

Plan Commission Minutes June 1, 2015

Jim Moore: Alright it is 5:37. Welcome everyone to the Town of Newburgh Plan Commission for June 1, 2015. Let's call the roll. Chris if you would start the roll call, please.

Chris Wischer

Candi Burress

Kris Setzekorn

Jim Moore

Hap Hanson

Anne Rust Aurand

Jim Moore: Ok. The Minutes, uh, we have 2 sets of minutes here. One from March 2nd and one for May 4th.

Hap Hanson: I would like to move to table approval of the earlier minutes, March 2nd, because they were just received. And they are big and thick.

Jim Moore: Yes.

Kris Setzekorn: I second that.

Jim Moore: All in favor of tabling the March 2, 2015 Minutes please say I. Opposed. Alright, those are table. And the minutes for May 4, 2015. Any corrections or additions?

Kris Setzekorn: I move we accept the minutes from May 4, 2015 meeting.

Jim Moore: Thank you.

Hap Hanson: I second.

Jim Moore: Ok. All those in favor of approving the minutes from May 4th please say I. Opposed. Those minutes are approved. Reports. Town Council Liaison.

Anne Rust Aurand: At the last Town Council meeting Town Council did accept, with regret, the resignation of Plan Commission member Matt Presley. He and his family have moved out of town making him ineligible to continue to serve. So, we will be looking for someone to replace. I think that is it.

Jim Moore: Ok. Thank you, Anne. Staff Report.

Kris Setzekorn: I have nothing.

Jim Moore: Unfinished business. Hearing none. New business. Rezoning Petition of 2 Gray Street. 2015-MPC-02. Chris, are you going to address that?

Chris Wischer: You want me to address it? So, this, we had some discussion about this at the last meeting. But due to an advertising correction, it was postponed until this meeting. But, is it on. Can you hear me now? So this is the property at 2 Gray Street, at the corner of State and Gray. The northeast corner of State and Gray. And this is a petition that was initiated by the Town Council and sent to you by the Town Council for your consideration. The property is currently zoned C-3 and the proposed rezoning is R-1. This building has been vacant for quite some time and it has been the subject of some code enforcement investigation and may be more than likely some proceedings going on in that regard with this property. And I think the concern the Council has and Anne can speak to this, is that if it is ultimately is razed and is zoned C-3, I think the Council would rather see it as a residential zoning. If you have the zoning map in front of you, you can see that, that is on the corner, the properties going north on that side of the road are all zoned C-3, but the properties going east on Gray from the corner are all residentially zoned. So the thought is that the corner should more fall in line with Gray Street than with State Street. Does anybody have any questions for me, Lori or Anne on that?

Jim Moore: Any questions?

Chris Wischer: So, I don't know. Just like other proceedings, you would want to hear from anybody who is here that would like to speak about it.

Jim Moore: Yes, would anyone like to speak to this issue? Ok. I am hearing none.

Kris Setzekorn: I move that we rezone this property to residential.

Jim Moore: Alright. Do we have a second?

Hap Hanson: I second.

Jim Moore: Ok. We have a motion to approve rezoning and a second. All those in favor please say I. Opposed. Motion carried.

Chris Wischer: Show that as unanimous. That is a 5 to 0 recommendation to the Town Council. So those forward with a recommendation for rezoning. Will that be on the same, June 24, 2015, agenda of the Town Council?

Jim Moore: Ok. Next item is Rezoning Petition Highway 662. 2015-MPC-01.

(unknown woman): Unless you have any questions for me I will relinquish the microphone.

Jim Moore: Ok. Mr. Calderon. Let me ask you a question before we proceed. We've got 2 lengthy meetings regarding this issue and after the first meeting you moved the footprint of the proposed store and now, so what we are saying now, we are moving it again. I just want to make sure we haven't already voted on this issue.

Joe Calderon: Well. If I might explain. And let me address you and the rest of the Plan Commission members and the community. Joe Calderon, attorney for the Petitioner in this matter. And I apologize for you having to sit back and listen to a case that, well we've spent a lot of time on the substantive matters and to the community. What we discovered, unfortunately, the afternoon that we were scheduled to present to the Town Council, was that the rezoning legal description, which was 10.069 acres did not encompass or capture all of the project. As you correctly stated, Mr. President, we had moved the building to the south and to the east a little bit between March and April to account for suspected wetlands along the creek and to comply with some requests by your Site Review Committee as well as the engineer and the MPO to try to make the site look safer from a road and trail perspective along 662. We had thought that the legal description captured all the project. We discovered that it didn't because we had published and sent notice based on the existing legal description that you, as Commission, made a recommendation upon. We felt that we could not go forward with Town Council and the only way to correct it, frankly, was to republish, resend notice and present to you again. Now in talking with your attorney. What I would like to do is rather than go over everything that we've already gone over, because we've done that. I would like to incorporate all the old minutes by reference and then just merely focus on the few changes that we have made between April and now. That way, we can be respectful of the public's time and of your time. If that is ok with you. I would like to proceed on that basis.

Jim Moore: Ok.

Joe Calderon: So, as I mentioned we had petitioned for 10.069 acres that was zoned C-4 and A-1 to C-2. Interestingly in the new legal description, is exactly the same acreage. We didn't want the Town, whether it be the Plan Commission or the Town Council to feel like we were making a grab of more land and commercial. So the engineers, and representative is here, amended the legal such that it is exactly 10.069 acres. This is exactly the problem that we ran into a couple of weeks ago where the red line was showing the original 10.069 acres and you can see the project has spilled to the outside of that. That is what we had to correct. And what was done for this evening. Our new plans are a far amount different than the original Site Plans. You can find the new plans in an 11 X 17 format in Tab 2. And you can see again, not so much the building, has been shifted to the south, as you know. The size has changed from the previous Site Plan. But you will also notice we've been able to accomplish a couple of things. And if you would look at the landscaping plan which is the second page, you will see that we've paid attention to a lot of the concerns that you've had. And meetings

with the Site Review Committee and indeed individual Town Councilors. And that is, what do we do with ingress and egress on 662. There was a lot of concern expressed about quote "illegal left turns". As you know, we have proposed 2 entry points. What we have agreed to do, and we have put this in a new Use and Development Commitment as shown on the landscape plan as to, in essence, create a barrier. And that is by doing a landscape median within the right-of-way of 662. We have discussed this with the engineer and the MPO. And I think everybody is on board. That way, we can avoid the threat of the 2 left turns for exiting the Site that folks had expressed concerns about. It also can serve for esthetic purposes as well as traffic calming. The other major feature that you notice and doesn't show up so well in the black and white. But there is going to be a major effort made to preserve as much of the canopy as we can, given the location of the east access drive. We've done an initial survey and we put in our Commitment that we will go out and do a more formal survey and present that to the Town so as to preserve as many as those trees as we possibly can. So, we have made some changes in direct response to comments that we heard from both you and your Site Review Committee, as well as the general public. We added a photometric plan as well. It indicates that there is minimum amount of light at the property lines ranging from 0.0 to .3, I believe. Very difficult to read. My engineer may have a little more full plan to say about that. Here is a little better shot of the median and some of the stats as to what we are committing to. To the extent that we remove trees, we are going to replace them at a 2 to 1 ratio. There is some of the photometric plans and lights. All of which are pretty low foot candle range at the property line. We also updated the elevations of the store. This is the original that we brought to you several months ago. We have heard a lot about trying to maintain an appropriate gateway to the Town and one of the things that we hope that you all will understand is that Walmart is a company that changes quite a lot and in fact, it has picked this location as it ultimately moves forward to having a new prototype with some architectural enhancements. This is the latest version of that. You can see there is cornice treatment a lot more broken up. There is additional windows at the front elevation. Here is another rendering of it. (cannot hear him-turned away from the microphone). The sign is largely, remains the same with the lowest of energy. This is a night version of what the store would look like. And again, you have heard a lot of different things about the operation, this is simply a place to buy groceries. And we think indeed we have a number of the dates and conversations on that, but we are not trying pull a bait and switch the grocery store. We will give you a format with pharmacy, fresh and local produce that will be efforts made to locally source food. We think that in addition to that, one thing we didn't do a very good job of before was explaining the Commitment, that my client has in each community within our State. Each store has money allocated to it to pay to community activities as it sees fit. So, whether it is food in kind for Little League or Toys For Tots or any sort of local charitable endeavor, each store has that autonomy. In addition to that, there are significant dollars and significant donations in kind throughout the State of Indiana. And that is something that sometimes gets lost with a big company like that. Property tax revenue. We included both a copy of a property record card from a neighborhood market located in Fishers, Indiana, of recent vintage, that indicates an assessed value of 6.4 million dollars. We had a third party, HJ Emball(sp?) and Associates, prepare a quick property tax report which is found in Tab 6

that indicates confirmation of that kind of tax valuation (cannot hear Mr. Calderon turned away from microphone). Use and Development Commitment has been updated and that is in Tab 4 and that now includes the landscape median. It includes, of course, the new Site Plan and it also includes an additional use restriction as to not allowing multi-family dwellings on this particular site. There had been some question as to what the Comprehensive Plan called for for this site. It does, even though it is old, it calls for multi-family, my client does not want to see it. We know that that was an issue that some of the community members had raised and spoken to their Town Council about so we added that. Much of the other portions of the Commitment remained the same. I am not going to beat around the bush on the traffic study we have incorporated into the booklet that is before you and we have committed to contributing to the traffic signal in the Use and Development Commitment (cannot hear-turned away from the microphone). We think that all the intersections will operate at acceptable levels. We know that your Town Engineer and the MPO were satisfied with said traffic study as well. With that, I think I would like to turn the microphone briefly to the attorney for the owners, Krista Lockyear, in case she has additional things to say, but thank you for your indulgences. I appreciate it.

Jim Moore: Thank you.

Krista Lockyear: Thank you Joe and members of the Plan Commission. Krista Lockyear from Evansville with the law firm Jackson, Kelly and I'm clearly new to this game. I missed all the earlier long presentations. I appreciate you all hearing all of those and taking the time to listen what additional that we have to say tonight. On behalf of my clients, Ned and Helen Williams, I would like to remind you that this rezoning, while it is about the land use and the petition that Walmart has done a lot over the past several months to answer concerns from the community, yourselves that was raised at the meeting and the Council members. This rezoning is also about Ned and Helen Williams. Ned's family purchased and moved to Warrick County in Newburgh in the 1800's and the family has grown with this community considerably since then. As you all know, they have farmed this property over the years. Family has lived there. Ned is still farming the property. But as time goes on the ability to farm that land and to continue to keep it as agricultural, becomes much more difficult for them and less desirable. So, they have decided that they were going to put this property on the market and they would like to see a good use put to this land. Because they are continuing to live here in this community. They will continue to be neighbors. So the property has been listed and eventually it will be sold for some type of use. As you, you have seen it, it is an ideal property for commercial development. To the signalized intersection right on Highway 662 as it merges down from 4 lanes into the Town of Newburgh. And it is very valuable property. I think the Town Council had the foresight to see that when they decided to annex the property because the Town itself will benefit from the development of this property. Ned and Helen have done a lot to help the Town grow. They have actually dedicated a grant to the sewer easement to install the sewer lines to benefit the development of Windsor Point across the street. I have heard that some neighbors of Windsor Point aren't too excited about this development, but that residential community may not be there but for Ned and Helen helping out for

community growth. They have dedicated land for the improvements for 662 and they have dedicated land for storm drainage for the area. They have agreed with Town Council should this rezoning go forward that they will also dedicate land for the Rivertown Trail at no cost to the Town beyond the land that Walmart will be acquiring and dedicating. So they are continuing to want to invest in the community and I would like you to keep in mind that this rezoning request is about them. It is also about land use and, again, from coming into this from behind the scenes, I've got a little different vantage point and I heard a lot about oh we don't want Walmart in Newburgh. But as you can see from Mr. Calderon's presentation, they have done a lot to guarantee this community that it will be a good development. And I know that there were other options tossed out. Your Comprehensive Plan anticipates apartments or multi-family development at this intersection. And I have done a lot of rezoning in the Warrick County and Evansville area and what we see time and time again, that the apartment option is going to bring a lot more of the negative impact that you all express concerns about. The apartment option, that my clients, it is absolutely true that they have been approached by someone that would like to develop this land for apartments. Their neighbors have come forward and said, oh gosh, we really do not want to see apartments developed on this property. If you think about it, somebody that works in Boonville may drive to this location to live in apartments adding considerable traffic to 662 and this intersection. The proposed grocery store is not a destination location, so that the people that will be driving to and from, are probably already passing this location. So you are really not increasing traffic with the proposal. The apartments bring transient residents. I am not against apartment dwellers. I was for many, many years. But they are less vested in the community than the people that would likely be working at this store and live in the community. And apartments do bring greater potential for crime. Because, again, you have that transient element, people that don't care about their neighbors. I know Walmart has presented information to you that there is no evidence of harm of joining property owners from having a neighborhood grocery store in the vicinity. In fact, as planners, I'm sure you guys have seen the movement for sustainable growth. For growth that allows somebody to walk to a grocery store or ride a bike to a grocery store. And this particular location would allow that on the trail. I think that for the residents of Newburgh it would be a perfect land use for this location. And finally, besides this rezoning being about Ned and Helen Williams, and about land use, it is also about fairness. I drive by that intersection and I look and across the street you have industrial zoned property and catty-cornered across the intersection you have commercial and you have Casey's General Store already commercial there. So to be able to say that commercial land use for this property is inappropriate, is certainly not fair. So for my clients, on their behalf, and for fairness and because this really is a pretty good land use you have in front of you, I ask that you recommend to Town Council to approve this rezoning. Thank you.

Jim Moore: Thank you. Ok. Mr. Calderon are you finished? Ok.

Joe Calderon: I will be available to answer any questions that you all may have. Thank you.

Jim Moore: Do we have any questions? Council?

Hap Hanson: Maybe just a recap. Other than, it is the same acreage we are talking about. Other than shifting it to the south and to the east, it is the same. The footprint that is being put onto this and built onto this property is larger?

Mr. Calderon: Slightly larger than originally presented.

Hap Hanson: What is slightly?

Mr. Calderon: It's now a shade over 46,000 feet. About 5,000 feet more.

Hap Hanson: So, a bit more than 10% or 12%.

Jim Moore: I think the original one was 39,000.

Mr. Calderon: We can't, no it was 41,000 something. Yeah.

Jim Moore: Ok.

Mr. Calderon: It is a new prototype. It is meant to bring more of what the client's experience is as to what they see is the demand from their own customers. Whether it is more produce, etc. But, at its essence, rezoning, and I can't run away from a Site Plan, rezoning is about the use of the land not necessarily about the size of the building on that land.

Hap Hanson: I only wanted to know what the difference was.

Mr. Calderon: It is, it is.

Unknown Council man: Between today versus 45 days ago.

Chris Wischer: Sorry, may I jump in. Right.

Mr. Calderon: Back in March it was 41,000. April it was 45,000.

Chris Wischer: For the clarification of the record, just to make sure the record is clear. And you correct me if I am wrong. But I thought it changed between the March meeting and the April meeting. But what you are looking at today is the same, ok, slightly larger, but not 5,000 square feet larger?

Mr. Calderon: No, it is 5,000 square feet larger from the original one.

Jim Moore: This is about 800 or 900 square feet. So, heading towards 46,000.

Mr. Calderon: Yes, exactly.

Jim Moore: Ok.

Hap Hanson: Ok, so we are still talking about the same traffic studies would apply, we are still talking about no plan for lights at this point.

Mr. Calderon: Correct. It is not warranted.

Hap Hanson: So it is just the legal description that has changed from the publishing of the legal description?

Mr. Calderon: Yes. And then however you want to take into account the Site Plan changes and whatever else that you have heard this evening.

Hap Hanson: So those are the differences between your first presentation to us and today?

Mr. Calderon: Well, we've added to the Commitment as I have stated.

Jim Moore: Thank you.

Candi Burress: I have a question. Since it is such a hot topic, the tree canopy. As many trees as possible will be saved. Do we have something more definitive of what that might mean? While I am not exactly sure, I cannot believe I don't know how many trees are out there at this point. Do we have a fraction, maybe, a half of them will be saved?

Mr. Calderon: I think one page actually (stops talking and is flipping pages)

Candi Burress: Well, I am not sure if, are there 28 that will be removed strictly in the tree canopy? Or, on the west side of the property?

This is Tracy Richard with Manhard Consulting, the civil engineer: Yes, the survey that we did, the 28 are on the south side. That is the only widening and that is, they will be replaced, with again, 2 to 1. Now you can't fit all those trees in the exact same spot. Because of the number. Right now those are fairly dense depending where you are at out there. So, with good landscaping, etc. they will be spread out as shown on the landscape plan.

Candi Burress: And the type of tree that will re-tree with, do we know that?

Tracy Richard: The species, again there are a variety that we did on the plants. We will be more than happy to work with you if you happen to see a species that you would like to switch out or change.

Jim Moore: Ok.

Kris Setzekorn: Have you finalized anything, or gotten more specific about what happens if and when you want to leave the property?

Joe Calderon: Well, as we discussed briefly at the last Plan Commission meeting and the discussions that we have had with your Town attorney and with members of the Town Council, and I think they are on board with this, our proposal is that the Town adopt an ordinance under the Unsafe Building Law that would essentially regulate all buildings that go dark and require a demolition situation after so many months or years, as the Town might prefer. That way, you are treating all properties in the same way. There is no evidence, particularly with this format, that it is not going to be an anticipated build and test and then go away. This is a format that is thoroughly capitalized by our client. But, we feel that if the Town treats all owners in the same fashion, if it has concerns over buildings that go dark, that that is the way to go and it is authorized by State statute.

Kris Setzekorn: Thank you.

Jim Moore: Ok. Thank you. I guess are down to whoever would like to speak. Um, first on the list is Joe Wenchel.

My name is Joe Wenchel. I live at 113 Temple Drive, which is going to be directly across from the proposed Walmart. I guess my main concern about Walmart is the traffic situation. Before the meeting started tonight, I was standing out in front of the Town Hall and 6 to 8 cars were trying to go through the intersection. Of course, they were backed up somewhat. It seemed to be moving fairly quickly, I guess you could say, but nonetheless, it was traffic. Now, with the advent of Walmart coming in, and I believe you said at the meeting sir, that 1200 cars, how is this going to affect the traffic? It is bound to be more congestion, bound to be more traffic. How far will that traffic back up? We don't know. But I would think a considerable distance. Particularly, at commuting time, which is of an evening and of a morning. Now, my property will directly face Walmart. I know what that traffic is like. Of a morning, as commuters go to work, there's backups. As commuters come home there's backups. It moves fairly smooth. It doesn't seem to last over a minute or two. And then it is back to normal. But again, if we take your figure of 1200 cars, particularly commuters going home when they stop there. And maybe on the way in. I can see, even with a stop sign at the exit or a stop light, people are wanting to come out and make a left, go against the traffic headed toward Newburgh. There will be delays. They will get impatient. A good scenario for accidents. What about a person heading toward Evansville that wants to make a left to get into Walmart? Again, he will have delays. He will be impatient. And I mean with that many more cars every day, particularly commuting time. You are opening the door, I think, for a lot of accidents. Now, a lot of traffic, a lot of congestion, a lot of noise. There are going to be horns beeping. Of course I live right across the highway from it. I might be sleeping late of the morning. I won't appreciate the horns, but I will live through it. But, I just think it presents a lot of problems. Now think of a scenario of emergency vehicles. What if an ambulance has to get a critical ill patient to

St. Mary's or to Gateway? They are going to have to meander through all this traffic. Time will be of the essence. How long will it take them to get through? What if there is a fire? How long will it take a fire truck to through this? A lot of traffic, a lot of congestion. Now I know this is probably not a very good comparison, but I can't help but think of my youth, which again goes back quite a few years, I'll admit that. But my roots are in the small town of Tell City and I can remember in the late 40s, early 50s, Carnival would come to town. And it would be at the north end of town on two or three empty lots. And a lot of traffic, a lot of congestion, a lot of noise. And of course, they had a Ferris wheel, merry-go-round, a various other rides. I don't think Walmart is going to have that, but it might be a good attraction for them. I don't know. A lot of noise again and a lot of hub-bub. But the advantage to this Carnival was that in two or three days it was gone. The town went back to its serene quiet state. The traffic was gone, the noise was gone and so forth. Now, I would hope that if the Planning Commission and the Town Council decide to accept this proposal. If, I think is a pretty big word. That the plan put forth by Walmart to ease this influx of traffic will work. I have my doubts, but I don't know. But I know this much, I certainly hope it does work. Thank you.

Jim Moore: Thank you. Melinda Mitchell.

Unidentified woman in background: She just stepped outside to go to the restroom.

Jim Moore: Ok, we will give her another shot. Barbara Stanley.

Hi. I am Barbara Stanley of 300 West Water Street. And I had a question of the Planning Commission and that was what the benefits that would accrue to the village and the villagers with rezoning property two times within a year. I think possibly, I know, what the benefit to the owners and if I was the owner, I would be right there with them, I'm sure. But as to the villagers, I am not sure what the benefits are. I did see on this presentation that was a presentation to the Town Council and I thought this was the Planning Commission and it said Town Council and today's date on it. But anyway, I do understand now that the taxation rate must be considerably higher and so small towns need taxes. I understand the money situation. But I also heard about jobs. And how many jobs would perhaps be given to, the opportunity given to the people in this village. I wonder if there was a study about the people who live in this village and how many of us would be applying for jobs in Walmart and perhaps getting some kind of benefit from it. Those were the only two things that have ever been public that I have heard, that might accrue to this village. However, in listening to the last three meetings, I certainly have heard about the non-benefits to the village. And one of the biggest ones is that if we are a village we have to have an entrance. We have to have someone want to come here. We have to be different. And now I am hearing about the canopy and perhaps a few trees, or we" keep some trees," but what does that mean? 19 trees, now there are 28. How tall are they? How long is this canopy? It doesn't take long for people not to want to come to a place because it is not inviting. So, I don't see that people will want to come to see the little village stores if there is no entrance that is inviting to them. And the people that are shopping for groceries at Walmart are not going to go down to the local boutique. This isn't going to happen. It didn't happen in

California where there are a lot more people to be able to do that. So it is not going to happen here either. So I don't see benefits to the town people who have shops here. I don't see a benefit to the people who actually live in the village. Whose property taxes are a little bit higher than some of the other people. I don't see any benefit except someone who needs to walk down and get their groceries and I suppose there are those people. I know Walmart has good groceries. I shop Walmart. But I can go to the other Walmart on the Lloyd where I choose not to live because I did not wish to live in what looked like a suburb of Evansville. So, I am sorry. I would like to hear from the Planning Commission first and then the Town Council what are the accrued benefits to the people who live in the village? Not the people who live someplace else, but the people who live in the village. Thank you.

Jim Moore: Ok, thank you. Is Melinda back? Ok, good.

I am Melinda Mitchell. I live on Yorkshire Drive here in Newburgh, I've got a few concerns, things that weren't brought up at the last meeting. How many hours is this Walmart going to be open in a 24 hour span?

Jim Moore: Do you have an answer? 24?

Joe Calderon: I think she will have to ask the Committee for that.

Chris Wischer: I agree, I don't think procedurally we don't want to get into a question back and forth. If we can note the questions, they can answer what they want to answer.

Jim Moore: Ok.

Melinda Mitchell: Um, and if it is open like the other Walmart that we already have, I still can't figure out why we need two so close. But, if it is open 24 hours a day, or even if it isn't, the truck traffic throughout the day and night. Because I know at night at the Walmart, cause my boyfriend works third shift, so sometimes I don't go to Walmart anymore since all of this started. I just boycotted it. But, um, I know the truck traffic, semi traffic, is nonstop there. So would that be happening at this location? So I would like an answer to that also. And if they would build it, is there going to be a fence. You know the parameter. And then the attorney had mentioned that the crime rate would basically, if I remember right, would be higher if there were apartments there. But I was shopping one afternoon, late afternoon at Walmart, and someone had done some shoplifting. There were a total of four of them. One of the guys got busted and he was secured by the security guard and then out in the traffic the three other people that were with him were parked right beside my car and they were talking real loud. Like, what are we going to do, he's busted. Should we stick around and I got their license plate number and they got out of Walmart parking lot as fast as they could get out of there and I went back in and reported the license plate number to the security guard. So to say just because it's there, the crime rate will increase. I witnessed it first hand and just the way people were driving. And then they also mentioned, which I'd like an answer to,

that they would be buying as much produce from local people. Well, how much produce and how much more profit will that be for the local farmers because, you know, we already have our Farmer's Market that I go to from time to time here. So how much produce are they going to be purchasing? And then, let's see, the gas station or the pumps are going to be the very first thing people see when they come into the Town of Newburgh are those pumps. And it is like, come on, I mean, the building itself, yeah they made some improvements, but that is way back in the back. So you've got the pumps, you've got the parking lot, and then you've got the Walmart building. So that is our entrance, is gas pumps into our Town. That's just unfathomable to me. I've lived in this community all my life and also my grandmother is 101 years old and she still lives in this area and she still lives at home. So, my family also goes way back as far as the history of this community. So, I mean there is a lot of questions, oh and wait a minute, one more thing, the bike trail. And we've talked about this time and time again, as many kids and people, that will increase as far as traffic flow in that area. I stopped, there was a mom and daughter that were across from the old Kight Lumber and the mom was down by the fence where there now apartment is. And she cut her hands and her head, just like this. And the little girl was standing next to her bike and the mom had her bike down on the ground and she couldn't get her little girl back on the bike because the traffic was scaring her. This little girl, I mean like a 5 year old girl, can you imagine. A parent trying to get their kid in and out or across that trail. The mother would be in the same situation because the traffic flow would be horrible there. And as far as they said in the last report, or the last time we were here, or one of the meetings, that we might someday need a second light there. There can never be a second light there. Ever. Because INDOT would never approve of two lights being so close together. Because requested a light at the bottom of Knob Hill or at the top across from Knob Hill Tavern. And they, INDOT, said that it was too close. So, it will never be a safe intersection. So, anyway, that is all I have to say. Thank you.

Jim Moore: Thank you very much. Alice Van Zandt.

Good evening. My name is Alice Van Zandt and I am also on Yorkshire Drive. And I recently read a book "Small Towns and Big Business". And in this book, Sam Walton said he did not want to operate in any community or environment where he was not welcome. And so, the last time that you met and you gave us a unanimous no on the recommendation, I was really surprised that Walmart would return if this is something their founding leader had stated. So, they are back. And so I guess Sam Walton could possibly be operating in a community where he doesn't want to be.

Jim Moore: Thank you. Chuck Masterson.

Good evening. My name is Chuck Masterson and I live a 109 Temple Drive in Windsor Point subdivision. And, from the very beginning you've heard me speak. A number of times you've heard what I have to say along with lots of other people. That had a lot of good points to make. And so I came to this meeting tonight with the idea that I wouldn't say too much. And I don't plan on doing it. But I do want to make a couple of observations. Each meeting that we've had, and there have been a number of meetings

that we've come before you all. We've dealt with postponements, new proposals, new proposals again. A vote, an error and we always come back to square one. And I know it is frustrating for you. I know it is frustrating for the people who attend and I know it is frustrating for the Williams family and the people representing Walmart. And I think we need to come to some kind of decision. It seems to me as Alice Van Zandt had said, you had already made a decision but there were some errors that needed to be rectified. And I think from my point of view there is no ill feelings meant towards the Williams family or to Walmart because they have done good things. I am sure that they have done good things. I have listened to them say that. But the people of Windsor Point subdivision have also done some good things. We cut our grass on City property. We let people walk on our property so they can get to Casey's, so they can get to the Bank or get to their friend's house. That is traffic too. Pedestrian traffic on our property. We love Newburgh as much as anybody can, but sometimes, there are some real issues and I am not going to go through the issues because they have already been mentioned. We have traffic. We have stop lights. We have a canopy. These are all things that you've heard about and we've talked about. My position is just simply this, that if we do have a store, there is going to have to be some upgrades by the City to accommodate the people. The Williams family and the people that border the Walmart property to take care of pedestrian traffic, bicyclers on the roadway there, heavy duty trucks coming for delivery on both Ellerbusch Road and 662. There is just a lot of things that have to be thought about in terms of the people living there. We will need sidewalks. If, I believe Ms. Lockyear said something about people, pedestrian traffic coming. Well, there is going to have to be sidewalks, probably on both sides of the road and a crosswalk to get across there. Unless they plan on going to the stoplight at the corner, which I doubt people will do that. So there is just a lot of things that need to be taken into account so that there will be a safety issue. Mr. Wenchel mentioned something about the emergency vehicles that we deal with, that pass behind our house. And I am sure if we have congestion I've sat outside and grilled after my job in the evening. I get up early in the morning to go to my job. I know what the traffic is like going from Newburgh out on 662 and coming back in. But we are going to have a lot of traffic and there is going to be a lot of safety issues. So consequently, with everything else that's been said, I don't believe I can say any more than what I've said now other than to say that you have taken a vote. We've heard the changes from Walmart, now I think this is the third slight change that we have had. So it's a situation where you have to make a decision now. It is up to you and pass that along to the City Council. I thank you for your time.

Jim Moore: Thank you. Phillip Field.

Thank you all again. I know you've heard almost everything I've thought for the last ten years. But I am going to try to do like Chuck said and try to go back and say something that struck me while I was sitting here tonight. Huh, this is our fourth meeting that most of us have been to. And it probably won't be the last one. There is still at least one to go that we know of. Huh, I just wanted to say to Walmart, the Walmart Corporation, when you say prototypes, huh, that probably means something to your organization. But it doesn't mean a whole lot to us I don't think. Just putting a name on it doesn't

change what it is. Huh, I guess thirdly I wanted to say that I knew somewhere along the line and I am kind of surprised that it was so late in the discussion. The first time I've heard money mentioned was tonight. I kind of expected that carrot to be waved out there some time ago for the Town. You know, how many thousands of dollars the Town would receive. It would be nice if that had not been waved in front of us. But, there it is. Huh, in these four meetings several hundred people have overwhelmingly said no to this project. Huh, at least those who spoke and those who clapped. I feel like the old cliché, we're beating a dead horse. Mr. Moore I think you said that at the beginning of this meeting, is there anything we have not considered. Do we really need to do this one more time. Huh, I kind of thought Newburgh, if you have Newburgh, if you've got it. It is kind of like if you get it. Then it is like having a vaccine against unwanted, outside influences or something that could harm you or change your direction. We all go get vaccines at different times in our lives and I feel like those of us that get it they get the Newburgh vaccine that they understand what we're talking about. We have a Walmart. Let's not forget that. We have a large Walmart. And I think that the only reason I've said that is cause a fella said to me just not long ago, he didn't see anything wrong with having a Walmart here. And I thought he has not lived here very long, less than five years and maybe that doesn't make a big difference. But I don't think he's got it. I don't think he understands. That is what I leave you with. Thank you.

Jim Moore: Thank you. R.M. Gill.

Ladies and gentlemen and the Commission. I just would like to tell you that I am almost 85 years old and lived here 21 years. The reason I moved here, down on Prince Drive, that this Scott Farm Market was down the corner. That's the reason I knew I was 60-something I moved here and I knew someday I would get old enough and I couldn't drive six miles to get a Coca-Cola or something and come back. So I am in favor of Walmart comin up here. We need a grocery store on this side of town. There's not a thing here between here and Green River Road. The market at the corner of Pollack and Green River Road went out of business. So that left more people without a closer market. It is a mile and .9 down to I-69 and then there is not a thing, I guess Dollar General or somebody. But they don't have fresh meat or fresh produce like a Walmart would have. I don't know we didn't complain when they put Windsor Point subdivision in down there. That created a whole lot of traffic. I remember they had a public hearing when they wanted a four lane 662 coming this way. I think it was downstairs here there was about forty people. Two of us voted for four lane and that. The rest of them voted against it, but the State four laned it. I'd sure hate to go back to what the traffic is now on a two lane. I go to church with a bunch of people that live between here and Green River Road. And very few of them ever say they come into Newburgh. I'm sure Newburgh would get a whole lot more business if they would get some more business down here where you could shop and spend. A bunch of stores burned out over here and haven't been replaced. One down on the corner of State Road and Prince Allen Trail I guess is going out of business. Old Country Store is out of business. I'm sure because they didn't have business. It is a mile and three quarters to I-69 and just look at the subdivisions that nobody has a grocery to shop at. I don't think we ought to stand in the way of progress and I think that we would get a lot more people here. I know it

would be more traffic. But that is what we're comin to. Alcoa, a lot of Alcoa workers come through here of the morning and a lot of them go back in the afternoon, so I think we need a grocery store on this side of town. Thank you.

Jim Moore: Ok. Thank you. The next speaker is Willard Whitehead.

Thank you. First off I wanted to, I didn't know how to do this. I took pictures of our other neighborhood Walmart's and I never thought they would be important but after the conversations tonight, I do want to give them to you guys if I can. I mean this is not a court of law, so I don't suppose (cannot hear him, he turned away from microphone). Here they are and we are talking about Newburgh. This beautiful historic town. I like to beautiful historic towns. That is one of the things I like to do. We moved here to live in Newburgh. And Charleston in particular is a place you can go where they let their zoning lapse for a while. And the places they built that were without the proper jurisdiction and zoning are horrible. And they have to live with those now. You can't rebuild an old building. You have to live with the piece of masonry you built there and they're sometimes eyesores. They might have been well done. They might have been well built. But they don't go with everything else. So we are dealing with a place that is, Phil says, is out of time and place with what we do. This is a village. I mean, we do, if there had never been a four lane through all of this. If they didn't. This place was meant for horses. This place was made for buggies. The best we ever had was when the river fell in and nobody drove through. Now I sound real isolationist, I know. But that is Newburgh. Our house is 160 years old. And it belongs in a town that is consistent with a 160 year old history. It doesn't need to have a big box place. We won't say Walmart. We'll have a big box retailer right outside of town. I don't like your idea about we should deal with an abandoned Walmart. I don't know who (can't hear, turned away from microphone). Because this is a historic place. Right now we have had the Country Store empty for a while. If we had the same rules for the Country Store as Walmart, we might be running to tear that down. Which I don't think we should do. Um, this is a historic place. We are gonna lose the old historic buildings as time goes by, we've lost enough of them. We don't need a big company coming in and saying how we should handle our property when we've handled it pretty well for a couple of hundred years now. What we do want is a place that if they go out of business. If the look at the numbers and say we are not making it, that they make a responsible regress. That the west side is a mess where they tore it down. Where they left what's, it looks like a war zone. We don't want that. We don't want you to go out of business. We don't want people driving by war zone to get here. And we want something a little better for our town than what you propose. Zoning is made to protect people. It operates on the principal that property must be protected against uses that would be harmful to the use for enjoyment of property. It has always been known. People build things you can harm, use or enjoyment. Those are some of the laws they use in legalistic terms. I am not a lawyer. I wouldn't want to go there. But this is legal stuff so I had to do a little bit of legal study. It's generally recognized that commercial areas are likely to harm residential areas for the same reasons that people have talked about here. Increased traffic. Increased noise and increased pollution. And unfortunately with Walmart part of the pollution is just the bags. And look at the pictures of the parking lot over there and

Walmart bags are all over America. So, you know, you've got to deal, you are going to have to deal with more litter and it's not pretty litter. It blows a lot a places. Um, so increased traffic. We've talked about increased noise, increased pollution and just the people coming and going. And then you look at big box businesses and there are studies about the impact they can have on other businesses. So we have residents, we have businesses and generally, when a big box moves in it's not particularly good for the mom and pop operations that surround it. The negative effect diminishes as you move away from the store but depending on the store that is built, you can lose up to fourteen businesses per store that's built. And you know the competitors, they sell pretty much the same thing but they can't keep up, this is a very efficient marketing system. There is one business man who writes and says, "of course other people go out of business, they are not efficient". But we have people who bought here and went into business here because of the special qualities of the place. They expected the zoning to protect them. Um, we have a company that really does deliver products cheaper than anybody else can. They're good at that. But we live in a town where we depend on a mix of residential and commercial living together as friends and taking care of each other. We like our little stores. And there is a good chance that many of them will go out of business. Um, so if you look at the purpose of zoning which is to keep the people who already live here safe from development, then the job is kind of to say, Walmart, thank you, but no. Or big box, thank you, but no. We have our town. We have our businesses and we bought here with the idea that this is the town we live in, this is the town we will be doing business in, and we want to keep it that way. The initial plan did that with residential out there rather than business. This takes what would be called a high density business and puts it in with low density businesses and low density residential. It's really not a good match for what we have here. So with that I thank you and I will go sit back down.

Jim Moore: Thank you. That is everybody on the list. Would anyone else like to make a comment? Yes? That would be you. Yes. You need to say your name and your address please.

Dotty Sessions. 318 West Water Street. I'm concerned about the specifics of this plan and specifics of any other plan that comes forward for this property. It seems to me this Candi asked about species of trees and she got no answer to that. And yet, we don't know how big these trees are. We don't know how they are going to be maintained. Planting a tree is a very risky business and over the first couple of years the death rate is very high. The other thing I am concerned about is have you ever seen a Walmart that didn't have a stoplight at its entrance? I'm sure not. And I think that should be specified. Does the Department of Transportation allow another stoplight that close? Probably not. But that is not specified. Also, who's going to pay for sidewalks? Who's going to pay for widening the street? Who's going to pay for the Riverwalk? Those things should all be negotiated. And specified very specifically before any plan is finalized.

Jim Moore: Ok. Thank you.

Hi. I'm Bill Hanson. 600 East Jennings. I just want to clarify for myself. This property is zoned commercial right now, right?

Jim Moore: Wrong. Partially agricultural.

Bill Hanson: Is it zoned agricultural? Partially agricultural. But right now there can be no apartments built on it?

Jim Moore: They would have to go through a process.

Bill Hanson: So why the talk about apartments and crime and traffic. When there isn't an issue. That is like a scare tactic. Come on. It doesn't apply at all. And Walmart doesn't apply. It is the fact that it is going commercial. And that is what I am against. I think it's a bad location to put a big commercial business in coming into town and I live here. I don't care if the people on Covert Avenue shop at that Walmart or not. I really don't. I compute out and past there every day. I am not old enough to retire but I do have to travel that street and that entrance to Walmart is one of the attractions to town and that is why we chose to live here. Thank you.

Jim Moore: Thank you very much.

Hi, Jim Jones. 8233 Northbridge Drive. One of the things I wanted to talk about was that previous to the Town Council meeting, the town lawyer said that the only opposition was to Walmart. And that he considered that was the only concern that keeps being brought up. But I think what he wasn't paying attention to some of the specifics being brought up over time here about water and traffic and all that stuff. And specifically I want to hit those points again. Because it doesn't matter if it is Walmart or not. Although I am against Walmart specifically. But, um, just sitting here listening myself, I was learning myself that there was a water problem that I wasn't aware of that at the time. I was originally just concerned about Walmart. But the neighbors living there said that the water problem has not been addressed in that neighborhood. I think our record for dry days in Evansville area has been 11 dry days consecutively for this, [laugh] that is a lot of water. And you're not going to be able to absorb that amount by putting a big concrete slab whoever puts it there. Right? Um, and you can see examples of that. When a particularly large retail establishment put itself in at the corner of Lloyd and Bell, water across the street from it started to flood all of the parking lots of all those businesses. Does anybody remember that? They had to go back through and re-trench all that to try to address it. And then they put in retention ponds over at the Schnuck's Plaza area. But even under heavy rains you can still get flooding as far back as Lincoln and Bell sometimes, in those apartments. There will be water across the street. It can't handle the amount of water coming off that hill. That used to be taken up by farmland that was across that area where that particularly large establishment is. So you are going to have a worse water problem and if it is not addressed now, when is it going to get addressed? And you will do patch fixes after the fact. I think that is a problem. Um, and that is going to be a problem whether it is Walmart or not. You know you have a large parking space. Maybe not as much with um, residential, who knows.

But right now that is not an issue because it is agricultural. It is going to absorb some amount of the water into the ground itself. Ah, money was raised and I am sorry I don't have these exact figures. I had these the last time when I spoke but I was reminded this meeting was tonight and didn't have my figures with me. But there is a study of a couple thousand Walmart's and their taxation rates. And in 35% of the cases Walmart negotiated hard to have their taxation rate. So whatever amount that has been bandied about is probably not going to be the amount that you are going to get in the long run. They're big business. They have a good business. They want to pay as little, they want as little outlay as possible, right? It makes sense, but it's not a carrot that I would hang your decision off of. We know their business practices, we know they say they will want to stay in business for a long time, or give you commercial reasons to (commune this day forward?). They say that is a bad business move. It probably is. But, we already know that they are their own realtor. So yes, they will sell and they get to choose who they will sell to. And they do not sell to competitors. So you might have a grocery store there for a couple of years and that may be useful for the few people that want to have a grocery store there, but you can't guarantee it will be there for very long and as soon as it serves whatever business purpose it has, they have the option to close it and to keep it closed. And it makes sense, if I were a Walmart business, and I wanted to have more people buying from my retail establishment, I would use groceries to get people over there. And if I sell cheaper groceries closer to people, it makes a lot of sense to consolidate that after all the other grocery stores have closed. It is only 2 miles away. We have a bus system now. So if you are concerned about mobility, a big proponent for bus transportation and for them expanding the bus system into Newburgh, I wrote a lot of letters and concerns to the former mayors of Evansville and explained the concern of problem of transportation from Evansville to the hospital when they were putting up the Gateway Hospital area. And I hope that had some measure of effect for them to expand the bus service. Bus service is amazing. So if you have a concern about groceries and you have mobility problems, use our bus system. It is awesome. Um, the traffic concerns. If we don't have a ruling from INDOT now that they can put in a light, we'll just have a mess of problems down the road. And that is a fix you cannot fix after the fact. We all know of deadly intersections around the tristate. They get a reputation. Alright. When, it was funny, because when the Walmart lawyer gave, was citing a laughable traffic study. I only say laughable because everybody laughed when they said when they did it. It was during nonpeak times during the winter. It wasn't across a yearlong time study. And they were telling us how they did that out of the kindness of their hearts. Because there is no requirements by ordinances that would make them have to have a traffic study first of. They are trying to alieve the fears of the town that is here. So if we are not facing our decisions off full data, then maybe we should wait. Or, maybe we should have an ordinance in place that any commercial district that wants to go in there has to perform a certain length traffic study for any commercial development that has to go in a place that might affect the safety of our neighbors. I find it funny that if you look down at the riverside, this is an attraction. The bike trails here, the walking trails, people are going to be coming down here more and more. It is a destination spot. And we are doing more and more to improve the safety of that. We are putting in the little block aids, those speed bump areas at all the intersections. We are doing that in one of the finished areas and we are just getting started as far as expanding it and

plans for expanding it further. It is going to be a destination spot. Why would we put a very dangerous intersection at one of our main attractions? If we are looking at the growth of our community going forward, we should be thinking five or ten years down the road. Not about what's happening right now under pressure to get this answered right away. We don't owe Walmart an immediate answer on this. There is, to my understanding, there is going to be a City Plan or there is funding for a City Plan going forward to understand what we want to do for the future, that the old one is over ten years old. Why don't we wait until after that? Um, I think that Walmart has done us a favor, honestly. And they said it themselves that we do not have the ordinances in place to protect ourselves from anybody, really. That a lot of stuff that they are presenting is because they want to do us a favor. They want to help us out in our decision making. They want to make it easier for us to say yes. But they say if there is a problem, if you don't like the way we do our business practices, not saying it is a bad business practice themselves, or that they won't do it, it just says that if it bothers you the way we do business, then put an ordinance that affects everybody going forward. But the ordinances are there to protect and project the community that we want to have. So put those ordinances in place first and then let them come back. And if the City of Newburgh wants commercial development there, then it should invest. It should say we are going to invest in commercial development in that area. We are going to build sidewalks. We are going to build the Trail how we want it first. We are going to take care of all of the infrastructure that would go into having a responsible commercial development area, a responsibly zoned commercial development area. And then have people make the decision what they want to do or bid to the landowners if they want to put their commercial establishment in and after all of that infrastructure has been put in place. But that hasn't happen. We're gonna patch fix it after the fact. Ordinances after the fact. You are going to get no protection. Right now you are protected by the fact that it is zoned for agricultural. Leave it agricultural. Do all the other planning. Do everything that is going to protect the City. Protect the citizens. Protect our safety first. Then let them come back. Thank you.

Jim Moore: Anyone else care to speak? Do we have any discussion here?

Chris Wischer: Next, we need to go back to the Petitioner and see if they have anything else. Well, I think they can address any questions that they want to address. But I don't have an extensive list of questions to ask. Do you have anything that you guys want to address?

R.A. Junior would you like to address the traffic issue, please. Thank you.

Tracy Richard with Manhard Consulting: A traffic study that we performed consists of counting existing cars and traffic and then using that along with the size of the store, use from the Institute of Traffic Engineers which is, anybody in the traffic business, they are the bible in terms of the amount of traffic generated from a store, from a site. That's what was used to look at the traffic. In terms of the, what they call, level of service. And level of service is the delay that somebody experiences when they are at a stoplight or going down the road, that level is strictly timed. In other words, the level of service "A"

through "F" is just like what we have in school. In other words, "A" is the best you can get and "F" is very undesirable. And it's all based on time. So in other words, when you drive down the road the level of service out there right now during peak rush hour, etc., that same level of service will be there when this store is up operational. And the reason for that is because we are doing some improvements to the road by putting in left turn lanes and right turn de-cel lanes. And what does that do? That provides the same unstopped traffic as what you currently now have. Now there is going to be additional traffic from the store. Obviously, there is nothing out there but agricultural field and if there isn't traffic, then there won't be a store. But to clarify the study that was done which projects traffic out based on existing and new traffic from the area's growth along with the store to ten years out, the level of service remains the same with these improvements. That is one thing. The, in terms of, maybe just a small item. In terms of storm water. This site is on the downstream end of the world. In other words, we are immediately adjacent to the regulated drain which connects immediately to the river. The reason that is important is anything that is developed on that site will impact upstream. We can only impact downstream. So in other words, we can't stop or flood to the north, to the east. All we can impact is the river. And even with that, we are still providing storm water retention that will keep the rate of flow off that site to its existing condition or better. And therefore, who do we impact? Well, it's the river and quite frankly if you ask a lot of engineers. Sometimes when you are so close to the river it is like if you are next to the ocean or a lake that attention is not doing you a whole lot of good but again it is a requirement for everybody, so we are doing our part. And we are going to perform that. Lastly in terms of the landscaping. It was one person that asked why I didn't respond. Because there are numerous trees and species on the Plan, I thought it would be more prudent and important that the Plan to itself speaks and could give you the exact location of those trees and their sizes and what there is. So, that is why I didn't go into specifics. I will be more than happy to do that, but again, you have numerous trees on this Plan so I thought the written word would stand better than me standing here and speaking to you. That is just a couple of items in terms of the traffic. I want to make it clear so that you understand me. When we are done improving 662, you are going to have a left turn lane there. So when people are coming to the store, they have an area to pull off so that they don't impact the through lanes. And that's why also too, at the same time, we create a large twelve-foot wide landscape median that goes up and down there. It will take time. Obviously, as anybody knows, when trees are planted, we can't replace to the same size that was taken down. These trees have to grow and it's going to be a fair amount of time until you see that canopy back from those trees that come down. But, that is just some of the information I wanted to clear up in terms of both traffic and the landscape plan and storm water.

Jim Moore: I have a question about the traffic study. In the near future, hopefully, there is going to be a bike trail go right past the entrance to the proposed Walmart. How many cars are going to be allowed in that left turn lane to wait for the ladies with their children and the bikes going by and the joggers? I live on that trail and I have seen a tremendous amount of interest in that trail and the pedestrian traffic has increased I don't know how many hundreds of percent. I am concerned that people going across the entrance and the cars waiting to turn left in there, you are going to have a left turn

lane from here to State Street for them to turn. [laughing in crowd] How many cars would be in that turn lane? Or be allowed?

Tracy Richard: Right now, I think it is probably better to ask, unless there is a semi waiting to come in.

Jim Moore: Well, they can't come from that way. You are talking about a left turn lane going east.

Tracy Richard: Right. For instance a semi was to enter

Jim Moore: Semis cannot go through Newburgh.

Joe Calderon: But if they did.

Jim Moore: Well, ok. Legally they can't go through Newburgh.

Tracy Richard: So you could have over seven.

Jim Moore: Seven car lengths.

Tracy Richard: Seven cars.

Jim Moore: So that is about what? Eighteen or twenty feet a car.

Tracy Richard: You can have, see it depends on the time of the day in what you describe. Obviously if people are trying to turn during rush hour, morning or evening, that is par to the situation than if you are making the same crossing in the middle of the day.

Jim Moore: Sure.

Tracy Richard: Also as it relates to a traffic signal. A store this size, a 4,500 square foot store, as to compared, now this is a market, only a grocery, as compared to a supercenter which is anywhere from 150 to 186 thousand, depending on that type of store, it doesn't have the ability by itself to meet the warrants for a traffic signal. In fact, Walmart would love to have a traffic signal like that. It doesn't meet the State warrants for a traffic signal. Second. That is one thing. Two. You are absolutely correct, as a general rule would you have traffic signals that close on a major street? No. It would not (cannot understand him). The store just isn't big enough by itself to impact traffic enough to meet those warrants.

Candi Burress: I have a question. Originally when we talked of this traffic study in March, I believe. Um, the intersection was assigned a letter grade. And that there was no impact. Like it was dropping from a "B" to a "C" and that was acceptable? I don't know if you were in attendance at that meeting.

Tracy Richard: The level of service leaving the store is I think what you are referring to. Not the through lanes. The through lanes never changed. Leaving the store, was I think it is in here, right, there is a "C" level as you leave the store.

Candi Burress: Ok, at the major intersection.

Joe Calderon: Because the major, meaning existing intersection, was "D" before and after development.

Candi Burress: Does the letter grade stay the same before and after development?

Tracy Richard: That is correct.

Candi Burress: It is a "C" and will remain a "C".

Joe Calderon: It is a "B" at 662 and Ellerbruch. From the entry drive onto 662.

Tracy Richard: It is a "B" right now and it will stay a "B".

Jim Moore: Ok, any other questions?

Hap Hanson: One of our citizens did ask us a specific question that I feel we should answer. The store hours.

Joe Calderon: It could be 24 hours. It could be less. [laughing in crowd] But no more. It is not funny. The reason I say that is that it depends on the business.

Hap Hanson: But the plan right now is there is no restrictions?

Joe Calderon: They don't want any restrictions on the store hours. There is no restrictions that we are aware of on the other corner.

Hap Hanson: So the day they unlock the door the sign will say, we'll tell you next month? I don't mean to be flippant, but

Joe Calderon: I apologize. That tone was a little flippant, sir. And I am just saying Walmart could be 24 hours operational. There is no restrictions in your zoning ordinance as to hours of operation. There is no restrictions on the corner for the other businesses that we are aware of. If business conditions justify 24 hours, it could be that. Or it could be less. It could be early morning to late in the evening. It is not determined until such time that they get into the actual operations people taking over from the development people. That is the best I can give you.

Hap Hanson: I feel that is a question that should be answered and you did not give me an answer.

Joe Calderon: Well, we couldn't, we don't feel that it's appropriate to engage.

Hap Hanson: And I agree with you. That is why I asked you.

Joe Calderon: And I appreciate that. Thank you.

Jim Moore: Anything else?

Joe Calderon: Let me just say this just in summary. Look, we didn't want to be here anymore than these folks. We did it because due process requires that we have proper notice, proper legal notice. We understood where the Plan Commission came down in April. We respect that. What we've done between April and now was in response to additional meetings with Site Review Committee as well as Town Councilors who ultimately will hear this. And we thought it was worth mentioning those things that we thought made a better project. We are not trying to chip away and chip away and chip away. We were put in this position because we had to be here tonight and we'll respect whatever recommendation you make. We think that our proposal makes absolute sense. We've tried to present you with facts. I can't object at this kind of hearing what people say, it is a public hearing. They are going to say what they want to say. The facts that we presented are, with respect to traffic, it is a traffic study done by traffic engineers, the drainage has been worked out, the site's been fully engineered. The facts are that you've got industrial immediately to the west, commercial to the north and catty cornered undeveloped commercial. This site is not going to remain agricultural forever. It's comprehensively planned for multi-family. We didn't say it wasn't zoned for multi-family, it is not comprehensively planned as such. The folks that own the property have the right to have their property determined for a zoning change. We represent a petitioner that thinks that it can make a very good responsible use of the property. So we are very proud of our proposal in the face of comments that we don't want it. We understand that. We respect folks opinion. We don't do zoning by referendum. We do zoning by planning principles. We do zoning by and through Plan Commissions and Town Councils. So, we thank you for your time. We are very proud of our proposal. We think our Use and Development Commitment and the Plans that we have proffered deserve a positive recommendation. Thank you.

Jim Moore: Thank you. Any other questions.

Kris Setzekorn: Can I make a suggestion? We only make a recommendation to the Town Council. And I know that the attorneys for Walmart and the attorneys for the Williams met individually with the Town Council members. And you have as much right to speak with your Town Council members as somebody from Indianapolis or Walmart. [lots of clapping from the crowd] So if you feel really strongly about it, I suggest you talk with them as well. Make appointments. And they are our friends and neighbors, you know.

Jim Moore: Ok.

Chris Wischer: I have one housekeeping item and then we'll be ready. Um, this is just procedural for the most part. I just want to make sure this makes it into the record, because it didn't make it into the last record, but this Commission and the Town Council calls for a Site Review Advisory Committee Report. The Site Review Advisory Committee met with and reviewed all the technical aspects of the Petition and issued a report in April and I want to make sure that is in your record. The Site Review Committee addressed traffic and access, drainage, architectural integrity, the Rivertown Trail, maintenance of trees, landscaping, screening and concluded on those technical respects that the Site, that the Petition adequately addressed site specific concerns raised by the Committee. That Committee was made up of: the Town Engineer, the Police Chief, the Town Manager, the Town Attorney, and one Town Council member. And I simply want to make sure that that is in your record.

(unknown man is talking in the background-cannot be heard)

Chris Wischer: I'm just reporting who was on the Committee. So that is your Committee Report for the Committee attached to making a recommendation and that was a unanimous committee report. That is all I have.

Jim Moore: Alright.

Woman in the background-Melanie McDowell: I have a question.

Jim Moore: Certainly.

I am Melanie McDowell and I live at 7422 Capri Court in South Broadview. And I know I'm not right down in Town but I've lived here for thirty-two years and my husband's lived here all his life. I really hate to see the entrance of Newburgh changed in any way. With everybody so opposing the Walmart, would anybody please prepare to make another type of proposal to the Williams family that possibly if we could get enough funds to buy it out ourselves. Make a park there or something that the community can enjoy. [lots of clapping] I mean we've got so much going on for the riverfront. We've got, you know, our trails, everybody's health nuts. If we could do something really fantastic with that property. So I was just wondering if we could, as citizens, get together and raise the funds, an amount that the Williams family would be appreciative with. Would that be an option? Can we do something like that?

Jim Moore: I think the answer is, yes. It depends on what we do here. And the Williams have the property for sale.

Helen Williams (in the background-cannot hear her)

Melanie McDowell: Would this be another option that you would kind of think of?

Helen Williams: We are not done with this one.

Melanie McDowell: Ok, I understand that and I respect that. But I just thought that with everybody, you know, anyway it is just another option.

Helen Williams: Thank you.

Jim Moore: Thank you very much. Hearing no more discussion, do we have a motion?

Kris Setzekorn: I move that we deny this rezoning petition.

Chris Wischer: Let me. From a procedural standpoint, it's ok. We might need to withdraw that motion. The motion needs to be a motion for approval. And it can be seconded and that does not bind you to vote for it, but it needs to be a favorable, a positive motion. So that we are clear that a yes is a yes and a no is a no. And I would also like for the record, we didn't do this the last time and maybe that it is unanimous but we should do a roll call vote on zoning matters.

Jim Moore: Ok.

Chris Wischer: Thank you.

Kris Setzekorn: Ok, so I move that we approve Rezoning Petition Highway 662 2015-MPC-01.

Hap Hanson: We have a second.

Jim Moore: I have a motion to approve and a second. All those in favor please say I.

Chris Wischer: We need to do a roll call vote.

Jim Moore: Oh, I thought we'd do that after.

Chris Wischer: Well, you can do it however you want, normally you would do it now.

Jim Moore: All those in favor please say no. [laughing] We are going to have a roll call vote afterwards. That is what I seem to remember.

Candi Burrell(?): Shouldn't you say "please say I"?

Chris Wischer: Yea, you said "all in favor please say no". That wasn't right.

Jim Moore: Nancy would you please call the roll.

Chris Wischer: Nancy should call the roll. Thank you.

Nancy _____ calls Commissioner's names.

Candi Burress: Is this in favor of the rezoning?

Chris Wischer: Yes.

Candi Burress: No.

Kris Setzekorn: No.

Jim Moore: No.

Hap Hanson: No.

Anne Rust Aurand: No.

Jim Moore: Ok. [lots of clapping] Alright. Any announcements.

Chris Wischer: It should be on the agenda for June 24th meeting. June 24th.

(unknown woman): I do have a question about something we had on our plate (tape stopped)

A handwritten signature in black ink, appearing to read "Jon B. Burress". The signature is written in a cursive, flowing style with large loops and a prominent initial "J".