them not only reviewed a list of the procedural changes but also the list Mike discussed that is going to be part of the rules and regulations for them to follow in regards to the Administrative Plats. There was only one point that was argued by the surveyors and it has to do with the rules and it's in regard to regulated drains. I was trying to implement a requirement that each and every regulated drain that is located on any property that's part of an Administrative Plat must be staked and a description written for that regulated drain so we have a good location of that drain. Then we can for the most part keep anyone from building within our easement and have a much better control over our easement and location of the drain in general. However, licensed surveyors did not like the idea of having to locate the drain on each and every one of these properties. They didn't like taking on a lot of that responsibilities in stating that this is the regulated drain. So we kind of put in a provision in the rules and regulations where the surveyors office will work with the licensed surveyor in each individual case where this may come up in the situation and work toward resolving that.

Mr. Shine said, the reason I asked that be brought up is there are no surveyors present today. They were not here at the last meeting that we had which we did state that the hearing would be continued until Mr. Newman could be here to explain his point of view. I've had discussion with several of them to confirm exact ally what Brad has said here because this is something that directly affects them. They are our go between with the general public. They are aware of this and are in approval of these changes.

Mr. Newman said, that letter was sent to John Manship, Richard Ward and Associates, Brad Rayl, Steve Servies and it was even given to Rick Durham.

Mr. Hershman said, all of this starts in the Planning Department and it will be part of the ordinance. We will inform them of the changes.

Mr. Newman said, if it's a one lot split with existing residence they no longer need to go before the Drainage Board. If it is one lot without any structures on it then they still come before the Drainage Board.

There was one other big change that this brings along and that is the requirement of a boundary survey for every Administrative Plat that is presented to the county and that rule is being put in there because it is State Statute under Rule 12 for the guidelines of licensed surveyors. Many of the surveyors were excited to see this added to this.

Mr. Shine informed the board this is not on today's agenda. It was tabled from the last meeting but it did not get placed on the written agenda. If we are going to have a special meeting to approve certain CAFO matters I would suggest that we would have that same meeting we have the approval these matters rather than having ---

Mr. Wilson said, what we would be doing is, today we would be taking any additional testimony, we would have discussion and then we would be retiring from it and then have a scheduled meeting to make the final decision.

Mr. Wilson said, I make a motion that we review both of these proposals today for recommendations concerning the zoning ordinance and that we establish a meeting to be advertised for the express purpose of a final decision on two proposals.

Mr. Randall seconded the motion.

The vote was unanimous in favor of the motion.

Mr. Wilson said, motion to set the meeting for the 23rd of this month at 8:30 A.M.

Mr. Randall seconded the motion.

The vote was unanimous in favor of the motion,

Mr. Shine said, the next item is the CAFO's. Michael and I after our last meeting made some reviews and notes and we attempted to put those in to a document. I understand our document is in regards to paragraph nine and ten are incorrectly presented.

Under what was e-mailed to you and what was presented to you under, Manure, that was on monitoring wells in regards to the liner was not maybe the consensus of the board was.

Besides those two things I did receive a pre application permit process. That came from one of the participants who were present and also it came from you all. I have placed that in here under Confined Feeding Operations under paragraph 1. and 1A.

Those definitions are what we did discuss. There were no changes, those are strictly out of the Administrative Code.

Mr. Wilson said, what I had under definition was under what is temporary.

Mr. Shine said, we talked about that and what I said was the definition was not permanent. That would be up to the Planning Department as to what they felt was reasonable.

Mr. Simmermon said, between 1 and 1-A. This has to do with what I talked about having --- somebody couldn't build a house next to you. I talked about how to come up a way to protect a person applying for the permit.

The question I have is under the 3 - I where it says, return receipt requested. In all the other notification the county has nowhere does it say, returned receipt requested. It says you have to send out the mail and you have to have a receipt. That's different from returned receipt request. Returned requested is a lot more expensive than what the Planning Commission requires.

I am just saying, why can't we keep it all the same as what the Planning Commission requires on all their other notifications.

Mr. Shine said, the board prior to today has not discussed this language. It's all new language. You will also need a time period as to what was given to you. The time periods will change. They put in 30 days and 60 days for notifications. I felt as long as we were going to do we should give immediate notice. That's why I put the three days in.

Mr. Wilson asked, why if you put a CAFO out in the country where it's really going to be, how many people do you have to notify out in the middle of the country?

Mr. Simmermon said, IDEM requires and it's also in the application, it's all interested parties.

Mr. Shine said, this is specifically written that each property owner within 2,500 feet shall be notified. Each property owner within 2,500 feet of the boundary of this property.

Mr. Newman said, boundary is not stated in here. If that's how it's going to be it needs to be worded in here that from the property boundary.

Mr. Wilson said, my note on this is, you have pre application permit for CAFO or CFO may be obtained if prior to the applicants submission to any IDEM confined feeding permit.

I'm reading out of one, this pre application permit shall prevent for 18 months anyone from obtaining a building permit for a residence to be built within the setback established herein without first obtaining a variance for the proposed residence location. Then if you go to two it says, renewal of the pre application permit shall be permitted upon the applicant demonstrating a good faith effort to obtain an IDEM permit. Failure to demonstrate good faith effort shall be grounds to deny renewal of the pre application permit or issuance --- my point is, the way I read this is, you could tie up a neighbors ability to make a decision over control of their property for an enormous amount of time. At a minimum we are looking at a year and half that I can't do anything.

Mr. Simmermon said, you can get a permit easily within six months.

Mr. Wilson said, if that's the case we need to get that language out of here.

Mike Shooter, Frankton.

Mr. Shooter said, it doesn't preclude them from --- it requires them to go before some Board of Zoning Appeals to get a permit it doesn't keep them from getting a permit.

Mr. Wilson said, it does if the BZA doesn't approve it. And it would also force them in to paying the application fee and process to go through the Board of Zoning Appeals. The only thing I am asking here is, is that in essence for a possibility of a very long period time the way this is written and individual who owns their own property, pay their own taxes, can not under the zoning law do what they want to do with their property.

Mr. Shooter said, the original setback is 500 feet and you're just notifying the one in 2,500 feet. All it does is add one step in there to make sure that they know that there is a CAFO or CFO proposed in that area.

Mr. Orick said, what if they sign an agreement that says, if I am going to build within this setback of 500 feet I have to sign some sort of an agreement that I know that there is a proposed CAFO going in at 300 feet from my property? Rather than having them go through the BZA ---

Mr. Shine said, this issue came up only because we had as our requirement the fact that you had to file you State CAFO permit at the time of filing. We removed that, not the acceptance that you would remove the requirement that said an IDEM permit had to be attached but the application had too but we were not going to approve it until such a time that the permit was granted by IDEM. It was contingent up on IDEM ---

Mr. Orick said, I guess what I question is the BZA approval. Does it have to get BZA approval or can that homeowner just sign an agreement that says they realize that there will be a CAFO in this area or a possibility of CAFO and they do not object.

Mr. Orick said, I would like to ask a question legally here, if a CAFO is proposed and somebody comes in and they want to build within the 500 foot setback of the proposed CAFO does that --- can that be done once the approval process for the CAFO has been started, can that be done up on the consent of that individual building the home? A waiver. I waive that setback from me.

Mr. Shine said, the state won't approve it.

Mr. Shooter said, you've got it under paragraph 7, CAFO shall not be locate closer than 500 feet from the nearest point of the structure --- CAFO from the nearest corner of an existing residential structure without written consent is obtained from the property owner.

Mr. Newman said, it should be in the wording that if there was a pre application permit it should also require a site plan as well.

Mr. Shine asked, so are you saying that 1A-1 at the end of that very first sentence should have additionally there too and site plan? And then a sentence ---

Mr. Wilson said, I think you got to strike that whole paragraph and start over with this new theory.

Mr. Shine said, so we file a pre application permit with a site plan, it's good for specific number of months, one can not obtain building permit unless they sign a consent and acknowledgement that a CAFO permit has been applied for and may be granted and such documentation shall be recorded.

How long, is this 18 months for the time period?

Mr. Orick replied, I think 18 months is a good time.

Mr. Newman said, also if we go that route that recorded document needs to come back to the Planning Department and it needs to be maintained by the Planning Department for public record.

Mr. Shine asked, are you saying no notification is required for a pre application?

Mr. Newman said, as far as notification goes it probably needs to be reworded so that if there's residentially zoned parcels within 1360 of that then you need to send a notification to them as well. Whatever falls within the setbacks.

Bill Hobbs said, I just want to make a comment to that. Why couldn't we require them to submit their application at the same time they submit the IDEM permit? We already know that we won't hear that until after they get that permit but if they were to file it at the same time with us full well knowing we are going to set it for a hearing date then that seems like to me that would accomplish everything --- Anybody that came in and wanted to build we are already on notice that this is a valid idea and is a possibility.

Mr. Wilson said, but still do the business where if they come in an adjoining property they would still sign.

Mr. Wilson said, if there is an official notification on the 500 feet area and after I get that notification I decide I'm getting the heck out, I am selling my ground, under the business of real estate disclosure rules under that is the property owner at that point in time has been notified obligated to tell someone they are selling the property to what's going on?

Mr. Shine said, I can not answer that. So, in summary, when a person comes in and files for a special use for a CAFO they file their application and their IDEM permit and the IDEM application and all the accessories documentation with the county. They give notice to all property owners within 500 feet of this property. And the notice will state you know that it will not be set for a public hearing until IDEM actually makes their determination and you will receive notification later. But this will start it all.

Mr. Simmermon said, don't forget if its in a residential area then you got to add that 1360. It's whatever's in 7. Just look at 7 and copy that.

Mr. Shine said, number 2. A-2. It shall be exempt from that farmland capacity requirement table above.

Number 5, do you want 40 acres?

Reply was yes.

Number 6, one hundred feet from property lines?

Reply was yes.

Number 7, five hundred feet, 1360 feet?

Reply was yes.

Number 8 okay?

Reply was yes.

Number 9?

Mr. Wilson said, you set this rule and then you come down and it says, all such outstanding violations must be resolved before a permit will be issued in Madison County. Okay. Then it says an applicant shall submit a signed affidavit saying there are no outstanding violations. The only thing I added in there was some little bit of language that said what the penalty for falsification of an application would be.

My suggestion would be is, if somebody falsifies their application in reference to this area that they not be allowed to reapply for a permit for a ten-year period.

Mr. Shine said, we just file a lawsuit against them and say they falsified their applications. It's contrary to what our procedure calls for and therefore we an injunction number one and number two close them up.

Regarding any, all-outstanding violations regarding water quality must be resolved before a permit would be issued.

Mr. Wilson said, I am talking about falsification of a document. I'm saying if a guy falsifies a document in reference to a water violation then shut him out for ten years.

Mr. Shine, number 11.

Mr. Shine said, manure application. One of things you wanted to have last time was manure is brought in from an out of county facility -- I attempted to make some changes that the rules would apply to Madison County.

Mr. Wilson said, if you look at one and go to line three, manure requirements as approved by IDEM will apply to all applications in Madison County. How does that run with the page before under six it says all CFO's must follow all manure applications rules defined in their IDEM permit. Then you drop down to number four which says, manure applications shall be by injections unless approved by the Madison County Board of Zoning appeals. We've got a conflict there on what rule we are trying to tell them to do.

Mr. Shine said, after our discussion yesterday I modified that and it will unless modified by Madison County.

Mr. Wilson said, I thought IDEM allows spraying and injections. The only requirement on the spraying was there was a further setback than what there was ---

Mr. Simmermon said, no, slop requirement. That's the biggest one. It would also have to be approved by IDEM to approve on top of the ground. It's a special approval to do that.

They would have to do all the State rules and beyond that they would have to abide by the county rules with saying no spraying it would have to be by injections.

Mr. Maxwell said, we are getting ready for number five.

Mr. Newman said, on number five it looks like to me the main thing we are concerned about is surface water run off. Is everybody pretty much in agreement there? The we don't want the term regulated drain. Because regulated drains can be subsurface or surface drains. If we put regulated drains then we need to specify regulated subsurface or surface drains.

Mr. Simmermon said, I think we talked about that and it was suppose to be open drains. That was the term we used.

Mr. Newman said, if it's just open ditches then we need to state that and don't worry about the terminology of regulated drains.

We're stating 25 feet in width filter strip. Are we saying 25 feet total, 12.5 feet from the centerline of any surface drain or are talking 25 feet on each side of the centerline? That needs to be specified.

Mr. Simmermon said, look at number seven. We talk about regulated drains. We need to put that same terminology up in five.

Mr. Newman said, I would state open ditch period. I wouldn't even worry about the regulated drain on number five. Just pull regulated drain completely. You want along any surface water, any open ditch or water source. Also, in paragraph five you want 25 feet on each side, width.

Also, number six and number seven contradict each other.

Mr. Shine said, no it doesn't. Because surface water would be 500 feet and that would be for a lake or river, pond, marsh, stream or whatever that might be. Now the top bank of any open drain is 25 feet because we become more restrictive to an open drain. So, you can't take that out.

Mr. Hobbs said, but I think what they are talking about is surface water like, streams, rivers stuff like that. Large waterways.

Mr. Simmermon said, on the 500 feet if we just say, sensitive areas that are going to take in to play everything but lakes and rivers. Because what you do want to protect from is wellheads and that's sensitive areas, wetlands, endanger species, parks those kinds of things. You want to be sure you leave 500 feet in for sensitive areas.

Number six, the 500 feet stands for sensitive areas and public water supply in take structure.

Mr. Shine said, we have already adopted all those rules. I took out surface or on number six.

Mr. Newman said, then number seven should read, not open county regulated drains. It should read, open drains and roadways.

Number 8.

Mr. Shine said, it has been suggested that a Soil Scientist be placed instead of the agronomist.

Mr. Simmermon said, there is no way one person can look at that and give you an objective decision.

Mr. Hobbs said, the whole issues with the monitoring wells and the liners came up because, I brought this up with IDEM and I didn't get a satisfactory answer. It came up on the very first application we had and that's because the soil borings weren't adequate. Soil borings only go six inches below the level of the pit, that's the deepest structure, they don't assess whether there is sensitive areas (not audible). That's how all this started out. My suggestion is to put monitoring wells in simply because that's just a continuation of soil borings (not audible). I think Soil Scientist is the appropriate wording but not to the point of he will review the entire IDEM application. He would simply conduct soil and water compatibility test and review the soil borings. And also do the water testing.

Mr. Shine said, I want to know how you want number 8 written because if we are only going to have a Soil Scientist review the information for the monitoring wells, liners, testing of the waters, then I want to know if there is anything else that you want anybody to use. Who is going to review all IDEM applications? Are we going to have an engineer?

Mr. Wilson said, reviewing the IDEM application is just went out.

Number 9.

Mr. Newman said, I see the word perimeter drain and I am just curious, can somebody explain what the perimeter drain is?

Unknown: Perimeter drains are design from a hypnological standpoint. They vacate a spot within an area and the perimeter drains are there to relive hydrologic pressure from the surrounding areas when the pit is empty. They also serve as an inspection point.

Mr. Simmermon said, IDEM tells you how you can do it. There's two ways. One is through gravity feed. It has to be a percent slope, they monitor all this. They go over the slope of this perimeter drain, if you got enough slope, if you got enough fall away from your building you can gravity feed it out. It goes in to a rock bed and it holds water there temporarily and overflows on to the surface water. The other way is, if your ground is flat you still have to have the angle in order to drain the perimeter drain but has to go in to a holding sump little well. Then from there it is mechanically pumped out on to the surface. Either way it is a surface outlet.

Mr. Maxwell said, in some of our meetings we have talked about the depth of the wells that actually serve these buildings for the amount of volume they have to pump. I remember 300, 400 so how would that be good monitoring place that deep?

Mr. Hobbs said, eventually if there is a problem at that point you would completely --- you would think by the time check your perimeter drain and realize you have a problem and you check your water wells and you have a problem you better correct your problem. The 30 depth is because that is the average depth of the hydraulic ground water table and you have to get below that to be able to sample continually year round.

I think it is very important that whoever makes the determination on the liner not be someone within the county to determine if that particular site needed a liner of some sort.

Let IDEM write something in detail that they do not want monitor wells be any closer than 100 feet.

Mr. Wilson said, if we get that clarified and IDEM says it's okay at 50 feet under this wording that's all right? If IDEM says no it's got to be a 100 feet then we just insert 100 foot. To me that's better than no monitoring at all.

Monitoring wells and perimeter drains will be tested.

Mr. Orick said, lets just see what IDEM says about the distance. I mean you're going to need at least four, depending on what IDEM recommends to determine four borings. I am talking about the buildings. You will need one or two more for the monitoring wells. Lets just see what they say on the distance we'll come back to -

I think if you tested the perimeter drain and any water source, any well on the properties according to people I have consulted with they say that's fine. That's my opinion.

Mr. Shine said, I have listened to the last minutes and Michael have listened to the last minutes and you all approved those minutes today giving each of you the opportunity to read what was in those special minutes. There is nothing that was --- I have notes in reference to IDEM for liners/concrete/vents and lagoons. It states positions. If in the first 30 feet when they built these things we found (not audible) sand and gravel, bedrock and then what is written desires a liner. But if in the first 30 feet there is no sand and gravel and bedrock then there is no liner required.

Mr. Simmermon said, you can go any where out here in the county and go down 30 feet and not find a little bit of sand and gravel. Now within that 30 feet area of sand and gravel you're trying to tell me that one opinion from one soil scientist is going to make a decision on something that is very expensive to do, I just can't see that when you've got IDEM and all the engineers and everybody backing the state on CAFO's telling you their decision whether to put one in or not to put one in.

Mr. Newman said, this is not going to get resolved today. And we set a meeting at 8:30 before the BZA meeting so we are going to have to reschedule that because we are going to have to continue this. So, we need to come up with a new date for the meeting.

Mr. Maxwell said, why don't each member on this board take those last two nine and ten, study them and write out what you think a proposal would be turn it in and see what we got?

Mr. Newman said, I make a motion that we have special meeting on Wednesday January 17th at 9 A.M. here in the Commissioners Court for the propose of further discussion on the CAFO issues and resolution thereof.

Mr. Likens seconded the motion.

The vote was unanimous in favor of the motion.

Mr. Newman made a motion, seconded by Mr. Wilson to adjourn. The vote was unanimous in favor of the motion.

Adjournment: 3:43:20 P.M.

Bill Maxwell, President

Beverly Guignet, Secretary