

**MINUTES OF A REGULAR MEETING
OF THE PLANNING COMMISSION
CITY OF INDEPENDENCE, OHIO
Held in the Council Chambers at City Hall**

7:00 P.M., NOVEMBER 4, 2008

Chairman Dale Lytkowski called the meeting to order at 7:05 p.m., November 4, 2008 and the following responded to Roll Call:

PRESENT: Dale Lytkowski, Chairman
Gregory P. Kurtz, Mayor
Dave Grendel, Councilman
Jack Shallcross
Jerry Skuhrovec

OTHERS

PRESENT: Gregory J. O'Brien, Law Director
Don Elewski, City Engineer
Jeffrey Markley, City Planner
Donald Ramm, Engineer/Public Service Coordinator
Ron White, Economic Development

AGENDA:

Old Business:

Approval of Minutes of Regular Planning Commission Meeting held on October 7, 2008.

Old Business:

- 1. Rockside Woods Blvd., PPN 561-25-009** – Represented by Dalad Group to split a parcel of land that is divided by Rockside Woods Blvd.

New Business:

- 2. Indexco, Cloverleaf Bluffs, PPN 561-09-004** – Change of grade for undeveloped land located north of I-480 on Brecksville Road.

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- 3. 5101 West Creek Road, Residence Inn by Marriott** – Proposed sleep study testing to be done by MetroHealth System/Department of Medicine using 2 two-bedroom suites per night for a period of one year.

Other Business:

- 4. Twin Creeks, Hillside Road** – Requesting approval of variance to Codified Ordinance Section 1354 to permit culverting of the creek 450 feet north of Hillside Road; for culvert inlet and outlet protection and for placement of approximately one-half of Sublot 2 Water Quality Basin within riparian setback area.
- 5. The Meadows, Phase 2, Mackenzie Drive** – Requesting approval of variance to Codified Ordinance Section 1354 to permit relocating/culverting of the creek on the north side of the development; elimination of 0.02 acre of “Modified 2” wetland located at rear of Sublot 19; and approval of two features of detention pond adjacent to creek on southern boundary of development.

Late Addition:

- 6. 6415 Granger Road, 6900 Granger Road, PPN 561-02-004, 561-03-009, Harmony Realty II, Ltd.** – Requesting approval of variance to Codified Ordinance Section 1354 of 140’ on Parcel No. 3A and 220’ on Parcel 2A for a riparian setback to the Cuyahoga River (300 ft. setback is required per the Ordinance).

Chairman Lytkowski asked if there were any corrections or additions to the Minutes of the Regular Planning Commission Meeting held on October 7, 2008. There were no corrections or additions to the Minutes.

A motion was made by Jack Shallcross, seconded by Councilman Grendel, to approve the Minutes of the Regular Planning Commission Meeting of October 7, 2008 as written.

**ROLL CALL: Yeas: Shallcross, Grendel, Skuhrovec, Kurtz, Lytkowski
Nays: None
MOTION CARRIED**

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Rockside Woods Blvd., PPN 561-25-009 – Mr. Joseph Balog was in attendance on behalf of Hub Valley 2006 Ltd. They have a parcel of land that is actually split by a street, Rockside Woods Blvd.; it is Permanent Parcel No. 561-25-009. They are requesting the Planning Commission split that into two separate permanent parcels with approximately an acre and a quarter to the west of Rockside Woods Blvd.; and the remainder, which is approximately two acres, to the east of Rockside Woods Blvd. The westerly piece will be deeded to the Ohio College of Podiatric Medicine. They would like to retain that piece as an effective buffer or protection so that there could be no development on that piece. It is a large ravine piece, it is wooded. They would like it to stay that way, and they have agreed to a deed restriction to prohibit the development of that particular piece. Mr. Balog is asking the Planning Commission to split this into two separate parcels so that they may transfer the parcel which is west of Rockside Woods Blvd. to the Ohio College of Podiatric Medicine.

Chairman Lytkowski stated to the Law Director that there were a number of legal issues with respect to this property. Has that been resolved? Law Director O'Brien stated that he believes that it was just one; they were asking for a restrictive covenant to be placed on the land. The Law Director has seen the deed, and it has been put in place. Mr. Balog stated that the language that the Law Director reviewed will be included in the deed.

There were no comments from any of the Commission members or audience.

A motion was made by Councilman Grendel, seconded by Jack Shallcross, to approve the lot split.

**ROLL CALL: Yeas: Grendel, Shallcross, Skuhrovec, Kurtz, Lytkowski
 Nays: None
 MOTION CARRIED**

Indexco, Cloverleaf Bluffs, PPN 561-09-0047 - The Mayor recused himself from this matter and left the room. Mr. Chris Larson was in attendance on behalf of Independence Excavating, along with Arthur Taralerra, also of Independence Excavating. They are requesting a change of grade to one of their parcels on Brecksville Road. Mr. Taralerra stated that they are asking the Planning Commission to change the grade on the undeveloped parcel on Brecksville Road. The parcel is approximately (inaudible). They will transport approximately 534 cubic yards of fill. This basically keeps the same slope that there is right now on the parcel.

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Chairman Lytkowski asked Mr. Taralerri the purpose of putting the clean fill there. Mr. Taralerri stated that the purpose of the fill at this moment is undecided. They are planning in the years ahead to do some type of building or parking space. Chairman Lytkowski asked how many acres they were talking about roughly. Mr. Taralerri stated that it would be 7.9 acres.

Chairman Lytkowski asked City Engineer Elewski if he had looked at this project from a water flow standpoint. City Engineer Elewski stated that Mr. Ramm has prepared his comments on this particular property. Some of this property at the lower end is under FEMA so that will have to be addressed. He assumes that part of this filling operation will have to have soil technology soil tests to see what they recommend as far as the fill goes. Mr. Taralerri stated that they are planning on hiring a geotechnical crew for that. They are doing the borings themselves. They will do the geotechnical report. They have also prepared a drawing that has lot zoning going through the property. The lot zoning has an elevation of 6 or 7 he believes. On that property they are staying about that. They are starting at 610 and going all the way up. The slope would be 2 to 1. They are not going to change that. City Engineer Elewski stated that they will need a final plan to show all of these things, and how they are going to drain the property. Mr. Taralerri stated “absolutely”.

Chairman Lytkowski wanted to ask Mr. Taralerri a question. If this started at 610, and they were going to add soil on top of that and go up the slope; when Mr. Taralerri gets to the top of the slope; what 710 area there, how high will that be? Mr. Taralerri stated that it would be about 6 to 2 of fill. It will be 722 at the top. Chairman Lytkowski asked if the top is 722 and the lot behind it is 716; doesn't that hurt the flow of water? Mr. Taralerri stated that the slope is already 2 to 1; so nothing is going toward that way. Mr. Taralerri stated that they are not changing the direction of the slope. They are just trying to go with the same slope. Mr. Shallcross stated that right now it goes from 720 down to 650 in this top area. Mr. Taralerri stated that it is all going to be a half percent slope going from one side to the other side. Mr. Shallcross asked instead of going from like 710 to 720 down to 650; it's going to be something considerably different from that? Mr. Taralerri stated that it's going from 722 to 720.

Chairman Lytkowski stated that the Pemco lot, it says it's 716.5; is that right? Mr. Taralerri stated that he is right on that. Chairman Lytkowski asked if 720 is going to go up to 730 or 740. City Planner Markley stated that from the back of the building you are at 722, what they are showing is a spot elevation. Essentially, they are going to go with 722 at the back of the pad; down to 720, a half of a percent. Then when you start to see those red lines, that's when it starts dropping down to the flood plain which is 610. City Planner Markley asked the applicant if he was going into the flood plain. Mr. Larson

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stated “no”. Mr. Tarallerri stated that they are going from 610 on the east side up to 722. Then they are going from 722 to 720. Councilman Grendel asked how long it will take to get the fill in. Mr. Tarallerri stated that it will take approximately six months.

Mr. Shallcross asked about the entrance and if they are going to access the site off of Brecksville Road. Mr. Tarallerri stated that they would. Chairman Lytkowski asked who owns the driveway. A representative of Pemco was in the audience and spoke. Chairman Lytkowski asked if permission was granted to use the driveway. The representative stated that no one has talked to him. He has talked to Mr. DiGeronimo about the possibility of this years ago. Chairman Lytkowski stated that there needs to be permission to go over the driveway and then re-do the driveway. He is sure there will be wear and tear. The representative of Pemco stated that he is willing to work with the applicants.

Chairman Lytkowski asked the applicants if they were looking for final approval today. Mr. Tarallerri stated that they were not looking for final approval today. Chairman Lytkowski stated that they have a situation that has to be resolved, i.e. the driveway. He doesn't have any problems with building up the slope; that doesn't seem to bother him. Mr. Tarallerri stated that they are looking for something preliminary this evening. Chairman Lytkowski stated that he personally doesn't have a problem subject to working out something with the other land owner. City Planner Markley stated that there will also need to be provisions to protect Brecksville Road; videotape it ahead of time. That would be in terms of any damage to the road.

Chairman Lytkowski asked if there were any questions from the Commission or the audience. There were none. Chairman Lytkowski requested the Law Director to craft a preliminary motion subject to. The Law Director asked what the subject to would be. Chairman Lytkowski stated that right now he thinks there are two in particular; one would be the existing asphalt driveway; two would be Brecksville Road; and then the parking lot as well too. The representative of Pemco stated that the proposal Mr. DiGeronimo brought to him was the possibility of constructing a road where their driveway came in. He suggested working something out. Chairman Lytkowski stated that subject to the road being built and approved probably after the project is completed. The representative from Pemco stated that there is some drainage that goes back there so that would have to be considered. Law Director O'Brien stated that City Planner Markley wants to make sure that the applicants fully designate the flood plain. He told the applicants to make a note of that.

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A motion was made by Councilman Grendel, seconded by Jack Shallcross, to approve the preliminary plan, subject to providing the Planning Commission upon submission for final plat approval, providing legal access by the adjoining property owner, the designated flood plain area, geotechnical report and a video tape approved by the City Engineer of the structure of Rockside and Brecksville Road leading up to the property no less than 500 yards.

**ROLL CALL: Yeas: Grendel, Shallcross, Skuhrovec, Lytkowski
 Nays: None
 Abstain: Kurtz
 MOTION CARRIED**

5101 West Creek Road, Residence Inn by Marriott – Margaret Payne, Mary Weir-Boylan, Dr. James Finley of MetroHealth and Ivy Arndt of Residence Inn were in attendance. Ms. Weir-Boylan handed the Commission folders with regard to the sleep study program. They are here to request a change of use for two suites at the Residence Inn. They would like to change them from a lodging classification to a business classification to develop a sleep program.

Margaret Payne, Director of Pulmonary Medicine, spoke. Ms. Payne stated that sleep apnea is when your airway closes when you fall asleep. That is what they test for. If you don't breathe properly when you sleep you lose oxygen. There are all kinds of medical problems you can get over time without being treated. When the people sleep, they measure their brain waves and breathing and oxygen levels. They diagnose people in that way. Ms. Payne referred to her presentation that she gave to the Commission. The first page showed what sleep apnea is. Ms. Payne stated that the next page shows a gentleman and a clinician putting the leads on his head to measure the brain waves. The next page shows the picture of the mask, which is how they treat. The next page states the contents of what they will keep in the room. There will be a couple of office chairs, storage bins, some intercoms so that they can talk to the patient from outside the room; there will be oxygen racks for small oxygen containers because some people do need a little bit of extra oxygen. There will be machines that will deliver the air, plastic tubing, pressure sensors, etc. In the middle of the suite, because these will be suite set ups where there will be two bedrooms on each side; and in the middle is where the technician will sit. In each suite there will be two computer set ups for the testing. They do videotape people as they sleep because important things happen when you are asleep. There will also be two laptops as well so that they can connect to MetroHealth's medical records.

Councilman Grendel asked how many patients will be in the testing at one time. Ms. Payne stated that there will be two patients in each suite. They will have two suites; so every night they hope to have four patients total and two technicians. There will be one technician per suite, seven days a week.

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City Planner Markley asked about dividing up the suites for the patients. Ms. Ivy Arndt of the Residence Inn stated that the suites are already divided. There is a picture in the packet that shows the layout of the two bedroom suite. As you walk into the suite itself, you walk into the living area and the kitchen area. The living area will be converted into the technician's center. The technician will actually be in the unit at all times. To the right and left is a private bedroom and bath. The only alteration they will have to make is security on the doors themselves to secure for the patient's privacy. There may also be some additional drilling for wiring. She does not see any modifications to the room itself. Chairman Lytkowski asked how many patients there would be per night. Ms. Payne stated that there will be a total of four patients per night, two in each suite. Each suite actually has two bedrooms. The patients will actually enter through one main area; but the technician will already be in the room to welcome the patients.

Mr. Skuhrovec asked what time the sleep study would start. Ms. Payne stated that it will start at 8:00 p.m. and end at approximately 6:00 a.m. Breakfast will be provided by the hotel.

Law Director O'Brien stated that he wanted to correct Ms. Payne. She is not looking for a change in use, she is looking for an ancillary use right? She is not looking to re-zone this property? Ms. Payne stated "no"; just the two rooms. Since it is classified under lodging, there is not allowed to be cameras in the rooms; therefore, they had to change the zoning to just those two suites to business classification to allow cameras. Law Director O'Brien stated that he would be opposed to any changing of any zoning; but the code provides for an accessory use which Planning Commission can recommend to Council, and Council could approve. That would be the use that he would think would be more appropriate that they are looking for. Law Director O'Brien stated that he would recommend a period of time of one year. Ms. Payne stated that one year is the current agreement that she is entering into.

Councilman Grendel asked where the suites would be located within the hotel. Ms. Arndt stated that they decided to have it in the front of the property for the patients. Also, if there are any instances that they may need to have the emergency squad come in; there is easy accessibility for them to come right into the main entrance and then off to the right.

Mayor Kurtz asked where the sleep study was located now. Ms. Payne stated that they do it at Metro. They are looking to expand.

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Dr. Finley stated that they are a nationally accredited sleep lab. They currently have 12 technicians. Metro tests 8 patients per night. They are actually one of the larger sleep labs in the city. They are planning on doing the more simple cases in this environment. They are not interested in doing the more complicated ones here. Those will be referred to Metro.

Mr. Skuhrovec asked why they were planning on coming to Independence. Dr. Finley stated that they are actually having a hard time keeping up with the volume of the patients. Mr. Skuhrovec asked if it made more sense for them to go to Independence instead of changing rooms at Metro. Ms. Payne stated that at Metro it is a very sterile environment. The hotel will be a more bedroom environment.

Mr. Shallcross stated that the comment was made that there might be a need for an ambulance on occasion. Would that be a 911 call? Ms. Payne stated that it would be a 911 call to Independence. Dr. Finley stated that the technicians will be BLS certified. They would be able to start CPR. It does not happen often at all. There may be an incident of possibly one or two a year.

Chairman Lytkowski asked how many full time employees would be there. Ms. Weir-Boylan stated that there would be a total of 6 people and 4 technicians.

Law Director O'Brien asked if their lease had an option for another year. Ms. Payne stated that they can stay on after a year. If the program is successful, and they anticipate it to be, there would be a need to stay in this situation.

Councilman Grendel asked about any signage that they would have on the premises. Law Director O'Brien asked if the signage would be inside the office itself or on the door. Ms. Arndt stated that at the entrance to the main lobby there will be a sign at the front door as well as at the front desk; then at each suite there will be a sign. Law Director O'Brien stated that there is no anticipated request for outside signage. Ms. Arndt stated "no". Law Director O'Brien asked if it would be problematic right now if the Planning Commission told the applicants that it would probably not be an option. Ms. Payne stated that she would not have a problem with that.

Chairman Lytkowski asked about the liability standpoint with the City of Independence. Law Director O'Brien stated that there would be no liability concern to the City; perhaps Residence Inn.

Chairman Lytkowski asked if there were any questions from the audience. Mr. White asked the applicant if at the end of the first year term, would they consider a commercial location. Ms. Weir-Boylan stated that at this point in time she would not think it to be a consideration. The idea is to bring it to more of a home environment.

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City Planner Markley asked Ms. Arndt how many two bedroom rooms does the Residence Inn have right now. Ms. Arndt stated that they have 28 two bedroom units and 90 studios. City Planner Markley asked what the vacancy on those was. Ms. Arndt stated that the two bedroom units are not in as high demand as the studios. Ms. Arndt stated that it is a good business decision for the hotel as well.

Law Director O'Brien asked Ms. Payne if the technicians go into the room the same time as the patients and then leave at the same time. Ms. Weir-Boylan stated that what they planned on doing was have the technician arrive first before the patients come. The patients would go to the front desk, and then they would be allowed to go to the testing room. In the morning the patients would have to be out of the room, and then the technician would leave.

City Planner Markley stated that he was an apnea candidate too. He went to a hospital to go through that process. It was a bit cold. He could appreciate going to a hotel room where it is far more discreet. You are going to a room that is set up. This does seem to move toward a precedent. There is a vacancy in these types of room; so you are creating a business situation in the hotels that are looking for another opportunity. Mayor Kurtz stated that the Planning Commission is creating that opportunity. City Planner Markley stated that he does not have a problem with it; he just wants the Commission to know this is something they need to think about. Law Director O'Brien stated that the reason he asked when they come and go, it seems like the patients and the technicians are arriving and departing like any normal occupant would of the hotel.

Mr. Shallcross asked if the hotel would provide normal housekeeping for these few rooms. Ms. Arndt stated that the rooms would be turned over daily for the new patient coming in that evening.

Councilman Grendel asked if most of the patients would be from the Cleveland area or more of a regional type. Ms. Payne stated that it would be more regional.

A motion was made by Jack Shallcross, seconded by Councilman Grendel, to make a recommendation to City Council to approve the request of accessory use for the limited duration of January 1, 2009 through December 31, 2009 for the proposed sleep study clinic.

**ROLL CALL: Yeas: Shallcross, Grendel, Lytkowski, Kurtz, Skurhovec
 Nays: None
 MOTION CARRIED**

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Law Director O'Brien stated that this matter will go to Council who has to approve it next week; and assuming they approve it, they usually do it under the same restrictions. Next year if the applicants are inclined to continue the program, he would suggest that November and December would be the time to get it on the Agenda for the Planning Commission, given that it has to go to Council.

Twin Creeks, Hillside Road and The Maedows, Phase 2, Mackenzie Drive – Law Director O'Brien requested the Chairman to read these two matters into the record then the Commission could actually take a vote on them. Chairman Lytkowski read the following: "Twin Creeks, Hillside Road – Requesting approval of variance to Codified Ordinance Section 1354 to permit culverting of the creek 450 feet north of Hillside Road; for culvert inlet and outlet protection and for placement of approximately one-half of Sublot 2 Water Quality Basin within riparian setback area" and "The Meadows, Phase 2, Mackenzie Drive – Requesting approval of variance to Codified Ordinance Section 1354 to permit relocating/culverting of the creek on the north side of the development; elimination of 0.02 acre of 'Modified 2' wetland located at rear of Sublot 19; and approval of two features of detention pond adjacent to creek on southern boundary of development."

Chairman Lytkowski stated that the Commission has talked about this before. The Chairman asked if there were any questions or comments. There were no comments from the Commission.

A motion was made by Councilman Grendel, seconded by Jack Shallcross, to request the approval of the variances as stated above for Twin Creeks, Hillside Road and The Meadows, Phase 2, Mackenzie Drive.

**ROLL CALL: Yeas: Grendel, Shallcross, Skuhrovec, Kurtz, Lytkowski
 Nays: None
 MOTION CARRIED**

Chairman Lytkowski wanted the record to reflect that the Mayor has recused himself from the Planning Commission meeting with regard to the next item.

6415 Granger Road, 6900 Granger Road, PPN 561-02-004, 561-03-009, Harmony Realty II, Ltd. – Attorney Tom Boutall was in attendance on behalf of the applicants. Mr. Boutall stated that this project has to do with a change of grade. It calls for raising the grade which is designed to protect three buildings and personal property which recently has seen several flooding events over the last few years. Mr. Boutall has a map of the area which he passed out to the Commission members, along with a letter of

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support from one of the adjacent land owners. Mr. Boutall stated that the letter was from the adjacent property owner, Ace Business Solutions. Law Director O'Brien asked Mr. Boutall how Ace has been doing with their flooding issues. Mr. Boutall stated that they have done a little bit of work to their building, but to be honest; they take it on as it comes. They throw some sand bags in front of doors, but there is not much they can do. Mr. Boutall stated that the Ace building actually sits the lowest.

Mr. Boutall stated that this change of grade is going to be in the back. Law Director O'Brien asked if it would go away from Ace. Mr. Boutall stated "right". Mr. Boutall stated that the flooding doesn't really come from West Creek, it really comes from the Cuyahoga River. This change of grade is in the back to the north, and it is sort of designed to address that. Mr. Boutall stated that the Ace building is on Parcel 3B. Mr. Boutall stated that in April he was before the Planning Commission for the lot split and consolidation and a change of grade. All of those were approved by the Planning Commission, subject to the property owners going back and complying with Section 1377 for Flood Plain Development. Mr. Boutall stated that following approval of the Planning Commission, the lot split and consolidation went through; the property was transferred, and the property owners made contact with the City to obtain a Flood Plain Development Permit Plan. The engineering firm of USR Corp. was retained to prepare and file the Flood Plain Development Permit. The application was submitted this October and affirmed by Don Ramm of the City, subject to the applicant coming before this Commission and obtaining a variance for the northern section of the project that lies within the riparian setback. Mr. Boutall has a map of that which shows it. Mr. Boutall passed out the map to the members of the Commission showing what part is in the flood plain setback. Mr. Boutall stated that the blue area is within the riparian setback. City Engineer Elewski asked the applicant if he was going to go from 300 to 150. Mr. Boutall stated that if you look at the map, it is a little bit difficult to see; but at the top of the map it shows the Cuyahoga River dipping down. The engineer took an arc and he swung out with what the 300 ft. point would be, and he put that. For their project, it is the area within the blue on the map. Mr. Boutall stated basically from the pole barn north. Mr. Shallcross asked if that would help the flooding. Mr. Boutall stated that flooding really comes from the Cuyahoga river. West Creek does come up; but generally speaking, it starts and comes from the Cuyahoga river first. Mr. Shallcross asked if it would just come around it then. Mr. Boutall referred to the first drawing where it shows the West Creek Project; it is their intention to put this earthen berm. That is what they intend to do. The Chairman asked when they plan on doing that. Mr. White stated that the plan is to start next year. It will involve the Northeast Ohio Regional Sewer District to design and implement this restoration. Councilman Grendel asked if that would help the situation as far as the flooding is concerned. Mr. White stated that it would reduce it; but he thinks Tom is actually correct; when the water comes, it comes at the bend before

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it comes around the property. It actually comes down the railroad tracks and comes in past the Wholesale Lumber Company and into behind these properties. That is where the water is coming from Mr. Boutall stated that they intend to take West Creek and make it where it would be more meandering way. Then they will lower the elevation as well where they took the building down. City Planner Markley asked if they would be bringing up the grade approximately four feet. Mr. Boutall stated that it is right; the 600 would be at the highest point. This is relatively consistent with the front parking lot.

Chairman Lytkowski asked what is north of the railroad tracks on the map. Mr. Boutall stated that the concrete company is over there. The folks who own 6900 Granger, Hope, own the back of that as well. That is also a higher elevation. If you look also to the east, there is that lumber company. Back in there they have walls and sort of things that come down when it floods and stuff. They are protected as well.

Chairman Lytkowski asked about a tower that was approved back at 6900 Granger. Mr. Boutall stated that it did not happen. The prior property owner, Ace Copy, they own that property. That was split and consolidated with the property owner, 6900, they got a letter from the cell tower company saying that they have abandoned their rights; and they are not going to construct that. That was a condition of the sale. Councilman Grendel asked if Mr. Boutall's company own the land north of Tri-Mor. Mr. Boutall stated "yes". Tri-Mor has the silos for cement.

Chairman Lytkowski asked if there were any other comments.

A motion was made by Councilman Grendel, seconded by Jack Shallcross, for approval of the setback variance as stated above.

**ROLL CALL: Yeas: Grendel, Shallcross, Skuhrovec, Lytkowski
 Nays: None
 Abstain: Kurtz
 MOTION CARRIED**

Mayor Kurtz asked if the gas well situation has to be discussed at Planning Commission or is it just for Council. This is for the gas well behind the square. Does Planning Commission participate in gas wells? Law Director O'Brien stated that it has been taken away by the state.

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There being no further comments or business, a motion was made by Chairman Lytkowski to close the meeting at 8:01 p.m.

Dale Lytkowski, Chairman

Debi Beal, Planning Commission Clerk
Minutes Unapproved at Time Released 11/07/08