

January 3, 2012

The Ellettsville, Indiana, Town Council met for a Special Session on Tuesday, January 3, 2012, at the Fire Department Training and Conference Room. David Drake called the meeting to order at 7:00 p.m. Scott Oldham led the Pledge of Allegiance followed by a prayer led by Phillip Smith.

Roll Call: Members present were David Drake, President; Scott Oldham, Vice President; Dianna Bastin; Phillip Smith and Dan Swafford. Sandra Hash, Clerk-Treasurer and Darla Brown, Town Attorney and Rick Coppock, Bynum Fanyo, Town Engineer, were also present.

Supervisors Present : Connie Griffin.

Oath of Office for Council members, David Drake – Ward 1, Phillip Smith – Ward 2 and Brian Scott Oldham – Ward 3

Planned Unit Development Petition No. 9122012-2-Pipjay Properties, LLC/Burch Enterprises, Inc., Chad Stephens and Roger New; Petitioner's Proposal for a Rezone Ordinance Rezoning his Property from C3 to PUD/Proposed Ordinance 2011-10

Mike Carmin, Attorney for Petitioner – He expressed appreciation for the special session. The Comprehensive Plan has a provision about policies that reads as follows: *“Examples of important policies and land use recommendations which may be considered when revising the zoning code.”* There is not a mandate in this provision. Number 5 states *“Light industry zoning with a TIF district should be developed west of Ellettsville.”* Again, this is not a mandate. In the Comprehensive Plan many of the provisions are not germane to the petition. They are part of the plan but don't have an impact one way or another. There are more provisions of the Comprehensive Plan that should be of some concern that this petition would not implement. The light industry, because of the salvage yard use, needs to be zoned an industrial zone. The best way to characterize this is comparing it to a bank. If there is a zoning classification that says you can't have any drive-thrus then a bank can't be put there. However, if there is a petition that said they're going to put in a bank but it will not have a drive-thru. It will fit within what they're doing. It's still a bank and in violation because you can't have a bank at that location. With this petition, it's a salvage yard because the way they're defined. When you think of salvage, you think of the storage of junk and old used vehicles for parts, removing fluids and chemicals, taking parts off and making them available. This petition doesn't do any of these things. The petition that was submitted and a couple of things in the disjunctive but if it can locate elsewhere they will have additional restrictions.

The Commitment for the Use and Development of Real Estate (“Commitment”) has been updated and those things that no longer apply have been removed. There is a specific commitment that no automobile processing for salvage and recycling will occur on this real estate. When a vehicle is purchased it will not be processed on this property. No automobile fluids will be stored in the recycle yard and there will be no torching down of heavy equipment or equipment containing fluids. The equipment will be hauled off site within 48 hours. The vehicles purchased on site will be removed to the main yard within 48 hours. Motor blocks referred to as iron and aluminum will remain in sealed containers and under roof. Those matters expressed as concerns in previous meetings have been dealt with. This property will serve as a feeder yard and is part of the Commitment. This is not a salvage yard in the sense of the external uses that are of concern with the fluids, the storage of fluids, whether or not they're hazardous materials and the use of sealed containers under roof. The petition has been tailored to make sure it fits in the site and eliminates concerns with environmental conditions. The petitioner has green space on the east side that serves as additional filtration should anything get to Jack's Defeat Creek. The reports show that there's nothing originating on the property that is being picked up by Jack's Defeat Creek. There is a lot of positive to the petition. It does a lot for the community such as preserving jobs. There have been some jobs lost due to scaling down the operation. There are jobs and money to the economy at stake. This is making use of an existing property without requiring the impacts that go with new development. The construction is minimal because there will only be a pad and a cover on a building.

Yes, there are zoning violations. They still haven't received a final commitment from the DNR because it is still in the process but it has nothing to do with the Town Council's decision. The process with the DNR has to be completed one way or another no matter what the decision of the Town Council is. The Petition is tailored to fit this property and is a good use of the property. It does not do any significant harm to the Comprehensive Plan which is for guidance.

Bernie Guerrettaz, Bledsoe Riggert and Guerrettaz – Thanked the Town Council and the staff for the special session. With the migration of this project from the Plan Commission to this meeting, no one would have suspected at the Plan Commission stage they would have ended up with two positive votes and a recommendation for approval along with an extension that kept the project going and didn't kill it. It kept the project going to where they are with this meeting. This is a positive and shows the process works. It allowed Mr. Stephens to rethink how he could operate the business. He removed a lot of things that were of concern to the public, the Plan Commission, some of the Town Council members and the staff. There were two important opinions from two meetings prior from Mae and Mike Cassady who are upstream and an agent of Cook, Inc. who is located downstream of the petition site. They voiced the opinion that Chad's Recycling and Refuse ("Chad's") was not going to negatively affect them. The impact to the 1% frequency stormwater going through the petition site because of the fill that was put on it is .02 of a foot. All the runoff that happens in Ellettsville during this 1% frequency storm events comes on to the property site. The property doesn't drain on to the Town of Ellettsville because it comes past it. There are parking lots, gas stations and the vehicles at the Planning and Zoning office that all flow into Jack's Defeat Creek past Chad's. Mr. Drake made the most poignant observation of the entire petition process. Two meetings prior when many of the people came who sold \$3,000,000 worth of scrap to Chad's were from surrounding communities. The money went into their pockets and they didn't burden the infrastructure. There are a lot of people in the Ellettsville community who come in and sell scrap who won't do so in Bloomington. The people coming to Ellettsville use State Road 37 and State Road 46, pop off the highways and come to where all the truck traffic is for Bybee Stone, Solid Waste District and the maintenance warehouse. All of this is extra money coming into the Town and it doesn't overburden the infrastructure.

Connie Griffin, Director of Planning – Required criteria review is part of the rezone process. The Ellettsville Plan Commissioners as well as the Town Council hear the case review of the criteria and findings in order to adequately consider the circumstances or case before them with observance of procedures as required by Indiana law and Town Code. This is in order for the determination to not be made arbitrarily or capriciously or to abuse the powers of the offices held. In accordance with I.C. 36-7-4-603, in considering a proposal for rezoning, the plan commission must pay reasonable regard to the following which has already been reviewed at previous meetings:

Criteria:

1. The Ellettsville Comprehensive Plan
2. Current conditions and the character of the current structures and uses in each district.
3. The most desirable use for which the land in each district is adopted.
4. The conservation of property values throughout the jurisdiction.
5. Responsible development and growth.

The Plan Commissioners, acting as the Council's zoning advisory board, voted 6 to 1 with an unfavorable recommendation for the first petition as well as the revised petition. Ellettsville Municipal Code in 1966 required this particular use, salvage yard, scrap metal, junk or any other kind of facility to have an Industrial 2 classification. Current Ellettsville municipal code does not have specific code for scrap processing facilities or salvage yards. Therefore, the Town Council only has the conditions to enforce as presented by the Petitioner. The Planning Department has adhered to fair and consistent enforcement. This is not a personal issue and is part of her job as Director of Planning. There are other businesses in Town that could be classified as a salvage yard with an Industrial 2 use. Many auto repair shops along the corridor have

cars and parts stored behind those buildings which will possibly require future enforcement. Mr. Stephens stated on October 7, 2010, at the Ellettsville Plan Commission meeting that he will be moving the truck shop and part sales to Bloomington. At the August 4, 2011, Plan Commission meeting he stated he is moving the truck shop because it is overgrown and he's trying to position himself for I-69 and that's not the place. On October 6, 2011, Mr. Stephens stated flash flooding is one of the reasons he is moving his truck shop out of there within the next 1 to 1 ½ years. On July 18, 2011, the PUD application maintains current zoning uses and the change legitimizes current and historic use of the property. It is anticipated the Asher Truck business will relocate to a new location within 90 days. This is one of the approved Commercial 3 uses at this site. On August 22, 2011, the Amended Letter of Intent from Mr. Carmin to the Plan Commission included the removal of 2.6 acres and 6.36 acre parcels to eliminate any concern that recycling and salvage operations would expand east or west of the particular proposed site. The recordable Commitment approved fence construction around the entire property to block public viewing, no storing of containers on the east side of Jack's Defeat Creek, and if the owner acquires a recycling and salvage site outside of the Town mentions commitments and development real estate will be a feeder yard to the main facility located outside of Ellettsville. Commitments are a condition of approval of the rezoning of the development real estate to a PUD.

Planned Unit Development, Ellettsville Municipal Code §152.276 Purpose and Objectives. Its purpose is to encourage flexibility in the development of land in order to promote its most appropriate use and to improve the design, character and quality of new developments in harmony with the main purpose of the Zoning Ordinance. There are current violations the Petitioner has admitted to because the PUD rezone would legitimize what he is doing with the property. Mr. Carmin had stated and confirmed at the August 4, 2011 Plan Commission meeting that his client is currently violating Town Code and the whole point to the PUD is to address that issue. The property was zoned Commercial 3 on August 6, 1973. This is a land use violation according to Town Code §152.085 Uses Permitted by Special Exception, Board of Zoning Appeals, in Industrial 2 Districts, which include salvage yards, recycling and solid waste sorting facilities and scrap metal processing facilities.

§152.296(B) Special Exception. Provides the Board of Zoning Appeals shall not have the authority to grant a use variance as an alternative to granting or denying a special exception in these cases. The Town of Ellettsville should be careful about setting our PUD zone and process up as a *de facto* use variance, meaning an alternative to a land use variance.

§152.296(B)(2). The Board of Zoning Appeals should make a finding of compliance with a criteria before granting a special exception.

§152.296(B)(2)(i) Recycling and Solid Waste Sorting Facility and Salvage Yard, Junk Yard or Scrap Metal Processing Facility. The proposed site shall not be located in a floodplain or a conservation zoning district. The proposed site shall not be located outside of or not closer than 1,000 feet to the boundary of a residential or commercial zoning district.

FEMA Zone AE. The PUD application area is within the Federal Emergency Management Agency's Zone AE classification. AE represents areas subject to the 100 year flood with base flood elevation determined. The floodway is a channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that 1% annual chance flood can be carried without substantial increases in flood heights. The property is located approximately 110 feet to residential property to the east, 265 feet to the west and within 1,000 feet of the downtown area, which is a historical and development area as well as a revitalization area.

§152.104 Site Improvement Permit. Except as exempted by state law, no person, firm, corporation, or governmental body shall commence any development in any special flood hazard area without first obtaining a site improvement permit from the Town's Director of Planning Services. The Director of Planning Services shall not issue a site improvement permit if the proposed development does not meet the requirements of

this subchapter. Under the provisions of I.C. 14-28-1, a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway.

§152.105 Preventing Increased Damages. No development in the special flood hazard area shall create a damaging or potentially damaging increase in flood heights or velocity, or threat to public health and safety. §152.105(C)(1) provides that no development in the special flood hazard area shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants or other hazardous or toxic materials below the flood protection grade, unless such materials are stored in a flood proof storage tank or building constructed according to the requirements of §152.106 of this subchapter.

§152.145 Permit Application, Control Plan, Permit Issuance and Memorandum of Erosion Control Responsibility. Requires the permit application, control plan, permit issuance from the Department of Planning, memorandum of erosion control responsibility, required permits such as state and federal permits. §152.145(F) Plan Commission Approval. For projects requiring approval by the Plan Commission, no grading permits shall be issued in advance of Plan Commission approval.

§152.355 Maintaining Common Nuisance. Any structure erected, raised or converted, or land or premises used, in violation of this chapter or an ordinance or regulation made under this chapter, is a common nuisance and the owner or possessor of the structure, land or premises is liable for maintaining a common nuisance.

There have been many Town Council and Plan Commission meetings about this subject. Previous Town Council members have upheld this code. This is nothing personal against Mr. Stephens or this particular business because it is a good type of business. Where the business is located is not the right place.

Phillip Smith – Asked how many things have changed from the original petition given to the Plan Commission to what is before the Town Council. Connie Griffin replied they are no longer processing vehicles at that location.

Dan Swafford – Asked Chad Stephens what he is going to do at this location. Mr. Stephens replied it will be the same as far as buying. It will be cars, short iron, long iron, some torching, cans and copper. He provided a letter of intent to purchase property in Owen County. The difference is there will not be car processing and no processing of anything with fluids. This will all be within the 48 hour restriction to be hauled over to the main yard. The cars come in, they get bought, put in the back and some will get immediately hauled out. He envisions as cars get bought they will go right on the trailer and they'll be gone within 48 hours. The 48 hour window was developed because of Sunday. Most of the torching steel will not be on the site. It will be hauled to Owen County. Refrigerators and any of the tin will go into a trailer and when it is full it will go to Owen County. There will be a bailer and car crusher for everything to be processed in Owen County. This site is a working recycling salvage yard correctly licensed with the State and Owen County. The cars will be processed in Owen County the same as they were in Ellettsville. All material will be moved to Owen County. Short iron will go into a tub and will be the only thing left in Ellettsville. Mr. Swafford confirmed nothing will be left at the site over 48 hours. Mr. Stephens replied that was correct except for short steel containers. It may set for two to three days but it will be in a sealed container. Anything containing fluids will be hauled off. Mr. Swafford asked if appliances and similar items will also be hauled off. Mr. Stephens answered they will go in a tin trailer and be hauled to Owen County where they will be processed and baled. The fluids will all be contained. The balers in Owen County have a drip pan so anything that comes out of the metal drips into a container. Mr. Swafford asked if he had all permits for Owen County. Mr. Stephens responded he had everything he needed and they were working in Owen County at this time. Mr. Swafford asked if employees had any kind of certifications for the items being brought in. Mr. Stephens replied IDEM approves of training employees. There's a Rule 6 but he doesn't know if it's required. He uses Fields Environmental and there are three criteria his business can do and there are four to five criteria they

come in and do. Training is part of this and is done once a year. They do not get a badge that says they're certified. Fields Environmental completes a form and returns it to IDEM. Mr. Swafford asked what precautions will be taken for storage during a flood. There could be three to four feet of water with cans floating down Jack's Defeat Creek. Mr. Stephens responded he didn't think it flooded at the property last year. Mr. Swafford stated in the 100 year flood it states his building would be seven feet under water and asked Rick Coppock if this was correct. Mr. Coppock replied McNeely Street would be under seven feet of water. Mr. Swafford commented Mr. Stephens' building sets lower than McNeely and would probably be ten feet under water. This is for a 100 year flood. For a flood, other than the 100 year flood, what precautions would be put in place? Mr. Stephens answered the non-perished stuff is bought in a can shed. If someone comes in with guttering or pop cans it will go right into a 40 yard container. As the container gets full it goes to the other yard. Nothing will be on the ground. One of his concerns for moving his truck shop is flooding. His biggest concern for moving is to get ready for I-69. His truck shop has overgrown its location and he has job postings for two more mechanics. Four feet of water has been mentioned but it has never happened with flooding and he has been there 25 years. There is a fence so if there is flooding something such as pop cans will not escape. When Roger New had the property and it flooded, the fence would catch the tires. Now, there is nothing laying around. If the 100 year flood happens, it will all be at his property because of a new bridge installed by the state. Mr. Swafford received an email wanting to know the number of violations he has received or if he has been fined. Mr. Stephens replied he hasn't been fined and the only violation he is aware of is about the grading on the east side and the fill on the west side. Mr. Swafford asked if the DNR makes him remove the fill what his plan would be. Mr. Stephens responded this is a long process. In the last stage stabilizing the pond was discussed. He has seeded and put straw down on the banks. The trees at the back of the property along the rail road track were mentioned. The stop work order came so he hasn't done anything with the trees. Mr. Swafford stated Mr. Stephens has said if it does start raining he would move everything to higher ground. What if the state tells him to remove the higher ground where would he go with his things? Mr. Stephens replied it was his intention to put the stuff that sat there for years on the base elevation. He put the recyclables on top. There are two separate things, the DNR issue with the fill and the recyclables. If the dirt gets removed the recyclables will be 50 inches lower but will be in containers. For 25 years he has never seen the water over knee high but one time. It has to stay clean. He didn't like what he bought seven years but he has cleaned it up. Town Council has the wheel. Whatever is needed he's willing to make it work. If the Town Council wants to make approval contingent on the DNR he's fine with it. If something is needed to show the property in Owen County is a done deal he can provide it. If the property was zoned Industrial it could revert back to C3. He doesn't plan on selling the property. There are other things he can do with the property. One of the restrictions could be if he should sell the property it could revert back to a C3. Someone asked what the land could be used for. It couldn't be used for anything else. If someone wanted to put in a business park it would have to be built up. What he is doing there has been done for 25 years. Nobody is going to come in and do anything else with the land. The downtown area is historical and he reiterated it has been there for 25 years and no one said anything. Look at the picture taken in 1997 and no one complained. It was in the same location for 25 years, was grandfathered and couldn't be enforced. It's hidden and can't be seen. A fence can be put up to Town Council's specifications. He has cleaned it up and plans on keeping it clean. He thanked everyone for the chance to get this wrapped up. The Council is in the driver's seat. He will be a good steward of the land and removing the cars should keep it clean.

Dan Swafford – Asked Bernie Guerrettaz if this gets passed and goes through, has the retention pond and drainage been looked at and does his company do this. If a fence is put up does he have to go through with a plan for approval. Mr. Guerrettaz replied they're at the outlining plan stage. The development plan stage is when they will have formal submission of construction documents and Mr. Coppock and Ms. Griffin will go through it again. They sized the basin based on what was put in and they measured what the volume was. Fields Environmental went back through and looked at what the treatment volume is as required by IDEM for that use. Conservatively, it is one-third bigger if not more than what is required for that basin by IDEM. They surveyed the

site, they surveyed Jack's Defeat Creek and they provided site specific information to Sean Arden, the stormwater hydrologist who did the flood studies. Fields Environmental took it and looked at it with Mr. Arden. Fields Environmental helped Chad's develop their Rule 6 plan, the best management practices and the housekeeping of the site.

Dan Swafford – Asked Connie Griffin how many violations she has issued since the process started. Ms. Griffin responded a cease and desist letter was sent, courtesy letters to inform them of the inspections were sent and the codes that are/were in violation were read during her presentation. Mr. Swafford asked if they put a restriction such as a fence would it be in the planning stage and not the Town Council level. Ms. Griffin replied it would be a DNR question. A fence could be considered fill because it could trap debris and block water flow.

Dan Swafford – If restrictions are placed on the approval does this decision have to be made during this meeting or does it have to be written in the Town Code. Darla Brown, Town Attorney, replied it matters as to what conditions he's thinking about putting on. The Town Council can put reasonable conditions on their approval. Mr. Swafford stated Mr. Stephens said he's not going to process cars. What happens in two months if he's crushing cars or cutting cars? Ms. Brown responded it doesn't need to be made a condition because that's already part of the Commitment. As part of the Commitment, it states the Commitments may be enforced by the Commission as defined by the Plan Commission's rules and procedures. However, she prefers that the section be modified to state something such as "or as provided for by statute including, but not limited to, the filing of a petition for injunction." This is how it would be enforced if the Town finds he is not abiding by the Commitment, then the Town can go in and file a petition for injunction and ask that he cease. Mr. Swafford asked what would happen to the current violations of the Town Code. Would they be for everyone in the community or would it be an exception and how does it work? Ms. Brown replied the site permit is pending with the DNR. If the PUD is granted they are not necessarily granting him an I-2. If he is allowed to operate the business as scaled back then that takes care of the I-2 issue because they'll be granting the PUD and allowing him to operate. Mr. Swafford confirmed it not be an I-2. Mr. Brown answered that is correct. The Town Council is not granting an I-2 specifically, they are granting a PUD. The Council is saying they're going to allow him to conduct "this kind of business in this area." That's not going to apply across the board to everybody else who wants to do an I-2 and a C-3.

Phillip Smith – Asked Darla Brown if there have been enough changes to the original PUD to where it is now for them to pass it. Ms. Brown asked if he's talking about the second PUD petition that's been filed. Mr. Smith said that's correct. Ms. Brown doesn't think there have been changes that would cause the PUD petition to be dramatically different from what was filed. What is going on is that Mr. Stephens has purchased another property so the Commitment that was part of his original petition the second time around has certain conditions that now kick in and become effective because he has purchased the other lot in Owen County. She doesn't see this as a change in the petition, she thinks what Mr. Stephens is representing is that he has done certain things to make sure the Commitments kick in. The Commitments were part of his original PUD application. Mr. Smith stated the original PUD application stated he was going to cut up cars. Ms. Brown replied as part of the PUD application Mr. Stephens attached the Commitments stating if he got another lot there were certain things that were going to cease and that has occurred now. The Commitments were part of the original petition. So it's not new. It's a condition that has now come about because of various things Mr. Stephens has done. The petition has remained the same as it was when it came before the Plan Commission and as it was before the Council the other time it was talked about.

Public Comments

Terry Baker, Plan Commission member – The Plan Commission did a lot of research and it was forwarded to the Town Council with a negative recommendation based on facts and findings. If this is passed, they are setting a precedent. Consequently, anybody else who comes in and wants to do something outside of the

current zoning, a precedent has already been established by allowing this type of operation. In the long run, the Plan Commission has looked at it very, very hard trying to take all facts into consideration. The Plan Commission's vote shows they're not ready to accept this.

Charles Townsend – The Council has a big job to do and has to render the decision it thinks best. He had Dan Swafford, Dianna Bastin and Chad Stephens in school. When Mr. Stephens tells you he will do something he will do it. He wants the community to go forward. No one has all of the answers. How can they know five years down the road if this is good or bad? Mr. Stephens has really cleaned the place up. He will serve the community with honor and the Town Council are honorable people. He is proud to be associated with them. He has lived in Ellettsville for 40 years. The only way to make progress is to make amendments to some of the businesses that have been grandfathered in.

Pat Gray – There is a cycle that happens. He and his dad created the business now known as JB Salvage. In the mid-80s businesses would some times go out and make deals with farmers to fill in sink holes or a ravine. The Monroe County Health Department in the mid-80s contacted him. They had inspected and tagged 35 sites throughout Monroe County. There were cars, refrigerators, farm equipment, toxic waste and other items that had gone into sink holes or ravines. Out of 35 sites they cleaned up approximately 19 of them. What happens if Chad's is not approved? Years ago, the codes weren't as strict as they are now. When he goes to the Monroe County Landfill he sees the creek pouring out green, purple and orange waters. All of these sites throughout the county are getting runoff. Because Chad's is giving people a chance to go out and retrieve metal they got a chance to make some good money for their families. Several have spoken to the Council. Chad took care of these folks. He thinks we would be doing our grandchildren and great grandchildren a favor if Chad is allowed to continue to operate. Mr. Stephens is a gentleman, businessman and true to his word. One of his sons is working for Mr. Stephens. Mr. Stephens is out to help the community and share incomes with families. J.B.'s and Fell's don't pay what Chad's pays for the metals. Chad is like my Dad. When Dad knew a family was at stake he would always gave them a little extra. Mr. Stephens has a heart.

Council Comments

Scott Oldham – disagrees with the petitioner's harping on revenue into the community. At best, the revenue to the community is minimal. No one has all of the answers. They are abiding by a 1973 ruling of the zoning commission. He doesn't see this as being inconsistent with what is already there with government and past practice. This has been going on since the mid-80s. This is a good use of the property. He doesn't know what else can be asked of a business other than what they already have. He would like to see a high fence and that is between Mr. Stephens and the DNR. He would rather see a feeder yard than a towing business. A towing business generates traffic 24 hours a day whereas a feeder business does not. He doesn't see anything else going on the property. Flooding is an issue and he thinks a fence retains that. If they're looking at a 100 year flood how does it impact what goes on 250 yards north of this location at a government sanctioned solid waste facility. He agrees with Mr. Stephens in that it will take a lot of water to move a 40 foot container. If we get a 100 year flood we have bigger concerns than cans floating around. His vote would be to allow the PUD it is a good use of the property.

Dianna Bastin – thinks this has come full circle. She doesn't think what they're looking at tonight is not what the Plan Commission spent so many hours on and she respects that. She thinks they have the cooperation of a business owner and it's a good outcome. She thinks what the Plan Commission originally started looking at maybe wasn't a good idea. With a lot of cooperation and it's been a little backwards getting here but it's a good compromise. She intends to vote to allow it. Banking on a 100 year flood maybe Chad's won't be their biggest worry.

David Drake – is very pro business and he would love to vote for this but he is not here to vote his emotions. There is Plan Commission for a reason. One of those reasons is to try and take politics out of this type of Planning decision. He would need

a very good reason to over rule the decision of the Plan Commission. He served on the Plan Commission for a number of years and he hasn't heard good enough reason to disregard their recommendation. He will be voting against it.

David Drake entertained a motion with regard to Petition No. 9122012-2. Scott Oldham made a motion to approve the Planned Unit Development Petition No. 9122012-2, pass Ordinance 2011-10 and reject the Plan Commission finding. Dianna Bastin seconded.

Phillip Smith asked for clarification on the motion. Darla responded you are voting on what the Plan Commission has sent here. You are either accepting it or rejecting it. Right now the motion is a motion to reject the Plan Commission's recommendation, accept the petition and pass the Ordinance.

David Drake added a yes vote will approve the petition and a no vote will reject the petition. Darla replied a yes vote is to approve the petition and the matching ordinance.

Roll Call Vote: David Drake – no; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – no and Dan Swafford - no. Motion failed 3-2.

Adjournment

Dianna Bastin made a motion to adjourn. Scott Oldham seconded. Motion carried. David Drake adjourned the meeting at 8:15 p.m.

David Drake, President

Scott Oldham, Vice-President

Dianna S. Bastin

Phillip Smith

Dan Swafford

Sandra C. Hash, IAMC, MMC
Clerk-Treasurer